

Ofcom broadcast bulletin

**Issue number 67
21 August 2006**

Contents

Introduction	3
--------------	---

Standards cases

Resolved	4
----------	---

Fairness & Privacy cases

Not Upheld	11
------------	----

Other programmes not in breach/outside remit	21
--	----

Introduction

Ofcom's Broadcasting Code took effect on 25 July 2005 (with the exception of Rule 10.17 which came into effect on 1 July 2005). This Code is used to assess the compliance of all programmes broadcast on or after 25 July 2005. The Broadcasting Code can be found at <http://www.ofcom.org.uk/tv/ifi/codes/bcode/>

The Rules on the Amount and Distribution of Advertising (RADA) apply to advertising issues within Ofcom's remit from 25 July 2005. The Rules can be found at <http://www.ofcom.org.uk/tv/ifi/codes/advertising/#content>

The Communications Act 2003 allowed for the codes of the legacy regulators to remain in force until such time as Ofcom developed its own Code. While Ofcom has now published its Broadcasting Code, the following legacy Codes apply to content broadcast before 25 July 2005.

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

From time to time adjudications relating to advertising content may appear in the bulletin in relation to areas of advertising regulation which remain with Ofcom (including the application of statutory sanctions by Ofcom).

Resolved

Tim Shaw

Kerrang! 105.2 (West Midlands), 19 April 2006, 07:00

Introduction

A listener complained about a competition item entitled “Dole or no Dole”. The listener said that the apparent premise of the competition - the presenter ringing unsuspecting members of the public, who may or may not have been claiming state benefits, so that competitors could guess how many benefits they were claiming - was offensive and “vindictive”.

Response

Emap, which owns Kerrang!, told us that these calls were actually a pre-recorded ‘set up’. The calls had been edited so that the person who was contacted sounded genuinely offended. The item was not intended to cause offence, but meant to be a humorous take on the television programme *Deal or no Deal*. On the day the item was broadcast, a listener contacted the station, which led to it being reviewed. The broadcaster had decided that as some listeners could have interpreted the item as being offensive, rather than light-hearted, it should be dropped and not aired again. The station apologised for any offence it had caused.

In previous programmes, the presenter had mentioned that he had been on the dole for a significant period of time and knew how hard it was to be unemployed and so at no point was he ever trying to make light of this situation.

Decision

The item was introduced by a voiceover stating “currently there are over 890,000 people on the dole in the entire UK...” this was followed by statistics relating to unemployment statistics from different UK regions. The voiceover resumed “In other words you are doing the work for 2.4 million people for free...that’s right, you are paying for 2.4 million people around the UK to live...so what the hell are these freeloaders doing? It’s time to play ‘Dole or No Dole’.”

The presenter then announced the competition by saying that it involved competitors guessing, by the sound of somebody’s voice, whether they were on benefits – “what we gotta do is...make a few calls...I’m going to put them on hold...you’ve got to guess...whether or not they’re on the dole or not”. He then went on to list a number of social security benefits including incapacity benefit, job seeker’s allowance and motability. Pretending to be from an income consolidation company, he called two people, apparently waking them, to ask about the benefits that they were on.

We recognise that the calls were actually ‘set-ups’, though this was not apparent to listeners at the time, or after the competition had finished. The manner in which the calls were conducted and executed certainly gave listeners the impression that these were unannounced calls made to unsuspecting members of the public.

However while acknowledging that the intent of the item was to be humorous, we understand the complainant’s concern that there was an underlying presumption from the item that those claiming benefits should be seen as “freeloaders”. Without

adequate evidence such a premise could certainly be seen as offensive, as well as a gross generalisation. However, we also recognise that on reviewing the item following a complaint to the station, the licensee took swift action and dropped it. On balance, therefore, and in view of the action taken by the broadcaster, we consider the matter resolved.

Resolved

Kiss 100

Kiss 100, 26 May 2006, 15:25

Introduction

A listener complained that a track contained the lyrics “suck me off, fuck me off”. They felt that these lyrics were offensive and unsuitable for broadcast at a time when children were available to listen.

Response

Kiss 100 said that it regretted that an unedited version of ‘S’Express’ had been aired. The station had a vigorous procedure to ensure that all music selected for inclusion during daytime was fully compliant with the relevant Code rules. The broadcaster said that it had sought to revitalise its output by introducing a non-stop sequence of dance mixes on Friday afternoons from 15:00. This provided a transition from normal daytime ‘playlisted’ music to the more specialist output of a Friday evening and the weekend. Consequently, the Friday afternoon mixes include non-playlisted material, and, on this occasion, had included the ‘S’Express’ track. The song had been a chart topping hit and the presenter sourced the version played from a commercially available copy; unaware it was the version which included (albeit briefly) explicit lyrical content.

The broadcaster assured us that since this incident, steps had been taken to ensure that all non-playlisted tracks included in the Friday afternoon mixes were pre-vetted and either edited as appropriate or excluded if the content was not Code compliant. The station acknowledged that it should have realised that it needed to check the non-playlisted material for content, but regrettably this was overlooked when the mixes were introduced. The broadcaster gave us an assurance that the rest of the daytime, non-playlist material was now fully reviewed before going to air.

Decision

Rule 1.14 of Ofcom’s Broadcasting Code states:

The most offensive language must not be broadcast (before the watershed or) when children are particularly likely to be listening.

Although we appreciate that the station was introducing an initiative to include non-playlisted material during daytime, more care should have been taken to thoroughly vet the material and exclude explicit or offensive language. However we welcome the broadcaster’s subsequent action and, in the circumstances, we consider the matter resolved.

