

Ofcom Broadcast Bulletin

**Issue number 114
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Introduction

Ofcom's Broadcasting Code ("the 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>

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).

It is Ofcom policy to state the full language used on air by broadcasters who are the subject of a complaint. Some of the language used in Ofcom Broadcast Bulletins may therefore cause offence.

Standards cases

Notice of Sanction

Square 1 Management Limited

Smile TV, 22 May 2007, 22:15

On 10 July 2008 Ofcom published its decision to impose a statutory sanction on Square 1 Management Limited (“Square 1”) in respect of its service Smile TV (now known as Blue Kiss TV) for a serious breach of the Broadcasting Code. Smile TV includes so-called ‘babe’ programming, i.e. live programmes using female presenters (described as ‘babes’) who invite viewers to contact them using premium rate services (“PRS”). The service was found in breach of the following Code Rules:

- 1.24 (‘adult-sex’ material);
- 2.1 (generally accepted standards);
- 2.3 (material that may cause offence must be justified by context).

Ofcom found Square 1 in breach of these rules due to the following conduct:

- the free-to-air transmission of material of a character that should have been subject to protection by encryption and other controls (breach of rule 1.24);
- broadcasting sexually explicit content contrary to viewer expectations for a free-to-air unencrypted channel (breaches of Rules 2.1 and 2.3).

For the reasons set out in the adjudication Ofcom imposed a financial penalty of **£17,500** on Square 1 (payable to HM Paymaster General).

The full adjudication can be found at:

http://www.ofcom.org.uk/tv/obb/ocsc_adjud/SmileTV.pdf

In Breach

The Great Global Warming Swindle

Channel 4, 8 March 2007, 21:00

Introduction

On 8 March 2007 Channel 4 broadcast *The Great Global Warming Swindle*. This programme sought to challenge the theory that human activity is the major cause of climate change and global warming (also described as the theory of anthropogenic global warming). The programme included contributions from a wide range of scientists and other commentators who variously argued that the current consensus on the causes of global warming was based on unsound science and was politically motivated.

The programme was narrated by film maker Martin Durkin. He also wrote and directed the programme. The narration stated:

"In this film it will be shown that the earth's climate is always changing. That there is nothing unusual about the current temperature and that the scientific evidence does not support the notion that climate is driven by carbon dioxide, man-made or otherwise. Everywhere you are told that man-made climate change is proved beyond doubt. But you are being told lies."

"...This is a story of how a theory about climate turned into a political ideology...it is the story of the distortion of a whole area of science...it is the story of how a political campaign turned into a bureaucratic bandwagon..."

Elsewhere the programme narration stated:

"Global warming has gone beyond politics, it is a new kind of morality"; "...as the frenzy over man-made global warming grows shriller, many senior scientists say the actual scientific basis for the theory is crumbling"; "It is a distortion of a whole area of science"; "...the global warming alarm is now beyond reason".

Ofcom received 265 complaints about the programme from members of the public. Ofcom also received a substantial complaint 176 pages long from a group of complainants, some of whom were scientists ("the Group Complaint").¹ In summary, the complainants were concerned that the programme was not presented with due impartiality and that as a factual programme it misled the audience by misrepresenting "facts". The Group Complaint also offered a very detailed and critical analysis of the programme.

Factual Accuracy

The complainants questioned the factual accuracy of the programme, suggesting that it:

(a) presented facts in a misleading way; and

¹ Ofcom also received three complaints from those who either participated in the programme or who were the 'person affected' as defined in s111 of the Broadcasting Act 1996(as amended). These were considered under Ofcom's Fairness and Privacy function. The decisions reached on those complaints appear elsewhere in this Broadcast Bulletin – see pages 36 to 80, below.

(b) omitted facts, issues or alternative views.

Overall, the effect according to the complainants would be that viewers would be discouraged from undertaking action to help prevent climate change.

The complaints set out numerous alleged instances of the way in which facts included in the programme misled viewers. These included the alleged misrepresentation of data, graphs, scientific literature, historical events, press articles, and film footage. Channel 4 in its response defended the programme in respect of all of these issues and Ofcom considered all of the alleged instances of factual inaccuracy in reaching the conclusions contained in this finding. Ofcom is not a fact-finding tribunal and its obligation in this case was to reach a fair and reasonable decision on whether *The Great Global Warming Swindle* breached the requirements of the Code. Given the ambit of Ofcom's obligation as regards adjudicating on the complaints, however it was in Ofcom's opinion impractical and inappropriate for it to examine in detail all of the multifarious alleged examples of factual inaccuracy set out in the complaints.

After careful deliberation, Ofcom therefore chose four particular aspects of the programme to examine as part of its overall assessment of whether the programme materially misled the audience. These were: the use of graphs; the alleged "distortion" of the science of climate modelling; presentation of the argument that the theory of man-made global warming is promoted as a means to limit economic growth; and, not giving an accurate and fair presentation of the expertise and credibility of various contributors. These particular areas were selected because they featured in a large number of the complaints, and in Ofcom's opinion were reasonably illustrative of the key issues and different types of alleged factual inaccuracy in the programme. Each of these four areas is set out below.

(a) The presentation of facts in a misleading way

- The use of graphs in the programme

Complainants stated that the programme contained "falsification or serious misrepresentation of graphs or data". One graph that was shown in the programme purported to be a representation of changes in world temperature over the past 120 years and the information it contained was attributed to the National Aeronautics and Space Administration ("NASA"). Relying on the graph, the programme narration suggested that most of the warming in the twentieth century actually occurred before the post-World War II industrial boom. The Group Complaint stated that the original source of the graph is unclear so it was incorrect for the programme makers to attribute it to NASA. It also suggested that the graph presented in the programme was misleading because the original graph that the figures were based on actually ended in the mid-1980s. The Group Complaint asserted that the producers of the programme had re-labelled and extended the time scale on the graph to give the incorrect impression that the data on the graph in fact extended to the present day (i.e. 2005). As a result the Group Complaint said that the graph in the programme did not reflect a 20 year period (ie mid-1980s to 2005) which the Group Complaint argued was a period of unprecedented global warming. The Group Complaint said the programme makers had later admitted that the time scale of the graph in the programme was incorrect. The Group Complaint said that a cursory glance at up-to-date temperature records from NASA would have revealed that, contrary to the programme's claims, most of the warming in the twentieth century occurred after the World War II industrial boom.

- The “distortion” of the science of climate modelling

Complainants objected to the programme's suggestion that climate models, used to support the theory of anthropogenic global warming, are inaccurate. For example, the programme narration stated "*Climate forecasts are not new, but in the past, scientists were more modest about their ability to predict the weather*" (emphasis added). This, complainants argued, incorrectly confused 'weather' with 'climate', both of which are subject to different constraints (climatology - the study of climate - involves the analysis of long-term processes, whereas meteorology - the study of weather- is the study of shorter term weather processes and forecasting).

The complainants said that the public is much more familiar with weather forecasts - and their uncertainty - than with climatology. The complainants said that, because the difference between weather and climate may not be well known among the general public, the description of climate models as unreliable could have misled viewers about the ability of scientists to predict climate: because viewers may have understood climate models to be the same as weather forecasts.

Complainants also said the programme's narration, coupled with various statements made by interviewees, suggested that some recent climate models were based on certain assumptions. The claim was that the climate models put forward by those who support the theory that global warming is caused by human activity to support their position were composed in a way that exaggerated the actual extent of global warming. This, said the complainants, misrepresented the way climate modelling is undertaken in practice and undermined its credibility.

- The presentation of the argument that the theory of man-made (or anthropogenic) global warming is promoted by environmentalists as a means to reverse economic growth

Contributors to the programme also presented the view that global warming had been used in recent history by those from the political left as part of an anti-capitalist agenda. According to the complainants, the programme in its narration and by the inclusion of various comments by contributors implied that such views were representative of the opinions of mainstream environmentalists, economists and political scientists. In fact, the complainants argued, these environmentalists, economists and political scientists are mostly not anti-capitalist and, in fact, believe that climate change can be mitigated with current and future energy technologies. Complainants pointed to the following comment made by the former Chancellor of the Exchequer, Nigel Lawson:

“The left have been slightly disoriented by the manifest failure of socialism and indeed, even more so of communism, as it was tired out; and therefore, they still remain as anti-capitalist as they were; but they have to find a new guise for their anti capitalism”.

It was argued that the inclusion of comments such as this and the exclusion of alternative views was designed to imply that environmentalists are predominantly anti-capitalist extremists.

- The credibility of contributors to the programme

It was argued that the programme's narration did not make clear the links which, according to the Group Complaint, contributors to the programme had to the fossil fuel industry and associated lobby groups. The Group Complaint therefore

argued that viewers were misled into giving much more weight to the interviewees' statements than they would have given them otherwise.

Related to this argument complainants also said the programme "greatly exaggerated" the credentials of some of the contributors, by implying, either by on-screen captioning or by descriptions by the narrator, that the scientists on the programme were climate experts when almost all of them were not.

(b) Omissions from the programme meant it was misleading

There were also complaints that the programme was fundamentally misleading because it failed to represent adequately the views of the scientific community who say that global warming is anthropogenic. Viewers were therefore not given sufficient facts about the issue.

Due Impartiality

In questioning whether the programme was duly impartial about the issue of the primary causes of global warming, the authors of the Group Complaint emphasised that they were not attacking the right to free speech. They stated, however, that they did not believe this "right" allowed what they saw as the "systematic deception" which they believed the programme represented.

In summary, the complaints stated that the programme was not impartial and presented incorrect, misleading or incomplete opinions and facts on the science of global warming. In particular, the Group Complaint stated that:

- the experience of contributors was exaggerated and/or inaccurate so that viewers were misled;
- contributors had conflicts of interest which were not disclosed;
- there was no series of programmes to which this one was linked so as to provide balance; and
- the programme maker, Martin Durkin, had an inappropriate personal interest in the documentary which was not properly disclosed.

Ofcom therefore wrote to Channel 4 and asked for its comments on how the programme complied with the Code. In particular it referred to the following rules:

- Rule 2.2, which states that "Factual programmes or items or portrayals of factual matters must not materially mislead the audience";
- Rules 5.11 (due impartiality must be preserved on matters of major political controversy and major matters relating to current public policy), and
- Rule 5.12 (in dealing with such major matters, an appropriately wide range of significant views must be included and given due weight in each programme or in clearly linked and timely programmes.)

Response

General

Channel 4 said that *The Great Global Warming Swindle* was clearly identified as an authored polemic of the kind that is characteristic of some of Channel 4's output. As a public service broadcaster Channel 4 has a statutory obligation to commission distinctive programmes which appeal to the tastes and interests of a culturally diverse society.

The channel said that the programme sought to present the viewpoint of the minority of scientists who do not believe that global warming is caused by the anthropogenic production of carbon dioxide. The programme sought to examine the debate over the cause of global warming, outline possible alternative causes and give a voice to the minority who question the prevailing orthodoxy and its possible motivations.

Factual Accuracy

Channel 4 disputed that the way facts and views in the programme were presented misled the audience. For example, in relation to allegations that the programme could undermine or dissuade people from taking action to help prevent climate change, Channel 4 emphasised that the programme did not in any way advocate that the audience should not protect the environment, nor did it advise people to use energy unwisely or inefficiently. In short, Channel 4 argued that the programme did not advocate complacency or inaction of any kind with regard to climate change, which the programme had not denied was taking place.

Channel 4 addressed each illustrative aspect of the complaints on factual accuracy in turn.

(a) The presentation of facts in a misleading way

Channel 4 said that the programme informed the audience of the existence of credible, alternative but under reported theories and thus challenged the theory that global warming was man-made. It did not discount the mainstream theory which was repeatedly referred to within the programme as the dominant theory in the scientific community.

- The use of graphs in the programme

In relation to the question of whether graphs used in the programme were misleading, Channel 4 made the general point that graphs of past temperature are always based on data sets derived from a variety of complex sources and are open to argument and debate. In relation to the graph purporting to show world temperature over the last 120 years (the graph referred to in the Introduction above), Channel 4 said that the programme used a highly stylised animated effect. During the production of the programme graphics, an error on the graph occurred. The effect was that the graphic showed the timescale as 1880-2000, instead of 1880-1990. Channel 4 said this was a genuine error which was immediately corrected for the repeat of the programme on More4 on 12 March 2007.

Despite this mistake, Channel 4 said that the graph which contained the error did not alter or contradict either of the main points made in the narration with reference to the graph and so was not misleading (i.e. that the rise in temperature in the first half of the twentieth century exceeded the rise in the second half; and that during the period of increasing carbon dioxide emissions known as the Post War Economic Boom, temperature fell).

- the "distortion" of the science of climate modelling

Channel 4 said that the programme examined the effectiveness of climate modelling as a means of predicting the effects of climate change. In relation to

the allegation in the Group Complaint that the programme deliberately confused the concepts of “weather” and “climate”, Channel 4 said this was untrue. The narration, said Channel 4, clearly separated the two concepts stating that those who have modelled *weather* are sceptical of those who attempt to model *climate*. Channel 4 pointed out that, although the complainants disagreed with the points made by the contributors in this section of the programme, they did not allege that the statements were factually inaccurate.

- Presentation of the argument that the theory of anthropogenic global warming is promoted by environmentalists as a means to reverse economic growth

Channel 4 said that this section of the programme consisted of contributors commenting on the shifting politics within the environmental movement of the late 1980s, which at that time was by no means as mainstream as the movement has become today. The contributors in the programme expressed opinions on these matters and they were extremely well placed to do so as they had observed these events first hand.

- The credibility of contributors to the programme

Channel 4 said the programme consisted of interviews with leading scientists, experts and commentators in their relevant fields. The manner in which these contributors were portrayed was not misleading. This was because each contributor was clearly captioned on screen and, where appropriate, further information about their credentials was given in the voice-over. Channel 4 said that the allegations that most contributors were “*linked to the fossil fuel industry*” were incorrect and based largely on misinformed internet-based comments. It said that the contributors were established, reputable and in many cases very distinguished scientists. Their scientific work, said Channel 4, which often flies in the face of the prevailing view of global warming, is properly published in peer reviewed scientific journals.

(b) Omission of views and facts in a way that was misleading

Channel 4 did not accept that views or facts were omitted from the programme in a way that was harmful or offensive as alleged by the complainants. On a purely practical basis any requirement to include every detailed counter argument to each point would have drastically reduced the scope of the programme.

Channel 4 argued that far from misleading its audience by ignoring or not acknowledging that there was, and is, a majority scientific and journalistic consensus in support of man-made global warming, a whole section of the programme was devoted to this fact. The programme explained that this viewpoint had developed into an international and powerful political lobby which has great influence on governmental policy worldwide and on scientific funding.

Channel 4 also pointed out that a number of leading anthropogenic global warming theorists were approached to participate and all refused. Accordingly the programme sought to include the mainstream theories by other means such as in commentary and archive footage. Channel 4 argued that if, in order to avoid misleading viewers, the programme maker is under an obligation to include contributions from individuals or organisations who are highly opposed

to the content of the programme, this in effect gives those individuals and organisations a power of veto over the programme being broadcast.

On a general note Channel 4 said that any programme subjected to the degree of concerted hostile scrutiny as *The Great Global Warming Swindle* would be revealed to contain some inaccuracies. However Channel 4 said its review of the programme undertaken for the purposes of its response to Ofcom found very few inaccuracies. Crucially, said the broadcaster, none of these materially affected the argument of the film in any way.

Due Impartiality

Channel 4 said the programme must be considered within the context of the ubiquitous media coverage of the global warming issue and so, in addressing the question of due impartiality, Channel 4 presented an extensive list of programmes over recent years across all the main channels, including Channel 4, which accepted the view that the principal cause of global warming is man-made emissions of carbon dioxide.²

As a result of this coverage, Channel 4 did not consider that it was appropriate to give the mainstream view on climate change equal space in this programme, although it said the mainstream view was represented throughout the programme. This was done by referring to mainstream views in the context of presenting the scientific evidence. A number of references were made to the Intergovernmental Panel on Climate Change ("IPCC")³, to the views of Al Gore (the American politician and leading climate change campaigner), and to human produced carbon dioxide as the commonly-understood cause of much global warming. This amounted to an appropriate range of views within the programme.

Channel 4 said that the programme was one of a cluster of editorially linked programmes on the subject broadcast by the channel in March 2007 which had formed part of the channel's 2007 Year of the Environment. The broadcaster also pointed out that on-screen presentation announcements as well as advance publicity for the programme (which was considerable) made it clear to the audience what to expect from the programme, in terms of both its controversial content and its polemical approach.

