

# **Ofcom Broadcast and On Demand Bulletin**

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## Introduction

Under the Communications Act 2003 (“the Act”), Ofcom has a duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives<sup>1</sup>. Ofcom also has a duty to secure that every provider of a notifiable On Demand Programme Services (“ODPS”) complies with certain standards requirements as set out in the Act<sup>2</sup>. Ofcom must include these standards in a code, codes or rules. These are listed below.

The Broadcast and On Demand Bulletin reports on the outcome of investigations into alleged breaches of those Ofcom codes and rules below, as well as licence conditions with which broadcasters regulated by Ofcom are required to comply. We also report on the outcome of ODPS sanctions referrals made by the ASA on the basis of their rules and guidance for advertising content on ODPS. These Codes, rules and guidance documents include:

- a) [Ofcom’s Broadcasting Code](#) (“the Code”) for content broadcast on television and radio services.
- b) the [Code on the Scheduling of Television Advertising](#) (“COSTA”) which contains rules on how much advertising and teleshopping may be scheduled in television programmes, how many breaks are allowed and when they may be taken.
- c) certain sections of the [BCAP Code: the UK Code of Broadcast Advertising](#), which relate to those areas of the BCAP Code for which Ofcom retains regulatory responsibility for on television and radio services. These include:
  - the prohibition on ‘political’ advertising;
  - sponsorship and product placement on television (see Rules 9.13, 9.16 and 9.17 of the Code) and all commercial communications in radio programming (see Rules 10.6 to 10.8 of the Code);
  - ‘participation TV’ advertising. This includes long-form advertising predicated on premium rate telephone services – most notably chat (including ‘adult’ chat), ‘psychic’ readings and dedicated quiz TV (Call TV quiz services). Ofcom is also responsible for regulating gambling, dating and ‘message board’ material where these are broadcast as advertising<sup>3</sup>.
- d) other licence conditions which broadcasters must comply with, such as requirements to pay fees and submit information which enables Ofcom to carry out its statutory duties. Further information can be found on Ofcom’s website for [television](#) and [radio](#) licences.
- e) Ofcom’s [Statutory Rules and Non-Binding Guidance for Providers of On-Demand Programme Services](#) for editorial content on ODPS. Ofcom considers sanctions in relation to advertising content on ODPS on referral by the Advertising Standards Authority (“ASA”), the co-regulator of ODPS for advertising or may do so as a concurrent regulator.

[Other codes and requirements](#) may also apply to broadcasters, depending on their circumstances. These include the Code on Television Access Services (which sets out how much subtitling, signing and audio description relevant licensees must

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<sup>1</sup> The relevant legislation is set out in detail in Annex 1 of the Code.

<sup>2</sup> The relevant legislation can be found at Part 4A of the Act.

<sup>3</sup> BCAP and ASA continue to regulate conventional teleshopping content and spot advertising for these types of services where it is permitted. Ofcom remains responsible for statutory sanctions in all advertising cases.

provide), the Code on Electronic Programme Guides, the Code on Listed Events, and the Cross Promotion Code.

**It is Ofcom's policy to describe fully the content in television, radio and on demand content. Some of the language and descriptions used in Ofcom's Broadcast and On Demand Bulletin may therefore cause offence.**

## Broadcast Standards cases

### In Breach

#### Madhubala – Ek Ishq Ek Junoon

*Rishtey*, 6 August 2016, 14:15

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#### Introduction

Rishtey is a general entertainment television channel for the South Asian community in the UK. It broadcasts in English, Punjabi and Hindi on a variety of digital platforms. The licence for Rishtey is held by Viacom 18 Media Private Limited (“Viacom 18” or “the Licensee”).

A viewer alerted Ofcom to scenes of violence in an episode of the Bollywood-style drama series *Madhubala – Ek Ishq Ek Junoon* broadcast on this channel on a Saturday afternoon. The series (in Hindi) is based around the story of the heroine, Madhubala, and her fate as an actress in the film industry.

The episode featured various scenes of violence but most did not raise potential issues under the Code. However, we noted one sequence approximately 30 minutes into the episode showing an attempt to hang Madhubala. This included shots of:

- Madhubala standing on a chair on the gallows, her hands tied behind her back, a noose around her neck, and an attacker pointing a gun at her from a distance;
- the attacker shooting away the chair supporting her weight, and Madhubala's body dropping and her starting to strangle as the noose around her neck tightens;
- a close up shot of her feet thrashing about as she is being strangled;
- attackers repeatedly hitting a male character with sticks and bats as he intervenes to hold up Madhubala to avoid her choking to death;
- close ups of Madhubala choking and struggling as she desperately gasps for air; and
- Madhubala finally managing to remove the noose from around her neck and free herself.

This sequence lasted approximately two minutes, from the moment the attacker shot the chair away from underneath Madhubala until the moment she managed to free herself. Ofcom translated the minimal dialogue spoken by the actors in this sequence from the original Hindi into English but considered that it was not necessary for, or relevant to, assessing this violence against the Code.

Ofcom considered that the material raised issues warranting investigating under Rule 1.11 of the Code. This states:

“Violence, its after-effects and descriptions of violence, whether verbal or physical, must be appropriately limited in programmes broadcast before the watershed (in the case of television) ...and must also be justified by the context”.

We therefore sought comments from Viacom 18 as to how the material complied with this rule.

## Response

Viacom 18 said the content described above “should not have been broadcast at 14:15 hrs”. It told Ofcom that the programme had originally been broadcast in February 2013 at 21:00 and it “was never intended to transmit [it] before this time”. The Licensee said that “in this particular instance, a member of staff for compliance was unfortunately lax and did not display the necessary acumen, letting the episode pass through pre-watershed hours”. The Licensee said that the “staff member’s negligence was discovered after certain errors were identified by their line manager” and as a result disciplinary action was taken against them.

Viacom 18 said that, having been alerted to this issue, it had immediately reviewed all episodes of this programme that had been complied by this particular member of staff to ensure their broadcast would not raise issues under the Code. The Licensee said that it had also conducted a training session on Ofcom compliance to ensure that all team members were “thoroughly reappraised of Ofcom...norms”.

The Licensee assured Ofcom that it had “taken remedial measures to effectively rectify the error and also taken appropriate steps to ensure [it] prevents such further errors”.

## Decision

Under the Communications Act 2003 Ofcom has a statutory duty to set standards for broadcast content as appear to it to be best calculated to secure standards objectives, including that “persons under the age of eighteen are protected”. This objective is reflected in Section One of the Code.

Rule 1.11 states that violence must be appropriately limited in programmes broadcast before the watershed and must also be justified by the context.

We first assessed whether the level and nature of the violence was appropriately limited. We took account of Ofcom’s 2014 research on Audience Attitudes towards Violent Content on Television<sup>1</sup>. This research indicated that viewers took various factors into account when evaluating the acceptability of violence on television. In summary, the research indicated that, before the watershed, audiences were less willing to accept: violence in general and wished it to be less extreme; violence against more vulnerable individuals; and, the infliction of physical harm, especially when lengthy<sup>2</sup>.

