

Ofcom broadcast bulletin

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Ofcom
OFFICE OF COMMUNICATIONS

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Introduction

The Communications Act allows for the Codes of the legacy regulators to remain in force until such time as Ofcom has developed its own Codes. Ofcom has consulted on its new draft Code.

The new Code will be published this year.

The Codes and rules currently in force for broadcast content are:

- Advertising and Sponsorship Code (Radio Authority)
- News & Current Affairs Code and Programme Code (Radio Authority)
- Code on Standards (Broadcasting Standards Commission)
- Code on Fairness and Privacy (Broadcasting Standards Commission)
- Programme Code (Independent Television Commission)
- Programme Sponsorship Code (Independent Television Commission)
- Rules on the Amount and Scheduling of Advertising

From time to time adjudications relating to advertising content may appear in the bulletin in relation to the application of formal sanctions by Ofcom.

Copies of the full adjudications for Upheld and Not Upheld Fairness and Privacy cases can be found on the Ofcom website: www.ofcom.org.uk

Standards cases

In Breach

Ministry of Mayhem

ITV1, 15 January 2005, 11:15

Introduction

Ministry of Mayhem is a live Saturday morning show for children. We received four complaints about an experiment which viewers felt was dangerous and were concerned that children watching at home would try to copy.

In the item, a science lecturer from Brighton University and 'the Doc', an actor pretending to be a scientist, competed against each other to create 'the best science' of the day. They took turns at performing the same experiment, which involved creating bubbles by pumping methane from a canister into a bowl of detergent and then igniting them.

The competition began with 'the Doc' lighting the bubbles on the bench top. The visiting scientist responded by putting bubbles in one hand and setting them alight. 'The Doc' then filled both his hands with bubbles and set them alight to be declared the winner of the challenge. He appeared to be slightly injured.

Response

ITV told us that 'The Lab' science spot was a well-established feature of this children's series: there had been a science experiment or demonstration within the programme every week since the show began. The objective was to educate a little and entertain, but to do so with care, and without endangering anyone – least of all young viewers.

ITV said that the weekly 'Lab' feature used chemicals and equipment that were not household items. The non-domestic nature of the item is underlined by it being staged in a 'lab' part of the studio set. Whilst fire and explosions were demonstrated from time to time, ITV said it took care to keep within 'non-domestic' parameters; matches were therefore never used. ITV said that the experiments were always explained.

In this particular case, the equipment used to create the bubbles was a methane gas cylinder attached to a purpose-made valve, rather than a camping gas stove, as two complainants had thought. ITV claimed that the presenters made clear that they were using methane gas, and that the visiting scientist explained very clearly the significance of the use of methane. The flame, he had said, came from "methane, with very little oxygen, so the temperature of the flame is quite low".

ITV said that children would not be able to recreate this particular experiment at home. However, it acknowledged that, on this occasion, the usual caution "Don't try this at home" was not given.

Decision

The experiment was conducted almost as a piece of slapstick fun (exacerbated by the comic character of 'the Doc'), with any educational aspect being minimal. The significance of using methane was mentioned in passing and it was far from clear what safety precautions had been taken. The experiment was clearly presented as a challenge, with the winner being the one who was the most daring. When 'the Doc' suffered a burn to his hand, this was met with laughter. We also noted that no warning against trying to copy the experiment was given to children watching.

The key issue here was not whether children would in fact be able to recreate successfully the experiment at home, but whether they were likely to try to. While children might not have ready access to methane, propane and other highly flammable gases are more accessible, as are a variety of sources of ignition. We thought that the combination of foamy bubbles and flames were likely to appeal greatly to children.

The item was in breach of section 1.2(i) (Children and Imitative Behaviour) of the Programme Code.

MTV 2's Greatest Singles

MTV 2, 12 December 2004, 10.05

Introduction

Two members of a rock band presented a short, pre-recorded link in a countdown of *Greatest Singles* on MTV2. While one incident of swearing was edited, a few seconds later the same person clearly used the word "fuck", which was not edited. A viewer queried whether this was acceptable for broadcast at this time of the morning.