Channel 4 also commented on Part Five of the programme which examined the controversial effects that reducing carbon dioxide emissions would have on developing nations. It suggested that many large environmental groups have urged developing countries to adopt sustainable sources of energy rather than develop conventional fossil fuel based sources. The broadcaster in its response also briefly discussed one specific and controversial policy adopted at international level to help combat climate change clearly based on the theory of anthropogenic global warming. Channel 4 described this policy as a "key element" of the Kyoto treaty⁴ - the Clean

² Programmes referred to included, on Channel 4: *Channel 4 Year of the Environment, 2007; A World Without Water*, and *The Year the Earth Went Wild*. On ITV, *Climate Change – Make A Difference* and on Discovery Channel *Global Warming: What You Need to Know*.

³ The IPCC is the UN body tasked to evaluate the risk of climate change caused by human activity. The IPCC was one of the bodies that complained to Ofcom under the Fairness rules of the Code about its treatment in the programme (see Footnote 1).

⁴ a protocol to the international Framework Convention on Climate Change with the objective of reducing greenhouse gases that cause climate change.

Development Mechanism (“CDM”) - and said it has adverse effects on development of developing nations. By means of the CDM, Western countries are encouraged to purchase ‘carbon credits’ from developing nations and then ‘offset’ their emissions by investing in sustainable energy projects in those developing countries. This mechanism, according to Channel 4, therefore acts as a “powerful disincentive to investment in conventional power sources”. Channel 4 said that the views on these topics expressed in *The Great Global Warming Swindle* “are honestly and legitimately held by experts in this field interviewed in the programme.”

Decision

General

The Communications Act 2003 (“the 2003 Act”) requires Ofcom to draft and enforce the Broadcasting Code in light of the right to freedom of expression. This encompasses the broadcasters’ right to transmit and the audience’s right to receive creative material, information and ideas without interference but subject to restrictions proscribed by law and necessary in a democratic society. This right is enshrined in the European Convention on Human Rights.

Viewers expect to be adequately informed about matters in the public interest, including of course *minority* views and opinions. As the European Court of Human Rights has made clear, subject to certain exceptions the principle of freedom of expression applies not only to:

“...information or ideas that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb; such are the demands of pluralism, tolerance and broadmindedness without which there is no ‘democratic society’. Freedom of expression ...is subject to a number of exceptions which, however, must be narrowly interpreted and the necessity for any restrictions must be convincingly established”.⁵

Accordingly, the rules in the Code must balance the right to freedom of expression against the need to apply restrictions. These restrictions include such statutory duties as the requirement to apply “generally accepted standards” to the content of television programmes so as to provide adequate protection for members of the public from the inclusion of offensive and harmful material⁶. Similarly, there is the requirement for broadcasters to preserve “due impartiality” on matters relating to political or industrial controversy or matters relating to current public policy⁷.

Ofcom also acknowledges that Channel 4’s statutory remit requires it to provide “...a broad range of high quality and diverse programming which, in particularexhibits a distinctive character.”⁸

Ofcom considers it of paramount importance that broadcasters, such as Channel 4, continue to explore controversial subject matter. While such programmes can polarise opinion, they are essential to our understanding of the world around us and are amongst the most important content that broadcasters produce. It is inevitable

⁵ Vogt v Germany(1995) 21 EHRR 205, p52

⁶ Communications Act 2003, section 319(2)(f)

⁷ Communications Act 2003, section 320

⁸ Communications Act 2003, section 265

such programmes will have a high profile and may lead to a large number of complaints.

Nevertheless, material transmitted by UK broadcasters must comply with the Code. Ofcom therefore carefully considered the issues raised by complainants and the Group Complaint as they related to the Code.

Factual Accuracy

The complainants (including the Group Complaint) stated that the programme was not accurate and therefore in breach of the Code. However, whilst Ofcom is required by the 2003 Act to set standards to ensure that *news* programmes are reported with “due accuracy” there is no such requirement for other types of programming, including factual programmes of this type.

It remains the case, however, that broadcasters must comply with standards set by Ofcom to provide adequate protection for members of the public from the inclusion of offensive and harmful material⁹. In drafting section 2 of the Code (which contains the rules relating to this objective), Ofcom set a requirement that factual programmes should not materially mislead. Accordingly, Rule 2.2 states that:

“Factual programmes or items or portrayals of factual matters must not materially mislead the audience”.

The accompanying Ofcom guidance to the Code explains that “Ofcom is required to guard against harmful or offensive material, and it is possible that actual or potential harm and/or offence may be the result of misleading material in relation to the representation of factual issues. This rule is therefore designed to deal with content which **materially misleads the audience so as to cause harm or offence.**” (Emphasis in original). Ofcom therefore only regulates misleading material where that material is likely to cause harm or offence. As a consequence, the requirement that content must not materially mislead the audience is necessarily a high test.

In dealing with these complaints therefore Ofcom had to ascertain – not whether the programme was accurate - but whether it materially misled the audience with the result that harm and/or offence was likely to be caused. It is not within Ofcom’s remit or ability in this case as the regulator of the ‘communications industry’ to establish or seek to adjudicate on ‘facts’ such as whether global warming is a man-made phenomenon, nor is Ofcom able to reach conclusions about the validity of any particular scientific theories. In dealing with an issue such as the theory of anthropogenic global warming, which is the subject of scientific controversy, those involved in the debate will - by definition - disagree over the factual accuracy of each others’ claims. Therefore, it is to some extent inevitable that in a polemical programme such as *The Great Global Warming* both sides of the argument will violently disagree about the ‘facts’.

Ofcom’s role, as regards factual accuracy, is to decide whether this programme breached the requirements of Rule 2.2 of the Code. To do this, it must reach an opinion on the “portrayals of factual matters” in a programme in order to determine whether the audience was materially misled by them overall – bearing in mind that Ofcom’s remit to review the factual matters in a programme can be based only on an

⁹ Section 319(2) of the Act requires Ofcom to set standards in a code for the content of programmes to secure certain standards objectives. One of those objectives is to ensure that generally accepted standards are applied to programmes to ensure adequate protection for members of the public from harmful or offensive material

appropriate and proportionate review of the evidence for this purpose. To help fulfil this aim, Ofcom looked at four illustrative areas of complaint about the portrayal of factual matters in this programme and examined them in light of Rule 2.2 of the Code.

(a) Presented facts in a misleading way

In deciding whether facts were presented in a materially misleading way Ofcom considered the context in which the programme was broadcast. As the Code explains, context includes factors such as the editorial content of the programme and the extent to which the nature of the content can be brought to the attention of the potential audience.

The anthropogenic global warming theory is extremely well represented in the mainstream media. A large number of television programmes, news reports, press articles and, indeed, feature length films have adopted the premise that global warming is caused by man-made carbon dioxide. In light of this it is reasonable for the programme makers to assume that the likely audience would have a basic understanding of the mainstream man-made global warming theory, and would be able to assess the arguments presented in the programme in order to form their own opinion.

Ofcom also noted that the programme was clearly trailed and its authorship was clearly identified, so that there was a certain audience expectation as to its controversial content.

At no point did the programme state that the theories it contained were the mainstream or majority view. For example, the very beginning of the programme narration expressly recognised that anthropogenic global warming theory is the generally accepted orthodoxy:

"Man-made global warming is no longer just a theory about climate it is the defining moral and political cause of our age. Campaigners say the time for debate is over, any criticism no matter how scientifically rigorous is illegitimate ...even worse dangerous."

In summary, in relation to the manner in which facts in the programme were presented, Ofcom is of the view that the audience of this programme was not materially misled in a manner that would have led to actual or potential harm. The audience would have been in no doubt that the programme's focus was on scientific and other arguments which challenged the orthodox theory of man-made global warming. Regardless of whether viewers were in fact persuaded by the arguments contained in the programme, Ofcom does not believe that they could have been materially misled as to the existence and substance of these alternative theories and opinions, or misled as to the weight which is given to these opinions in the scientific community.

Ofcom noted that the programme did not at any time deny that global temperatures are rising; rather, it was concerned with questioning the *causes* of this phenomenon. Also at no point did the programme advocate that the audience should not protect the environment. For example, it did not advise people to use energy unwisely or inefficiently. As a result Ofcom considered it highly unlikely that the programme could have caused *actual* harm. As to *potential* harm, some complainants had considered that the programme's questioning of the theory of man-made global warming would create doubt and confusion in viewers' minds about the need to take action against

global warming. Ofcom considers that, although the programme may have caused viewers to challenge the consensus view that human activity is the main cause of global warming, there is no evidence that the programme in itself did, or would, cause appreciable potential harm to members of the public.

In respect of the illustrative examples from the complaints about misleading facts:

- The use of graphs in the programme

In relation to the graph representing changes of world temperature over the last 120 years, Ofcom noted Channel 4's admission of an error in the graphic which appeared in the original broadcast. This was rectified for the repeat broadcast on *More4*. The attribution of the graph to NASA was also removed, although Channel 4 stated that this credit was correct.

Ofcom understands that the purpose of the various graphs in the programme was primarily to provide a visual illustration of the commentary/interviews they accompanied in order to develop the thesis of the programme. Whilst Channel 4 itself has acknowledged that the graph was not completely accurate, looking at it in the context of the programme as a whole (as discussed above) Ofcom did not consider the inaccuracy to be of such significance as to have been materially misleading so as to cause harm and offence in breach of Rule 2.2.

Ofcom also noted that Channel 4 admitted to other data errors in the content of the programme. For example the figure given for the amount of carbon dioxide produced by volcanoes was not accurate and was corrected in the repeat of the programme. As with the errors in the graphs, Ofcom did not consider any of these other inaccuracies were of such significance as to be capable of materially misleading the audience so as to cause harm and offence in breach of Rule 2.2.

- The 'distortion' of the science of climate modelling

This sequence assessed the reliability of climate models as a method of measuring the effects of climate change. Ofcom noted that, although the complainants disagreed with the points made by the contributors in the programme, they did not suggest that the overall statements about climate models were factually inaccurate. Ofcom notes that the creation of such models necessarily involved assumptions. The disagreement among scientists about the nature of those assumptions (as described by the contributors to the programme) is not an issue on which Ofcom can adjudicate. Overall however Ofcom's view was that the passages complained of were not materially misleading so as to cause harm and offence. Once again, in determining whether the material was materially misleading, the context of the programme was important.

- Presentation of the argument that the theory of anthropogenic global warming is promoted by environmentalists as a means to reverse economic growth

Complainants objected that both the programme's narration and the comments of some of those interviewed in the programme implied that global warming had been used by those from the political left as part of an anti-capitalist agenda. The programme as a result, argued the complainants, also implied that such

views were representative of the opinions of mainstream environmentalists, economists and political scientists.

Ofcom does not believe that the presentation of this section of the programme or the omission of the views of certain environmentalists was misleading to the viewer. This sequence of the programme consisted of a brief historical examination of the environmental movement in the late 1980s before it had become mainstream. These were clearly views of a small set of people who took a particular position on the political motives of these campaigners. In line with the right to freedom of expression, Ofcom considers that the broadcaster has the right to transmit such views and the audience would understand the context in which such comments were made. The content was therefore not misleading.

- The credibility of contributors to the programme

The right to freedom of expression and the principle of editorial freedom are crucial to broadcasters. The programme used contributors who offered controversial opinions on the issues raised. The decisions by the programme makers not to include all the qualifications of contributors, and not to include more background on them (some of which is strongly disputed), were editorial decisions which overall did not in Ofcom's view result in the audience being materially misled.

The Group Complaint contained a number of allegations about links between contributors to the programme and fossil fuel industries. Many of the individual complaints also raised this concern. The Group Complaint in particular said that many of the contributors had links with lobby groups actively engaged in persuading governments against any action to reduce carbon dioxide emissions. It cited numerous sources, including many web-based authorities, to support these allegations. In response Channel 4 provided detailed rebuttals to support the credibility of the interviewees in the programme against whom these allegations were levelled. Ofcom is unable to assess or adjudicate on the relative merits of these strongly disputed allegations.

In relation to programmes which are subject to the due impartiality rules there is a specific requirement, contained in Rule 5.8 of the Code, that the personal interests of "a *presenter or reporter*" which would call into question the due impartiality of the programme, must be disclosed to the audience. Ofcom notes however that there is no similar requirement in relation to factual programmes or portrayals of factual matters in general.

Taking all the circumstances into account (including that the requirements of due impartiality did not apply for the vast majority of this programme – on which see further below - interviewees were clearly captioned, the broadcaster's right to freedom of expression and that the programme was clearly polemical in nature), in Ofcom's view these alleged and strongly disputed links did not need to be disclosed to viewers to avoid the programme being misleading.

Ofcom nevertheless noted aspects of the presentation (and omission – see further below) of facts in this programme which caused some concern: for example, although not in context materially misleading overall, the errors admitted by Channel 4 concerning the presentation of the graph and other data (see above) . Further,

within *The Great Global Warming Swindle*, and particularly in the initial stages of the commentary, comments were made in the narration such as:

“Everywhere, you are told, that man-made climate change is proved beyond doubt....but you are being told lies”;
“it is the story of the distortion of a whole area of science”; and
“it is a story about westerners, invoking the threat of climatic disaster, to hinder vital industrial progress in the developing world”

Although this programme was intentionally designed as a polemic, these comments were so sweeping and intemperate that they risked to some degree undermining the fact that overall the programme very aggressively challenged the mainstream scientific consensus on man’s contribution to global warming, without concluding that the mainstream scientific theory was completely without merit.

(b) Omission of views and facts in a way that materially misled so as to be harmful or offensive

It is possible for a programme to mislead its audience by omission. A programme can present views and facts in such a way that by omitting crucial information or evidence, the viewer is misled.

The choice of what material to include in a programme is an editorial decision for the broadcaster and is not one on which Ofcom can or should intervene unless there has been a breach of the Code. Unlike the rules on due impartiality there is no requirement under Rule 2.2 for the broadcaster to ensure that a wide range of significant views is included.

The extent to which a programme may omit views and not mislead will depend on the particular programme. In this case, it was clear to viewers that this programme was a polemic and that it would take a certain ‘angle’. In such a context, where the programme does not claim to be a balanced analysis of the issues, the audience would expect this sort of approach.

Ofcom considers there is a difference between presenting an opinion which attacks an established, mainstream and well understood view, such as in this programme, and criticising a view which is much more widely disputed and contentious. In the former case, programme makers are not always required to ensure the detailed reflection of the mainstream view (since it will already be known and generally accepted by the majority of viewers). In the context of this particular programme, given the number of scientific theories and politico-economic arguments dealt with in *The Great Global Warming Swindle*, it was not materially misleading overall to have omitted certain opposing views or represented them only in commentary. The use by the programme makers of commentary, interviews and archive footage in an attempt to demonstrate the mainstream view on balance, in Ofcom’s opinion, fulfilled this requirement.

In summary, Ofcom considered most viewers would have been aware that the views expressed in the programme went against the scientific consensus about the causes of global warming and were only espoused by a small minority – not least because of the overwhelming amount of material broadcast in recent years based on the consensus view that human production of carbon dioxide is a major cause of global warming.

However, in assessing whether or not the programme materially misled the audience and therefore whether Rule 2.2 was complied with, the broadcaster should also take note of Ofcom's adjudication on fairness to those individuals/organisations who participated or were affected by the programme. While the consideration of standards issues and of fairness complaints is completely separate, there may be circumstances when unfairness to an individual or organisation (e.g. a failure to give someone an opportunity to respond) may result in relevant material not being included in the programme and that in itself may give rise to issues under standards (for instance, under misleading *the audience* as a whole or due impartiality). However on balance, Ofcom considers there is no such read-across here, given the context and nature of the programme (i.e. a polemic clearly going against the prevailing scientific view on global warming). In this case, while unfairness to participants has been found (failures to give an adequate opportunity to respond and the unfair presentation of views), Ofcom does not consider that, overall, these failures led to material being transmitted which was so misleading that harm would have been caused to viewers.

Broadcasters should note that there are circumstances where the omission of certain information from a programme (particularly in cases where the programme could encourage the audience to change its behaviour) could lead to a breach of Rule 2.2

As already pointed out Ofcom did have some concerns about aspects of this programme as regards the portrayal of factual matters and omission of facts or views. In areas of controversy such as this, broadcasters should exercise an appropriate degree of caution. This would particularly be the case when scientific (including medical) issues, with which many viewers will be unfamiliar with the scientific detail, are dealt with and if there is a material risk of a programme causing viewers to change their behaviour in a manner which is adverse to themselves or society in general. In these circumstances, broadcasters should be wary of presenting a theory or views as fact, or of not providing viewers with sufficient information so that claims are placed in context.

