

Ofcom Broadcast and On Demand Bulletin

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Khabar Din Bhar

Type of case	Broadcast Standards
Outcome	In Breach
Service	ABP News
Date & time	16 February 2019, 21:15
Category	Due Impartiality
Summary	A programme about the aftermath of a terrorist attack in Pulwama was not duly impartial. Breach of Rule 5.5 of the Broadcasting Code.

Introduction

ABP News is an Indian news television channel broadcasting in Hindi and available on satellite in the UK. The Licence for this service is held by ABP News Network Pvt. Ltd (“ABP News” or “the Licensee”).

Ofcom received a complaint that a programme was broadcast that was biased against Pakistan.

This 40-minute discussion programme dealt with the aftermath of the Pulwama terrorist attack that had occurred two days previously on 14 February 2019. This attack consisted of a suicide car bombing which had resulted in the deaths of 40 Indian soldiers in Indian-administered Kashmir. Responsibility for the attack was claimed by the Pakistan-based Islamist militant group Jaish-e-Mohammed.¹ Pakistan officials denied² any link between the Pakistani authorities and the attack.

¹ Jaish-e-Mohammed is a Pakistan-based terrorist group active in Kashmir.

² For example, on 15 February 2019, Pakistan’s Ministry of Foreign Affairs published the following statement: “The attack in Pulwama in the Indian Occupied Jammu & Kashmir is a matter of grave concern. We have always condemned heightened acts of violence in the Valley. We strongly reject any insinuation by elements in the Indian government and media circles that seek to link the attack to the State of Pakistan without investigations”. ([Press release 45/2019](#) at www.mofa.gov.pk).

Ofcom prepared an English translation of the material and gave the Licensee an opportunity to comment on the accuracy of the translation. The Licensee did not raise any issues with the translation and we therefore used it for our investigation and this Decision.

The programme was hosted by a presenter and included a panel and a live audience. The panel included representatives from political parties including: Mr Aashish Sood from the Bharatiya Janata Party (“BJP”); Alok Sharma, a spokesperson from the Indian National Congress; Mr Maulana Shoaib Qasmi, the head of the Jamaat-e Ulema-e Hind³; and Acharya Pramod Krishnam from the Indian National Congress. The audience was made up of young Indian people who were described by the presenter as feeling *“defiance in the face of those who were responsible for martyring our soldiers”*. The presenter introduced the programme as follows:

“Welcome to ABP news, my name is Romana Izhaar Khan. Today the whole nation is paying tribute to those martyred. Forty soldiers who were protecting you, me and this entire country sacrificed their lives for this country. More than grief, the people of India feel anger at the news of their martyrdom. ABP news would like to say that this is an opportunity for us to show restraint, an opportunity to show patience and this is an opportunity for us to have faith. Faith in our army. Faith in our political leadership which has said that it has given the army the go-ahead to provide a jaw-shattering response in its own time. But the response isn’t just towards the terrorists, it’s for the masterminds and promoters of terrorism...”

During the programme there were a number of speakers who alleged that Pakistan was responsible for the Pulwama attack:

Presenter: “...And this filthy plan- who made this plan? Which country was behind it? Which country was behind the attack on our country? Say it loudly”.

Audience: “Pakistan!”

Presenter: “Say it again, which country was it?”

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Audience: “Pakistan!”

Presenter: “It was Pakistan. Pakistan, which is a terrorist country. My question Mr. Alok is that every single person here is chanting Pakistan’s name. They’re saying that Pakistan is a terrorist country, but how sad is it that – I don’t want to get into party politics – but there are some politicians

³ Jamiat Ulema-e-Hind or Jamiat Ulama-I-Hind is one of the leading organizations of Islamic scholars belonging to the Deobandi school of thought in India.

in this country who say that terrorists are not from any particular country. Why? Why is that Mr. Alok?”

Alok Sharma: “I believe that there is no difference of opinion between us that Pakistan is a terrorist country, and there is no doubt about it. Any person who thinks otherwise is just showing us how morally bankrupt they are”.