Response

MTV said that it broadcast an apology on 15 and 16 December at 10.05 on MTV2 for any offence caused by the link. It said that it had introduced a new requirement for producers to ensure that this type of material is double checked, using another member of staff, before transmission.

Decision

The use of the word "fuck" was unacceptable for broadcast at that time. Although we accept that MTV responded responsibly by issuing an apology, we are concerned that such content was overlooked when it was included in pre-recorded material.

The item was in breach of Section 1.2 (Family Viewing and the Watershed) of the Programme Code

Pimp My Ride

MTV UK, 5 January 2005, 23:30

Introduction

Pimp my Ride is a programme from the US in which cars are extensively customised based on their owner's likes and/or hobbies. The series sponsor in the UK is the computer game 'Need for Speed Underground 2'. During this edition, the owner of the car to be customised was an avid computer gamer. Throughout the programme, a number of references were made to 'Need for Speed' and the games manufacturer, EA Games. A viewer complained about the references to the programme sponsor, which he understood were not allowed.

Response

MTV Networks Europe, who are responsible for compliance on MTV UK, replied that this edition of *Pimp My Ride* had been brought to their attention on 13 January by a member of staff who felt that the references to 'Need for Speed' were not in accordance with MTV's normal compliance standards.

MTV said that it viewed all US shows prior to their broadcast on MTV in the UK and edited them if necessary in order to ensure that all content was appropriate. It was often necessary to remove commercial references from US shows to avoid undue prominence and sponsor references. In relation to this particular show, MTV Networks Europe had told their sponsorship team to advise them of any proposed sponsor in order that the series could be reviewed if there was a risk of that sponsor's name or products appearing in the show.

When this edition was originally viewed, MTV removed a number of references to 'Need for Speed', 'Fusion', 'X Box', various video games and 'West Coast Customs'. Some references, that MTV felt were editorially justified, were left in. Regrettably, when viewing the show, the UK 'Need for Speed Underground 2' sponsorship was overlooked. Consequently, some references to the game were left in and for this MTV apologised.

Following the complaint, MTV removed the edition from all their schedules pending the removal of the remaining 'Need for Speed' and 'EA Games' references. Having reviewed the programme, MTV decided to remove not only these references but also further commercial references which were originally left in the show. MTV gave an assurance that the edition would not be broadcast again in its current form. Furthermore, it had reviewed the entire series of *Pimp My Ride* and confirmed that there were no further references to the sponsor in any other edition.

Decision

Rule 9.1 of the Code of Programme Sponsorship prohibits references to a programme sponsor in the programme they are sponsoring. The references to 'Need for Speed' and the games creator, 'EA Games', within the edition were therefore in breach of the Code. However, regardless of the sponsorship arrangement, we were concerned about the frequency of commercial references within the programme.

While accepting that the series was made for a US market, where there are fewer

constraints on commercial references within programmes, we consider that the edition contained an excessive amount of references to commercial products and services and should not have been broadcast without further editing. Whilst MTV acknowledges that this edition was not edited to its usual compliance standards, we are concerned to note MTV's failure to ensure proper compliance in this case.

The programme was in breach of Section 9.1 (sponsor references) and 16 (undue prominence) of the Code of Programme Sponsorship

Overall, Ofcom has concerns about the number of compliance errors that MTV made during December and January.

Holla

Channel U, 30 December 2004, 18:30

Introduction

Channel U is a music channel specialising in urban music. Between 16:00 and 19:00 part of the service involves viewers sending text messages to one another via the channel - the messages appear on screen.

A viewer complained about a text message that read “shut da fck up 454 com 2 london we will merk u”. The complainant said that as “fck” was text shorthand for ‘fuck’, the language was unacceptable for the time of broadcast. We also asked Channel U for its comments on the reference to “merk” (often understood to refer to ‘murder’).

Response

Channel U agreed that the term ‘fck’ could be shorthand for ‘fuck’ but said that it did not appear in any dictionary and so the broadcaster could not say for certain what the implied word was. The channel had to decide where to draw the line in these cases; it said that the national press use the term f*** as shorthand for ‘fuck’ without complaint. While Channel U did not accept the complainant’s concerns on the issue, it would however, as a gesture of goodwill, ensure that any messages containing similar terms would be removed in future.