In conclusion Ofcom considers that it is important, in line with freedom of expression, that broadcasters are able to challenge current orthodoxy. It is self-evident that there will be strong disagreements over the 'facts' on an issue such as the causes of global warming - where some scientists disagree. Some may wish to challenge the evidence and the conclusions drawn from it. Channel 4, however, had the right to show this programme provided it remained within the Code and – despite certain reservations – Ofcom has determined that it did not breach Rule 2.2. On balance it did not materially mislead the audience so as to cause harm or offence.

Due Impartiality

Section Five of the Code states that due impartiality must be preserved by the broadcaster on "matters of political or industrial controversy and matters relating to current public policy." The Code explains that these are "political or industrial issues on which politicians, industry and/or the media are in debate. Matters relating to current public policy need not be the subject of debate but relate to a policy under discussion or already decided by a local, regional or national government ."

Ofcom had first to establish whether *The Great Global Warming Swindle* contained subject matter requiring the application of the due impartiality rules. Ofcom recognises that Section Five of the Code acts to limit, to some extent, freedom of expression. This is because its application necessarily requires broadcasters to ensure that neither side of a debate relating to matters of political or industrial

controversy and matters relating to current public policy is unduly favoured. Broadcasters are therefore required to represent alternative viewpoints in an appropriate way.

The 2003 Act and therefore the Code require that news programmes are presented with due impartiality and due accuracy (Rule 5.1 of the Code). There is also a requirement that due impartiality is preserved in other types of programmes when they deal with matters (or major matters) of political or industrial controversy or a matter (or major matters) relating to current public policy. Therefore, in non-news programmes, Ofcom must consider, on a case by case basis, whether a programme is dealing with these matters. When making such a judgement, Ofcom takes into account all the circumstances and the context of the programme.

Ofcom concluded that for most of its 90 minute duration the requirements of due impartiality did not apply to *The Great Global Warming Swindle*. This is because for the first four of its five parts the programme did not deal with a matter of political or industrial controversy or matter relating to current public policy. However, in Part Five of the programme Ofcom noted that the discussion moved away from the *scientific* debate about the causes of global warming, to consider the *policies* alleged to result from the mainstream scientific theory being adopted by UN and Western governments and their consequences (see below). It is Ofcom's view that Section Five of the Code did apply to this final part of the programme.

Parts One to Four of the programme

Ofcom considered that the first four parts of *The Great Global Warming Swindle* dealt overwhelmingly with the controversy around the *scientific* theory of anthropogenic global warming and questioned whether human activity is the major cause of climate change. The documentary presented published scientific theories together with the views of scientists and other commentators whose views and opinions differed from the prevailing consensus (over which there could be no doubt from viewing the programme) that man-made carbon dioxide causes global warming. Whilst of course this approach was controversial, the aim and intended focus of the programme up to Part Five were not to question or discuss any political or industrial issue related to global warming, or any matter relating to current public policy. In other words, the programme did not seek to examine in any detail the merits of any particular current government policies or political initiatives aimed at combating climate change nor did it express any opinion on such policies or initiatives.

In assessing these first four parts of the programme, Ofcom also had regard to the fact that, both domestically and on a worldwide level, the political debate had largely moved on from questioning the causes of climate change to attempting to find solutions to deal with it. Therefore, in the political arena at least, there was a very broad consensus of opinion which accepted the scientific theory of man-made global warming. In this respect it could be said that the discussion about the causes of global warming was to a very great extent settled by the date of broadcast (8 March 2007).

It should be noted from this that there comes a time when an issue that was once a matter of controversy becomes broadly settled, and an overwhelming consensus is formed both – domestically and internationally. For example, while the link between HIV and AIDS was once questioned and could have been considered a matter of political controversy or relating to current public policy, the link is now generally accepted and in most circles is no longer a matter of debate that could be regarded as a matter of political or industrial controversy. In Ofcom's view the link between

human activity and global warming also became similarly settled before March 2007. We are confirmed in this view by noting for example a conclusion of the Stern Review, commissioned by the UK government, which was published in October 2006 and stated:

“An overwhelming body of scientific evidence now clearly indicates that climate change is a serious and urgent issue. The Earth’s climate is rapidly changing, mainly as a result of increases in greenhouse gases caused by human activities.” (Our emphasis)

As a result of this review the then Environment Secretary said the Queen's Speech would feature a climate bill to establish an independent Carbon Committee to "work with government to reduce emissions over time and across the economy."

This view of human activity as the major cause of global warming does not appear to be challenged by any of the established political parties or other significant domestic or international institutions.

Therefore, in this case, Ofcom considers that the subject matter of Parts One to Four of the programme (i.e. the *scientific* theory of man-made global warming) was not a matter political or industrial controversy or a matter relating to current public policy. Having reached this view, it follows that the rules relating to the preservation of due impartiality did not apply to these parts. It is important to note that by simple virtue of the fact that one small group of people may disagree with a strongly prevailing consensus on an issue does not automatically make that issue a matter of controversy as defined in legislation and the Code and therefore a matter requiring due impartiality to be preserved.

Part Five of the programme

Whilst, as discussed above, the majority of the programme concerned the scientific debate around whether global warming was anthropogenic, Ofcom noted that the final part moved the thesis on and outside these boundaries. This part of the programme discussed the consequences of assuming that global warming was man-made and specifically the controversial *policies* followed by the UN and Western governments in the developing world and, in particular, Africa. Amongst these policies, although not explicitly referred to in the programme, is the Clean Development Mechanism referred to by Channel 4 in its response to Ofcom (see above). The programme looked at why developing countries should be required to limit industrial development and the use of fossil fuels. The programme was critical of this approach. For instance the programme narration stated:

“Western governments have now embraced the need for international agreements to restrain industrial production in the developed and developing world. But at what cost?”

This voiceover is followed immediately with an interview with the former environmental campaigner, Paul Driessen, who says:

“My big concern is that the policies being pushed to supposedly prevent global warming are having a disastrous effect on the world’s poorest people.”

In Part Five the programme explored the effects in developing countries of Western government policies which seek to restrain industrial development to reduce the production of carbon dioxide. One consequence, according to the programme, is a

lack of electricity in many parts of the developing world which adversely affects people's living conditions and their health. These policies, the programme claimed, result in respiratory diseases and death.

These issues are matters of major political controversy and are major matters relating to current public policy as defined by the Code. During this section no alternative views on this issue were presented.

The Code states that "matters of major political...controversy and major matters relating to current public policy...vary according to events but are generally matters ...which are of national, and often international, importance..." In Ofcom's view there is clearly a debate about whether, and the extent to which, developing countries should be required to limit their emissions of carbon dioxide as a result of concerns about global warming. Governments around the world have been preparing for the second phase of the Kyoto Protocol on greenhouse gases after 2012. Some developing countries such as China and India are industrialising rapidly. Some Western governments wish these countries to agree to some form of capping of their carbon dioxide emissions and so would encourage these countries to make more use of sustainable energy sources. A number of developing nations however are refusing to limit their emissions, arguing that since richer countries are responsible for most emissions today it is proper that they should be the ones to cut their emissions most.

Rule 5.12 requires that where a major matter of current public policy of international importance like this is being considered in a programme "an appropriately wide range of significant views must be included and given due weight in each programme or in clearly linked and timely programmes." In this part of the programme, and on this specific issue, no such wide range of views was included. Ofcom also found that the programmes referred to by Channel 4 in the cluster of programmes editorially linked to *The Great Global Warming Swindle* were not sufficiently timely or linked to satisfy the requirements of Rule 5.12. Nor could the requirements of due impartiality be satisfied by the general and wide ranging media output about anthropogenic global warming over recent years (including print media output) that was referred to by Channel 4 in its response.

Part Five of the programme therefore breached Rules 5.11 and 5.12.

Not in breach of Rule 2.2

Breach of Rules 5.11 and 5.12 (in respect of Part Five of the programme)

American Idol

ITV2, various dates, March 2008 to May 2008

Introduction

American Idol is a voting-based talent show. The seventh series aired this year. The series is first shown in the US and subsequently broadcast in the UK on ITV2.

On viewing the UK broadcast, Ofcom noted that the final rounds of the show (where the contestants performed to a studio audience and viewers cast their votes) included music videos featuring Ford cars.

Under the Code, products and services must not be promoted in programmes (Rule 10.3) or given undue prominence (Rule 10.4), and product placement is prohibited (Rule 10.5).

The Code states that arrangements covering the inclusion of products and services in a programme acquired from outside the UK are not considered to be product placement, provided that no broadcaster regulated by Ofcom and involved in the broadcast of that programme directly benefits from the arrangement.

Response

ITV confirmed that the music videos were originally sponsored in the US by Ford. However, the UK broadcast was not sponsored by Ford and ITV did not benefit directly from any arrangements in the US regarding the inclusion of the music videos.

ITV said that the music videos were included purely on their editorial merits in terms of their entertainment value to viewers, and not as a result of any relationship between the broadcaster and Ford. It said that each video had a different song and different theme or storyline featuring the contestants, and that their editorial content was focussed primarily on the performance of the contestants.

Whilst Ford vehicles did feature in each music video, ITV said it considered each video on its merits and had edited the material to avoid the cars and any Ford branding or references being unduly prominent, for example by replacing superimposed Ford logos with *American Idol* logos, by blurring prominent branding on the cars themselves, and by removing "intros and outros that refer to Ford in a promotional manner". ITV said that car model names were occasionally visible but only very briefly. Very occasionally ITV took the view that the manner of presentation of the cars was unsuitable and omitted the entire video.

ITV argued that it believed that the videos had genuine editorial value for the viewer and that it had edited the material to make it compliant under the Code, although it accepted that they were "sometimes on the borders of acceptability".

Decision

One of the fundamental principles of European broadcasting regulation is that advertising and programming (that is, editorial content) must be kept separate. This is set out in Article 10 of the Television Without Frontiers Directive which is in turn reflected in the rules in Section Ten (Commercial References in Programmes) of the Code.

Product placement in the UK is currently prohibited by European legislation. However, *American Idol* is acquired programming from the US where such arrangements are permitted. We noted ITV's assurances that, in accordance with the Code, it did not directly benefit from the inclusion of the music videos in the UK broadcast of *American Idol* and concluded that it was not in breach of Rule 10.5 of the Code.

Nevertheless, acquired programmes must comply with Rule 10.4, which prohibits unduly prominent references to products or services.

Of the ten final editions of *American Idol* (each containing a different music video), the majority prominently featured either the Ford brand or Ford vehicles. There were prolonged or close-up shots of Ford vehicles – including shots of the car interior - similar to those often included in advertisements; on occasion (and as noted by ITV), model names (such as the Ford Focus and Ford Fusion) were also clearly visible. The cars tended to be a key component of the videos. For example, one video had a matador theme with a Ford Mustang car (clearly identifiable from its logo, shown in close-up) playing the part of the bull. We considered that the involvement of the contestants in the videos was insufficient editorial justification for these very prominent visual references to Ford. On another occasion, we noted that, after the music video, the programme presenter referred twice to “*the Ford music videos*”, this reinforced the impression that the video was intended to promote Ford.

We recognise that ITV made efforts to edit the music videos. However, the videos were funded in the US by Ford, almost certainly with the intention – at least in part – of promoting Ford. Its vehicles were therefore intrinsic to the videos.

We therefore found the references to Ford to be unduly prominent in breach of Rule 10.4.

Breach of Rule 10.4

Red Hot TV Trailer

Red Hot TV, 13 February 2008, 20.00 – 22.00

Introduction

Red Hot TV is a subscription-based, i.e. encrypted, adult service. In common with most such services it is promoted with free-to-air trailers broadcast on a loop from 20.00 onwards.

Throughout a trailer, broadcast between 20.00 and 22.00, verbal and on-screen text references were made to the broadcaster's websites www.redhottv.co.uk and www.televisionx.co.uk. From 20.00 verbal references to the websites were made primarily to encourage subscriptions to the broadcast service. However, the accompanying on-screen text reference to the websites remained on-screen for the majority of the trailer. Further, after 21.40 the trailer included several additional verbal references specifically promoting the "uncut" and "uncensored" content on the websites, in particular for Red Hot WebTV.

Ofcom received a complaint that the websites featured sexually explicit, "hardcore pornography" which could be readily viewed without registration to the websites.

Although this material was not broadcast on-air, Ofcom was concerned that it appeared on a website being promoted on the Red Hot TV trailer pre-watershed from 20.00. Ofcom therefore requested comments from RHF Productions Limited ("RHF"), which owns and is responsible for compliance at Red Hot TV, with reference to the following rules of the Code:

- Rule 1.2, which requires broadcasters to "take all reasonable steps to protect people under eighteen";
- Rule 1.3, which provides that "children must also be protected by appropriate scheduling from material that is unsuitable for them";
- Rule 2.1, which requires that "generally accepted standards must be applied to the contents of television and radio services so as to provide adequate protection for members of the public from the inclusion in such services of harmful and/or offensive material"; and
- Rule 2.3, which requires that "in applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context".

Response

RHF argued that it ensured there were appropriate safeguards in place to ensure that no persons under the age of 18 should access the website content. These measures included prominent warnings on the front page of the website warning of the adult and sexually explicit material included and warning that any person wishing to access the website must be over the age of eighteen.

In addition, the broadcaster stated there were industry standard labels on the front page of the website enabling parents to use software to restrict access to the site by minors. The broadcaster also stated that before customers could access the "stronger versions" of the website material they were required to complete a registration and verification process in which customers had to declare their age, which was cross-referenced to a verified credit card number.

Furthermore the broadcaster argued that if anyone under the age of 18 had unrestricted access to the internet, such that they could access the front page of the Red Hot TV website, then such persons would have access to an unlimited array of adult-oriented material available from other websites not owned or controlled by RHF and therefore not protected by the type of measures detailed previously.

They concluded that the promotion of the website on the free to air trailer did not at all increase the likelihood of under-eighteens being able to access inappropriate content.

Decision

Red Hot TV promotes its websites within its licensed TV service as a means for viewers to subscribe to the service and to access previously broadcast programming and unedited versions of these programmes. Ofcom's concern in this case was whether the content of these websites was suitable for promotion pre-watershed and whether the more explicit imagery was suitable at all to be promoted, even indirectly, on a licensed television service.

In this context the Code Rules 1.2, 1.3, 2.1 and 2.3 are relevant. While the content of the websites is not in itself broadcast material, and therefore not subject to the requirements of the Code, any on-air references to the websites are clearly broadcast content. Such references must therefore comply with the Code.

However, when accessed – merely by clicking “enter” on the site's front page – the two websites contained extremely explicit material (equivalent to BBFC ‘R18’-rated content). This did not require registration to view and could be seen by under-eighteens. Registration and credit card verification was only required if the user wished to download the material in full. The promotion on television of this website was therefore of serious concern to Ofcom.

Ofcom concluded that the inclusion of promotional references to a website containing highly explicit ‘adult’ material on a service regulated by Ofcom was a breach of the Code, in particular Rules 1.2, 1.3, 2.1 and 2.3.

Ofcom wishes to emphasise that it does not regulate the content of websites such as www.redhottv.co.uk but that it does regulate on-air references to where such content may be found. It is therefore able to require a broadcaster to remove such a reference.

Further, and mindful that the trailer for Red Hot TV – and other ‘adult’ services’ trailers – is only available in the ‘adult’ section of the electronic programme guide (“EPG”), it is Ofcom's view that references to a website for genuine subscription purposes, and not for the promotion of any other website content, may be an acceptable way to publicise a service that Ofcom requires to be encrypted. But where websites are used to enable subscription, the viewer should be taken directly to the relevant page(s) (otherwise Ofcom's rules on the undue promotion of goods and services may be infringed) and the websites must not contain unprotected R18-standard material.

Therefore it is Ofcom's view that *any* ‘adult’ websites promoted on an Ofcom licensed service, even those that take the viewer to a subscription-only page, should not be broadcast until after 21.00 post-watershed. In no circumstances may such websites

contain unprotected R18 material if they are promoted on a licensed service. Appropriate protection will be, for example, the need to purchase access to the stronger material by using a credit card or similar means that allows an age check to be done.

Breach of Rules 1.2, 1.3, 2.1 and 2.3

SportxxxGirls

SportxxxGirls, 10 February 2008, 22:00

Introduction

SportxxxGirls is a channel situated in the 'adult' section of the Sky Electronic Programme Guide. On 10 February 2008 at 22:00 the channel broadcast, under encryption, material featuring two female presenters performing explicit sexual acts. The presenters invited viewers to contact them for 'adult chat' via a premium rate text service. A viewer objected that this content broadcast as 'live' on 10 February 2008 was in fact a repeat of material originally shown on 3 February 2008 and was therefore a "blatant rip-off".