Resolved

The New Paul O'Grady Show

Channel 4, 9 May 2006, 17:00

Introduction

In this live edition of the chatshow, Sir Elton John appeared as a guest and took part in a wide-ranging discussion. During a conversation about Sir Elton's decision to change his name, he said that his previous name - Reginald Kenneth Dwight - sounded like a banker, or, making a well-known play on the word, "wanker".

Ten viewers complained that this language was not appropriate for the time of broadcast.

Response

Channel 4 accepted that although "wanker" was generally considered low level offensive language, its inclusion in this pre-watershed programme was unfortunate. In a live broadcast, there was always an element of unpredictability, despite the strenuous efforts made prior to broadcast to avoid language that is 'not ideal' being transmitted.

The broadcaster said that later in the show, Paul O'Grady made an apology for the 'raucous' nature of the show, which it felt was clearly a reference to Sir Elton's language - Paul O'Grady said he was "very, very sorry".

Channel 4 did not feel that a further formal apology for the use of the word was necessary bearing in mind the relatively low level of offence attributed to the word, the apology that had already been given and the 'jocular' tone/context in which the word had been used.

While the broadcaster was satisfied that any pre-broadcast briefing policies had been followed, Channel 4 had raised the issue with the production team. The team had been briefed again to emphasise the importance of ensuring inappropriate language was avoided by the adequate briefing of guests.

Decision

Ofcom's research suggests that while this word is considered quite mild by most, a small minority of sections of the community (e.g. older people) find it quite offensive. This series does tend to attract an older audience and, in this context, the use of the word "wanker" was unfortunate. While the host did offer an apology of sorts, this was not definitive - "And if we have been a bit raucous tonight, I'm very, very sorry but we're highly excited really..." - and went on to become a pitch for a late night series. It is possible that a more formal apology may have lessened the offence caused to some viewers, but we also recognise that the comments accorded with the style of the show and the level of language used.

However we recognise the steps taken by the broadcaster to prevent such language being used by guests in this live programme. We welcome the action taken by the broadcaster to re-emphasise the importance of these precautions. We felt that there was no need to intervene further on this particular occasion.

Resolved

Quiz Night Live

FTN, 11 May 2006, 22:00

Introduction

The presenters of a premium rate entry competition claimed that, at the end of an onscreen countdown, the prize on offer would drop from £9,000 to £3,000. However, a complainant claimed that the prize actually rose to £10,000. He believed that the presenters had misled viewers, encouraging them to ring before the prize fund dropped, when it did not.

Response

FTN said that when the prize was at £9,000, the competition ran for fifty minutes before a five minute countdown clock was introduced. The clock was then stopped every time a participant was on-air and finally reached zero after approximately 25 minutes, during which time both the presenters and a periodic onscreen message had stated that the prize would reduce to £3,000. The on-screen prize indicator then reduced to £3,000. However, before any more calls were taken, the prize was increased to £10,000.

The broadcaster assured us that it did not intend to mislead viewers and, to ensure further transparency, it had subsequently ensured that a call was taken whenever the prize fund was changed.

Decision

Transparency is key to the fairness of broadcast competitions, as it is the information provided on air (including an accurate description and/or prediction of the prize) that enables viewers to decide whether/when to attempt participation.

The broadcaster's description of how the competition had developed was accurate and the presenters had also clearly and regularly indicated that they were not personally in control of fluctuations in the level of the prize. However, the presenters' discussion after the prize had been reduced to £3,000 appeared to allow no possibility of a caller being taken to air before it rose to £10,000 – while the incentive to viewers had previously been to call before the prize dropped.

We therefore welcome the broadcaster's assurance and subsequent action, which we believe resolves the matter.

Resolved

Tom & Jerry

Boomerang, various dates 2006

Introduction

In two separate cartoons *Texas Tom* and *Tennis Chumps* there were scenes involving smoking. In *Texas Tom*, Tom tried to impress a female cat by rolling a 'roll-up' cigarette, lighting it and smoking it with just one hand. In *Tennis Chumps*, Tom's opponent in a match was seen smoking a large cigar.

One viewer complained that these scenes of smoking were not appropriate in a cartoon aimed at children.

Response

Following receipt of the complaint, Turner, the licensee for Boomerang, conducted an extensive internal review of the *Tom & Jerry* library to reassess the volume and context of smoking in these cartoons. The licensee has subsequently proposed editing any scenes or references in the series where smoking appeared to be condoned, acceptable, glamorised or where it might encourage imitation (for example where, in *Texas Tom*, Tom tries to impress by smoking). Turner believed however, that editing out all references to smoking, where such references neither glamorised nor condoned, might adversely affect the value of the animation.

Decision

Rule 1.10 of Ofcom's Broadcasting Code states:

The use of illegal drugs, the abuse of drugs, smoking, solvent abuse and the misuse of alcohol:

- must not be featured in programmes made primarily for children unless there is strong editorial justification;
- must generally be avoided and in any case must not be condoned, encouraged or glamorised in other programmes broadcast before the watershed, or when children are particularly likely to be listening, unless there is editorial justification;
- must not be condoned, encouraged or glamorised in other programmes likely to be widely seen or heard by under eighteens unless there is editorial justification.

We are not aware of evidence from research in the UK that shows a direct correlation between children who see smoking on television with a greater propensity to take up smoking. However, broadcasters and Ofcom are required to protect those under eighteen and that protection is particularly important where the youngest children are concerned. There are concerns that smoking on television may normalise smoking. For precautionary reasons Ofcom expects broadcasters to generally avoid smoking in pre-watershed programmes. Research published in September 2005 by Ofcom indicates that broadcasters are very aware and responsible in the way they include smoking pre-watershed.