In this case, the programme included a sequence showing an attempt to hang a young woman. This is described in detail above in the Introduction. The impact of the violence was heightened by: the build up to the attempted hanging (Madhubala was shown at various points standing on a chair on the gallows, her hands tied behind her back, a noose around her neck, while the attacker made repeated threats to kill her while pointing a rifle in her direction); the violence and relative realism of the hanging itself as seen by viewers, including footage of the heroine struggling for her life, particularly when her weight was supported only by the noose tightening round her

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<sup>1</sup> [https://www.ofcom.org.uk/data/assets/pdf\\_file/0024/54933/violence\\_on\\_tv\\_report.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0024/54933/violence_on_tv_report.pdf)

<sup>2</sup> Summarised on pages 3 to 6 of the research report.

neck; and, the sequence itself of the attempted hanging lasting about two minutes overall.

We acknowledged that much of the tone and imagery of the episode was consistent with Bollywood drama. For example: the plot was unrealistic; the scenes of fighting between the male character and the attackers were highly stylised; much of the acting appeared exaggerated; and, the male character displayed superhuman strength in resisting violence inflicted on him by the attackers, set to dramatic music and using slow motion effects during the sequence. However, we did not consider these factors limited the violence in the hanging scene.

We next considered whether the violence was justified by the context. Context includes factors such as: the editorial content of the programme; the time of broadcast; the service; the likely size and composition of the audience; and, the likely expectations of the audience. The sequence showing the attempted hanging had a duration of around two minutes. Although its potential impact on child viewers may have been reduced to some extent by some of the Bollywood drama elements mentioned above, in Ofcom's opinion this portrayal of an attempted hanging of a young woman was sufficiently realistic, lengthy and dramatic to be potentially distressing for child viewers. We took into account that the audience of this channel was likely to be small<sup>3</sup>, but also that it was likely that a number of children were able to watch this episode because it was broadcast on a Saturday afternoon during the summer school holidays.

Viacom 18 said that this particular episode was originally broadcast on the channel in 2013 at 21:00, and the Licensee acknowledged that a mistake was made in this case and it was broadcast before the watershed because of human error. We also noted that there was no information to parents or carers warning them about the violent content before this programme began. For all these reasons, Ofcom considered that to broadcast this violent content at this time and on this channel was not consistent with the likely expectations of the audience.

Ofcom's Decision therefore, was that this violence sequence showing an attempted hanging was not justified by the context.

We took into account that the Licensee: acknowledged this compliance error; stopped broadcasting this series immediately, and re-checked and edited all the episodes compiled by the member of staff responsible for this mistake to ensure compliance with the Code when broadcast; took disciplinary action against the person found responsible; and, re-trained its compliance staff. Nonetheless, our Decision was that the sequence of the attempted hanging was in breach of Rule 1.11.

### **Breach of Rule 1.11**

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<sup>3</sup> Because the audience share of this service in the UK was very small no reliable audience figures were available.

## Resolved

### Dance Anthems

*BBC Radio 1, 6 August 2016, 16:00*

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#### Introduction

*Dance Anthems* is BBC Radio 1's dance music show presented by Danny Howard. During a live broadcast from Café Mambo in Ibiza, a music set by Martin Solveig included a remix of the song "Never Be Like You" by Flume at 16:57.

A complainant alerted Ofcom to offensive language included in the track:

*"...now I fucked up and I miss you  
I'll never be like you...  
That loves fake shiny things  
Now I fucked up and I miss you..."*

At 17:00, immediately after the end of the track, Danny Howard made the following apology:

*"BBC Radio 1 – it's Danny Howard live from Ibiza. To everybody listening at home apologies if you're offended by the bad language. The beauty of live radio, Martin [Solveig, who then laughs] ..."*

Ofcom considered this material raised issues warranting investigation under Rule 1.14 of the Code, which states that:

"The most offensive language must not be broadcast...when children are particularly likely to be listening (in the case of radio)".

We therefore asked the BBC for its comments on how the content complied with this rule.

#### Response

The BBC apologised for the "inadvertent use of strong language" and said that the remix of the track "Never Be Like You" was broadcast "in error due to an unfortunate mistake" by the DJ during the live set. The BBC stated that "an on-air apology was given at the end of the track" and "a senior manager at Radio 1" had written to the "only member of the public who complained to the BBC".

The BBC explained the programme was "a specialist dance music programme which is not likely to appeal to children". This edition of the programme was broadcast live from Ibiza between 16:00 and 19:00 "as part of the network's annual Ibiza weekend" and during "its regular slot on a Saturday afternoon". The broadcaster said it preferred to broadcast "such events live rather than pre-recorded" to "capture the excitement and energy for listeners" and decisions were made "on a case by case basis taking account of the artists involved".

The broadcaster said that this was "an isolated incident" that had "occurred despite strict compliance measure imposed by the production team". The BBC clarified that it was "standard practice...to brief all contributors on what is appropriate and

acceptable language for particular broadcast timeslots". In this case "all of the contributors and representatives were informed in advance, in writing, of the BBC 's requirements". A copy of an email the BBC sent to Martin Solveig and his representatives on 30 July 2016 stated:

"He [Martin Solveig] will have a very early set time (4.00pm UK time) so it's absolutely essential that his set is completely free from swearing and controversial content (i.e. drugs/references/violence). We will pull his set if this rule is broken".

The programme producer also spoke to the DJ and his representatives on the day of broadcast "to remind them of the need to ensure there was no strong language or inappropriate content in his set".

The BBC explained that Martin Solveig was a "frequent guest" on Radio 1 who "demonstrated he understands and is ready to comply with relevant editorial standards". In addition, "none of his recent songs play-listed by Radio 1 had featured strong language or potentially offensive lyrics". The final track of Martin Solveig's set included a "new remix" and he had "prepared a version without strong language suitable for use in the programme". However, Martin Solveig "inadvertently" played out the incorrect version.

The BBC said that on spotting the error the producer immediately spoke to the presenter "and instructed him to issue an on-air apology as soon as the song finished". It added that as this was "the final track" in the set "there was no need to consider ending his performance".

The broadcaster stated that "the compliance measures in place were appropriate for a live broadcast of this kind" and concluded that "the incident was solely the result of an unfortunate and inadvertent error" on the part of the contributor.

## **Decision**

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, one of which is that "persons under the age of eighteen are protected". This objective is reflected in Section One of the Code.

Rule 1.14 of the Code states that the most offensive language must not be broadcast on radio when children are particularly likely to be listening. Ofcom's guidance on offensive language on radio<sup>1</sup> states that:

"For the purpose of determining when children are particularly likely to be listening, Ofcom will take into account of all the relevant information available to it. However, based on Ofcom's analysis of audience listening data, and previous Ofcom's decisions, radio broadcasters should have particular regard to broadcasting content at the following times:

- between 06:00 and 19:00 at weekends all year around, and in addition, during the same times from Monday to Fridays during school holidays"

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<sup>1</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0014/40541/offensive-language.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0014/40541/offensive-language.pdf)

In this case, the broadcast was on a Saturday at 16:57 and was therefore at a time when children were particularly likely to be listening.

Ofcom's 2010 research on offensive language<sup>2</sup> notes that the word "fuck" and variations of this word are considered by audiences to be the most offensive language. This broadcast contained two uses of the word "*fucked*". The most offensive language was therefore broadcast at a time when children were particularly likely to be listening and there was a clear breach of Rule 1.14.

However, Ofcom took into consideration that: Radio 1 had compliance procedures in place to assess the risk before broadcast of the likelihood of the contributor using offensive language; the BBC warned the contributor and his representatives against using offensive language both before and on the day of broadcast; the broadcast of the offensive language resulted from an inadvertent error by the DJ; and the presenter immediately apologised on air following the incident.