Ofcom sought the broadcaster's comments under Rule 2.2 of the Code. This rule requires that portrayals of factual matters must not materially mislead the audience.

Response

The broadcaster supplied recordings of the material broadcast on 3 and 10 February 2008 but did not comment on the complaint.

Decision

Ofcom viewed the recordings supplied and noted that the material shown on the 10 February 2008 was a repeat of that shown on 3 February 2008. The material differed only in that a text bar, containing details of how to text the presenters and the accompanying terms and conditions, was removed from the 10 February broadcast. However, a label stating that the programme was 'live' remained on screen throughout the broadcast. The presenters repeatedly invited viewers to text them and verbally referred to the text number. This number could also be seen intermittently on a blackboard in the studio.

The on-screen graphic and the presenters' verbal invitations to contact them clearly suggested to viewers that they were watching the presenters in real time and that there was the opportunity for live interaction. This was not the case. The broadcast was therefore likely to materially mislead viewers who responded to the presenters' invitations. The broadcast was in breach of Rule 2.2 of the Code.

Ofcom has recently sanctioned a number of broadcasters for misleading viewers in programmes that have involved the use of premium rate services ("PRS"). Broadcasters should be in no doubt about Ofcom's concerns regarding the inappropriate use of PRS in programmes. In this case it was unacceptable for the broadcaster to mislead viewers into believing that they could genuinely interact with the programme when they could not.

We are extremely concerned that the broadcaster in this case failed to take adequate steps to remove fully the PRS number from a repeat of a programme that was originally broadcast live. Any further breaches of this nature by this licensee may result in the consideration of further regulatory action.

Breach of Rule 2.2

Resolved

ITV News

ITV1, 18 December 2007, 18:30

Introduction

Ofcom received one complaint from a viewer who has daughters with epilepsy. She was concerned that the item featuring a Nick Clegg news conference contained flashing images from press photography. Certain types of flashing images present a danger of triggering seizures in viewers who are susceptible to photosensitive epilepsy ("PSE"). Rule 2.13 in the Code states that television broadcasters must take precautions to maintain a low level of risk to viewers who have PSE. Ofcom therefore asked ITV for its comments about how this broadcast on *ITV News* complied with Rule 2.13.

Response

The broadcaster said that ITV and ITN (who produces *ITV News*) take very seriously matters relating to flashing images.

The programme-makers undertook a technical review of the news report after being contacted by Ofcom. ITV thought that the footage did not register levels that would ordinarily cause concern.

ITV did accept, however, that very careful judgement is important in assessing editorial justification and deciding whether to issue a warning to viewers. It believed that it is preferable to err on the side of caution and, with hindsight, on this occasion it concluded that a warning may have been appropriate and preferable.

Consequently, and in the light of this complaint, ITV circulated a written reminder on the issue of flashing lights and/or patterns within ITN on 14 February 2008. This made the editorial teams aware of the complaint and reminded them of section 2.13 of the Code and the technical guidance which sits behind it.

Decision

Ofcom's analysis of the material broadcast concluded that the Nick Clegg press conference, despite ITV's measurements, did contain several sequences in which the rate and intensity of the flashing caused by photographers' flash-bulbs did not comply with the criteria in our Guidance which accompanies Rule 2.13. We also noted that no warning was provided before the item was broadcast.

While Ofcom recognises the operational challenges of ensuring compliance with Rule 2.13 during live news programmes (which often also contain 'near-live' report packages), this does not obviate the need for broadcasters to deal with potentially problematic material in an appropriate manner. We do however note ITV's acknowledgement that a warning would have been appropriate in this case, and we welcome the fact that ITV have reminded ITN editorial staff of the need to ensure compliance with Ofcom's Guidance. On this basis, we consider the matter resolved.

Resolved

Not in Breach

Trailers for Extraordinary People: The Man With No Face

Five and Five Life, 25 and 26 March 2008, 19:00; 20:45 and 20:48; and

Trailers for Extraordinary People: Half Man Half Tree

Five and Five Life, 8 to 14 April 2008 at various times before 21:00

Introduction

Five broadcast a number of trailers for its documentary series *Extraordinary People* which looked at the experiences of people with a range of unusual medical conditions which have resulted, in some cases, in severe physical disfigurement.

Two versions of a trailer for the programme *The Man With No Face* were broadcast . This was about Mr Jose Mestre, a Portuguese man who has haemangioma (a condition caused by abnormalities in blood capillaries and veins). His condition has resulted in the growth of a large tumour that covered most of his face. The shorter version of the two trailers included images of Mr Mestre sitting in a shop doorway and the reactions of on-lookers to his disfigurement, which was clearly shown. The longer version of the trailer also included a series of old photographs of Mr Mestre as the tumour, which started as a growth on his lip, developed to eventually cover most of his face.

Two versions of a trailer for the programme *Half Man Half Tree* were also broadcast. The programme was about Dede, an Indonesian man who has a rare and unusual skin condition that causes root-like structures to grow from his hands and feet and welts that cover his whole body. Both versions of the trailer included images of Dede in his village with close up footage of the growths on his face, arms and hands. The longer version of the trailer also included images of Dede with his family and of him laughing with his daughters.

A total of eleven viewers complained to Ofcom that the images of Mr Mestre and Dede in the trailers might distress children and so were inappropriate for the time of broadcast. Ofcom asked Five for its comments in relation to Rule 1.3 (children must be protected by appropriate scheduling).

Response

Five stated that the trailers were carefully constructed to explain both Mr Mestre's and Dede's condition in a sensitive way and were not gratuitous, shocking, or sensationalist. Five stated that the programmes themselves were about challenging pre-conceptions and fears about disfigured people, which the trailers illustrated.

In relation to the longer version of the trailer for *The Man With No Face*, the broadcaster stated that it used photographs taken at various stages in Mr Mestre's life to explain the development of the tumour, in order to contextualise the images of him as he is today, and to chart the tumour's development. The shorter trailer captured one of the programme's central themes, namely Mr Mestre's feelings and experiences of being seen in public and being able to face the world and have the world face him. Five said that both versions of the trailer gave viewers a better

understanding of Mr Mestre's disfigurement and that he is judged cruelly and unfairly based on his physical appearance.

Five said that the trailers for *Half Man Half Tree* were carefully constructed to engage viewers with Dede and his condition. In the longer version of the trailer, the accompanying commentary made it clear that Dede was a "medical phenomenon", which alerted viewers to the fact that his condition was medical.

Five said that it did not believe that the images of Mr Mestre and Dede were images from which children need to be protected. Hiding these images from children by confining them to a post-watershed transmission would effectively be doing what Mr Mestre and Dede are determined not to do, that is hide themselves away so as not to offend or upset people. The broadcaster stated that it had no desire to broadcast images which, out of context, might have the potential to frighten children who may not understand what they see. However, Five said that the trailers were carefully constructed to avoid this and that it believed it was inappropriate to censor the physical deformity of Mr Mestre and Dede.

Decision

Rule 1.3 requires that broadcasters that children must be protected by appropriate scheduling from material that is unsuitable for them. Ofcom noted that the trailers were strong and challenging to view.

Ofcom appreciates that many viewers do not specifically choose to watch a trailer and that the images of Mr Mestre's and Dede's disfigurement shown in these trailers may have been shocking and/or distressing to some viewers. Ofcom also accepts that Five did not intend to broadcast images that, taken out of context, had the potential to frighten or distress children. It was noted that these trailers did not appear in or around children's programmes.

In the circumstances of this particular case, Ofcom took the view that in context these images were appropriately broadcast. Although the images depicted Mr Mestre's and Dede's severe disfigurement, the focus of the trailers was on their feelings and their experiences of being seen in public and being able to face the world, which was a central theme to the programmes themselves. The trailers were not frightening or gratuitous. Therefore, Ofcom took the view that it was not appropriate or proportionate in this particular case to confine images of both men to a post-watershed slot.

On balance and with particular regard to these cases, Ofcom found that Rule 1.3 was not breached.

Not in Breach

Trailers for *Bodys Shock: I Am The Elephant Man*

Channel 4, 2 April 2008, 17:35 and other times before 21:00

Introduction

Three versions of a trailer for the programme *Bodys Shock: I Am The Elephant Man* were broadcast. This was about Mr Huang Chuncai from China who has an extreme form of neurofibromatosis (a genetically-transmitted disease in which nerve cells grow tumours) which has severely disfigured his face. The trailers included images of Mr Chuncai speaking to camera about the consequences his condition has had on his life. Four viewers complained to Ofcom that the images of Mr Chuncai were inappropriate for broadcast before the watershed because they might be distressing for children.

Ofcom asked Channel 4 for its comments in relation to Rule 1.3 of the Code (children must be protected by appropriate scheduling).

Response

Channel 4 said that, although it regretted that some viewers found the images of Mr Chuncai upsetting and inappropriate for broadcast pre-watershed, it did not believe that the trailers were in any way unsuitable for broadcast at times when children may be viewing. The broadcaster said that the intention of the trailers was to make viewers aware of the documentary about Mr Chuncai, which aimed to chronicle sensitively the very challenging circumstances under which Mr Chuncai lives and the isolation from society he experienced because of the way he looks.

Channel 4 said that the trailers presented Mr Chuncai as himself in his home. He does not say or do anything offensive or “worthy of censorship”. Given this, and the fact that the documentary itself was entirely about Mr Chuncai, Channel 4 said that there was no reason for placing a restriction on the time the trailers should be broadcast. The broadcaster said that the only basis for such a decision would have been based solely on the way Mr Chuncai looked, which was something which was a result of a medical condition entirely outside his control.

Decision

Rule 1.3 requires that broadcasters that children must be protected by appropriate scheduling from material that is unsuitable for them. Ofcom noted that the trailers were strong and challenging to view.

Ofcom appreciates that many viewers do not specifically choose to watch a trailer and that the images of Mr Chuncai’s disfigurement shown in these trailers may have been shocking and/or distressing to some viewers. Ofcom also accepts that Channel 4 appreciated that special care needs to be taken when scheduling the broadcast of images that, taken out of context, had the potential to frighten or distress children. It was noted that these trailers did not appear in or around children’s programmes.

In the circumstances of this particular case, Ofcom took the view that in context the images were appropriately broadcast. Although the images depicted Mr Chuncai’s severe disfigurement, the focus of the trailers was on his feelings about the circumstances under which he had to live, which was a central theme to the programme itself. The trailers were not frightening or gratuitous. Therefore, Ofcom

took the view that it was not appropriate or proportionate in this particular case to confine images of Mr Chuncai to a post-watershed slot.

On balance and with particular regard to this case, Ofcom found that Rule 1.3 was not breached.

Not in Breach

Note to Broadcasters

Revised guidance to Rule 9.1 to the Ofcom Broadcasting Code

Rule 9.1 of the Code prohibits the sponsorship of news bulletins and news desk presentation on radio. Ofcom has been requested to provide advice to radio broadcasters concerning on air credits (in news bulletins) for news sources. We have therefore published today on our website updated guidance (radio section), which should be read in conjunction with our general guidance concerning Rule 10.4 (no undue prominence) of the Code.

The full guidance to Rule 9.1 (What may not be sponsored) can be found at: <http://www.ofcom.org.uk/tv/ifi/guidance/bguidance/guidance9.pdf>.

The following includes the new guidance, which is specific to radio:

Rule 9.1 What may not be sponsored

Section 319(2)(j) of the Communications Act ("the Act") requires that "unsuitable sponsorship" is prevented. Sections 319(2) (c) and 319(2) (d) of the Act also require "that news included in television and radio services is presented with due impartiality..." and "...is reported with due accuracy." Sponsorship must not compromise these requirements.

1. Radio

Programmes or features with a current affairs background, which might include business/financial news or comment, may be sponsored on radio.

Care must be taken with the positioning of credits to avoid the impression that a news bulletin or the station's news output is sponsored. This is most easily achieved by omitting news bulletins and news-desk presentations from sponsored programmes.

Stations may credit news sources with a simple, single acknowledgement of the news provider (e.g. a news agency or local newspaper). The provider of the information must not pay for the credit and the credit must avoid both the perception of sponsorship and undue prominence (see also guidance to Rule 10.4). This is particularly important when crediting local newspapers as a source or part source of a news bulletin.

Acceptable arrangements

If a newspaper provides stories, through a formal arrangement, for inclusion within a station bulletin, it can be credited as a news source, if:

- a) undue prominence is avoided by using one reference only (probably before the news). More than one reference would be regarded as giving undue prominence;
- b) the reference does not sound like a sponsorship credit or an advertising call to action;
- c) the reference is factual (e.g. "... with the resources of .. ") and not promotional;

- d) the reference is true (i.e. the newspaper IS a source);
- e) the reference is only made in relevant bulletins (i.e. is used for local bulletins to which the local paper has actually contributed, but is not used to preface any other stations bulletins, such as IRN or Sky national news bulletins); and
- f) the station retains editorial control.

Phrases

Phrases such as “...**in association with**...”, “...**brought to you by**...” or “...**from your friends at**...” and the like infer sponsorship and would, therefore, be unacceptable.

“**From Station X with the resources of the Wisbech Bugle**” or similar statements of fact would be acceptable, but “**from Station X and the Wisbech Bugle, combining to bring you**...” could be seen as promotional.

“**From the newsdesk of**...” would be acceptable only if this were actually the case, and the news was totally outsourced to, and delivered from, the newspaper involved. There are clear editorial control implications in this scenario.

Fairness and Privacy Cases

Upheld

Complaint by Sir David King

The Great Global Warming Swindle, Channel 4, 8 March 2007

Summary: Ofcom has upheld this complaint of unfair treatment made by Sir David King.

On 8 March 2007 Channel 4 broadcast the programme *The Great Global Warming Swindle* which challenged the theory that man-made activity is a major cause of global warming. In the programme a contributor stated that:

“There will still be people who believe that this is the end of the world – particularly when you have, for example, the chief scientist of the UK telling people that by the end of the century the only habitable place on the earth will be the Antarctic. And humanity may survive thanks to some breeding couples who moved to the Antarctic – I mean this is hilarious. It would be hilarious actually if it weren’t so sad.”

Sir David King, the former Chief Scientific Advisor to HM Government, complained to Ofcom that he had been treated unfairly in the programme as broadcast. He complained that the programme had broadcast a statement which exaggerated claims he had made in the past regarding the Antarctic, and attributed to him a statement about “breeding couples” which he had never made.

Sir David King's complaint was considered by Ofcom's Fairness Committee, its most senior decision making body in matters of Fairness and Privacy. In summary the Committee found the following:

- The Committee considered that Sir David would have been understood to be the person referred to in the programme as “the chief scientist of the UK”. The Committee found that the views attributed to him and the manner in which they were expressed, amounted to a significant allegation about his scientific views and credibility. The Committee found that Sir David had not been offered an opportunity to respond to the contributor's criticism. In the circumstances the Committee concluded that the broadcast of the comments, without an offer being made to Sir David to respond, resulted in unfairness to him in the programme as broadcast.

Accordingly Ofcom upheld Sir David King's complaint of unfair treatment.

Introduction

On 8 March 2007 Channel 4 broadcast *The Great Global Warming Swindle*. This programme sought to challenge the theory that human industrial activity is a major cause of climate change and global warming. The programme included contributions from a wide range of scientists who variously argued that the current consensus on the causes of global warming was based on unsound science and was politically motivated:

“In this film it will be shown that the earth’s climate is always changing. That there is nothing unusual about the current temperature and that the scientific evidence does not support the notion that climate is driven by carbon dioxide, man-made or otherwise. Everywhere you are told that man-made climate change is proved beyond doubt. But you are being told lies.

“...this is a story of how a theory about climate turned into a political ideology...it is the story of the distortion of a whole area of science...it is the story of how a political campaign turned into a bureaucratic bandwagon...”

The closing words of the programme were from a contributor, Professor Frederick Singer, who stated that:

“There will still be people who believe that this is the end of the world – particularly when you have, for example, the chief scientist of the UK telling people that by the end of the century the only habitable place on the earth will be the Antarctic. And humanity may survive thanks to some breeding couples who moved to the Antarctic – I mean this is hilarious. It would be hilarious actually if it weren’t so sad.”

Sir David King, the Chief Scientific Adviser to HM Government, 2000 to December 2007, complained to Ofcom of unfair treatment in the programme as broadcast.