Presenter: “Here on ABP News we are paying tribute to those who were martyred and right now the country is screaming ‘the Government needs to avenge these forty martyred soldiers. The Government needs to hold Pakistan accountable for every drop of blood of our soldiers’. Now, how that should be executed, what are our options? I’d say overall the government has an abundance of options. We can either engage militarily or our Government can take diplomatic steps to break Pakistan’s back...”.

Acharya Pramod Krishnam:

“Listen Romana, what you’ve been saying absolutely reflects the reality of this country right now. However, the question that arises is how long are we going to cry? How long will we cry? Uri happened⁴, we cried. Pathankot happened⁵, we cried. Anantnag happened⁶, we cried. There was an attack in Kishtwar⁷, we cried. Now an attack took place in Pulwama and we cried. Every time we become martyrs, we get attacked, dead bodies are placed in coffins which are wrapped up and brought back to us. The bodies too come back in pieces. Then we mourn their deaths, decorate their murals and salute them. We then raise our fists in the air and chant slogans. ‘Death to Pakistan. Death to Pakistan’...The second question is, Mr. Sood was talking about international politics and diplomacy – to hell with this kind of diplomacy. These people attack our country every day. Pakistan, Pakistan, Pakistan and Pakistan is bad. Pakistan is a satanic country. Pakistan is a terrorist country. We say these things, but these insults are not enough to solve our problems with

⁴ An attack which took place near the town of Uri in the Indian state of Jammu and Kashmir in 2016. India has blamed Jaish e Mohammad (see footnote 1) for the attack.

⁵ An attack on Pathankot Air Force Station in India in 2016. India has blamed Jaish e Mohammad (see footnote 1) for the attack.

⁶ An attack in Kashmir in 2017 in which eight Hindu pilgrims were killed. India has blamed the Islamist terrorist group Lashkar-e Taiba for the attack.

⁷ An attack in Kishtwar in 2001 in which 17 Hindu villagers were killed. India has blamed the Islamist terrorist group Lashkar-e Taiba for the attack.

them. This is because Pakistan doesn't unknowingly attack us. You, me and everyone else are sitting here, calling them names, crying, chanting slogans, mourning, paying tribute, and they're laughing at us on television. Understand? This is a specific kind of politics, a filthy politics that Pakistan plays. Pakistan borders more than a few countries. It doesn't attack any other country. It only attacks India. And what, do you think India's government doesn't know this? Whenever someone asks them questions about this they say, 'why are you asking this question?' If we can't ask the Government, then who are we going to ask? I would like to say, having learned a lesson from this incident, we should stop simply making statements and take revenge. Before first and foremost, we need to at least attack the enemy that lives outside our borders".

For the reasons set out in our Decision, it was Ofcom's view that the programme was dealing with a matter of political or industrial controversy and matter relating to current public policy, namely, the policies and actions of the Pakistani authorities in relation to alleged terrorist activities towards India.

We therefore considered that the programme raised issues under Rule 5.5 of the code.

Rule 5.5: "Due impartiality on matters of political or industrial controversy and matters relating to current public policy must be preserved on the part of any person providing a service...This may be achieved within a programme or over a series of programmes taken as a whole".

Ofcom requested comments from ABP News about how the content complied with these rules.

Response

The Licensee considered the programme complied with the Code. It highlighted that the programme was broadcast against the "backdrop of a horrifying terrorist attack on Indian soldiers in Pulwama...where 40 of them were killed". ABP News said that the "material comprising the subject broadcasts were undoubtedly sensitive and charged with emotion". It added that the context in which the programme was broadcast was that: "Public sentiment could not have been ignored at a time when the country as a whole was trying to come to terms with the attack [and] there was outrage amongst the public and the [programme] essentially capture[s] that outrage" It further added that: "It was an extraordinary situation and we felt that as a news organization it was our duty to convey to our viewers the prevailing public sentiment".