With regard to the term ‘merk’, Channel U stated that to murder/injure was just one definition of the word. Other meanings included to beat someone in a game or to insult somebody. The meaning of “merk” in the context of the text message was quite ambiguous. Due to the ambiguity of the remark, the broadcaster did not accept that it breached the Code.

Decision

We considered that, in the context in which the term ‘fck’ was used, its meaning was obvious. Also, while it was not possible to determine the exact meaning of the term “merk”, from the context in which it appeared and the overall tone of the message, it was clear that some sort of threat was implied.

The message was displayed well before the watershed and at a time when children could be expected to be watching. We considered that the tone and content of the text message was unsuitable for the time of broadcast.

The programme was in breach of Section 1.2 of the Code (Family viewing and the watershed).

Resolved

Lap Dance video (N.E.R.D)

MTV Dance, 15 December 2004, 22.01

Introduction

A viewer complained about the scheduling of this N.E.R.D video on MTV Dance. It was unencrypted and she felt that it featured 'pornographic' content not suitable for those under 18.

Response

MTV explained that it had three different versions of this video: one for broadcast after 19.00, one for broadcast after 22.00 and one for broadcast after 01.00. On this occasion, the post 01.00 version was mistakenly broadcast at 22.01.

MTV said it had re-checked its scheduling databases to prevent a recurrence of this incident. Given that it was a relatively old video, it had also reminded its music programming team of the restrictions for each version.

In addition, MTV had apologised to the complainant, who had contacted it directly.

Decision

Whilst we welcome the action taken by the broadcaster, we are concerned by the failure in its compliance processes. On this occasion, however, we consider the matter resolved.

Complaint resolved

Brewster's Millions

Channel 4, 8 January 2005, 16:05

Introduction

Two viewers were concerned about swearing in this film as it was shown on a Saturday afternoon when children were watching television in significant numbers.

Response

Channel 4 said that the BBFC gave this film a "PG" rating and it believed the film was suitable for daytime viewing. It was a light-hearted, family comedy starring Richard Pryor as the main character "Brewster", who has inherited a fortune. However, he has to spend \$30 million in 30 days or lose the fortune. He panics about the situation and uses language such as "shit" and "arsehole", in his disbelief and frustration. The language was not used in an aggressive or confrontational manner.

Channel 4 accepted that some viewers may have been surprised by the cumulative effect of the language, given the time of day. In light of this, the channel has reviewed and revised the scheduling classification for this film to post-watershed.

Decision

The Programme Code advises licensees that bad language should not be a frequent feature before the 9pm watershed. We welcome Channel 4's acknowledgement that the amount of such language in this film may have offended some viewers, especially when watching with younger children. Given the channel's response to schedule this film after the watershed for any future transmissions, we consider that sufficient action has been taken and that the matter is resolved.

Complaints resolved

100 Greatest Christmas Moments

Channel 4, 26 December 2004, 15:05

Introduction

A viewer complained that, although swearing had been muted in the soundtrack, the subtitles had included the word “fuck” on two occasions.

Response

Channel 4 apologised for any offence caused. It had also received a complaint shortly after transmission and immediately referred the problem to senior management.

At this time the channel was in the process of changing its subtitling contract and the previous company was under pressure to complete a number of jobs before the contract finished at the end of the year. This programme had already been subtitled for a post-watershed version and this episode was supposed to have been edited to be suitable for broadcast at any time of day. Unfortunately, when editing the text, the team had missed this seriously offensive language.

The new company was carefully briefed about this issue and informed that, if there was any doubt about language for a daytime transmission, it should be referred up to senior management. Both editions of this programme had now been checked and edited to make sure that such language did not go out in the subtitles of any future pre-watershed broadcasts.

Decision

We have noted the circumstances surrounding this incident and Channel 4’s excellent record, up until this point, in providing high quality subtitling and audio description services. Given the action taken by Channel 4, we consider this matter resolved.

Complaint resolved

You're on Sky Sports!