The Complaint

In summary, Sir David King complained that he was treated unfairly in the programme as broadcast in that the programme misrepresented his views by seriously distorting his testimony to the House of Commons Select Committee in 2004 and did not give him an opportunity to respond to the comments made about him in the programme.

By way of background Sir David said that during his original testimony to the House of Commons Select Committee in 2004 he had stated:

“Fifty-five million years ago was a time when there was no ice on the earth; the Antarctic was the most habitable place for mammals, because it was the coolest place, and the rest of the earth was rather inhabitable because it was so hot. It is estimated that it [the carbon dioxide level] was roughly 1,000 parts per million then, and the important thing is that if we carry on business as usual we will hit 1,000 parts per million around the end of the century.”

Sir David noted that his original statement: made no reference to the survival of humanity depending on *“breeding couples who moved to the Antarctic”*; and the programme had exaggerated his speech by replacing “most habitable” with *“the only habitable”*.

Channel 4’s statement in response to the complaint

Channel 4 stated that *The Great Global Warming Swindle* was a polemic that sought to present the views of the minority of scientists who did not believe that global warming is caused by the anthropogenic production of CO₂.

Channel 4 said that the programme contributor, Professor Singer, did not refer to the complainant by name or even by correct title. It said that Professor Singer simply referred to “*the chief scientist of the UK*”. Channel 4 said this reference could have applied to a number of well known scientists in Britain today who have commented on climate change, for example Sir Martin Rees (President of the Royal Society) and the well known scientist and green campaigner Sir James Lovelock.

Channel 4 said Professor Singer, in fact, was referring to reported quotes of two different scientists: Sir David King (the complainant); and, Sir James Lovelock (referred to above). Channel 4 said the comment by Professor Singer simply paraphrased the internationally reported views of these two very high profile British scientists. Channel 4 said the views of Sir David and Sir James Lovelock referred to in the programme had been based in fact and were remarkably similar.

Channel 4 said the source of Sir David’s views was his speech to the Climate Group on 27 April 2004 (not his testimony to the House of Commons Select Committee in 2004, as complained). Channel 4 referred to reports of his speech to the Climate Group, published at the time, which stated:

“Antarctica is likely to be the world’s only habitable continent by the end of this century if global warming remains unchecked, the government’s chief scientist, Professor Sir David King said last week. He said the Earth was entering the ‘first hot period’ for 60 million years when there was no ice on the plane and “the rest of the globe could not sustain human life”.
(The Independent on Sunday, 2 May 2004)

And

“The government’s chief scientist, Professor Sir David King, was referring to this period when he told reporters at Tony Blair’s Climate Group launch on 27 April that ‘Antarctica was the best place for mammals to live and the rest of the globe would not sustain human life’. He warned that these conditions, with CO₂ levels as high as 1,000 pm [parts per million] and no ice left on earth, could again be reached by 2100.”
(New Statesman 17 May 2004)

Channel 4 said there was no evidence to suggest that Sir David had been quoted inaccurately as in the three years since the first report in 2004 there was no attempt to correct or challenged them.

Channel 4 said the reference by Professor Singer to “*breeding couples*”, came from the following statement by Sir James Lovelock, in 2006:

“Before this century is over, billions of us will die, and the few breeding pairs of people that survive will be in the Arctic where the climate remains tolerable.”
(The Independent, 16 January 2006)

Channel 4 stated that “neither Channel 4 nor the programme makers were aware at the time of broadcast that Professor Singer had conflated two quotes from these eminent scientists.”

In any event, Channel 4 did not accept that the comment by Professor Singer resulted in unfairness to the complainant. Channel 4 contended that given the complainant was on record as stating that Antarctica could be the “only habitable place on earth” and “the rest of the globe could not sustain human life”, it was

therefore not unfair for the programme to suggest that Sir David was also of the view that humanity may only survive due to breeding couples in the Antarctic. Channel 4 said Sir James Lovelock's statement was a natural conclusion to be drawn from Sir David's reported statement, and in essence the two statements said the same thing.

Channel 4 said that Sir David had been criticised in the past for making exaggerated and alarmist statements. It referred to a statement by the complainant that "In my view, climate change is the most severe problem we are facing today, more serious than the threat of terrorism" which had been criticised by government sources as an "unhelpful comparison".

Sir David King's comments in response to the Channel 4's statement

In summary Sir David King responded in the following way:

Sir David accepted that it went "with the territory" to have his views misquoted and misrepresented in the media. However, in the case of this programme he felt he needed to record his dismay at the elaborate construction of arguments put forward by Channel 4.

Sir David said he was surprised that Channel 4 had attempted to defend the complaint by claiming that the term "*the chief scientist of the UK*" may not, in fact, have been in reference to him. He said that it was clear that the reference had been to him, and noted that the programme makers did not dispute that it had reported statements attributed to him, which had been quoted.

Sir David said that he was equally surprised that it should be deemed acceptable for the programme makers to "merge a quotation" from an entirely different scientist, as if it had been part of the same misrepresented view. Sir David said the distortion of his views was not a consequence of translating a complex message but an explicit agenda to discredit both his views and more generally those of the overwhelming majority of authoritative scientists who are concerned about the potentially catastrophic risks presented by climate change.

Sir David said that his speeches at both the launch of the Climate Group (27 April 2004) and his testimony to the House of Commons Environmental Audit Committee (30 March 2004) were substantially the same. In both speeches he had stated that:

"By the end of the century, atmospheric CO₂ could reach levels not seen for 55 million years."

And

"55 million years ago the Antarctic was the **most** habitable place for mammals."

[Emphasis added by Sir David]

Sir David maintained the programme had clearly presented a distortion of his views. Sir David said that he did not say or imply that the Antarctic was ever the ONLY habitable place for mammals, still less was he making a prediction that it would be the only or even the most, habitable place for mammals if CO₂ concentrations reached similar concentrations in the future. Sir David said he had made an analogy to the past that was intended to draw attention to the potential seriousness of the problem.

In relation to Channel 4's statement that Sir David had been criticised in the past for making exaggerated and alarmist statements about climate change, the complainant said that his statement was and still is in line with mainstream science.

Channel 4's second statement in response to the complaint

The broadcaster provided its second statement in response to the complaint. In summary Channel 4 responded as follows:

Channel 4 said it did not believe the complainant had provided any new information, which altered the fundamental facts set out in its first statement.

Channel 4 said the programme had only referred to "*the chief scientist of the UK*". Channel 4 noted that there is also the Chief Scientist in Scotland, a Chief Scientist at DEFRA, a Chief Environmental Scientist in Wales, a Chief Scientist at the FSA and various other British organisations and quangos.

Channel 4 said it noted that the complainant did not dispute the fact that the source of the Antarctica statement had been the speech given at the Climate Group in April 2004 and not his testimony to the House of Commons Environmental Audit Committee in March 2004, as originally complained.

Channel 4 said that the newspaper stories about Sir David's statement had been numerous and unchallenged and thus had become part of the published public record.

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 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.

Sir David King's complaint was considered by Ofcom's Fairness Committee, its most senior decision making body in matters of Fairness and Privacy. In reaching its decision, the Committee carefully considered all the material provided by both parties, including a recording of the programme as broadcast (and transcript of the same) and the written submissions from both parties (which included supporting documents).

The Committee acknowledged that while there is a broad consensus amongst scientists, governments and the public that global warming is directly related to anthropogenic causes, this is still a topic of debate. There continues to be discussion about the different methods of measuring change in the climate, the best way these changes should be analysed, and what predictions, if any, can be made from the data. Indeed such discussion and debate are essential for the formulation of robust, scientifically sound theories, projections and conclusions. Global warming is clearly a

legitimate and important subject for programme makers and it is not Ofcom's role to adjudicate on whether global warming is a man-made phenomenon or on the validity of particular scientific views. Rather, in regard to this complaint, Ofcom is required to determine whether the programme has resulted in the unfair treatment of Sir David King.

With this in mind, the Committee found as follows:

The Committee addressed Sir David King's complaint that he was treated unfairly in the programme as broadcast in that his views were misrepresented in the programme and he was not given an opportunity to respond to the comments made about him.

The Committee took account of Practice 7.11 of Ofcom's the Code 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."

The Committee noted that Sir David's complaint related to the following part of the programme:

Professor Singer: *"There will still be people who believe that this is the end of the world – particularly when you have, for example, the chief scientist of the UK telling people that by the end of the century the only habitable place on the earth will be the Antarctic. And humanity may survive thanks to some breeding couples who moved to the Antarctic – I mean this is hilarious. It would be hilarious actually if it weren't so sad."*

The Committee first considered the reference to *"the chief scientist in the UK"*. In the Committee's opinion, viewers, even those with little or no scientific knowledge, would have understood this term to mean the chief or most senior scientist advising the UK government. The Committee noted that Sir David held this position at the time of broadcast (i.e. the Chief Scientific Advisor to HM Government). The Committee also considered that anyone who followed reports in this area over the years would have been particularly likely to appreciate that this was a reference to Sir David King. In the circumstances the Committee took the view that Professor Singer's comments would have been understood to be in relation to Sir David, by virtue of the position that he held.

The Committee also noted that the submissions referred to two occasions on which Sir David had made statements about the Antarctic. The Committee noted that Sir David had said that on neither occasion had he referred to the Antarctic being *"the only"* habitable place on earth, and that he had been making an analogy with the past in order to draw attention to the potential seriousness of the problem rather than making any direct predictions for the future. Furthermore he said that he had never made references to *"breeding couples"*.

The Committee considered that regardless of the particular occasion to which Professor Singer had been referring when quoting the *"chief scientist in the UK"* it had to decide whether the references in the programme as broadcast resulted in unfairness to Sir David.

The Committee noted that Professor Singer had attributed to Sir David the words “*only habitable*”, which Sir David said was incorrect as his original statements had used the words “most habitable”. The Committee also noted that contemporaneous, unchallenged reports, of Sir David’s comments, had referred to “only habitable”.

The Committee noted that, in recounting Sir David’s views on the dangers of global warming, Professor Singer had incorrectly attributed to Sir David a comment by the scientist Professor Lovelock regarding “*breeding couples*”. In relation to this Channel 4 had stated that “neither Channel 4 nor the programme makers were aware at the time of broadcast that Professor Singer had conflated [these] two quotes”.

Lastly, the Committee noted from the recording of the programme that Professor Singer’s comment about Sir David was the last statement in the programme. In the Committee’s view this gave it particular prominence as it was the “parting thought” that viewers would have been left with at the end of the programme. The Committee also noted that the tone of Professor Singer’s comment had been both denigrating and ridiculing.

Taking the above factors into consideration the Committee found that Professor Singer had incorrectly attributed a comment about “*breeding couples*” to Sir David. This distortion of the complainant’s views together with Professor Singer’s suggestion that Sir David’s views were absurd (i.e. “*I mean this is hilarious. It would be hilarious actually if it weren’t so sad*”) was serious given Sir David King’s professional position and his reputation as an eminent UK scientist. In the Committee’s view, Professor Singer’s comment amounted to a significant allegation which called into question Sir David’s scientific views and his credibility as a scientist. In accordance with Practice 7.11 therefore, Sir David should have been offered an appropriate and timely opportunity to respond. The programme makers did not provide such an opportunity to the complainant.

In the circumstances the Committee found that the failure to give Sir David King an appropriate and timely opportunity to respond to the comment made by Professor Singer resulted in unfairness to the complainant in the programme as broadcast.

Accordingly the Committee upheld Sir David King’s complaint of unfair treatment in the programme as broadcast.

Channel 4 was found in breach of Rule 7.1 of the Code.

The broadcaster has been directed to broadcast a summary of this Adjudication on Channel 4 and on MoreE4.

Partly Upheld

Complaint by the Intergovernmental Panel on Climate Change *The Great Global Warming Swindle, Channel 4, 8 March 2007*

Summary: Ofcom has partly upheld this complaint of unfair treatment made by the Intergovernmental Panel on Climate Change.

On 8 March 2007 Channel 4 broadcast the programme *The Great Global Warming Swindle* which challenged the theory that man-made activity is a major cause of global warming. The programme made a number of comments about the Intergovernmental Panel on Climate Change ("the IPCC"), an organisation that is responsible for producing scientific assessment reports on climate change, every five years. These comments were made about the IPCC in general terms and also about its specific work in producing its assessment reports.

The IPCC complained to Ofcom that it had been treated unfairly in that the programme broadcast a number of false and misleading claims about it without offering the IPCC an opportunity to respond.

The IPCC's complaint was considered by Ofcom's Fairness Committee, its most senior decision making body in matters of Fairness and Privacy. In summary the Committee found the following:

- The Committee found that the programme broadcast a number of comments by contributors that amounted to serious allegations about the IPCC. These allegations included that:
 - The scientific conclusions of the IPCC were influenced by political agendas unrelated to the science of climate change.
 - The IPCC's statements in relation to the spread of malaria were alarmist, untrue and based on poor scientific literature.
 - The IPCC had bolstered its own reputation by using the names and qualifications of reputable scientists, sometimes without their consent, in circumstances where the scientists' views had not been taken into account or where the scientists had disagreed with the findings of the IPCC reports.
 - The peer review process of one of the IPCC's reports had been corrupted.
- The Committee found that the IPCC had not been provided with a proper opportunity to respond to these allegations. Therefore, the broadcast of the allegations had been unfair.

Channel 4 was found in breach of Rule 7.1 of the Code.

Introduction

On 8 March 2007 Channel 4 broadcast *The Great Global Warming Swindle*. This programme sought to challenge the theory that human industrial activity is a major cause of climate change and global warming. The programme included contributions from a wide range of scientists who argued variously that the current consensus on

the causes of global warming was based on unsound science and was politically motivated:

"In this film it will be shown that the earth's climate is always changing. That there is nothing unusual about the current temperature and that the scientific evidence does not support the notion that climate is driven by carbon, dioxide, man-made or otherwise. Everywhere you are told that man-made climate change is proved beyond doubt. But you are being told lies.

"...this is a story of how a theory about climate turned into a political ideology...it is the story of the distortion of a whole area of science...it is the story of how a political campaign turned into a bureaucratic bandwagon..."

The programme included commentary and statements by contributors about the Intergovernmental Panel on Climate Change (IPCC). These comments were made about the IPCC in general terms and also about its specific work in producing its Assessment Reports.

Representatives of the IPCC from 1988 to present (who were/are responsible for the First, Second, Third and Fourth IPCC Assessment Reports, known as FAR (1990), SAR (1995), TAR (2001), and AR4 (2007) respectively, and "IPCC reports" collectively) complained to Ofcom of unfair treatment in the programme as broadcast.

The Complaint

In summary the IPCC complained that it was treated unfairly in the programme as broadcast in that the programme made false and misleading claims about the work of the IPCC and its findings, to which the IPCC was not given a fair opportunity to respond. The complainant referred to six sections of the programme:

- i) The programme falsely stated that the conclusions of the IPCC are politically driven.

Relevant programme quote:

Dr Philip Stott: *"The IPCC, like any UN body, is political. The final conclusions are politically driven."*

- ii) The programme included a contributor's false claim that the IPCC's FAR (1990) predicted "climatic disaster as a result of global warming" and had "total disregard" to the role of the sun, and the commentary that followed appeared to support the contributor's comments.

Relevant programme quotes:

Nigel Calder: *"[The IPCC] came up with the first big report which predicted climatic disaster as a result of global warming. I remember going to the scientific press conference and being amazed by two things: first, the simplicity and eloquence of the message, and the vigour with which it was delivered; and secondly, the total disregard of all climate science up till that time – including incidentally, the role of the sun, which*

had been the subject of a major meeting as the Royal Society just a few months earlier.”

Commentary: *But the new emphasis on man-made carbon dioxide as a possible environmental problem didn't just appeal to Mrs Thatcher.*

- iii) The programme misrepresented the IPCC's findings in relation to the spread of malaria (see quotes below). The IPCC said that Professor Reiter had admitted that he was incorrect to state that the most "devastating epidemic of Malaria was in the Soviet Union in the 1920s". Also the sequence had implied wrongly that: wherever there are mosquitoes there will be malaria; that the IPCC suggested that mosquitoes are specifically tropical; that the IPCC suggested that malaria is likely to move northwards. The IPCC also said that its statement on malaria had been selectively quoted and if it had been presented in full it would have been clear that it was consistent with the statements of Professor Reiter.