The Licensee made several arguments in relation to what it considered to be the appropriate approach to due impartiality in this case. It argued that the programme "ought to be viewed as conveying the sentiments of Indians at large rather than in the compartments of...'partial' or 'impartial'". It added that "it is not possible to apply strict binaries of partial and impartial when it comes to conveying the sentiments of a citizenry that has just suffered one of the worst terror attacks in recent history". ABP News further added that "It was not a situation where one State view was being highlighted while a possibly contrary State view was being deliberately stifled: the broadcasts were aired to reflect the mood of the Indian citizens". It also said that the programme involved "different common people from various walks of life" and the "comments made by them were their own and not of [the] channel's".

The Licensee said that it always endeavours to broadcast a “balanced perspective”. However, it said that in these circumstances it felt “there was a need to provide a platform for the voices of Indian citizens as they spoke and reacted, without intervention or mitigation and by retaining their spontaneity and immediacy”.

ABP News also provided oral and written representations on Ofcom’s Preliminary View that the broadcast breached Rule 5.5. It said that the programme did not breach Rule 5.5 for the following reasons.

First, it said that in this edition of *Khabar din Bahar*, one speaker reflected the Pakistani viewpoint by stating that “*Today Pakistan says, ‘we didn’t do this’* [i.e. carry out Pulwama attack]”.

Second, ABP News said that it had provided coverage of the Pulwama attack that reflected the viewpoint of the Pakistani Government in other broadcasts on ABP News and referred to five programmes broadcast on ABP News between 16 and 20 February 2019, which included:

- a discussion featuring the Pakistani journalist, Mona Alam, during a news programme broadcast on 16 February 2019;
- statements by the Pakistani Prime Minister, Imran Khan, during the programme *Masterstroke* broadcast on 19 February 2019;
- a further discussion featuring the Pakistani journalist, Mona Alam, during the programme *Know What defence expert Has to Say on Imran Khan’s Speech* broadcast on 19 February 2019;
- a statement by Pakistan’s Railway Minister, Sheikh Rasheed, broadcast on 19 February 2019; and,
- a discussion featuring a Pakistani defence analyst, Syed Tariq Pirzada, broadcast on 20 February 2019;

The Licensee considered that the inclusion of the Pakistani viewpoint in the above broadcasts preserved due impartiality in relation to the broadcast of *Khabar din Bahar* on 16 February 2019.

Decision

Reflecting our duties under the Communications Act 2003, Section Five of the Code requires that the impartiality requirements of section 320 of the Act are met.

Rule 5.5 requires that due impartiality on matters of political or industrial controversy and matters relating to current public policy must be preserved on the part of any person providing television programme services. This may be achieved within a programme or over a series of programmes taken as a whole.

Ofcom must perform its duties in accordance with the right to freedom of expression set out in Article 10 of the European Convention of Human Rights. Freedom of expression is one of the essential foundations of a democratic society. As is well established, it encompasses the broadcaster’s right to freedom of expression as well as the audience’s right to receive information and ideas without interference⁸. It applies not only to the content of information but also to the means of transmission

⁸ *Lingens v Austria* (1986) 8 EHRR 407.

or reception⁹. Any interference must be prescribed by law, pursue a legitimate aim, and be necessary in a democratic society (i.e. proportionate to the legitimate aim pursued and corresponding to a pressing social need).

Each and every time Ofcom applies the Code to broadcast content, Ofcom gives careful consideration to the broadcaster's and the audience's Article 10 rights. This encompasses the broadcaster's right to freedom of expression as well as the audience's right to receive information and ideas without interference. In order to reach a decision on whether due impartiality was maintained in this programme, Ofcom has taken into account the Article 10 rights and relevant contextual factors.

To assist broadcasters in complying with due impartiality rules in Section Five of the Code, Ofcom has published [Guidance](#). Amongst other things, Ofcom's Guidance to Section Five of the Code makes clear that: it is an editorial matter for the broadcaster how due impartiality is preserved, as long as the Code is complied with; and there are a range of editorial techniques for maintaining due impartiality¹⁰.