Sky Sports, 24 January 2005, 22:00

Introduction

A viewer was offended by a 'joke' made in this live sports discussion programme which was a play on the word 'tsunami'. The complainant was particularly offended by the chuckling which followed the 'joke', which he thought indicated that the presenter found it extremely funny.

Response

Sky accepted that Rodney Marsh's comment was inappropriate in the light of the recent disaster. Later in the show, he apologised to the viewers for the 'joke', acknowledging that it could be seen as offensive and in poor taste. Shortly after the programme Sky decided that Rodney Marsh should no longer continue as a pundit on the channel and his contract was terminated.

Decision

We consider that the 'joke', which referred to Newcastle United football club's nickname of the 'Toon Army', was inappropriate at a time of heightened national and international sensitivity. The disaster had occurred less than a month before the programme.

It was also apparent from emails being received during the programme that a number of viewers had been offended by Rodney Marsh's comment. However, in the light of Sky's response, we consider the matter resolved.

Complaint resolved

ITV Films, Motorola sponsorship and You've Been Framed

ITV1, 27 December 2004, 21:00 and 1 January 2005, 17:30

Introduction

11 viewers objected to a Motorola sponsorship credit that appeared around ITV films on 27 December and on subsequent dates. The credits featured a video clip of a tropical storm. The complainants considered that the broadcast of the credit, shortly after details of the tsunami disaster had become known, was ill-judged and insensitive.

12 viewers objected to an edition of *You've Been Framed* broadcast on New Year's Day. One sequence of video clips featured scenes of beach mishaps, including large waves, and the complainants felt that these clips (which were accompanied by recorded laughter) were highly inappropriate given the public sensitivity following the tsunami.

Response

ITV explained that the programme and credit were produced and edited well in advance of Christmas and the New Year holiday. Following the Boxing Day tragedy, numerous changes were made, both within programmes and to ITV's schedules to avoid insensitivity towards the plight of disaster victims and the bereaved. There were wholesale reviews of the ITV output as the nature and scale of the tragedy unfolded.

ITV regretted that both this edition of '*You've Been Framed*' and the Motorola credit escaped those reviews. There were a number of contributing factors:

- The programme was a clip/ compilation show – paperwork for such programmes does not tend to specify every detail which might conceivably touch on disaster.
- The highly unusual nature of the disaster – whilst ITV is vigilant towards tragedies such as a train or plane crash, a tsunami has never previously featured on its 'watch' list.
- The timing - over the holiday period, neither the producers nor the compliance experts who had handled the material in question were on hand to recall and remedy the problem.

ITV offered sincere apologies for broadcasting the programme and sponsorship credit and confirmed it did not wish to cause offence.

Decision

It was wholly understandable that some viewers would consider the items to be offensive or insensitive. However, ITV had conducted proper reviews of its output and the broadcast of this programme and credit were the result of an unfortunate oversight. In view of this, and ITV's acknowledgement of the error, we consider the matter resolved.

Complaints resolved

Not in Breach

Fifth Gear

Five, 29 November 2004, 20:30

Introduction

We received 35 complaints about this review of a new Land Rover model. The presenter was seen driving the vehicle on an unsurfaced public highway, which he referred to as a 'Green Lane'. There is no legal definition of 'Green Lanes'. However the term is generally accepted to indicate an unsurfaced, often hedged, track in the countryside. The complainants felt that the item encouraged irresponsible, dangerous driving on Green Lanes and promoted vandalising the countryside. They also considered that the item was ill advised, in view of an ongoing debate about the use of such unsurfaced tracks.

Many of the complainants were members of the Green Lane Association (GLASS), and a number of them mentioned the GLASS Code of Conduct, which they felt the presenter had ignored. The GLASS Code recommends, amongst other matters, not driving a four wheel drive vehicle on a Green Lane at more than 12 miles per hour and not using a Green Lane in conditions where it could be damaged by the vehicle's wheel pressure.

Response

Five explained that the item was primarily a test drive of a new model, rather than an in-depth examination of the arguments surrounding 'Green Laning'. It considered that it had made adequately clear that Green Lanes were in fact 'public roads'; the item ended with the presenter stating:

"Obviously, if you do decide to Green Lane, make sure you stick to the rights of way, and that your car is road legal – and remember that you're sharing the space with walkers and horses."