Boomerang is a channel that attracts a large number of children – 56% of its audience are aged 4-14 years. Although historic cartoons such as these may have

been made originally for family audiences they are now primarily viewed by children, including very young children, who may be viewing on their own.

Stylised and comic actions in cartoons are not intrinsically a concern in themselves - including violence and other activity which in a different context would be unacceptable. However it depends on treatment and context. We recognise that these are historic cartoons, most of them having been produced in the 40s, 50s and 60s at a time when smoking was more generally accepted. Depictions of smoking may not be problematic given the context, but broadcasters need to make a judgement about the extent to which they believe a particular scene may or may not genuinely influence children. We note that in *Tom and Jerry*, smoking usually appears in a stylised manner and is frequently not condoned.

However while we appreciate the historic integrity of the animation, the level of editorial justification required for the inclusion of smoking in such cartoons is necessarily high. We will look at all such cases individually.

Given Turner's commitment to adopt a precautionary approach, we welcome its review of archive material and action taken to minimise the possibility of harm.

Resolved

Fairness and Privacy Cases

Not Upheld

Complaint by Mr Kenneth Brown

Richard and Judy, Channel 4, 9 March 2006

Summary: Ofcom has not upheld this complaint of unfair treatment by Mr Kenneth Brown.

This edition of *Richard and Judy* included a light hearted report about bird droppings. The item reported that due to the roosting habits of half a million starlings, the town of Chard was left with an estimated 14 tons of bird droppings each night. Mr Brown took part in the programme and explained how the bird droppings were affecting his life.

Mr Brown complained that the programme had been unfair to him because: he had been given the impression the programme makers intended to carry out a serious interview - instead the programme made a “mock of things”; and, the programme did not include his comments relating to bird flu, despite assurances from the programme producer that these comments would be included.

Ofcom found as follows:

- a) Ofcom found no evidence that the programme makers attempted to mislead Mr Brown into believing that the report would be of an investigative or particularly “serious” nature. In Ofcom’s view the programme was not presented in a mocking way. While the report was humorous and light hearted, the humour of the report did not come at the expense of Chard or its residents. Further, the overall tone of the programme was unlikely to have left viewers with an unfair impression of Mr Brown. In the circumstances, Ofcom found the programme did not result in unfairness to Mr Brown.
- b) Ofcom found no evidence that Mr Brown’s participation had been secured by a guarantee that certain parts of his interview would be included in the programme. In the absence of such evidence, and based on the information available, Ofcom found that it was fair for the programme makers to use their editorial discretion when editing Mr Brown’s contribution.

While Ofcom found that the programme makers did not treat Mr Brown unfairly, the circumstances of the complaint highlighted for Ofcom the need for programme makers to understand that many participants are unfamiliar with broadcasting and therefore may not share the assumptions about programme making which broadcasters regard as obvious. Programme makers should not assume participants will understand that their contribution will be subject to editing at the programme makers discretion, and that a significant proportion of their contribution may not be included in the final programme. In general, programme makers should endeavour to make these facts clear to participants.

Introduction

This episode of *Richard & Judy* included a light hearted item about the town of Chard, Somerset. The item revealed that Chard was experiencing a problem with bird droppings. According to the item half a million starlings roosted in Chard every night and left an estimated 14 tons of bird droppings every day. The item included interviews with a number of residents who spoke about how they dealt with the problem.

Mr Kenneth Brown, a resident of Chard, participated in the programme.

Mr Brown complained of unfair treatment in the programme as broadcast.

The Complaint

Mr Brown's case

In summary, Mr Brown complained that he was treated unfairly in the programme as broadcast in that:

- a) He was led to believe the programme makers planned to carry out a serious interview. Mr Brown said the programme "made a mock of things"; and
- b) The programme producer assured Mr Brown on several occasions that his comments relating to bird flu would be included in the programme. These comments were not included in the programme which was unfair.

Channel 4's case

In summary Channel 4 responded to the complaint as follows:

- a) Channel 4 said the programme makers were first alerted to the story of Chard's bird droppings problem after seeing a humorous article in The Sun newspaper. The article included a photograph of Mr Brown and a quote from him about the problem. When contributors were approached for their participation in the programme, the programme makers explained that they envisaged the story would be a light hearted piece in a style similar to the newspaper article.

In response to Mr Brown's complaint that he had been led to believe the programme makers planned to carry out a serious interview, the broadcaster contended that there was a difference between interviewing a contributor seriously, and using the material in a serious context. In relation to the programme maker's treatment of Mr Brown, Channel 4 said that he had been interviewed seriously and treated courteously. As regards the overall tone of the programme, Channel 4 said that it would have been clear to Mr Brown throughout filming that the piece was to be gentle and humorous. Channel 4 said that Mr Brown was never led to believe that he was dealing with a current affairs or news programme.

- b) Channel 4 said that at no time was it agreed with Mr Brown that he would have editorial control over his contribution. Mr Brown had been assured by the programme makers that he could talk about bird flu in his interview but no guarantees had been given that any of his comments would be used. Channel 4 said the programme makers' offer, to allow Mr Brown to talk about bird flu during his interview, was a standard reply to any attempt by a contributor to influence editorial control. Channel 4 said that Mr Brown's comments could not be

broadcast for fairness and editorial reasons: because Mr Brown's public health concerns were unfounded the inclusion of his comments on bird flu could have opened him up to ridicule, and may have risked a breach of Ofcom's Code relating to Harm and Offence. Further, Channel 4 said that Mr Brown's comments on bird flu fell outside the main theme of the item.