Relevant programme quotes:

Professor Paul Reiter: *“Mosquitoes are not specifically tropical. Most people will realise that in temperate regions there are mosquitoes – in fact, mosquitoes are extremely abundant in the Arctic. The most devastating epidemic of Malaria was in the Soviet Union in the 1920s: there were something like 13 million cases a year, and something like 600,000 deaths – a tremendous catastrophe that reached up to the Arctic Circle. Archangel had 30,000 cases and about 10,000 deaths. So it's not a tropical disease; yet these people in the global warming fraternity invent the idea that malaria will move northwards.*

Commentary: *“Climate scare stories cannot be blamed solely on sloppy or biased journalism. According to Professor Reiter hysterical alarms have been encouraged by the reports of the United Nations Intergovernmental Panel on Climate Change or IPCC. On the spread of malaria, the IPCC warns that:*

“Mosquito species that transmit malaria do not usually survive where the mean winter temperature drops below 16-18°C”.

Commentary: *“According to Professor Reiter, this is clearly untrue.”*

- iv) The programme contained unfair criticism by Professor Paul Reiter about the IPCC's processes in relation to its SAR (1995) and TAR (2001) (see quotes below). The IPCC said that the IPCC reports did contain a great number of citations of peer reviewed scientific papers by specialists.

Relevant programme quotes:

Professor Paul Reiter: *“I was horrified to read the Second and the Third Assessment Reports because there was so much*

information without any kind of recourse, or virtually without mention of the scientific literature – the truly scientific literature – literature by specialists in those fields”.

- v) The programme contained unfair criticism by Professor Paul Reiter about the IPCC that was based on his experience of working on either the TAR (2001) or the AR4 (2007) (see quotes below). The IPCC said that Professor Reiter had exaggerated his links to the IPCC and the IPCC did not have any record of him requesting to resign. The IPCC also said that Professor Reiter’s comments that “*I think this happens a great deal*” were completely baseless.

Relevant programme quote:

Professor Paul Reiter: *“When I resigned from the IPCC I thought that was the end of it, but when I saw the final draft my name was still there, so I asked for it to be removed. Well, they told me that I had contributed so it would remain there, so I said: “no, I haven’t contributed, because they haven’t listened to anything I said. So in the end it was quite a battle but finally I threatened legal action against them and they removed my name; and I think this happens a great deal. Those people who are specialists but don’t agree with the polemic and resign – and there have been a number that I know of – are simply put on the author list and become part of the “2500 of the world’s top scientists”.*

- vi) The programme provided limited and misleading information about the reported criticism of the IPCC’s SAR (1995) by Professor Frederick Seitz (see quotes below). The IPCC said that the programme did not make it clear the events had taken place in 1996; that Professor Seitz was not a climate scientist and had never been involved with the IPCC; and that *The Wall Street Journal* had also published a response from the scientists involved in the SAR (1995) stressing that the scientific content of the report had remained unchanged.

Relevant programme quotes:

Commentary: *In a letter to The Wall Street Journal, Professor Frederick Seitz, former President of America’s National Academy of Sciences, revealed that IPCC officials had censored the comments of scientists. He said that: “This report is not the version that was approved by the contributing scientists.*

At least 15 key sections of the science chapter had been deleted. These included statements like: “None of the studies cited has shown clear evidence that we can attribute climate changes to increases in greenhouse gases.”; “No study to date has positively attributed all or part of the observed climate changes to man-made causes.”

Professor Seitz concluded: "I have never witnessed a more disturbing corruption of the peer review process than the events that led to this IPCC report."

In its reply the IPCC did not deny making these deletions, but it said there was no dishonesty or bias in the report; and that uncertainties about the cause of global warming had been included. The changes had been made, it said, in response to comments from governments, individual scientists, and non-governmental organisations.

Channel 4's first statement in response to the complaint

Channel 4 provided a written statement in response to the complaint. In summary Channel 4 responded as follows:

Channel 4 stated that *The Great Global Warming Swindle* was a polemic that sought to present the views of the minority of scientists who did not believe that global warming is caused by the anthropogenic production of CO₂.

Channel 4 said that contrary to the complaint, the programme makers did offer the IPCC a right of reply on the relevant issues in the programme.

Channel 4 addressed each of the six alleged false and misleading claims made in the programme about the work and findings of the IPCC:

- i) In response to the complaint that the programme falsely stated the conclusions of the IPCC are "*politically driven*", Channel 4 said the programme contributor, Dr Philip Stott, was merely making a statement of fact.

Channel 4 said the programme made the important and valid point that the IPCC is political as well as scientific. Channel 4 said the IPCC chairmen and authors are nominated by governments and the reports are viewed by government officials prior to publication. Further, Channel 4 said the IPCC had been criticised on a number of occasions for being hampered by political interference.

Channel 4 therefore maintained it was entirely fair for Professor Stott to state that the IPCC is "*politically driven*".

- ii) In response to the complaint that the IPCC's FAR (1990) had predicted "*climatic disaster as a result of global warming*", Channel 4 said the description made by the programme contributor Nigel Calder was fair and accurate.

Channel 4 said the FAR (1990) had indeed predicted severe consequences as a result of global warming, and as an example referred to the following extract from the first report:

"The changes predicted to occur by about the middle of the next century due to increases in greenhouse gas concentrations from the business-as-usual emissions will make global mean temperatures higher than they have been in the last 150,000 years...and the rise in sea level will be about three to six times faster than that seen over the last 100 years or so."
(Policy Makers Summary)

Channel 4 said the then Prime Minister, Margaret Thatcher, believed there to be enough alarming information contained in the report to issue the following statement to reporters:

“They confirm that greenhouse gases are increasing substantially as a result of man’s activities, that this will warm the Earth’s surface with serious consequences for us all.” (Quoted in J. Leggett, *the Carbon War*, 2001)

Channel 4 said the IPCC’s report was the first to focus on the adverse effects of global warming and the programme contributor, Nigel Calder, was perfectly entitled to recall his impression of its findings. Channel 4 said the 400 page report devoted only three pages to the effect of the sun and had dismissed the most important evidence for solar effects on past climate as “far from convincing”. Therefore, Channel 4 said it was not unfair to include the comment that the IPCC report had “disregarded” the role of the sun.

Channel 4 said the commentary which followed Nigel Calder’s comment served to underline that the IPCC had placed the emphasis on man-made carbon dioxide not that the IPCC had at this point ruled out any other causes.

- iii) In response to the complaint that the programme misrepresented the IPCC’s findings in relation to the spread of malaria, Channel 4 said the subject of the northward spread of malaria was used to illustrate one of the oft-cited adverse consequences of global warming.

Channel 4 said the programme had not initially raised the subject of the spread of malaria in relation to the IPCC and not all of the comments in the programme on this subject had concerned the complainant.

In any event, Channel 4 said that, contrary to the complaint, the IPCC had in fact claimed that malaria will spread as a result of global warming, and had made statements about the spread of malaria which Professor Reiter maintained were inaccurate.

Channel 4 disagreed with the complainant’s statement that if the programme had correctly quoted the SAR (1995) in relation to the spread of malaria then it would have been apparent that the IPCC’s position was consistent with Professor Reiter’s own. Channel 4 said Professor Reiter disagreed with the full IPCC statement. Channel 4 referred to Professor Reiter’s memorandum to the House of Lords Select Committee on Economic Affairs, 31 March 2005, in which he had taken issue with the relevant section of the SAR (1995). In this memorandum he had stated that:

“Glaring indicators of the ignorance of the authors included the statement that ‘although anopheline mosquito species that transmit malaria do not usually survive where the mean winter temperature drops below 16-18°C, some higher latitude species are able to hibernate in sheltered sites’. In truth, many tropical species must survive in temperatures below this limit, and many temperate species can survive temperatures of - 25°C, even in ‘relatively exposed’ places.”

Channel 4 said that the IPCC was offered a right of reply in relation to Professor Reiter’s criticisms, but had failed to respond.

- iv) In response to the complaint that the programme contained unfair criticism by Professor Paul Reiter of the IPCC's processes, Channel 4 said the complainant had missed the point being made by Professor Reiter.

Channel 4 said that Professor Reiter did not state that there were no references to the scientific literature, but had been making a comment on the quality of those references. Channel 4 said his statement reflected his genuinely held opinion that the IPCC report failed to give due weight to the large number of scientific articles written by top scientists in those fields – the *"truly scientific literature"*.

Channel 4 said that given Professor Reiter's experience and publication record, he was in an excellent position to pass judgement on what he considered to be the paucity of the IPCC's reference list. Channel 4 maintained this was regardless of the length of the IPCC's reference lists or whether the IPCC disagreed with Professor Reiter.

Channel 4 said that the IPCC was given a full opportunity to respond to this specific allegation but that the complainant had chosen not to respond.

- v) In response to the complaint that the programme contained unfair criticism by Professor Paul Reiter in relation to his experience of working on either TAR (2001) or AR4 (2007), Channel 4 said it was the TAR (2001) to which Professor Reiter had been referring.

Channel 4 said that on the TAR (2001) Professor Reiter had originally been listed on the contributing author's list and was subsequently removed at his request.

Channel 4 said Professor Reiter's comment had been in reference to the 2,500 authors, contributing authors and reviewers who are involved in the IPCC's processes.

Channel 4 referred to an email (below) provided from the complainant, between two co-chairs of the IPCC. Channel 4 said it showed how loosely associated many of the 2,500 scientists really were with the IPCC, the casual and informal manner in which records were kept and the way in which scientists' names appeared on the list:

"He [Professor Reiter] could have been a Contributing Author because that info was not necessarily entered in the database if no one bothered to tell Sandy. Anybody could be a [contributing author] and it took no blessing from the Bureau, TSU [technical support unit], or anyone. CLAs [contributing lead authors] just add/delete from the author lists."

Channel 4 said in light of this, it was difficult to see how the complainant could have stated unequivocally that: "Nothing like what Reiter describes with regard to having 'resigned', asking that his name be removed from the chapter author list, or threatening legal action ever happened..."

Channel 4 said that the IPCC were offered a right of reply on Professor Reiter's description of his resignation, but did not respond.

Channel 4 said Professor Reiter knew of two scientists who had left the IPCC. One had left "in disgust" and the other, Dr Chris Landsea, had resigned via an open letter to the scientific community. Channel 4 also referred to newspaper

clippings which it said demonstrated that scientists had been disgruntled with the IPCC process.

- vi) Channel 4 next responded to the complaint that the programme provided limited and misleading information about the reported criticism of the IPCC's Second Assessment Report by Professor Frederick Seitz.

Channel 4 said the complainant did not deny that the incident had occurred, rather that it had happened ten years ago. Channel 4 said the date of the article in the *Wall Street Journal* had no bearing on the relevance of its contents as discussed in the programme. Channel 4 also said the date of Professor Seitz's criticisms had been clearly shown in the programme in two separate places.

Channel 4 said the summary of the incident as presented in the programme was fair and accurate. Furthermore, the IPCC's contemporaneous response (published in *The Wall Street Journal* in 1996) had been clearly and expressly included in the programme.

Moreover, Channel 4 said that the programme makers had sought further comments from the IPCC in response to Professor Seitz's allegations but, again, the IPCC had not taken up the offer.

Channel 4 said the programme had described Professor Seitz as the "*former president of America's National Academy of Sciences*" and maintained that this was an entirely accurate description.

The IPCC's response to Channel 4's first statement

The IPCC made the following comments in response to Channel 4's statement:

In response to the statement by Channel 4 that the programme had presented the viewpoint of a minority of scientists, the IPCC said that in giving a voice to the minority, Channel 4 had failed to ensure that the programme complied with Section 7 of the Code, by allowing misrepresentations of the views of mainstream scientists (such as those who contributed to the IPCC Assessments).

The IPCC addressed the statement by Channel 4 that it had provided the IPCC with an appropriate opportunity to respond to the programme's allegations. The IPCC said that the "so-called" right of reply letter from the programme makers was a "sham". It said it was intended solely to allow the programme makers to claim that they had offered a right of reply but it had never been intended to elicit a meaningful contribution from the IPCC. The IPCC said the structure of the organisation (i.e. that it is "a very large and amorphous organisation") should have been taken into consideration by the programme makers. So too should the fact that the programme's allegations related to a number of IPCC reports, the chairs and co-chairs of which no longer work for the IPCC.

The IPCC said the letter from the programme makers of 26 February 2007 had been sent nine days before the film was broadcast and only four days before the last day of editing, 2 March 2007 (as explained in a later letter from the programme makers on 1 March 2007).

The IPCC said it was simply not credible for Channel 4 to claim that in only four days the IPCC could reasonably have been expected to organise a spokesperson or refute the many mis-statements that were made about it. The IPCC also noted that the

letter of 26 February 2007 did not inform the IPCC of the actual deadline for response (i.e. the last day of editing, 2 March 2007) and that it was notified of this only on 1 March 2007 (the day before the deadline expired).

As regards the content of the programme-maker's email of 26 February 2007, the IPCC said there were many differences in the allegations put to the IPCC and those made in the programme as broadcast.

For the above reasons the IPCC maintained that it was not provided with an appropriate opportunity to respond to the programme's allegations.

The IPCC addressed each of Channel 4's responses to the six heads of complaint:

- i) In relation to the IPCC being "*politically driven*", the IPCC said that the requirement for openness and transparency in its processes ensured that it was impossible for any undue interference to take place or any undue pressure to be applied by any reviewer (government or otherwise).

The IPCC said the government expert reviewer is free to ask any lead author to reconsider what they have written, but based solely on scientific content. The lead author will then consider the comment or request for change. If the lead author then wishes to make the change, he/she has to account for the decision to his/her review editor, who will make the final decision. Such changes must then be documented and the results made public. Therefore the IPCC maintained that it is the IPCC scientists, and not the government experts, who decide what information goes into the report.

The IPCC said the reason why it had been decided that government experts should be involved in its procedures was because it ensured that:

- the reports address the issues of concern to policy makers (policy makers are better judges than scientists about what is and what is not relevant to them);
- the wording of the reports is as clear and unambiguous as possible;
- the wording, in the perception of any government expert, is not politically or agenda-driven, but rather a strictly accurate summary of current scientific knowledge;
- the world's governments feel ownership of the report.

The IPCC said that, given the IPCC's own procedures, Channel 4's arguments in relation to this head of complaint were either ill-informed or disingenuous.

The IPCC said it was ironic that Channel 4 had cited six press articles that all accused government delegates of trying to "water down" the summaries for policy makers of the 2007 Assessment. The IPCC said this was the opposite of the sense in which the term "*politically driven*" had been used in the programme. The IPCC stated that no change could be made to the Summary for Policy Makers without the agreement of the IPCC scientists.

- ii) In relation to the complaint that the IPCC's first report predicted "*climatic disaster as a result of global warming*", the IPCC maintained that the IPCC gave a balanced assessment, incompatible with warnings of unmitigated disaster.

The IPCC said Margaret Thatcher did not refer to “*climatic disaster*” but used the word “serious”. The IPCC said this was measured language that was in line with the findings of mainstream scientific research.

The IPCC said its reports did not “*disregard*” the effect of the sun. The IPCC said its first report summarised the careful discussion given to this topic and gave the scientific reasons for the lack of importance given to solar effects on future climate.

The IPCC said the narration in this segment of the programme did not make it clear that the programme disagreed with Nigel Calder’s inaccurate claim that the IPCC had shown a “*total disregard of all climate science up till that time – including, incidentally, the role of the sun*”.

- iii) In relation to the programme’s references to the possible spread of malaria, the complainant said that, although the earlier commentary on this topic did not refer to the IPCC, it believed that viewers were likely to have been left with the impression that both the media and the IPCC were being criticised in the programme.

The IPCC denied that it had claimed that malaria “will” spread as a result of global warming (as stated by Channel 4). It also maintained that its report was selectively quoted in the programme. The IPCC said that the IPCC’s full quote makes it clear that some malaria-carrying mosquitoes can indeed survive low temperatures, whereas the edited quote (used in the programme) made it appear that the IPCC was stating the opposite.

In relation to Professor Reiter’s own credentials, the IPCC said that although he was undoubtedly a distinguished scientist in his own area of specialty (*Culex* and *Aedes* mosquitoes) he was not a malaria expert, and was not recognised within that field as one. The IPCC said that Channel 4 had exaggerated Professor Reiter’s credentials with respect to malaria by referring to him in the programme as “*one of the world’s leading experts on malaria*”.

The IPCC maintained that it was not provided with an appropriate opportunity to respond to the programme’s allegations.

- iv) In relation to Professor Reiter’s criticisms of the IPCC’s processes for the second and third reports, the complainant said Channel 4’s statement appeared to redefine what was meant by the broadcast statement “*no mention of the scientific literature*”. The IPCC said that Professor Reiter made sweeping claims but never, to its knowledge, identified any specific studies that should have been included in the reports. Nor had he provided any evidence to support the claims made by him in the programme.