In light of all these factors, Ofcom considered the matter resolved.

## **Resolved**

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<sup>2</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0017/27260/offensive-lang.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0017/27260/offensive-lang.pdf)

Broadcasters should note that, on 30 September 2016, Ofcom published new research on public attitudes to potentially offensive language:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0022/91624/OfcomOffensiveLanguage.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0022/91624/OfcomOffensiveLanguage.pdf)

## Resolved

### Sponsorship of Ford Super Sunday by Ford

*Sky Sports 1, 24 April 2016, 16:00*

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#### Introduction

*Ford Super Sunday* is a programme covering live Premier League football matches. The licence for Sky Sports 1 is held by Sky UK Limited (“Sky” or “the Licensee”).

*Ford Super Sunday* is sponsored by the vehicle manufacturer Ford. A complainant contacted Ofcom about sponsorship credits that appeared around the programme on 24 April 2016.

Ofcom obtained recordings of the credits used as part of the sponsorship campaign. Six of the credits lasted between seven and 15 seconds and featured footage showing the exterior and interior of the sponsor’s cars, including close ups. At the end of each credit the Ford logo appeared in the bottom right-hand corner of the screen with “*Super Sunday*” below it.

Ofcom considered that this material raised issues warranting investigation under Rule 9.22(a) of the Code, which states:

“Sponsorship credits must be distinct from advertising. In particular:

- a) Sponsorship credits broadcast around sponsored programmes must not contain advertising messages or calls to action. Credits must not encourage the purchase or rental of the products or services of the sponsor or a third party. The focus of the credit must be the sponsorship arrangement itself. Such credits may include explicit reference to the sponsor’s products, services or trade marks for the sole purpose of helping to identify the sponsor and/or the sponsorship arrangement.”

We asked the Licensee for its comments on how the credits complied with this rule.

#### Response

Sky said that it was common for sponsorship credits to feature the sponsor’s products and it understood this to be acceptable, provided that credits did not also contain calls to action or advertising messages. Sky considered that this practice was necessary for sponsorship to be a commercial prospect that is of interest to brands.

Sky stated that each of the Ford sponsorship credits contained visuals that linked the sponsored product with the sponsored programme: in each credit the featured vehicle was set in a virtual football stadium and a reflection of a football player could be seen on the side of the car. The Licensee said that these images served to reveal the sponsoring brand and the programme being sponsored; and to associate the two visually.

In further submissions in response to Ofcom’s Preliminary View (of a breach of Rule 9.22(a)), Sky emphasised that the sponsorship credits contained no advertising messages or calls to action and that footballing imagery was present in each credit. It stressed that the credits were not advertising but bespoke sponsorship credits that

linked the sponsor's product with the programme that it sponsored. It said that although the credits' "focus may be on a vehicle in the literal sense" the credits were not about the vehicles; they showed vehicles in a football setting. Sky believed that the credits served no purpose beyond the remit of a sponsorship credit and that the focus of the credits was on the sponsorship arrangement.

Sky said that Ofcom's statement in the Preliminary View that the football imagery in the credit was subtle was entirely subjective and that there was nothing in Rule 9.22(a) which forbade subtlety. It said that the Ford logo in the credits was relatively small compared to the full-frame within which it featured and that while the text "*Super Sunday*" was smaller than the Ford logo, it was still clearly legible.

Sky said that it understood the purpose of Ofcom's rules was to protect both the industry and viewers from harm. It believed that the measure of whether the credits breached the rule was whether they would be seen as advertising rather than sponsorship. It believed that Ofcom had failed to take into consideration the context of this sponsorship campaign when reaching its Preliminary View, including that this was a live football programme broadcast on a premium subscription sports channel, and the fact that the title-sponsorship arrangement had been in place for over 20 years. For these reasons, Sky believed that viewers would be entirely familiar with the sponsorship arrangement and would understand that they were watching sponsorship credits, rather than adverts for Ford vehicles. Sky therefore did not believe that there could be any reasonable suggestion that the credits caused viewer harm. Sky also reiterated its belief that allowing such creative treatments was necessary for sponsorship to remain an attractive prospect for brands and broadcasters, and that the approach was not designed to circumvent advertising rules in any way. As such, Sky believed the credits were compliant with Rule 9.22(a).

Notwithstanding the above, Sky informed Ofcom that the credits in question were no longer running and it had no plans to broadcast them again. Further, Sky said that, going forward, it would ensure that the identification of the programme sponsor would remain on screen for longer.

## **Decision**

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure specific standards objectives, one of which is "that the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with". These obligations include ensuring compliance with the Audiovisual Media Services ("AVMS") Directive.

The AVMS Directive requires sponsored programmes to be "clearly identified as such by the name, logo and/or any other symbol of the sponsor such as a reference to its product(s) or services(s) or a distinctive sign thereof in an appropriate way for programmes at the beginning, during and/or end of the programmes". Such identification is usually achieved by way of sponsorship credits broadcast around sponsored programmes.

The AVMS Directive also limits the amount of advertising a broadcaster can transmit and requires that advertising is kept distinct from other parts of the programme service. Sponsorship credits are treated as part of the sponsored content and do not count towards the amount of airtime a broadcaster is allowed to use for advertising. To prevent credits effectively becoming advertisements, and therefore increasing the

amount of advertising transmitted, broadcasters are required to ensure that sponsorship credits are distinct from advertising.

To maintain a distinction between credits and advertising, Rule 9.22(a) of the Code requires that the focus of credits must be the sponsorship arrangement itself and that any reference in a credit to the sponsor's products, services or trademarks should be for the sole purpose of helping identify the sponsor and/or the sponsorship arrangement. Credits that focus predominantly on the sponsorship arrangement, rather than on the sponsor or its products or services, are more likely to be compliant with Rule 9.22(a).

The use of a creative approach that thematically links the sponsor to the programme is one way in which broadcasters can seek to ensure that the focus of the credits is on the sponsorship arrangement rather than the sponsor's products or services. However, the presence of a thematic link to the programme in itself is not necessarily enough to ensure that the focus of a credit is on the sponsor's association with the programme. Any thematic link and other elements in the credits together need to be sufficiently clear in their focus on the sponsorship arrangement to ensure that the credit does not raise issues under Rule 9.22(a).

In this case, Ofcom acknowledged that the credits did not contain specific calls to action or references to specific attributes of the sponsor's product. We also acknowledged that Sky had sought to create a thematic link between the credits and *Ford Super Sunday* by including football-related visuals and that the sponsorship had been in place for a number of years. Notwithstanding this, we considered that the focus of the credits was the sponsor's vehicles rather than the sponsorship arrangement, contrary to the requirements of Rule 9.22(a). In each credit, the featured sponsor's car was the dominant image, shown in full colour from various angles as the camera panned around the exterior. In addition, a number of close up shots of both the vehicle's exterior and interior were included. The vehicle remained on-screen for the entire duration of the credit.