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 unfair treatment in programmes and unwarrantable infringement of privacy in and in the making of programmes included in such services. Where there appears to have been unfairness in the making of the programme, this will only result in a finding of unfairness, if Ofcom finds that it has resulted in unfairness to the complainant in the programme as broadcast.

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.

- a) Mr Brown complained that he was led to believe the programme makers planned to carry out a serious interview. Mr Brown said that the programme "made a mock of things". In reaching a decision about this complaint Ofcom had regard for both parties' written statements, a copy of the programme as broadcast, unedited recordings of Mr Brown's interview and the responsibility of all programme makers to be fair in their dealings with potential contributors. Ofcom was first required to establish whether Mr Brown had been adequately informed about the nature and likely content of the programme, and secondly whether the tone of the programme itself resulted in unfairness to Mr Brown.

In its consideration of the complaint, Ofcom noted that Mr Brown did not specify on what grounds he developed the understanding that the programme makers intended to carry out a "serious interview". However Ofcom sought to determine what information had been given to Mr Brown about the programme that may have led to this understanding. In addition, Ofcom wished to establish whether the information given to Mr Brown about the nature and likely content of the item had been misleading.

Channel 4 stated that when Mr Brown was asked to participate in the programme, the programme makers explained to him that they wished to do a piece similar to the newspaper article he took part in for The Sun. The title of this newspaper article was "Town's 14-ton of bird poo" and Mr Brown was quoted as saying "*My house is bombarded every day from a shower of droppings. It is awful – and I can't get rid of the pests*". Ofcom noted that Mr Brown's contribution to the newspaper article was similar to the one included in the *Richard and Judy Show*. In both reports Mr Brown spoke of how the constant bird droppings were affecting his life.

Ofcom also had regard for the unedited recording of Mr Brown's interview. During the interview, Mr Brown was asked to explain the problem of the bird droppings, his views on who he thought was responsible for the problem, and how he would like the problem to be resolved. Ofcom noted that at all times the reporter was polite and courteous to Mr Brown and his opinions. However it was clear to Ofcom

that while the reporter conducted a respectful interview with Mr Brown, the subject matter dealt with in the interview, along with the interview style of the reporter – relaxed and animated – suggested that the overall report was not investigative.

From the information available, Ofcom found no evidence that the programme makers attempted to mislead Mr Brown into believing that the report would be of a particularly “serious” nature. In the absence of such evidence and taking into consideration that the item was prompted by The Sun newspaper report and would be broadcast on *Richard and Judy*, Ofcom was satisfied that Mr Brown had not been misled about the nature and likely content of the programme, or the fact that the report would be light hearted in tone.

Ofcom secondly assessed the tone of the programme in light of Mr Brown’s complaint that the programme makers had “made a mock of things”. Ofcom was required to determine whether the tone of the programme alone resulted in unfairness to Mr Brown. After viewing the programme, Ofcom concluded that the programme did not make “a mock of things” in relation to its presentation of either the town or Mr Brown. In reaching this decision Ofcom noted that while the report was humorous and light hearted, the humour clearly came from the antics of the reporter and the unusual circumstances caused by the arrival of half a million birds. At no point did it appear to Ofcom that the humour of the report came at the expense of Chard or its residents. In addition, as noted above, Ofcom found that the manner in which Mr Brown had been interviewed had been courteous and respectful. In relation to Mr Brown’s contribution to the programme as broadcast, Ofcom noted that it was limited to the following exchange:

Mr Brown: Bird poo

Reporter: It’s happened here in Chard, Somerset, where thousands of starlings have descended to poo on the public. John you’re one of the residents here at number 38, when did this problem first start?

Mr Brown: It must be getting on for two months.

Reporter: And you washed this car only yesterday is that correct?

Mr Brown: Yeah. But you’re forever washing the vehicles. You’re washing the drive down. They poo up to 50 times a day.

In Ofcom’s opinion the comments by Mr Brown which were included in the programme were straightforward. Ofcom concluded that the programme as broadcast was not presented in a mocking way, and the overall tone of the programme was unlikely to have left viewers with an unfair impression of Mr Brown. Ofcom found no unfairness to Mr Brown in this respect.

- b) Mr Brown complained that the programme as broadcast did not contain his comments relating to bird flu despite being assured on several occasions by a programme producer that these comments would be included.

Guarantees given to contributors relating to the content of a programme should normally be honoured, if to do otherwise would result in unfairness. Ofcom was required to establish whether the programme makers failed to honour a guarantee given to Mr Brown regarding the inclusion of his comments relating to bird flu, and also whether the omission of Mr Brown’s comments itself resulted in unfairness to Mr Brown.

In reaching a decision Ofcom had regard for both parties' written statements and an unedited recording of Mr Brown's interview. In his written submission to Ofcom, Mr Brown said an agreement was made with the programme maker that his comments relating to bird flu would be included in the programme:

"At the end of the days filming the producer came back to me to sign the release form and again I said to him...will my piece on bird flu and all that be shown, the producer said 'yes'. I said 'if not I will not sign'. The producer put out his hand (we shook hands) and said 'You have my word, I guarantee you, it's down to me what gets shown'. So I signed."

In its written submission to Ofcom, Channel 4 said that Mr Brown informed them of his desire to have his comments relating to bird flu included in the programme. Channel 4 said the producer aimed to "placate" Mr Brown by allowing him to talk of his concerns about bird flu, but that the producer at no time guaranteed any of his comments would be used. Channel 4 said the following conversation took place after Mr Brown's interview:

"The producer shook hands with Mr Brown with a thank you and Mr Brown asked him whether he had got what he wanted. He then said 'are you going to put the bird flu bit in?' and the producer responded 'we'll do our best'."