The IPCC maintained that it was not provided with an appropriate opportunity to respond to the programme’s allegations.

- v) As regards Professor Reiter’s resignation from the IPCC, the IPCC said that no evidence had been provided to support Professor Reiter’s version of events (i.e. that he resigned and that he had had such difficulty in having his name removed that he had had to threaten legal action).

The IPCC said that Professor Reiter was not “originally on the contributing author list”, as stated by Channel 4. The IPCC said that Professor Reiter’s name was

temporarily listed as a contributing author, not at the start of the Assessment, but following his unauthorised attendance at one meeting in Lisbon as the guest of a lead author (who had been unable to attend). The IPCC said that Professor Reiter decided he did not want his name on the report, and so it was not included in the final version. The IPCC said that Professor Reiter did not fulfil the criteria of a contributing author as he had not written a substantive piece of text as contributing authors are required to do. As regards Professor Reiter's claim to have threatened legal action, the IPCC said the comment sounded naïve and noted that there was no apparent written exchange between Professor Reiter and the IPCC.

The IPCC said the film did not specify which IPCC report Professor Reiter had claimed to have resigned from. The IPCC also said that viewers were likely to have understood that when Professor Reiter claimed to have "resigned", that he meant permanently. The complainant believed viewers would have been surprised to learn that Professor Reiter was a reviewer on AR4 (2007) and had not, to the IPCC's knowledge, publicly criticised the final version of the most recent report. The IPCC said that by failing to distinguish between the different IPCC reports (given that each successive report reflects the state of scientific knowledge at the time and such knowledge has increased greatly over the last 12 years) and selectively quoting Professor Reiter, the programme makers misled the audience in an attempt to discredit the IPCC in the eyes of the viewer.

As regards Professor Landsea's resignation, the IPCC said that even if it was taken at face value (which the IPCC did not believe was appropriate), one named example across the entire IPCC over the course of nearly two decades of work, did not justify the statement by Professor Reiter in the programme that "*I think this happens a great deal.*"

The IPCC maintained that it was not provided with an appropriate opportunity to respond to the programme's allegations.

- vi) In relation to Professor Seitz's criticisms in *The Wall Street Journal* the IPCC maintained that the programme's summary of this incident was not fair or accurate as it did not include all of the relevant facts.

The IPCC said that Professor Seitz's claim that the "*IPCC officials had censored the comments of scientists*" in Chapter 8 of the SAR (1995) was demonstrably false. The IPCC said that the changes had been made by Dr Benjamin Santer, the Convening Lead Author of Chapter 8. Further, the IPCC said that Dr Santer was not (nor had he ever been) an "*IPCC official*", as he was described in the programme.

In response to Channel 4's claim that the IPCC's response had been clearly and expressly included in the programme, the IPCC said in summarising the IPCC's contemporaneous response to *The Wall Street Journal* article the programme failed to make it clear that: the changes had been made by the scientists who wrote the report, as part of a normal peer review process and for purely scientific reasons; Professor Seitz's Wall Street Journal article contained many additional factual inaccuracies; and the author, Professor Seitz, was not and is not knowledgeable about climate science and at the time of writing the article was not knowledgeable about either IPCC rules and procedures or the reasons why changes had been made to a chapter of the SAR (1995).

The IPCC maintained that there was no controversy in how the revisions to the relevant chapter of the IPCC report had occurred.

Channel 4's second statement in response to the complaint

Channel 4 provided Ofcom with a second statement in response to the complaint. In summary, Channel 4 responded to the IPCC's comments as follows:

Channel 4 maintained that the IPCC had been offered an appropriate opportunity to respond. Channel 4 said the right to reply letter had been sent to the IPCC press officer nine days before the programme was broadcast, excluding the weekend which fell in between. Channel 4 said nine days was an appropriate and acceptable time period in which right of reply requests are sent and responses are expected to be received.

Channel 4 said that no response was received whatsoever, not even to request more time for the IPCC's response. Channel 4 said that it was wrong for the complainant to assert that the deadline for response had been 2 March 2007. Channel 4 said the deadline was 8 March 2007, and if the IPCC had made any attempt to respond promptly to the programme maker's email of 26 February 2007 to request more time then, provided there was a reasonable explanation for the request, it was possible that in the interests of fairness even this deadline could itself have been extended. Channel 4 said the second email was sent precisely because no response had been received and was meant as both a prompt and an indication of the importance of the request. Channel 4 said that if a response had been received from the IPCC it could and would have been incorporated into the film.

Channel 4 addressed the comments made by the IPCC in respect of its six heads of complaint:

- i) Channel 4 said it stood by the information provided in its first statement and maintained that the IPCC was political. Channel 4 also provided further information in support of its view. In summary, Channel 4 contended that governments influence the choice of scientists who contribute to the IPCC reports, IPCC reports can be altered after they are approved by scientist in order to ensure that it is consistent with the Summary for Policymakers (which is approved by governments and released three months before the report itself), and the IPCC reports have been criticised for the level of political influence in the past.
- ii) In relation to the complaint about the programme statement that the FAR (1990) predicted "*climatic disaster as a result of global warming*", Channel 4 maintained that this report was regarded at the time as predicting climatic disaster. In support of this view, Channel 4 referred to contemporaneous reports of the release of the FAR (1990). Channel 4 said the news reports were entirely consistent with the Oxford English Dictionary's definition of the word "disaster" which is "a sudden accident or a natural catastrophe that causes great damage or loss of life".

Channel 4 maintained that the comments in the programme were supported by the comments of Margaret Thatcher made in response to the publication of the first report; also that Margaret Thatcher's comments at the time had been agreed with Sir John Houghton for scientific accuracy (an IPCC co-chair at the time).

As regards the comment made in the programme about the FAR (1990)'s "*disregard*" for the sun, Channel 4 said the complainant had attempted to distract Ofcom with semantics. Channel 4 said the word "disregard" was defined by two

dictionaries as “lack of attention or consideration” and “lack of attention; neglect; lack of respect”. Channel 4 said that it noted the complainant had not challenged the fact that the IPCC had devoted just three pages to the role of the sun in the FAR (1990), despite the influence of the sun being the main theory of climate change up to that point.

In response to the claim by the IPCC that the programme narration did not make it clear that it disagreed with the comment by Nigel Calder, Channel 4 said this was because the narrator did not disagree with Mr Calder’s statement, which was neither incorrect nor unsubstantiated. Channel 4 said (as it did in its first statement) that “the narration which followed Mr Calder’s comment served to underline to the viewer that the IPCC had placed the emphasis on man-made carbon dioxide not that it had, at this point, ruled out any other causes”.

- iii) As regards the programme’s references to the possible spread of malaria, Channel 4 did not accept that the narrator’s comment in the programme was misleading, and it reiterated that the first sequence of narration had not mentioned the IPCC.

Channel 4 said that, although the complainant wished to draw a distinction between a ‘prediction’ and a statement that something ‘will occur’, it said that anyone reading the SAR (1995) who was not an expert in the field would have come away with the strong impression that global warming and malaria go together.

Channel 4 said the complainant was using double standards to both criticise Professor Reiter’s professional background and experience, while citing a number of papers on malaria in the original complaint that had not been written by “malaria experts”.

Channel 4 said the IPCC’s claim that it had not been given a right to reply was unfounded.

- iv) In relation to Professor Reiter’s criticisms of the IPCC’s processes for the SAR (1995) and the TAR (2001), Channel 4 reiterated that it was the quality of the references to which Professor Reiter had been referring.

Channel 4 referred to the opinions of other experts in the field about the SAR (1995) and TAR (2001). It said that their comments appeared to support Professor Reiter’s own statements about these reports and “jarred” with the complainant’s assertions that the reports had taken “a balanced approach”.

- v) In relation to the comments made in the programme by Professor Reiter about his resignation from the IPCC, Channel 4 said that no-one in fact had been able to disprove the claims that Professor Reiter made in the programme. Channel 4 provided an email from Professor Reiter which stated that he had not attended Lisbon since 1996 and said it was therefore incorrect for the IPCC to state that he had done so.

Channel 4 said that Professor Reiter’s comments in the programme clearly referred to the SAR (1995) and TAR (2001).

Channel 4 said that there were other instances where scientists had been included on the IPCC’s authors’ lists despite them asking for their names to be removed. Channel 4 referred to the following memorandum by Professor Richard

Lindzen to the US Senate Environment and Public Works Committee in 1997, in support of this:

“The IPCC went to great lengths to include as many names as possible among its contributors. Against my expressed wishes, even my name was included. I can assure the Committee that I (and the vast majority of contributors and reviewers) were never asked whether we even agreed with the small sections we commented on. Nevertheless, the usual comment is that 2500 scientists all agree with whatever it is that the environmental advocates are claiming.”

Channel 4 said the IPCC's claims that it had not been provided with a right to reply were false.

- vi) In relation to the criticisms published in the *Wall Street Journal*, Channel 4 said it did not accept that the criticisms at the time were demonstrably false (as stated by the IPCC).

Channel 4 said the claim by the IPCC that Dr Santer was not an “IPCC official” was hollow. While Channel 4 acknowledged that Dr Santer had been the Convening Lead Author of Chapter 8, it said Dr Santer had been vested with the authority by the IPCC to make such decisions about alterations to the Chapter in an official capacity.

Channel 4 said that Dr Santer had not been referred to in the programme but the programme had included his contemporaneous response to Professor Seitz's criticism as published by the *Wall Street Journal*, on 12 June 1996. Channel 4 said it was this letter from Dr Santer (which had been signed by 40 scientists from 8 countries) on which the programme had relied.

Channel 4 said that much of the information provided by the IPCC had been merely an attack on the personal integrity of Professor Seitz.

In addition, Channel 4 reiterated that the programme makers had offered the IPCC a right of reply in relation to this matter but the IPCC had failed to respond.

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 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.

The IPCC's complaint was considered by Ofcom's Fairness Committee, its most senior decision making body in matters of Fairness and Privacy. In reaching its decision, the Committee carefully considered all the material provided by both parties, including a recording of the programme as broadcast (and transcript of the

same) and the written submissions from both parties (which included a large amount of supporting documentation).

The Committee acknowledged that while there is a declared consensus amongst scientists, governments and the public that global warming is directly related to anthropogenic causes, this is still a topic of debate. There continues to be discussion about the different methods of measuring change in the climate, the best way these changes should be analysed and what predictions, if any, can be made from the data. Indeed such discussion and debate are essential for the formulation of robust, scientifically sound, theories, projections and conclusions. Global warming is clearly a legitimate and important subject for programme makers and it is not Ofcom's role to adjudicate on whether global warming is man-made or on the validity of particular scientific views. Rather, in regard to this complaint, Ofcom is required to determine whether the programme has resulted in the unfair treatment of the IPCC.

With this in mind, the Committee found as follows:

In reaching a decision in relation to the complaint that the programme had broadcast false and misleading claims about the work of the IPCC and its findings, to which the IPCC was not given a fair opportunity to respond, the Committee considered each of the six sub-heads of the complaint separately. As noted above, the Committee's remit is not to adjudicate on the validity of a particular scientific view. Rather it is to decide whether the programme makers had been unfair in their dealings with the IPCC and whether the programme as broadcast resulted in unfairness to the IPCC.

In reaching a decision in relation to each subhead of the complaint the Committee took account of Practice 7.11 of the Code which states:

"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."

In each sub-head, the Committee had regard to the statements complained of in the programme, the context in which the statements were placed and the wider nature and purpose of the programme.

- i) The Committee first considered the IPCC's complaint that the programme had falsely stated that the conclusions of the IPCC are "*politically driven*" without an opportunity to respond. The Committee noted that this complaint related to the following part of the programme:

Commentary: *"Man made global warming is no ordinary scientific theory.*

BBC News at Ten Footage: *"This morning the Intergovernmental Panel on Climate change made up of hundreds..."*

Commentary: *"It is presented in the media as having the stamp of authority of an impressive international organisation."*

BBC Newsnight: *"The United Nations report from the IPCC..."*

Commentary: *"The United Nations Intergovernmental Panel on Climate Change or IPCC."*

- Dr Philip Stott: *“The IPCC, like any UN body, is political. The final conclusions are politically driven.”*
- Paul Reiter: *“This claim that the IPCC is the world's top one thousand five hundred or two thousand five hundred scientists. You look at the bibliographies of the people and it's simply not true. There are quite a number of non scientists.”*
- Richard Lindzen: *“And to build the number up to 25 hundred they have to start taking reviewers and government people and so on. Anyone who ever came close to them and none of them were asked to agree, many of them disagree.”*
- Paul Reiter: *“Those people who are specialist but don't agree with the polemic and resign, and there have been a number that I know of, they are simply put on the author list and become part of this 2500 of the world's top scientists.”*
- Richard Lindzen: *“People have decided you have to convince other people that since no scientist disagrees you shouldn't disagree either. But whenever you hear that is science that's pure propaganda.”*
- Commentary: *“This is a story of how a theory about climate turned into a political ideology.”*
- Patrick Moore: *“See I don't even like to call it the environmental movement anymore because really it is a political activist movement and they have become hugely influential at a global level.”*
- Commentary: *“It is the story of the distortion of a whole area of science.”*

The reference to the IPCC's conclusions being *“politically driven”* came in Part 1 of the programme. In the Committee's opinion, viewers would have understood from the full section (quoted above) that the IPCC was not a purely scientific body and that its 'scientific' conclusions were significantly tainted by political interests.

The Committee considered that such an impression went to the core of the IPCC's function and reputation: in this regard it noted that the IPCC was set up following international governmental accord with the aim of producing objective scientific assessments to inform policy and decision making worldwide. The Committee considered that *“politically driven”* was a strong and potentially damaging allegation which, within the context of this part of the programme, suggested direct political influence and was clearly intended to call into question the credibility of the IPCC.

In deciding whether this resulted in unfairness to the IPCC the Committee took account of Practice 7.11 of the Code (provided above).

The Committee turned to the correspondence between the parties and other submissions to assess whether the IPCC had been provided with an appropriate and timely opportunity to respond to the programme's allegation.

The Committee noted from the information provided by both parties that the programme makers first contacted the IPCC in relation to the programme on 2

October 2006. In this first correspondence the programme makers asked the IPCC's Information and Communication's Officer for generic details about the authors and editors of the FAR (1990) for a documentary they were making "about climate change for Channel 4".

The Committee noted that this email did not indicate the nature of the programme, or the date that the programme would be broadcast.

The IPCC's employee responded on the same day directing the programme makers to information available on the web.

The programme makers emailed the same IPCC employee over four months later on 26 February 2007. This email opened by stating:

"I am writing to you in regard to a documentary we are currently producing for the UK broadcaster, Channel 4, on global warming, titled 'The Great Global Warming Swindle'. I would very much welcome the comments of the IPCC in response to a number of assertions made by a couple of our contributors..."

The letter included detailed extracts from Professor Paul Reiter's memorandum to the House of Lords Economic Affairs Committee (of 31 March 2005), in which Professor Reiter had criticised the IPCC's procedures and conclusions. The letter also referred to the publication of an article in *The Wall Street Journal* on 12 June 1996. The programme makers' letter closed in the following way:

"I thank you in advance for taking the time to respond to the above points and look forward to hearing from you."

The Committee noted that this email did not indicate the date the programme would be broadcast or the IPCC's deadline for responding to the allegations. The Committee also noted that the majority of the allegations had been set out in the format of a contributor's memorandum to the House of Lords and did not describe how or exactly which parts of Professor Reiter's memorandum would be presented in the programme.

The third and last email from the programme makers was sent three days later on 1 March 2007, 7.33pm. This email stated:

"I am contacting you because we have not yet heard from you following our correspondence to you via email on 26 February (see copy of email below).

This second email is to advise you that the last day of our edit is tomorrow (Friday 2 March 2007). We would like to again take this opportunity to invite you to give us your feedback before we complete the film.

I look forward to hearing from you."

The Committee noted that this follow-up email did indicate the deadline for the IPCC's response (by the following day) but it did not inform the programme makers of the intended date for broadcast (8 March 2007). The Committee noted that the period between the deadline provided in this subsequent email and the previous email of 26 February offering an opportunity to respond amounted to four days. The Committee assessed the above correspondence with a view to deciding

whether the IPCC had been offered an opportunity to respond that was both timely and appropriate.