In contrast, both the football stadium which served as a backdrop for the featured vehicle; and the reflection of a footballer which appeared on the side of each vehicle, were quite subtle. In particular, the background visual of the football stadium was shown in a mainly "washed out" and pale grey/white tone (in contrast to the colour images of the vehicles in the foreground) and could generally only be seen during wide shots of the vehicle. The reflection of the footballer in the paintwork of the vehicle, while visible, was vague. In addition, the inclusion of the programme title in the credits, which served to identify the sponsorship arrangement, appeared for around one second (in the case of the seven second credits) or three seconds (in the case of the 15 second credits) in the bottom right hand corner of the screen. The text of the programme title gave considerably more prominence to the Ford logo than it did to the text "*Super Sunday*".

None of the above features are, in and of themselves, problematic under Rule 9.22(a). However, we considered that when viewed as a whole, the overriding visual focus of each credit was the featured vehicle. In addition, the relatively short amount of time for which the programme title appeared, when combined with the fact that it only took up a small portion of the screen (as noted by Sky in its response), added to the impression that the credits were focusing on the featured vehicle, rather than on the sponsorship arrangement itself, particularly as the programme title was the only explicit reference to the arrangement which appeared in the credits. We noted Sky's comment in response to our Preliminary View that the football-related imagery would be clear to viewers because of the nature of the channel and the programming in

question. However, as stated above, the purpose of Rule 9.22(a) is to require a distinction between sponsorship credits and advertising: this distinction is the basis for excluding sponsorship credits when calculating the amount of airtime a broadcaster has used for advertising. Furthermore, advertising is not determined as such solely by its inclusion of calls to action and/or advertising messages.

Ofcom recognises that when judging whether the various components of a sponsorship credit amount to the credit being sufficiently distinct from advertising, fine editorial judgements are often required. As noted above, we acknowledged that Sky had sought to include a thematic link in the credits to the sponsored programme. However, we concluded that the relative prominence of the vehicle footage, when compared to the football-related imagery and the sponsorship message, had the effect of placing the focus of the credit on the sponsor's product rather than on the sponsorship arrangement. This was compounded by the duration of the credits (between seven and 15 seconds), the brevity of the sponsorship message (between one and three seconds) and the emphasis placed on the Ford logo that featured as part of the programme title. We therefore judged that the material was not distinct from advertising.

However, in view of Sky's statement that it had no plans to repeat the credits and that more emphasis would be placed on the identification of the programme sponsor in future, we considered the matter resolved.

**Resolved**

## Broadcast Licence Conditions cases

### In Breach

#### Provision of licensed service

*Oak FM (Hinckley & south west Leicestershire) and Oak FM (Loughborough),  
28 July 2016 to present*

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#### Introduction

Oak FM (Hinckley and Nuneaton) Ltd and Oak FM Ltd (“the Licensees” or “Oak FM”) hold local FM commercial radio licences for Hinckley and south west Leicestershire and Loughborough, respectively.

In early August 2016, it came to Ofcom’s attention that neither of the Oak FM licences were broadcasting their usual programme services in accordance with their published Formats<sup>1</sup>. Instead, the regular output had been replaced by continuous music with no editorial content. The Licensees explained that, owing to financial problems, Oak FM had ceased broadcasting and the licence-holding companies were both going into Administration.

Ofcom considered that this raised issues warranting investigation under Conditions 2(1) and 2(4) in Part 2 of the Schedule to the licences. These state, respectively:

- “The Licensee shall provide the Licensed Service specified in the Annex for the licence period and shall secure that the Licensed Service serves so much of the licensed area as is for the time being reasonably practicable”.
- “The Licensee shall ensure that the Licensed Service accords with the proposals set out in the Annex so as to maintain the character of the Licensed Service throughout the licence period”.

We therefore asked the proposed Administrator acting for the Licensees for its formal comments on Oak FM’s compliance, since 28 July 2016, with Conditions 2(1) and 2(4) in Part 2 of the Schedule to the licences.

#### Response

The proposed Administrator confirmed that Oak FM had ceased live broadcasting due to financial difficulties, and that it wished to seek our consent to transfer the licences if a buyer could be found for them.

#### Decision

Provision by a licensee of its licensed service on the frequency assigned to it is the fundamental purpose for which a commercial radio licence is granted. Ofcom has a

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<sup>1</sup> Under the Communications Act 2003, Ofcom has a statutory duty to ensure “a wide range of television and radio services which (taken as a whole) are both of high quality and calculated to appeal to a variety of tastes and interests.” In local commercial radio, Ofcom secures this by the use of Formats. These may be varied over time, but only with Ofcom’s approval. The Formats for the two Oak FM services are available at:  
<http://www.ofcom.org.uk/static/radiolicensing/html/radio-stations/analogue/analogue-main.htm>

range of duties in relation to radio broadcasting, including securing a range and diversity of local radio services which are calculated to appeal to a variety of tastes and interests, and the optimal use of the radio spectrum. This is reflected in the licence conditions requiring the provision of the specified licensed service. Where a service is not being provided in accordance with the licence, choice for listeners is likely to be reduced. In the case of a service being off air, the listener is clearly not served at all.

While we recognised the financial difficulties being experienced by Oak FM, it was Ofcom's view that the Licensees were in breach of their licences for failing to provide the licensed services.

These breaches are serious and, at the time of writing, ongoing. Ofcom is currently considering a licence transfer application for these licences, and would require as a condition of a transfer of the licences that a new licensee would remedy the breaches at the point of resuming broadcasting.

**Breaches of Licence Conditions 2(1) and 2(4) in Part 2 of the Schedule to the commercial radio licences held by Oak FM (Hinckley and Nuneaton) Ltd and Oak FM Ltd (licence numbers AL100842 and AL10**

## Broadcast Licence Conditions cases

### Broadcasting licensees' late payment of licence fees

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Ofcom is partly funded by the broadcast licence fees it charges television and radio licensees. Ofcom has a statutory duty to ensure that the fees paid by licensees meet the cost of Ofcom's regulation of broadcasting. The approach Ofcom takes to determining licensees' fees is set out in the Statement of Charging Principles<sup>1</sup>. Detail on the fees and charges payable by licensees is set out in Ofcom's Tariff Tables<sup>2</sup>.

The payment of a licence fee is a requirement of a broadcasting licence<sup>3</sup>. Failure by a licensee to pay its licence fee when required represents a significant and fundamental breach of a broadcast licence, as it means that Ofcom may be unable properly to carry out its regulatory duties.

#### In Breach

The following radio licensees failed to pay their annual licence fees in accordance with the required payment date. These licensees have therefore been found **in breach** of Condition 3(2) of their broadcast licences.

The outstanding payments have now been received by Ofcom. Ofcom will not be taking any further regulatory action in these cases.

Licensee Name	Service Name	Licence Number
90 Media Group Limited	Radyo Play FM	RLCS000101BA
Big City Radio CIC	Big City Radio	CR000038BA
Crescent Community Radio Limited	Crescent Radio	CR000026BA
Hayes FM – Film & Media	Hayes FM	CR000073BA
Radio Scilly Limited	Radio Scilly	CR000030BA
Salford Community Radio Limited	Salford City Radio	CR000035BA

#### Breaches of Licence Condition 3(2) in Part 2 of the Schedule of the relevant licences

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<sup>1</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0019/51058/charging\\_principles.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0019/51058/charging_principles.pdf)

<sup>2</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0034/57976/tariff-tables-2016-17.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0034/57976/tariff-tables-2016-17.pdf)

<sup>3</sup> As set out in Licence Condition 3 for radio licensees and Licence Condition 4 for television licensees.