Ofcom is not a fact finding tribunal and was unable to determine what transpired between the producer and Mr Brown after the recording of the interview. The specifics of this conversation were not captured during Mr Brown's interview. However after considering both parties' submissions it was clear to Ofcom that Mr Brown believed he had secured a guarantee from the programme makers about the content of the programme, and equally the programme maker understood that no such guarantee had been made.

From the information presented to Ofcom, there was no persuasive evidence that Mr Brown's participation had been secured by a guarantee that certain parts of his interview would be included in the programme as broadcast. In the absence of such evidence, and based on the information available, including a signed release form from Mr Brown – allowing the programme makers to transmit his contribution in any format - Ofcom found that it was fair for the programme makers to use their editorial discretion when editing Mr Brown's contribution. Ofcom concluded that in the absence of evidence of a guarantee relating to the content of the programme, the programme makers decision not to include Mr Brown's comments relating to bird flu, did not result in unfairness to the complainant. Ofcom has not upheld this part of Mr Brown's complaint.

While Ofcom found that the programme makers did not treat Mr Brown unfairly, the circumstances of the complaint highlighted for Ofcom the need for programme makers to understand that many participants are unfamiliar with broadcasting. Therefore participants may not share the assumptions about programme making which broadcasters regard as obvious. Programme makers should not assume participants will understand that their contribution will be subject to editing at the programme makers discretion, and that a significant proportion of their contribution may not be included in the final programme. In general, programme makers should endeavour to make these facts clear to participants.

Ofcom has not upheld Mr Brown's complaint of unfair treatment.

Complaint by Mrs Marina Singleton

More4 News, More4, 7 March 2006

Summary: Ofcom has not upheld this complaint of unfair treatment by Mrs Marina Singleton.

This news item reported on the government's attempts to reduce the National Health Service's (NHS) spending, and how these cut-backs were affecting patient care. Mrs Singleton was interviewed for the programme and explained that her son recently had an important outpatient appointment delayed by five months.

Mrs Singleton complained that the programme had been unfair in that: the programme did not include any details about her son's long delay for a new wheelchair - despite the fact that she believed this was the purpose of the interview; and, the programme makers unfairly edited her interview to give the impression that she had made a complaint about having a hospital appointment cancelled.

Ofcom found as follows:

- a) Ofcom found that Mrs Singleton willingly gave an interview about a number of issues concerning her son's health care. Ofcom concluded that in the absence of a guarantee relating to the content of the programme, the programme makers decision not to include the portion of the Mrs Singleton's interview, relating to her son's wait for a new wheelchair, did not result in unfairness to Mrs Singleton.
- b) The editing of Mrs Singleton's interview was fair. Mrs Singleton's views, as they appeared in the programme as broadcast, accurately reflected those of the unedited interview recordings. In addition, the programme makers did not remove any footage which would have materially affected the viewers' opinion of Mrs Singleton in an unfair way.

It was clear to Ofcom that Mrs Singleton did not appear to understand that only a very small portion of her interview could and would appear in the programme as broadcast. Ofcom did not believe the programme maker sought to mislead Mrs Singleton about this fact. However the complaint emphasised that programme makers should not assume participants, particularly those in traumatic or stressful situations, will understand that their contribution will be subject to editing at the programme makers discretion, and that a significant proportion of their contribution may not be included in the final programme. In general, programme makers should endeavour to make these facts clear to participants.

Introduction

This edition of the *More4 News* included an item about the government's attempts to reduce the National Health Service's (NHS) spending, following reports that the NHS was almost £800 million over budget. The item focussed on the effects of the government's attempts to reduce costs.

Mrs Marina Singleton and her son Mr Tim Singleton participated in the item. The item reported that Tim Singleton has muscular dystrophy and recently had an important outpatient appointment cancelled. During an interview, Mrs Singleton explained that Tim's appointment with a cardiologist had been rescheduled from January 2006 to May 2006 and as a result a blood test had been delayed. Mrs Singleton said that the delay had not affected Tim's health this time, but was concerned that if there had

been a health problem it would have been missed as a result of the rescheduled appointment.

Mrs Singleton complained of unfair treatment in the programme as broadcast.

The Complaint

Mrs Singleton's case

In summary, Mrs Singleton complained of unfair treatment in the programme as broadcast in that:

- a) She had been told that the interview was for a story about the family's long wait for a new essential wheelchair for Tim. The programme did not include any information about Tim's wait for a new wheelchair.
- b) The programme had been edited to give the impression that she had made a complaint about having a hospital appointment cancelled.

Channel 4's case

In summary Channel 4 responded to the complaint as follows:

- a) Channel 4 said that the reporter told Mrs Singleton he was putting together a report about financial pressures within the NHS affecting patients and patient care and asked if he could interview her. The reporter told Mrs Singleton that he had seen her and Tim's story in the local newspaper. Channel 4 said there was no agreement or understanding that the report would only refer to the wheelchair issue or that the report would feature the wheelchair issue at all.
- b) Channel 4 said the issue of Tim's cancelled appointment had been raised by Mrs Singleton on the day of the interview. During a pre-interview discussion with the reporter Mrs Singleton had showed the reporter a copy of the letter cancelling Tim's appointment. Following this, Mrs Singleton willingly agreed to be interviewed about the two topics of Tim's wheelchair delay, and the cancelled appointment.