Five did not believe that the presenter was driving in a manner that endangered other users of the particular road in question. It said that the trials were shot under controlled conditions and that the presenter was driving at no more than 15 miles per hour.

Decision

While we recognise the sensitivity of the issues, we cannot consider whether the item undermined the campaign of off-road communities or damaged their reputation as these matters are not within the standards remit. The GLASS Code is a code of conduct rather than a statutory requirement. We acknowledge that the complainants would have preferred the presenter to have abided by the GLASS Code. However the fact that he did not does not mean that this item was in breach of Ofcom's Programme Code.

We considered whether the item was likely to have encouraged people to damage the countryside or to drive dangerously. We believe that Five's note of caution – that

Green Lanes were shared by others and that viewers should act responsibly - was appropriate.

The programme was not in breach of the Programme Code

Other programmes not in breach/out of remit 22 March – 5 April

Programme	Trans Date	Channel	Category	No of Complaints
24	30/01/2005	Sky One	Offence	1
24	31/01/2005	Sky One	Religious Offence	1
A - Z of Eastenders	28/03/2005	BBC1	Language	1
An Audience With Al Murray	19/03/2005	ITV1	Offence	4
Angel	04/03/2005	Sky One	Scheduling	1
Animals Do the Funniest Things	13/03/2005	ITV1	Offence	1
BBC Radio 4	14/03/2005	BBC Radio 4	Offence	1
BBC Radio 4	24/10/2004	BBC Radio 4	Offence	1
Blame It on the Parents	31/03/2005	BBC2	Offence	1
Calendar News	20/01/2005	ITV1	Offence	1
Calendar News	05/03/2005	ITV1	Violence	1
Casualty	19/03/2005	BBC1	Offence	1
CCTV - 9	02/04/2005	Sky	Impartiality	1
Celebrity Fit Club	15/03/2005	ITV1	Language	2
Central News	20/03/2005	ITV1	Offence	1
Chambers	09/03/2005	BBC7	Language	1
Children in Need	19/11/2004	BBC1	Offence	1
CNBC	10/03/2005	CNBC	Offence	1
Coach Trip	24/03/2005	Channel 4	Offence	2
Colditz	28/03/2005	ITV1	Offence	1
Comic Relief 2005	11/03/2005	BBC1	Offence	3
Comic Relief Does Fame Academy	11/03/2005	BBC1	Offence	1
Coronation Street	11/04/2005	ITV1	Violence	1
Desperate Housewives	21/03/2005	Channel 4	Scheduling	1
Dr Who	26/03/2005	BBC1	Offence	1
Earthsea	27/03/2005	Channel 4	Offence	1
Emmerdale	16/11/2004	ITV1	Offence	1
Emmerdale	25/11/2004	ITV1	Offence	2
Emmerdale	22/11/2004	ITV1	Offence	1
Emmerdale	13/01/2005	ITV1	Offence	1
Emmerdale	21/01/2005	ITV1	Offence	1
Emmerdale	14/02/2005	ITV1	Offence	1
Emmerdale	16/02/2005	ITV1	Offence	2
Emmerdale	01/03/2005	ITV1	Offence	1
Emmerdale	17/03/2005	ITV1	Offence	1
Emmerdale	29/03/2005	ITV1	Offence	1
Empire Square	04/03/2005	Channel 4	Offence	1
End of Days	26/03/2005	ITV1	Scheduling	1
Faith	28/02/2005	BBC1	Offence	1
Fifth Gear	21/03/2005	Five	Offence	1