## Broadcast Fairness and Privacy cases

### Upheld

#### Complaint made by Mr Sakib Berjees on behalf of Mr Chaudhary Berjees

*Kab Tak, ARY News, 26 January 2016*

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#### Summary

Ofcom has upheld this complaint of unjust or unfair treatment in the programme as broadcast made by Mr Sakib Berjees on behalf of his father, Mr Chaudhary Berjees.

The programme featured a discussion about alleged corruption amongst government appointed land agents who keep registers of land (or “Patwaris”) in the Nankana district of Lahore in Pakistan and their links to government ministers from the Pakistan Muslim League - Nawaz Party (“the PMLN”). During the discussion, the programme’s reporter made a number of comments about Mr Berjees.

Ofcom found that:

- The broadcaster did not take reasonable care to satisfy itself that material facts were not presented or omitted in a way that resulted in unfairness to Mr Chaudhary Berjees.
- Given the significant allegations made about Mr Chaudhary Berjees in the programme, the broadcaster was required to offer him an appropriate and timely opportunity to respond to them. Its failure to do so resulted in unfairness to him.

#### Programme summary

On 26 January 2016, ARY News broadcast an edition of its current affairs programme *Kab Tak* which was presented by Ms Irum Nawaz. Ms Nawaz and the programme’s reporter, Mr Asad Kharal, discussed the topic of corruption amongst land agents in the Nankana district. The reporter alleged that government ministers from the PMLN were in league with corrupt land agents and condoned their corruption. He said that the land agents received large financial rewards as a result of their corruption. He named various people from the Nankana district whom he indicated were either corrupt land agents; middle men who forced the land agents to give them a cut of their illicit gains; or ministers on whose behalf these middle men were working. He also said that the members of the PMLN in this district whom he had named had received pay-offs from the land agents in return for protection.

During this discussion, the reporter said that a man called “*Ashraf Bhatti*”, whom he described as “*like a jeweller of [the] revenue department*”, had “*been appointed by Minister Barjees Tahir [i.e. Mr Chaudhary Berjees]*”. The reporter also said “*He [Mr Bhatti] is known as a mama [i.e. a person who extorts money on behalf of others] who goes to police stations and Patwaris and collects monthly amounts from them. We were told by people that money up to 500,000 rupees is collected by him*”. The reporter added that Mr Bhatti was facing an audit investigation regarding a sum of 500 million rupees and that he had been “*dismissed and later reinstated by the High Court*”.

The reporter then said:

*“Barjees Tahir has hired a person named Mama [i.e. Mr Bhatti]” and that “he [Mr Bhatti] is responsible for recoveries from police stations, Patwaris and their transfers and postings, dealing with parties going to police stations and to manage the expenses of home. Similarly, as I told you, the expenses of members of parliament and ministers, like home and constituency expenditures [and] other day-to-day chores - like arranging transport for guests, are managed this way”.*

He also said that the reason the land agents were each given five or six geographical areas in which to operate by ministerial officials was to maintain the payments made to the ministers.

Several on-screen captions that summarised some of the claims which the reporter was making appeared at the bottom of the screen during this section of the programme. The first part of one these captions read: *“Ashraf Bhatti an expert for Barjees Tahir [Mr Chaudhary Berjees]...”*. The captions that followed this one concerned unrelated stories.

There were no further specific references in the programme to Mr Chaudhary Berjees. However, the presenter and reporter continued to discuss the alleged corruption of the land agents and ministers.

For example, in one exchange about the relationship between the land agents and the PMLN ministers, the reporter said:

*“Look, I want to say that if a person gives money to another, definitely, he hires him. If members of parliament and ministers take money from Patwaris, then who is in charge; they or the Patwaris?”*

The reporter later stated that when land agents are dismissed, suspended or transferred following a complaint, it was the *ministers* who were more concerned than the land agents because *“their incomes will stop”*.

At the end of the programme, the reporter stated that the programme had *“put all the facts before the public”* and questioned why the relevant authorities were not taking action; and, the presenter suggested that the Chief Minister of the Punjab should address the concerns raised in the programme.

### **Summary of the complaint and the broadcaster’s response**

Mr Sakib Berjees complained that his father, Mr Chaudhary Berjees, was treated unjustly or unfairly in the programme as broadcast because the programme alleged falsely that Mr Berjees was “taking illegal money from land registry officers” and that he was not given an appropriate and timely opportunity to respond to this allegation.

ARY News responded that the programme makers had evidence for the claims made in the programme; notably “a government letter regarding the appointment of Patwaris... [and] recovered agricultural income tax documents relating to the Nankana district which is part of Mr Berjees’ constituency”. The broadcaster said that these documents showed the amounts which had been paid to the Patwaris and that this was “evidence of the corruption” by the land agents.

The broadcaster said that the background to this report was the publicly-acknowledged problem of corruption in public office in Pakistan and that the programme had acted in the public interest by attempting to reveal the scale of it. ARY News said that the activities which the programme revealed took place within Mr Berjees' constituency. It accepted that Mr Berjees "was criticised by association for allowing these practices to continue", however, it said that he had chosen not to pursue a case against the corruption in his constituency through either the courts or the appropriate regulatory authority. The broadcaster also argued that in making this complaint to Ofcom the complainant had sought to undermine its freedom of expression.

ARY News said that the programme makers had researched the story; that the references to Mr Berjees amounted to a few minutes of the programme; and that, in its view, the comments were not unfair to him. It also said that, although it was difficult to secure interviews with public figures - especially politicians, the programme had invited Mr Berjees, and other ministers from different constituencies in the Nankana district, to challenge the statements made in the programme.

### **Ofcom's Preliminary View**

Ofcom prepared a Preliminary View that Mr Berjees' complaint should be upheld. Both parties were given the opportunity to make representations on the Preliminary View, however, neither chose to do so.

### **Decision**

Ofcom's statutory duties include the application, in the case of all television and radio services, of standards which provide adequate protection to members of the public and all other persons from unjust or unfair treatment and unwarranted infringement of privacy in, or in connection with the obtaining of material included in, programmes in such services.

In carrying out its duties, Ofcom has regard to the need to secure that the application of these standards is in the manner that best guarantees an appropriate level of freedom of expression. Ofcom is also obliged to have regard, in all cases, to the principles under which regulatory activities should be transparent, accountable, proportionate and consistent and targeted only at cases in which action is needed.

In reaching its Decision, Ofcom carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast and translated transcript of it and both parties' written submissions and supporting documentation.

When considering complaints of unjust or unfair treatment, Ofcom has regard to whether the broadcaster's actions ensured that the programme as broadcast avoided unjust or unfair treatment of individuals and organisations, as set out in Rule 7.1 of Ofcom's Broadcasting Code ("the Code").

In assessing whether Mr Chaudhary Berjees had been treated unjustly or unfairly, we had particular regard to Practice 7.9 of the Code which states that, before broadcasting a factual programme, broadcasters should take reasonable care to satisfy themselves that material facts have not been presented, disregarded or omitted in a way that is unfair to the individual or organisation. We also had regard to Practice 7.11 which states that if a programme alleges wrongdoing or incompetence

or makes other significant allegations, those concerned should normally be given an appropriate and timely opportunity to respond.

Ofcom assessed the seriousness of the claims made in the programme about Mr Chaudhary Berjees and whether they had the potential to materially and adversely affect viewers' opinions of him in a way that was unfair.