During the interview Mrs Singleton spoke at length about the wheelchair delay and the cancelled appointment. In support of this Channel 4 provided Ofcom with unedited recordings of Mrs Singleton's interview. Channel 4 said that Mrs Singleton was completely happy and raised no objections about any areas of questioning and as far as the reporter was concerned, Mrs Singleton was happy for any part of her interview to be broadcast.

In response to Mrs Singleton's complaint regarding the editing of the programme, Channel 4 said there was no time in the report to use both the wheelchair and the appointment issue and an editorial decision was made. The issue of the cancelled appointment was selected as it connected significantly with the programme report and was more up-to-date.

Channel 4 said that the programme did not specifically say that Mrs Singleton had made a formal complaint to the hospital, but does reflect the fact that Mrs Singleton was unhappy with what happened concerning the cancelled appointment. Channel 4 believed the report was a fair reflection of what Mrs Singleton said during her interview.

Channel 4 said they were obviously disappointed that Mrs Singleton felt unhappy with the report and this was regretted. However Channel 4 believed the programme makers were fair in their dealings with Mrs Singleton.

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 unfair treatment in programmes and unwarrantable infringement of privacy in and in the making of programmes included in such services. Where there appears to have been unfairness in the making of the programme, this will only result in a finding of unfairness, if Ofcom finds that it has resulted in unfairness to the complainant in the programme as broadcast.

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 relation to the specific heads of complaint Ofcom found as follows:

- a) Mrs Singleton complained that the programme did not contain any information about her son's wait for a new wheelchair despite being told that this would be the topic of the interview.

In reaching its decision about this complaint Ofcom had regard for both party's written submissions, an unedited recording of Mrs Singleton's interview, and the responsibilities of all programme makers to be fair in their dealings with potential contributors. These responsibilities include ensuring that guarantees given to contributors whether as to content, confidentiality or anonymity are honoured, and the need for programme makers to be straightforward in their dealings with potential participants.

Ofcom was required to determine, whether the programme makers had broken a guarantee given to Mrs Singleton that the programme would include her son's wheelchair story, and if such a guarantee had been broken whether it resulted in unfairness.

It is agreed by both parties that Mrs Singleton was originally approached to participate in the programme after the reporter saw a newspaper article about Tim Singleton's wait for a new wheelchair. Ofcom was satisfied that both the programme makers and Mrs Singleton expectation at this time was that the interview would be about the wheelchair issue.

After viewing the unedited interview recordings Ofcom noted that Mrs Singleton had also agreed to be interviewed about other concerns she had about Tim's health care. In particular, the majority of Mrs Singleton's interview related to Tim's cancelled cardiologist appointment. Throughout the interview, Mrs Singleton appeared at ease and Ofcom saw no indication that she was displeased with either the direction of the interview, or any line of questioning.

Of the information provided by both parties, Ofcom was not presented with any evidence that Mrs Singleton's participation had been secured by a guarantee that

certain parts of her interview would be included in the programme as broadcast. In the absence of such evidence, and based on the information available from the unedited interview recording, it is Ofcom's view that it was reasonable for the programme makers to understand that Mrs Singleton was happy for any portion of her interview to be used. Ofcom concluded that in the absence of evidence of a guarantee relating to the content of the programme, the programme makers decision not to include the portion of Mrs Singleton's interview, relating to her son's wait for a new wheelchair did not result in unfairness to Mrs Singleton. Ofcom has not upheld this part of Mrs Singleton's complaint.

- b) Mrs Singleton complained that the programme had been edited to give the impression that she made a complaint about having a hospital appointment cancelled.

After viewing the unedited footage of the interviews, Ofcom observed that only a relatively small portion of the footage was used in the final programme. However it should be noted that a programme will not result in unfairness simply because all of the views expressed by a contributor are not presented in full. In cases such as these, Ofcom is firstly required to determine whether the portion of the contribution that was included in the programme was presented fairly, and secondly whether the programme makers disregarded or omitted material facts in a way that resulted in unfairness to an individual or organisation.

Ofcom considered that the views of Mrs Singleton as they appeared in the programme accurately reflected those of the unedited footage. In relation to those parts of Mrs Singleton's interview not included in the programme, Ofcom found that the programme makers did not remove any footage which would have materially affected viewers' opinion of Mrs Singleton in an unfair way. The programme accurately reported that Mrs Singleton had received a letter, cancelling an important cardiologist appointment, and this had caused her concern. In Ofcom's view this was a fair representation as the issue of the delayed appointment had been of such concern to Mrs Singleton that she informed the reporter of the issue and agreed to be interviewed about it. Although Mrs Singleton was portrayed as being concerned about the delayed cardiologist appointment, Ofcom did not agree with Mrs Singleton that the programme gave the impression she had made a complaint against the hospital for cancelling the appointment. Ofcom considered that viewers were likely to have understood Mrs Singleton had been asked to participate in the programme as her experience provided an example of how budget restraints were affecting patients' clinical care. In light of these considerations Ofcom concluded that the editing of Mrs Singleton's interview was fair.

While Ofcom found that the programme makers did not treat Mrs Singleton unfairly, the circumstances of the complaint highlighted for Ofcom the need for programme makers to understand that many participants are unfamiliar with broadcasting and therefore may not share the assumptions about programme making which broadcasters regard as obvious. It was clear to Ofcom from Mrs Singleton's complaint that she did not appear to understand that only a very small portion of her interview could and would appear in the programme as broadcast. Ofcom did not believe the programme maker sought to mislead Mrs Singleton about this fact. However the complaint emphasised the point that programme makers should not assume participants, particularly those in traumatic or stressful situations, will understand that their contribution will be subject to editing at the programme makers discretion, and that a significant proportion of their contribution may not be included in the final programme. Ofcom acknowledged that news reporting posed particular

Ofcom broadcast bulletin 67
21 August 2006

challenges, however, in general, programme makers should as far as possible endeavour to make these facts clear to participants.