Our Guidance also states that the broadcasting of comments either criticising or supporting the policies and actions of any political organisation or elected politician is not, in itself, a breach of due impartiality rules¹¹. A broadcaster may do this provided it complies with the Code. However, depending on the specific circumstances of any particular case, it may be necessary to reflect alternative viewpoints or provide context in an appropriate way to ensure that Section Five of the Code is complied with.

Application of Section Five of the Code

Ofcom first considered whether Rule 5.5 applied in this case – that is, whether the programme concerned matters of political or industrial controversy or matters relating to public policy.

This programme involved a panel discussion about the Pulwama attack and the ramifications of it, in particular, the political relationship between Pakistan and India. The programme included allegations about the complicity of the Pakistani authorities in the attack and with terrorist activity within India more broadly. The panellists also gave their views about what the response of the Indian Government to Pakistan should be.

We therefore considered the programme was clearly dealing with a matter of political controversy, and a matter relating to current public policy, namely, the alleged policies and actions of the Pakistani authorities in relation to alleged terrorist activities against India. Rule 5.5 was therefore engaged.

The preservation of due impartiality

Ofcom went on to assess whether due impartiality was preserved in the programme. The Code and Guidance make clear that “due” is an important qualifier to the concept of impartiality. “Due” means adequate or appropriate to the subject and nature of the programme. “Due impartiality” does not therefore mean an equal division of time must be given to every view, or that every argument must be represented. It is an editorial decision for the broadcaster as to how it ensures due impartiality: the

⁹ *Autronic v Switzerland* (1990) 12 EHRR 485.

¹⁰ See paragraphs 1.6 and 1.17, Guidance Notes, Section Five.

¹¹ See paragraph 1.34, Guidance Notes, Section Five.

approach may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content and the extent to which the content and approach is signalled to the audience.

The Code also makes clear that the approach to due impartiality may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content and the extent to which the content and approach is signalled to the audience. In addition, context, as set out in Section Two (Harm and Offence) of the Code is important in preserving due impartiality. Context includes a number of factors such as the editorial content of the programme, the service on which the material is broadcast, the likely size, composition and expectation of the audience and the effect on viewers who may come across the programme unawares.

Ofcom acknowledged that following the Pulwama attack, there was heightened tension between India and Pakistan and we recognised that ABP News, as a news channel, would want to reflect this in its coverage. In such circumstances, we also recognised that as a channel broadcasting from an Indian perspective, ABP News would wish to reflect the sentiment of the Indian public about the attack and so was more likely to broadcast content that was critical of Pakistan when dealing with the political controversy surrounding its alleged involvement in the attack and its policy towards India.

As set out in the Introduction, this programme did include a number of statements that were highly critical of the Pakistani authorities and alleged they were complicit in the Pulwama attack and terrorist activity against Indian targets more broadly. For example:

- the presenter said that the Indian Government *“needs to hold Pakistan accountable for every drop of blood of our soldiers”*. The presenter also asked the studio audience *“Which country was behind the attack on our country? Say it loudly”*. The studio audience responded *“Pakistan!”* to this and repetitions of this question. The presenter then said: *“It was Pakistan. Pakistan, which is a terrorist country”*;
- Mr Alok described Pakistan as *“a terrorist country”*, adding *“there is no doubt about it. Any person who thinks otherwise is just showing us how morally bankrupt they are”*; and
- Mr Acharya said *“These people attack our country every day. Pakistan, Pakistan, Pakistan and Pakistan is bad. Pakistan is a satanic country. Pakistan is a terrorist country”*. Mr Archarya also said *“Pakistan doesn’t unknowingly attack us... they’re laughing at us on television. Understand? This is a specific kind of politics, a filthy politics that Pakistan plays. Pakistan borders more than a few countries. It doesn’t attack any other country. It only attacks India”*.

The Licensee argued that this “was not a situation where one State view was being highlighted while a possibly contrary State view was being deliberately stifled”. We disagreed. We noted that the Pakistani Government did not accept responsibility for the attack and its position was publicly available¹² before this programme was broadcast and reported in various news outlets at similar times as the broadcast of this programme, for example in the following articles: [Pulwama attack: Pakistan](#)

¹² See footnote 2.