Having carefully watched the programme and examined the translated transcript of it, we noted, in particular, the comments made by the reporter about Mr Bhatti and his alleged association to Mr Chaudhary Berjees (see the "Programme Summary" section above), we considered that these comments were likely to have been understood by viewers to indicate that Mr Chaudhary Berjees had appointed Mr Bhatti to collect money sourced through, it was alleged, the corruption practiced by land agents and police officials in his constituency. We also considered that this understanding was particularly likely given the context of the programme's wider focus on claims made about PLMN ministers from the Nankana district and alleged corrupt practices. Given these factors, Ofcom considered that these comments amounted to a serious allegation of wrongdoing against Mr Chaudhary Berjees and that, as such, they raised the potential for significant unfairness to him.

Ofcom then considered whether the inclusion of the comments made by the reporter about Mr Chaudhary Berjees in the programme as broadcast resulted in unfairness to him. Ofcom acknowledged the broadcasters right to freedom of expression and that it must be able to broadcast programmes on matters of interest to viewers freely, including the ability to express views and critical opinions without undue constraint. However, this freedom comes with responsibility and an obligation on broadcasters to comply with the Code and to avoid unjust or unfair treatment of individuals and organisations in programmes.

We recognised that the relevant section of the programme was a news story broadcast live and that, with such broadcasts, broadcasters need to take particular care. Given the nature of this type of programming, contributors and presenters can sometimes make comments which have the potential to cause unfairness to an individual or organisation. We also recognised that, for live broadcasts, it is not always possible for the broadcaster to obtain responses from others prior to or during the broadcast. However, in such circumstances, Ofcom considers that when including material that could amount to a significant allegation, broadcasters must take reasonable care to ensure that the broadcast material is consistent with the requirements of the Code and that it does not mislead viewers or portray individuals or organisations in a way that is unfair. This may involve ensuring that any allegations made during the programme are properly tested or challenged, for example, by pointing out any contradictory argument or evidence, or by representing the viewpoint of the person or organisation that is the subject of the allegation.

Given this, Ofcom assessed what steps, if any, the broadcaster took to satisfy itself that material facts were not presented, disregarded or omitted in a way that was unfair to Mr Chaudhary Berjees. While we noted that the broadcaster stated in its response that it had researched the story and had documents that allegedly showed amounts paid to the land agents, on examination, none of this material contained anything relating to Mr Chaudhary Berjees specifically. We considered that that neither the presenter nor the reporter made any attempt to place the claims made in the programme about the alleged corruption involving PLMN ministers – including those concerning Mr Chaudhary Berjees – in context: by explaining, for instance, the sources on which they based their claims or that the claims they made were

allegations rather than proven facts; by noting that they were expressing their own opinions; or, by representing a counter-balancing viewpoint. We noted too that all the claims which the reporter made (including those relating to Mr Chaudhary Berjees) were presented as statements of fact as opposed to allegations that needed to be investigated. This was made particularly clear when the reporter said towards the end of the programme that the programme had *“put all the facts before the public”*.

Further, we noted that although the broadcaster claimed in its response to the complaint that the programme makers had invited Mr Chaudhary Berjees to challenge the statements made about him, it had provided no evidence to show that such an invitation was made to him. We noted too that no reference was made in the programme indicating that Mr Chaudhary Berjees had been invited to comment on the allegations. Nor did the broadcaster show that it had made any attempt to contact Mr Chaudhary Berjees before, during or immediately after the broadcast to seek his comments on the allegations made against him in the programme.

Given the above factors, and, in particular, the fact that nowhere in the programme was anything said to balance or place into context the comments made by the reporter about Mr Chaudhary Berjees, we considered that the comments amounted to significant allegations which had the potential to materially and adversely affect viewers' opinions of him and which were presented in the programme in a way that was unfair.

Taking all of the above into account, Ofcom considered therefore that, in the particular circumstances of this case, the broadcaster did not take reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in the programme in a way that was unfair to Mr Chaudhary Berjees; and, it had failed to provide him with an appropriate and timely opportunity to respond to the significant allegations made about him. For these reasons, Ofcom found that Mr Chaudhary Berjees was treated unfairly in the programme as broadcast.

**Ofcom has upheld Mr Sakib Berjees' complaint, made on behalf of Mr Chaudhary Berjees, of unjust and unfair treatment in the programme as broadcast.**

## Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 17 and 30 October 2016 and decided that the broadcaster or service provider did not breach Ofcom's codes, rules, licence conditions or other regulatory requirements.

### Investigations conducted under the Procedures for investigating breaches of content standards for television and radio

Programme	Broadcaster	Transmission date	Categories
Qu'ran	Safeer TV	14/08/2016	Crime and disorder

For more information about how Ofcom conducts investigations about content standards on television and radio programmes, go to:  
[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0020/55109/breaches-content-standards.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf)

## Complaints assessed, not investigated

Here are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 17 and 30 October 2016 because they did not raise issues warranting investigation.

### Complaints assessed under the Procedures for investigating breaches of content standards for television and radio

For more information about how Ofcom assesses complaints about content standards on television and radio programmes, go to:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0020/55109/breaches-content-standards.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf)