Ofcom has not upheld Mrs Singleton's complaint of unfair treatment.

Other programmes not in breach/out of remit

19 July 2006 – 1 August 2006

Programme	Trans Date	Channel	Category	No
8 Out of 10 Cats	20/07/2006	Channel 4	Offensive language	1
Alex Dyke Show	07/07/2006	Isle of Wight Radio	Offensive language	1
Bad Girls	20/07/2006	ITV1	Religious Offence	3
Bad Lads Army	11/07/2006	ITV1	Animal welfare	2
BBC News	07/07/2006	BBC1	Generally Accepted Standards	1
BBC News 24	14/06/2006	BBC News 24	Due Impartiality/Bias	1
BBC Radio 4 News	23/06/2006	BBC Radio 4	Generally Accepted Standards	1
Beat the Boss	24/05/2006	BBC1	Generally Accepted Standards	1
Best Ever Muppet Moments	11/03/2006	ITV1	Undue prominence	1
Big Brother	18/05/2006	Channel 4	Dangerous behaviour	1
Big Brother 7	21/05/2006	E4	Offensive language	1
Big Brother 7	22/05/2006	Channel 4	Sex/Nudity	2
Big Brother 7	04/06/2006	Channel 4	Generally Accepted Standards	3
Big Brother 7	06/06/2006	Channel 4	Generally Accepted Standards	2
Big Brother 7	05/06/2006	Channel 4	Generally Accepted Standards	2
Big Brother 7	02/06/2006	Channel 4	Generally Accepted Standards	1
Big Brother 7	16/06/2006	Channel 4	Generally Accepted Standards	1
Big Brother 7	30/06/2006	Channel 4	Flashing images	1
Big Brother 7	14/07/2006	Channel 4	Generally Accepted Standards	1
Big Brother 7	15/07/2006	Channel 4	Generally Accepted Standards	3
Big Brother 7	16/07/2006	Channel 4	Generally Accepted Standards	1
Big Brother 7	20/07/2006	Channel 4	Generally Accepted Standards	1
Big Brother 7	24/07/2006	Channel 4	Due Impartiality/Bias	1
Big Brother 7	14/06/2006	Channel 4	Offensive language	1
Big Brother's Big Mouth	04/07/2006	E4	Generally Accepted Standards	1
Big Brother's Big Mouth	05/07/2006	E4	Generally Accepted Standards	1
Big Brother's Big Mouth	12/07/2006	E4	Generally Accepted Standards	1
Big Brother's Big Mouth	14/07/2006	E4	Generally Accepted Standards	1
Big Brother's Big Mouth	15/07/2006	Channel 4	Crime payment	1
Big Brother's Big Mouth	19/07/2006	Channel 4	Sex/Nudity	1
Big Brother's Big Mouth	21/07/2006	E4	Generally Accepted Standards	1
Big Brother's Little Brother	28/05/2006	Channel 4	U18s in Programmes	1
Big Brother's Little Brother	15/07/2006	Channel 4	Generally Accepted Standards	1
Bigger Breakfast	05/06/2006	City Beat 96.7	Generally Accepted Standards	1
Billy Connolly's World	21/07/2006	BBC2	Religious Offence	1

Tour. . . .				
Breakfast	14/07/2006	BBC1	Generally Accepted Standards	1
Century FM	07/07/2006	Century 105	Generally Accepted Standards	1
Channel 4 News	10/06/2006	Channel 4	Due Impartiality/Bias	1
Channel 4 News	30/06/2006	Channel 4	Due Impartiality/Bias	1
Coronation Street	27/03/2006	ITV1	Other	1
Coronation Street	26/05/2006	ITV1	Other	1
Coronation Street	03/07/2006	ITV1	Inaccuracy/Misleading	1
Coronation Street	17/07/2006	ITV1	Offensive language	2
Coronation Street	21/07/2006	ITV1	Dangerous behaviour	1
Crimewatch	19/07/2006	BBC1	Generally Accepted Standards	1
CSI: Miami	04/07/2006	Five	Violence	1
Dancing In The Street	22/07/2006	BBC1	Generally Accepted Standards	1
Derren Brown: Trick of the Mind	16/04/2006	Channel 4	Offensive language	1
Dispatches	21/11/2005	Channel 4	Impartiality	1
Eastenders	18/07/2006	BBC1	Sex/Nudity	1
Emmerdale	25/05/2006	ITV1	Sex/Nudity	1
Emmerdale	28/06/2006	ITV1	Generally Accepted Standards	1
Excuse My French	18/07/2006	BBC2	Generally Accepted Standards	1
Five News	10/07/2006	Five	Due Impartiality/Bias	1
Funny Cuts	07/07/2006	E4	Offensive language	4
Funny Cuts	13/07/2006	E4	Generally Accepted Standards	2
George Galloway	07/07/2006	Talksport	Due Impartiality/Bias	1
Grim Adventures of Billy and Mandy	08/07/2006	Cartoon Network	Dangerous behaviour	1
Harry Hill's TV Burp	25/03/2006	ITV1	Offensive language	2
Head Transplants: Stranger than Fiction	13/07/2006	Five	Animal welfare	1
Head Transplants: Stranger than Fiction	17/07/2006	Five	Animal welfare	1
ITV News	06/07/2006	ITV1	Due Impartiality/Bias	1
ITV News	16/07/2006	ITV1	Violence	1
ITV News	18/07/2006	ITV1	Due Impartiality/Bias	2
ITV Play	05/07/2006	ITV Play	Competitions	1
JK and Joel	23/07/2006	BBC Radio 1	Generally Accepted Standards	1
Just Jade	09/07/2006	Living	Religious Offence	1
Law of the Playground	28/07/2006	Channel 4	Dangerous behaviour	1
Life on Mars	30/01/2006	BBC1	Sex/Nudity	1
Lucio	17/07/2006	XFM	Animal welfare	1
Midlands Today	30/06/2006	ITV1	Generally Accepted Standards	1
Midnight Hot	15/07/2006	Fashion TV	Substance Abuse	1
Mike Mendoza	12/05/2006	Talksport	Generally Accepted Standards	1
Mindshock: Feral Children	17/07/2006	Channel 4	U18s in Programmes	1
Modern Toss	18/07/2006	Channel 4	Offensive language	1
Moral Maze	12/07/2006	BBC Radio 4	Generally Accepted Standards	1
My Parents Are Aliens	18/07/2006	CITV	Religious Offence	1
Neds	10/07/2006	BBC Radio	Offensive language	1