[warns India against military action](#) and [Pakistan too condemns Pulwama terror attack, denies role in blast that killed 44 CRPF men](#).

ABP news said that the Pakistani viewpoint had been reflected in a statement by one of the panellists, Maulana Shoaib Qasmi. We considered this statement in full:

“There is a Pakistani general whose name is Afsar, he said in a video conference a week ago that we are going to go commit a terrorist attack in India. We are going to drive our train into India. So, these conspiracies are all concocted by these filthy people. Today Pakistan says, ‘we didn’t do this’ but I have that video clip. It was being played on Pakistani news channels, that this general was radicalising boys in Kashmir and other parts of India as well. We need to understand the root of this problem and where it comes from...”

We acknowledged that this speaker did briefly refer to the fact that Pakistan had denied responsibility for Pulwama attack (“Today Pakistan says, ‘we didn’t do this’”). However, given the significant number of statements that were highly critical of the Pakistani Government within the programme as a whole, we did not consider that this one brief statement was sufficient to preserve due impartiality within this programme. Therefore, we considered that the programme did not include sufficient views or other context to reflect the position of the Pakistani Government in response to the very serious allegations being made about Pakistan.

We went on to consider whether alternative viewpoints were reflected in a series of programmes taken as a whole, which the Code defines as more than one programme in the same service, editorially linked, dealing with the same or related issues within an appropriate period and aimed at a like audience. The Licensee said that due impartiality had been preserved by its inclusion of the Pakistani Government’s viewpoint in five other programmes on ABP News. However, Ofcom did not consider that any of these programmes met the definition of being part of a series of programmes taken as a whole. We were unable to locate any content within the edition of *Khabar Din Bhar* to the other five programmes that the Licensee identified in its representations nor content in those programmes to *Khabar Din Bhar*, which might have established that these various programmes were editorially linked. Ofcom therefore did not consider that due impartiality was preserved by means of the other programming identified by the Licensee.

Ofcom took into account the various contextual factors cited by the Licensee in its response. These included that this programme was broadcast in the wake of a terrorist attack targeting Indian soldiers and that the content “ought to be viewed as conveying the sentiments of Indians at large”. ABP News also said that “Public sentiment could not have been ignored at a time when the country as a whole was trying to come to terms with the attack” adding “that as a news organization it was our duty to convey to our viewers the prevailing public sentiment”. Ofcom recognised the significant tensions that exist between India and Pakistan in relation to Kashmir and the heightened tension that existed following the Pulwama Attack. We acknowledged that it was appropriate for ABP News to report on this and reflect the views of the Indian population in its coverage. However, it was still incumbent on the Licensee to discharge its obligation to preserve due impartiality by also reflecting alternative viewpoints in an appropriate manner.

We considered the Licensee's views that "it is not possible to apply strict binaries of partial and impartial when it comes to conveying the sentiments of a citizenry that has just suffered one of the worst terror attacks in recent history". However, due impartiality does not mean an equal division of time must be given to every view, or that every argument must be represented. Due impartiality can be preserved in a number of ways and it is an editorial decision for the broadcaster as to how it ensures this. We recognised that in the circumstances of the events being covered in this programme and the likely expectations of its audience, the Licensee would want to give significant coverage of what ABP News described as "prevailing public sentiment" in India, about the Pulwama attack. However, as an Ofcom licensee it was necessary, taking account of the subject and nature of the programme, for ABP News to take action to preserve due impartiality by reflecting in the broadcast programme alternative viewpoints, such as that of the Pakistani Government, over responsibility for the attack. It failed to do so.

We therefore considered that the various contextual factors cited by ABP News did not mitigate the absence of alternative perspectives about Pakistan's involvement in the Pulwama attack.

For the reasons outlined above, Ofcom's Decision is that ABP News failed to preserve due impartiality and breached Rule 5.5 of the Code.

Breach of Rule 5.5