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Celebrity Island with Bear Grylls	4Seven	14/10/2016	Animal welfare	1
Lip Sync Battle (trailer)	5 Star	07/10/2016	Sexual material	1
BBC News	BBC 1	08/10/2016	Other	1
Breakfast	BBC 1	13/10/2016	Generally accepted standards	1
Countryfile	BBC 1	23/10/2016	Generally accepted standards	1
EastEnders	BBC 1	18/10/2016	Materially misleading	1
Holby City	BBC 1	27/09/2016	Generally accepted standards	5
Holby City	BBC 1	27/09/2016	Disability discrimination/offence	1
Panorama - Diabetes: The Hidden Killer	BBC 1	03/10/2016	Materially misleading	1
Strictly Come Dancing	BBC 1	22/10/2016	Voting	1
The Graham Norton Show	BBC 1	30/09/2016	Sexual material	3
A World Without Down's Syndrome	BBC 2	05/10/2016	Materially misleading	1
Antiques Roadshow	BBC 2	02/10/2016	Generally accepted standards	1
Daily Politics	BBC 2	14/07/2016	Race discrimination/offence	1
Louis Theroux: Savile	BBC 2	02/10/2016	Generally accepted standards	1
Mock The Week	BBC 2	30/09/2016	Religious/Beliefs discrimination/offence	1
Victoria Derbyshire	BBC 2	29/09/2016	Disability discrimination/offence	1
Who's Spending Britain's Billions?	BBC 2	18/10/2016	Offensive language	3
BBC News	BBC News Channel	08/10/2016	Offensive language	1
Nick Grimshaw	BBC Radio 1	13/10/2016	Race discrimination/offence	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Jeremy Vine	BBC Radio 2	28/09/2016	Generally accepted standards	1
BBC News	BBC Radio 4	19/10/2016	Violence	1
The News Quiz	BBC Radio 4	08/10/2016	Generally accepted standards	1
The Unbelievable Truth	BBC Radio 4	16/10/2016	Religious/Beliefs discrimination/offence	1
Today	BBC Radio 4	10/10/2016	Race discrimination/offence	1
Today	BBC Radio 4	11/10/2016	Generally accepted standards	2
Today	BBC Radio 4	12/10/2016	Generally accepted standards	1
News	BBC Radio Oxford	05/10/2016	Generally accepted standards	1
Scooby Doo (trailer)	Boomerang	09/10/2016	Scheduling	1
Will Manning	Capital FM 102.0	01/10/2016	Offensive language	1
Celebrity Island with Bear Grylls	Channel 4	09/10/2016	Animal welfare	150
Channel 4 ident	Channel 4	20/10/2016	Generally accepted standards	1
Channel 4 News	Channel 4	29/09/2016	Drugs, smoking, solvents or alcohol	1
Channel 4 News	Channel 4	04/10/2016	Generally accepted standards	1
Channel 4 News	Channel 4	11/10/2016	Due impartiality/bias	1
Derren Brown: Miracle	Channel 4	10/10/2016	Religious/Beliefs discrimination/offence	1
Dispatches: Britain's Wealth Gap	Channel 4	10/10/2016	Age discrimination/offence	1
Eukanuba's sponsorship of The Suprvet	Channel 4	26/09/2016	Sponsorship credits	1
Film 4 (trailer)	Channel 4	22/10/2016	Scheduling	1
Hollyoaks (trailer)	Channel 4	20/10/2016	Scheduling	1
Married At First Sight	Channel 4	18/10/2016	Generally accepted standards	3
National Treasure	Channel 4	04/10/2016	Offensive language	4
Stand Up To Cancer	Channel 4	21/10/2016	Offensive language	3
Stand Up To Cancer	Channel 4	21/10/2016	Generally accepted standards	2
Stand Up To Cancer	Channel 4	21/10/2016	Gender discrimination/offence	1
The Simpsons	Channel 4	25/10/2016	Race discrimination/offence	1
Your Face Says It All	Channel 4	25/10/2016	Outside of remit	1
Can't Pay? We'll Take It Away!	Channel 5	24/10/2016	Generally accepted standards	1
Gangland: Murder	Channel 5	08/09/2016	Race discrimination/offence	1
Mr Deeds	Channel 5	16/10/2016	Offensive language	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
On Benefits: The Compensation King	Channel 5	13/10/2016	Generally accepted standards	1
Police Interceptors	Channel 5	03/10/2016	Offensive language	1
Teenage Mutant Ninja Turtles	Channel 5	01/10/2016	Offensive language	1
The Boy with No Brain: Extraordinary People	Channel 5	11/10/2016	Materially misleading	19
The Cars That Made Britain Great	Channel 5	30/09/2016	Offensive language	1
The Cars That Made Britain Great	Channel 5	30/09/2016	Offensive language	1
The Yorkshire Vet	Channel 5	25/10/2016	Offensive language	1
News	Classic FM	07/10/2016	Commercial communications on radio	1
Betsafe's sponsorship of primetime on Dave	Dave	29/09/2016	Sponsorship	1
Betsafe's sponsorship of primetime on Dave	Dave	13/10/2016	Sponsorship	1
Black-ish	E4	18/10/2016	Race discrimination/offence	1
Body Fixers	E4	04/10/2016	Gender discrimination/offence	1
Body Fixers	E4	04/10/2016	Gender discrimination/offence	1
Body Fixers	E4	04/10/2016	Gender discrimination/offence	1
Body Fixers	E4	04/10/2016	Gender discrimination/offence	1
Body Fixers	E4	04/10/2016	Gender discrimination/offence	1
Empire	E4	11/10/2016	Race discrimination/offence	1
Hollyoaks (trailer)	E4	26/10/2016	Scheduling	1
Made in Chelsea	E4	24/10/2016	Generally accepted standards	1
Channel ident	Film 4	09/08/2016	Flashing images/risk to viewers who have PSE	1
Breakfast Show	Heart Extra	18/10/2016	Sexual material	1
Clown	Horror Channel	15/10/2016	Generally accepted standards	1
Hobbit	Horror Channel	26/09/2016	Generally accepted standards	1
Cold Feet	ITV	17/10/2016	Generally accepted standards	1
Coronation Street	ITV	28/09/2016	Animal welfare	1
Coronation Street	ITV	29/09/2016	Generally accepted standards	1
Coronation Street	ITV	30/09/2016	Sexual orientation discrimination/offence	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Coronation Street	ITV	17/10/2016	Generally accepted standards	1
Coronation Street	ITV	19/10/2016	Offensive language	25
Countrywise	ITV	30/09/2016	Animal welfare	1
Emmerdale	ITV	29/09/2016	Generally accepted standards	4
Emmerdale	ITV	30/09/2016	Violence	1
Emmerdale	ITV	13/10/2016	Animal welfare	4
Emmerdale	ITV	14/10/2016	Generally accepted standards	4
Emmerdale	ITV	19/10/2016	Scheduling	15
Emmerdale	ITV	24/10/2016	Generally accepted standards	1
Exposure: Islam's Non-Believers	ITV	13/10/2016	Crime and disorder	1
Go For It	ITV	01/10/2016	Animal welfare	2
Good Morning Britain	ITV	05/10/2016	Due accuracy	1
Good Morning Britain	ITV	05/10/2016	Gender discrimination/offence	1
Good Morning Britain	ITV	05/10/2016	Generally accepted standards	1
Good Morning Britain	ITV	19/10/2016	Due impartiality/bias	3
ITV News	ITV	29/09/2016	Due impartiality/bias	1
ITV News	ITV	17/10/2016	Due impartiality/bias	1
ITV News at Ten	ITV	05/10/2016	Disability discrimination/offence	1
Jeremy Kyle's Emergency Room	ITV	30/09/2016	Materially misleading	1
Loose Women	ITV	28/09/2016	Religious/Beliefs discrimination/offence	1
Lorraine	ITV	27/09/2016	Competitions	1
The Chase: Celebrity Special	ITV	02/10/2016	Sexual material	1
The Chase: Celebrity Special	ITV	09/10/2016	Scheduling	1
The Jonathan Ross Show	ITV	22/10/2016	Offensive language	1
The New Clampers: Where's My Car Gone?	ITV	18/10/2016	Offensive language	1
The New Clampers: Where's My Car Gone?	ITV	25/10/2016	Offensive language	1
The X Factor	ITV	08/10/2016	Race discrimination/offence	1
The X Factor	ITV	09/10/2016	Offensive language	1
The X Factor	ITV	15/10/2016	Sexual material	16
The X Factor	ITV	15/10/2016	Other	8
The X Factor	ITV	15/10/2016	Offensive language	3
The X Factor	ITV	15/10/2016	Generally accepted standards	2