Scotland				
Off the Ball	16/06/2006	BBC Radio Scotland	Generally Accepted Standards	1
One Night Only	09/06/2006	UTV	Sex/Nudity	1
Pickles - The Dog Who Won the World Cup	03/06/2006	ITV1	Generally Accepted Standards	1
PM	17/07/2006	BBC Radio 4	Offensive language	1
PokerFace	11/07/2006	ITV1	Generally Accepted Standards	4
PokerFace	13/07/2006	ITV1	Generally Accepted Standards	1
Pop Years	13/06/2006	Sky Three	Offensive language	1
Quiz Call	26/06/2006	Quiz Call	Competitions	1
Quiz Call	16/07/2006	Five	Competitions	7
Quiz Call	15/07/2006	Five	Competitions	1
Ramsay's F Word	12/07/2006	Channel 4	Offensive language	1
Ramsay's F Word	18/07/2006	Channel 4	Animal welfare	1
Ramsay's F Word	19/07/2006	Channel 4	Inaccuracy/Misleading	1
Ramsay's F Word	19/07/2006	Channel 4	Offensive language	1
Ramsay's F Word	20/07/2006	Channel 4	Offensive language	1
Ramsay's F Word	26/07/2006	Channel 4	Offensive language	2
Richard and Judy	12/07/2006	Channel 4	Due Impartiality/Bias	1
Richard and Judy	11/07/2006	Channel 4	Generally Accepted Standards	3
Richard and Judy	20/07/2006	Channel 4	Generally Accepted Standards	1
Sexcetera	16/06/2006	Living	Sex/Nudity	1
Sky News	23/06/2006	Sky News	Other	1
Sorted	10/07/2006	BBC1	Violence	1
Sport Relief 2006	15/07/2006	BBC1	Generally Accepted Standards	1
Street Crime UK	30/06/2006	Bravo	Offensive language	1
TTN	25/07/2006	TTN	Due Impartiality/Bias	1
Television X	19/07/2006	Television X	Sex/Nudity	1
TCM Turner				
The Cincinnati Kid	29/05/2006	Classic	Subtitles	1
The Commander	19/07/2006	ITV1	Violence	1
The Hotel Inspector	13/07/2006	Five	Offensive language	1
The Hotel Inspector	20/07/2006	Five	Offensive language	1
The Jeremy Kyle Show	12/07/2006	ITV1	Dangerous behaviour	2
The Message	25/06/2006	BBC3	Religious Offence	1
The Mint	19/07/2006	ITV1	Competitions	5
The Prince's Trust 30th Birthday - Live	20/05/2006	ITV1	Generally Accepted Standards	2
The Wright Stuff	11/07/2006	Five	Generally Accepted Standards	1
This Week	13/07/2006	BBC1	Generally Accepted Standards	1
TMF - The Music Factory	05/07/2006	TMF	Offensive language	1
Top Gear	16/07/2006	BBC2	Generally Accepted Standards	2
Top Gear	17/07/2006	BBC2	Religious Offence	1
Top Gear	18/07/2006	BBC2	Generally Accepted Standards	1
Totally Frank	07/01/2006	Channel 4	Sex/Nudity	1
Totally Frank	20/01/2006	Channel 4	Sex/Nudity	1
Totally Frank	21/01/2006	Channel 4	Sex/Nudity	1
Totally Frank	04/03/2006	Channel 4	Sex/Nudity	2

Totally Frank	08/04/2006	Channel 4	Sex/Nudity	1
Victoria Derbyshire	14/07/2006	BBC Radio 5 Live	Generally Accepted Standards	1
Wankathon	20/07/2006	Channel 4	Sex/Nudity	1
Wankathon	28/07/2006	Channel 4	Sex/Nudity	1
Weak At The Top	27/06/2006	BBC4	Generally Accepted Standards	1
Where the Heart Is	23/07/2006	ITV1	Offensive language	1
World Cup 2006	22/06/2006	BBC Radio 1	Generally Accepted Standards	1
World Cup 2006	13/07/2006	Various	Generally Accepted Standards	1
World Cup 2006	04/07/2006	ITV1	Sex/Nudity	1
World Cup 2006	05/07/2006	ITV1	Generally Accepted Standards	1
World Cup 2006	19/07/2006	Various	Due Impartiality/Bias	1
Young Black Farmers	25/06/2006	Channel 4	Generally Accepted Standards	1