Fifth Gear	-	Five	Offence	1
Five Live	05/03/2005	BBC Radio 5	Offence	1
Five Live	12/03/2005	BBC Radio 5	Offence	1
Five News	08/03/2005	Five	Sexual portrayal	1
Five News	29/03/2005	Five	Offence	1
Fool Around With My Girlfriend	26/02/2005	Channel 4	Scheduling	1
Footballers' Wives	31/03/2005	ITV1	Offence	2
Galaxy 102	30/01/2005	Galaxy 102	Language	1
GMTV	22/02/2005	ITV1	Offence	1
GMTV	09/03/2005	ITV1	Language	1
GMTV News	30/04/2004	ITV1	Impartiality	1
Granada Reports	04/01/2005	ITV1	Offence	1
Groundforce	21/03/2005	BBC1	Offence	1
Help	28/03/2005	BBC2	Language	1
hit40uk	19/03/2005	Channel 4	Scheduling	1
Holby City	22/03/2005	BBC1	Sexual portrayal	2
Ideal	25/01/2005	BBC3	Offence	1
International Football	26/03/2005	Five	Offence	1
It'll Be Alright On The Night	29/03/2005	ITV1	Offence	1
ITV News	16/03/2005	ITV1	Offence	1
ITV News	19/02/2005	ITV1	Impartiality	1
ITV News	01/04/2005	ITV1	Offence	1
Jazz FM	-	Jazz FM	Offence	1
John Cleese's Comedy Heroes	07/03/2005	Five	Religious Offence	1
Jonathan Dimbleby	14/03/2005	ITV1	Impartiality	2
Kerrang	10/02/2005	Kerrang	Offence	2
LBC Programme	09/03/2005	LBC97.3	Offence	1
Life Begins	30/03/2005	ITV1	Language	1
Make Me a Supermodel	21/03/2005	Five	Sexual portrayal	1
Make Me a Supermodel	23/03/2005	Five	Offence	1
Meridian News	-	ITV1	Offence	1
Metro Radio	03/03/2005	MetroFM	Offence	1
Midsomer Murders	23/01/2005	ITV1	Offence	2
Ministry of Mayhem	26/03/2005	ITV1	Offence	1
Nathan Barley	25/02/2005	Channel 4	Sexual portrayal	1
No Angels	29/03/2005	Channel 4	Language	1
Noah and Saskia	20/01/2005	BBC1	Offence	1
Not Under My Roof	11/03/2005	BBC3	Sexual portrayal	1
Outtake TV	17/03/2005	BBC1	Language	1
Panorama	20/03/2005	BBC1	Impartiality	1
Quicksand: No Escape	21/03/2005	Five	Offence	1
Revelation TV	22/12/2004	Revelation TV	Offence	1
Revelation TV	27/03/2005	Revelation TV	Religious Offence	1

Sally Jesse Raphael	25/02/2005	ITV2	Offence	1
Shameless	08/02/2005	Channel 4	Violence	1
Shameless	08/03/2005	Channel 4	Offence	1
Shock Treatment	17/11/2004	Sky One	Offence	2
Shock Treatment	24/11/2004	Sky One	Offence	2
Songs of Praise	06/03/2005	BBC1	Offence	1
Stars in their Eyes	19/03/2005	ITV1	Offence	1
Talksport	14/03/2005	Talksport	Impartiality	1
Talksport	20/03/2005	Talksport	Offence	1
Talksport	22/03/2005	Talksport	Offence	1
The Contender	25/03/2005	ITV1	Offence	1
The Friday Night Project	25/02/2005	Channel 4	Offence	1
The Gadget Show	11/03/2005	Five	Offence	1
The Games	-	Channel 4	Language	1
The Last Temptation of Christ	-	Channel 4	Religious Offence	3
The New Ten Commandments	26/02/2005	Channel 4	Religious Offence	1
The Paul O'Grady Show	21/03/2005	ITV1	Offence	1
The Wright Stuff	16/03/2005	Five	Offence	1
The Wright Stuff	21/03/2005	Five	Accuracy	1
This Morning	19/01/2005	ITV1	Offence	1
Tiny Pop	08/03/2005	Tiny Pop	Offence	1
Trailer for E4	22/03/2005	E4	Violence	1
Trainers, Reggae and the Olympics	15/11/2004	Channel 4	Offence	1
Trisha	17/03/2005	ITV1	Offence	1
Weakest Link	28/02/2005	BBC2	Offence	1
Wire in the Blood	14/03/2005	BBC1	Offence	1
X-Rated: The Sex Films they tried to Ban	13/03/2005	Channel 4	Sexual portrayal	1
You're Fayed	31/03/2005	Channel 4	Offence	3
You've Been Framed	21/02/2004	ITV1	Offence	1