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
The X Factor	ITV	15/10/2016	Gender discrimination/offence	1
The X Factor	ITV	16/10/2016	Scheduling	37
The X Factor	ITV	16/10/2016	Generally accepted standards	1
The X Factor	ITV	22/10/2016	Materially misleading	1
The X Factor	ITV	23/10/2016	Materially misleading	4
The X Factor	ITV	23/10/2016	Voting	1
This Morning	ITV	26/09/2016	Materially misleading	1
This Morning	ITV	30/09/2016	Generally accepted standards	1
This Morning	ITV	13/10/2016	Race discrimination/offence	1
This Morning	ITV	21/10/2016	Other	1
Who's Doing The Dishes?	ITV	28/09/2016	Materially misleading	1
Victoria / Paranoid / McIntyre Investigates	ITV / Channel 5	09/10/2016	Other	1
ITV News London	ITV London	17/10/2016	Due impartiality/bias	1
Celebrity Juice	ITV2	13/10/2016	Generally accepted standards	1
The Xtra Factor Live	ITV2	15/10/2016	Sexual orientation discrimination/offence	1
You've Been Framed! Gold	ITV2	15/10/2016	Nudity	1
The Only Way is Essex	ITVBe	09/10/2016	Generally accepted standards	1
The Only Way Is Essex	ITVBe	16/10/2016	Generally accepted standards	1
Station ident	Jack FM (Oxfordshire)	18/09/2016	Age discrimination/offence	1
Wahlgrens Värld	Kanal 5	05/10/2016	Generally accepted standards	1
James O'Brien	LBC 97.3 FM	11/10/2016	Generally accepted standards	1
James O'Brien	LBC 97.3 FM	20/10/2016	Generally accepted standards	1
Katie Hopkins	LBC 97.3 FM	09/10/2016	Race discrimination/offence	1
Katie Hopkins	LBC 97.3 FM	23/10/2016	Generally accepted standards	1
Maajid Nawaz	LBC 97.3 FM	24/10/2016	Crime and disorder	1
Nick Abbott	LBC 97.3 FM	16/10/2016	Race discrimination/offence	1
Nick Ferrari	LBC 97.3 FM	12/10/2016	Race discrimination/offence	1
Steve Allen	LBC 97.3 FM	13/10/2016	Generally accepted standards	1
Ozzy and Jack's World Detour (trailer)	Lifetime	01/10/2016	Drugs, smoking, solvents or alcohol	1
Gateway Gazette	MATV	06/10/2016	Crime and disorder	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
Moon	Movie Mix	28/09/2016	Advertising minutage	1
Sanjh Dillan Di	Panjab Radio	28/09/2016	Religious/Beliefs discrimination/offence	1
Press Preview	Sky News	01/10/2016	Race discrimination/offence	6
Sky News	Sky News	21/10/2016	Under 18s in programmes	1
Sky News	Sky News	23/10/2016	Due impartiality/bias	1
Sunrise	Sky News	29/09/2016	Disability discrimination/offence	1
Sunrise	Sky News	06/10/2016	Under 18s in programmes	1
Celtic vs Rangers	Sky Sports	10/09/2016	Generally accepted standards	1
Ryder Cup	Sky Sports 1	01/10/2016	Advertising placement	1
Programming	Sky Sports Mix	25/08/2016	Other	1
A League of Their Own	Sky2	07/10/2016	Gender discrimination/offence	1
The Smooth Radio Breakfast Show	Smooth Radio	05/10/2016	Competitions	1
Suhaani Si Ek Ladki	Star Plus	10/10/2016	Violence	1
Alan Brazil Sports Breakfast (trailer)	Talksport	04/10/2016	Drugs, smoking, solvents or alcohol	1
Talksport	Talksport	27/09/2016	Generally accepted standards	1
Toddlers and Tiaras (trailer)	TLC	09/10/2016	Generally accepted standards	1
UTV News and Weather	UTV	11/10/2016	Generally accepted standards	1
Huang's World EPG Listing on Now TV	Viceland	25/09/2016	Offensive language	1

## Complaints outside of remit

Here are alphabetical lists of complaints received by Ofcom that fell outside of our remit. This is because Ofcom is not responsible for regulating the issue complained about. For example, the complaints were about the content of television, radio or on demand adverts, accuracy in BBC programmes or an on demand service does not fall within the scope of regulation.

For more information about what Ofcom's rules cover, go to:

<http://consumers.ofcom.org.uk/complain/tv-and-radio-complaints/what-does-ofcom-cover/>

### Complaints about television or radio programmes

For more information about how Ofcom assesses complaints about television and radio programmes, go to:

[https://www.ofcom.org.uk/data/assets/pdf\\_file/0020/55109/breaches-content-standards.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0020/55109/breaches-content-standards.pdf)

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
BBC London News	BBC 1 London	17/10/2016	Due impartiality/bias	1
Newsnight	BBC 2	11/10/2016	Due impartiality/bias	1
Ripper Street	BBC 2	04/10/2016	Outside of remit	1
The Conspiracy Files: 9/11 – The Truth Behind the Third Tower	BBC 2	26/10/2008	Materially misleading	1
Chris Evans	BBC Radio 2	20/10/2016	Due impartiality/bias	1
Programming	BBC Radio 4	Various	Other	1
Advertisement	Capital FM Northwest	23/10/2016	Advertising content	1
Advertisement	Heart Extra	25/10/2016	Advertising content	1
Advertisement	ITV	23/10/2016	Advertising content	1
Advertisement	ITV3	15/10/2016	Advertising content	1
Advertisement	Kiss FM	15/10/2016	Advertising content	1
Advertisements	Sky Atlantic	01/10/2016	Advertising content	1
Babestation	Babestation	30/09/2016	Advertising content	1

### Complaints about on demand services

Programme	Service name	Accessed date	Categories	Number of complaints
Marvel's Luke Cage	Netflix	11/10/2016	Race discrimination/offence	1
BBC News article	BBC News website	n/a	Generally accepted standards	1
Daaci Show	YouTube	n/a	Misleadingness	1

For more information about how Ofcom assesses complaints about on demand services, go to: [http://stakeholders.ofcom.org.uk/binaries/broadcast/on-demand/rules-guidance/rules\\_and\\_guidance.pdf](http://stakeholders.ofcom.org.uk/binaries/broadcast/on-demand/rules-guidance/rules_and_guidance.pdf)

## Investigations List

If Ofcom considers that a broadcaster or service provider may have breached its codes, rules, licence condition or other regulatory requirements, it will start an investigation.

**It is important to note that an investigation by Ofcom does not necessarily mean the broadcaster or service provider has done anything wrong. Not all investigations result in breaches of the codes, rules, licence conditions or other regulatory requirements being recorded.**

Here are alphabetical lists of new investigations launched between 17 and 30 October 2016.

### Investigations launched under the Procedures for investigating breaches of content standards for television and radio

Programme	Broadcaster	Transmission date
Yog-Hindi Yog Rishi Swami Ramdevji	Aastha TV	9 June 2016
Discourses? Hindi Brahma Kumaris	Aastha TV	9 June 2016
Shah-e-Sehar	ARY News	17 June 2016
Programming	Bay FM	1 September 2016
Can't Pay? We'll Take It Away!	Channel 5	28 September 2016
Programming	Flow TV	26 June 2016
The X Factor	ITV	23 October 2016
Steve Allen	LBC 97.3 FM	17 October 2016
News	News 18	10 October 2016
Johnny Vaughan	Radio X	16 September 2016
UK Immigration with Tariq	Venus TV	31 August 2016

For more information about how Ofcom assesses complaints and conducts investigations about content standards on television and radio programmes, go to: [https://www.ofcom.org.uk/data/assets/pdf\\_file/0020/55109/breaches-content-standards.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0020/55109/breaches-content-standards.pdf)

### **Investigations launched under the Procedures for the consideration and adjudication of Fairness and Privacy complaints**

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission date</b>
Undercover	Channel 5	28 September 2016

For more information about how Ofcom considers and adjudicates upon Fairness and Privacy complaints about television and radio programmes, go to:

[https://www.ofcom.org.uk/data/assets/pdf\\_file/0031/57388/fairness-privacy-complaints.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0031/57388/fairness-privacy-complaints.pdf)