The Committee noted that the IPCC did not respond to either of the programme makers' emails of 26 February and 1 March. The Committee acknowledged that the IPCC is a large organisation with considerable resources at its disposal and that it employs a dedicated Information and Communications Officer. On the face of it, these factors might be taken to suggest the IPCC should have been in a position to respond to the programme makers' emails (subject to being provided with sufficient information about the allegations that would be made in the programme). However, the Committee also noted the IPCC's submissions about the nature of the organisation, including the fact that its scientific associates (at all levels) are spread across the world and that many of these are no longer current contributors to the IPCC reports. This was significant in terms of the timing provided for the IPCC to comment.

As mentioned above, it was significant that the programme maker's email of 26 February 2007 gave the IPCC no indication of when its response was required and the follow-up email of 1 March 2007 (sent at 7.33pm) subsequently gave a deadline of the following day. Neither of these emails indicated the date of broadcast.

Taking into account all the above factors, the Committee considered that it was unreasonable for the programme makers to have expected the IPCC to understand that its response was required in a matter of days, and that it was not reasonable to expect the IPCC to be able to provide a response within the one day of being advised of the deadline. The Committee therefore found that the opportunity to respond had not been offered in a timely way.

Looking at the extent of the information provided to the IPCC for comment, it was significant that the emails did not provide any clear indication of the specific allegation that the conclusions of the IPCC were "*politically driven*".

In the circumstances, the Committee concluded that the IPCC was not afforded a timely or appropriate opportunity to respond to the significant allegation that the conclusions of the IPCC were "*politically driven*". This resulted in unfairness to the IPCC in the programme as broadcast.

Accordingly the Committee upheld this part of the IPCC's complaint.

- ii) The Committee next considered the complaint that the programme falsely claimed that its FAR (1990) predicted "*climatic disaster as a result of global warming*" without an opportunity to respond. The IPCC said the conclusions of the FAR (1990) were incompatible with the description given in the programme; the FAR (1990) had acknowledged and discussed the role of variability of the sun; and the programme commentary which followed the statement appeared to support the personal opinion of one of the contributors. The Committee noted that this complaint related to the following part of the programme:

Nigel Calder: "*[The IPCC] came up with the first big report which predicted climatic disaster as a result of global warming.*

I remember going to the scientific press conference and being amazed by two things: first, the simplicity and

eloquence of the message, and the vigour with which it was delivered; and secondly, the total disregard of all climate science up till that time – including incidentally, the role of the sun, which had been the subject of a major meeting at the Royal Society just a few months earlier.”

Commentary: *“But the new emphasis on man-made carbon dioxide as a possible environmental problem didn’t just appeal to Mrs Thatcher.”*

In deciding whether this resulted in unfairness to the IPCC the Committee took account of Practice 7.11 of the Code (provided above).

The Committee first addressed the comment by Nigel Calder that *“[the IPCC] came up with the first big report which predicted climatic disaster as a result of global warming”*.

From the information provided by both parties, the Committee noted that the FAR (1990) had predicted significant rises in temperature and sea level by the end of the 21st century. The Committee also noted that the consequences of these predicted changes were dramatic. As a result of the FAR (1990), the then Prime Minister, Margaret Thatcher, described the potential consequences as follows:

“The calculation has been made that a one-degree rise in temperature would over time lead forests to move 100 kilometres further north and some ordinary farming crops may move as much as 200-300 kilometres. Just imagine the effects on farming...”

“Changes in the sea level as the sea expands could also affect our lives considerably...the consequences of a significant overall rise in the sea level could be one less member [country] of the Commonwealth. Other low-lying countries like Bangladesh will be badly affected and there would surely be a great migration of population away from areas of the world liable to flooding and from areas of declining rainfall and therefore of spreading deserts.”

The Committee noted from Channel 4’s submission that the comments by Mrs Thatcher (above) had been “agreed with Sir John Houghton¹⁰ for scientific accuracy”.

In the Committee’s opinion, it was not unreasonable to describe the consequences of the changes predicted in the FAR (1990) report as being disastrous, especially for those most likely to be directly affected. In the circumstances, the Committee considered that the comment that described the FAR (1990) as predicting *“climatic disaster as a result of global warming”* was not an allegation against the IPCC and was not unfair to it. It was not, therefore, incumbent on the programme makers to have offered the IPCC an appropriate and timely opportunity to respond to this particular comment.

The Committee next considered the second part of Nigel Calder’s comments. The Committee noted that Nigel Calder’s comments in the programme appeared to be about a scientific press conference he had attended rather than about the FAR (1990). In the Committee’s view, while it was true that the FAR (1990) had

¹⁰ Sir John Houghton was the then Co-Chair of the IPCC

acknowledged and referred to the variability of the sun, Nigel Calder's comments did not refer to the report itself. On the information presented by both parties, the Committee found no evidence that Nigel Calder's recollections had been materially misleading. Further, the Committee did not consider that the recollections of Nigel Calder, as shown in the programme, alleged wrongdoing or incompetence or amounted to any other significant allegation against the IPCC. It followed, therefore, that it was not incumbent on the programme makers to have offered the IPCC an appropriate and timely opportunity to respond to this particular comment.

The Committee finally considered the programme commentary "*But the new emphasis on man-made carbon dioxide as a possible environmental problem didn't just appeal to Mrs Thatcher.*" In the Committee's opinion, this line of commentary summarised the point being made by Nigel Calder that the idea of man-made global warming was gaining momentum. Having found no unfairness in Nigel Calder's comments, the Committee considered that the summary line of commentary also did not cause any unfairness to the IPCC.

In relation to Head (ii) of the complaint the Committee found the comments by Nigel Calder and the commentary that followed it did not present the IPCC's FAR (1990) in an unfair way, nor did it allege wrongdoing or incompetence or make any other significant allegations against the IPCC. In the circumstances, the Committee found that this part of the programme did not result in unfairness to the IPCC.

The Committee did not uphold this part of the IPCC's complaint.

iii) &iv)

Ofcom next considered Heads a (iii) and a (iv) together, as they related to connected sections of the programme. The Committee noted that these complaints related to the following part of the programme:

Commentary: *"It is also suggested that even a mild rise in temperature will lead to the spread northward of deadly insect borne tropical diseases like malaria. But is this true?"*

Professor Paul Reiter of the Pasteur Institute in Paris is recognised as one of the world's leading experts on malaria and other insect borne diseases. He is a member of the World Health Organisation expert advisory committee, was chairman of the American Committee of Medical Entomology of the American Society for Tropical Medicine, and lead author on the Health Section of the US National Assessment of the Potential Consequences of Climate Variability. As Professor Reiter is eager to point out mosquitoes thrive in very cold temperatures."

Professor Paul Reiter: *"Mosquitoes are not specifically tropical. Most people will realise that in temperate regions there are mosquitoes – in fact, mosquitoes are extremely abundant in the Arctic. The most devastating epidemic of Malaria was in the Soviet Union in the*

1920s: there were something like 13 million cases a year, and something like 600,000 deaths – a tremendous catastrophe that reached up to the Arctic Circle. Archangel had 30,000 cases and about 10,000 deaths. So it's not a tropical disease; yet these people in the global warming fraternity invent the idea that malaria will move northwards.

Commentary: *“Climate scare stories cannot be blamed solely on sloppy or biased journalism. According to Professor Reiter hysterical alarms have been encouraged by the reports of the United Nations Intergovernmental Panel on Climate Change or IPCC. On the spread of malaria, the IPCC warns that: ‘Mosquito species that transmit malaria do not usually survive where the mean winter temperature drops below 16-18°C’.*

According to Professor Reiter, this is clearly untrue.”

Professor Reiter: *“I was horrified to read the second and third assessment reports because there was so much misinformation without any kind of recourse or virtually without mention of the scientific literature, the truly scientific literature, the literature by specialists in those fields.”*

In deciding whether this resulted in unfairness to the IPCC the Committee took account of Practice 7.11 of the Code (provided above).

The Committee noted that the IPCC had said that Professor Reiter had admitted that he was incorrect to state that the most *“devastating epidemic of Malaria was in the Soviet Union in the 1920s”*.

The IPCC said that the sequence implied wrongly that ‘wherever there are mosquitoes there will be malaria’, that the IPCC had suggested mosquitoes are specifically tropical, and that the IPCC had suggested that malaria is likely to move northwards. The IPCC also complained that it had been selectively quoted in the programme, Professor Reiter’s criticism of the second and third assessment reports had been incorrect and the IPCC should have been offered an opportunity to respond.

The Committee considered the above programme sequence and took account of the way it had been presented in the programme. In relation to Professor Reiter’s first comments, the Committee acknowledged that Professor Reiter had referred to *“the global warming fraternity”* but had made no direct reference to the IPCC. In the circumstances, the Committee found that the first part of Professor Reiter’s comments had not resulted in unfairness to the complainant.

The Committee next considered the following part of the sequence:

Commentary: *“...According to Professor Reiter hysterical alarms have been encouraged by the reports of the United Nations Intergovernmental Panel on Climate Change or IPCC. On the spread of malaria, the IPCC warns that:*

Mosquito species that transmit malaria do not usually survive where the mean winter temperature drops below 16-18°.

According Professor Reiter, this is clearly untrue.”

Professor Paul Reiter: *“I was horrified to read the Second and the Third Assessment Reports because there was so much information without any kind of recourse, or virtually without mention of the scientific literature – the truly scientific literature – literature by specialist in those fields”.*

In the Committee’s opinion, viewers would have understood from this part of the programme that a leading expert on malaria found the IPCC’s statements about the spread of malaria to be alarmist, untrue and based on poor scientific literature. Given the IPCC’s reputation as a body that produces scientific assessments for use by various organisations in the world, the Committee believed this amounted to a significant allegation capable of affecting the IPCC’s scientific credibility. As such the IPCC were entitled to an opportunity to respond.

In assessing whether the IPCC had been provided with a timely and appropriate opportunity to respond, the Committee took account of Practice 7.11. The Committee considered the programme maker’s emails to the IPCC. The Committee noted that the email of 26 February 2007 contained extracts from Professor Reiter’s memorandum to the House of Lords, which were dedicated to his criticisms of the ‘experts’ relied on by the IPCC in its chapter on mosquito-borne diseases. The Committee noted that the information provided did not specifically set out the comments that Professor Reiter made in the programme as broadcast. However, the Committee took the view that it could be understood from the email that Professor Reiter was critical of the quality of scientists relied on by the IPCC and the conclusions reached by it. In the circumstances the Committee considered that the programme maker’s had provided sufficient information for the IPCC to understand the nature of Professor Reiter’s criticisms in relation to malaria.

The Committee next considered whether the IPCC had been provided with sufficient time for it to be able to respond to the programme maker’s request for a response.

For the reasons set out in Head (i) of the Decision, the Committee found that the programme maker’s emails offering an opportunity to respond did not indicate the deadline for response in a timely way and did not allow sufficient time for the IPCC’s response once a deadline was given.

Taking the above factors into consideration, in relation to Head (iii) & (iv) the Committee concluded that the IPCC was not afforded a timely opportunity to respond to the allegation that the statements by the IPCC in relation to the spread of malaria were alarmist, untrue and based on poor scientific literature. The broadcast of a significant allegation about the scientific credibility of the IPCC without an appropriate and timely opportunity to respond being offered to the IPCC was therefore unfair.

Accordingly the Committee upheld part of these complaints by the IPCC.

- v) The Committee next considered the IPCC's complaint that the programme contained unfair criticism by Professor Paul Reiter about the IPCC that was based on his experience of working on the AR4 (2007), without an opportunity to respond. The Committee noted that this complaint related to the following part of the programme:

Professor Paul Reiter: *"When I resigned from the IPCC I thought that was the end of it, but when I saw the final draft my name was still there, so I asked for it to be removed. Well, they told me that I had contributed so it would remain there, so I said: "no, I haven't contributed, because they haven't listened to anything I said. So in the end it was quite a battle but finally I threatened legal action against them and they removed my name; and I think this happens a great deal. Those people who are specialists but don't agree with the polemic and resign – and there have been a number that I know of – are simply put on the author list and become part of the '2500 of the world's top scientists'".*

In deciding whether this resulted in unfairness to the IPCC the Committee took account of Practice 7.11 of the Code (provided above).

For the sake of clarification, the Committee noted that the IPCC had originally believed Professor Reiter's comments in the programme may have been in relation to his experience of working on AR4 (2007). During the course of the complaint, Channel 4 clarified that Professor Reiter had in fact been referring to his experience of working on TAR (2001). In the Committee's view, the amendment of the complaint in this way did not alter its ability to consider whether the comments made by Professor Reiter in the programme, above, resulted in unfairness to the IPCC.

The Committee considered how viewers were likely to have understood the comments of Professor Reiter, as made in the programme.

The Committee noted, from the information provided by both parties, that there was no written documentation to confirm that Professor Reiter had resigned from the IPCC or that it had been necessary for him to threaten legal action to have his name removed from the IPCC's list. According to Professor Reiter, his resignation had been made over the phone. Notwithstanding this, the Committee considered that the comments that Professor Reiter made in the programme were of a critical nature. In the Committee's opinion, viewers were likely to have been left with the impression that the IPCC is content to bolster its own reputation by using the names and qualifications of reputable scientists (sometimes without their consent) in circumstances where the scientists' views had not been taken into consideration or when the scientists had disagreed with the findings of the IPCC reports. This was, in the Committee's view, a significant allegation that went to the credibility of the IPCC's reputation and therefore the IPCC was entitled to be offered an appropriate and timely opportunity to respond.

In assessing whether the IPCC had been provided with a timely and appropriate opportunity to respond, the Committee took account of Practice 7.11 (see above).

The Committee considered the programme maker's emails to the IPCC. The Committee noted that the email of 26 February 2007, contained the following information about Professor Reiter's resignation:

"Also Professor Reiter's assertions that his expert advice was ignored on the question of insect-bourne diseases; can you comment on Professor Reiter's description of his resignation from the IPCC, and its response to his request and those of other scientists, to have their name removed from the IPCC reports:

'My colleague and I repeatedly found ourselves at loggerheads with persons who insisted on making authoritative pronouncements, although they had little or no knowledge of our speciality. At the time, we were experiencing similar frustrations as Lead Authors of the Health Section of the US National Assessment of the Potential Consequences of Climate Variability and Change (US global Change Research Program). After much effort and many fruitless discussions, I decided to concentrate on the USGCCRP and resigned from the IPCC project. My resignation was accepted, but in a first draft I found that my name was still listed. I requested its removal, but was told it would remain because "I had contributed". It was only after strong insistence that I succeeded in having it removed.'

(House of Lords Economic Affairs Committee –
Memorandum by Professory Paul Reiter, Institut, Paris)''

The Committee noted that the information provided did not specifically set out the comments that Professor Reiter made in the programme as broadcast. Notably, he referred in the programme as broadcast to having to take "*legal action*" and not "strong insistence" as described to the IPCC (above). The Committee also noted that Professor Reiter's criticisms had been described by using extracts from the House of Lords memorandum. However, the Committee took the view that it could be understood from the email that Professor Reiter was critical of the way that the IPCC intended to use his name on the author's list and that other scientists had requested to have their names removed in a similar way. Therefore the Committee considered that the programme makers had provided the IPCC with sufficient information to understand the broad nature of Professor Reiter's criticisms in relation to his resignation and the IPCC's authors list.

The Committee next considered whether the IPCC had been provided with sufficient time for it to be able to respond to the programme maker's request for a response.

For the reasons set out in Head (i) of the Decision, the Committee found that the programme maker's emails offering an opportunity to respond did not indicate the deadline for response in a timely way and did not allow sufficient time for the IPCC's response once a deadline was given.

Taking the above factors into consideration, in relation to Head (v) the Committee concluded that the IPCC was not afforded an appropriate and timely opportunity to respond to the allegation regarding the statements by the IPCC in relation to the IPCC's handling of Professor Reiter's resignation or the compilation of its author's lists. The broadcast of a significant allegation about the credibility of the IPCC

without an appropriate and timely opportunity to respond being offered to the IPCC was therefore unfair.

Accordingly the Committee upheld this part of the IPCC's complaint.

- vi) The Committee next considered the IPCC's complaint that the programme provided limited and misleading information about the reported criticism of the IPCC's SAR (1995) by Professor Frederick Seitz. The Committee noted that this complaint related to the following part of the programme:

Commentary: "In a letter to the Wall Street Journal, Professor Frederick Seitz, former President of America's National Academy of Sciences, revealed that IPCC officials had censored the comments of scientists. He said that: "This report is not the version that was approved by the contributing scientists".

At least 15 key sections of the science chapter had been deleted. These included statements like: "None of the studies cited has shown clear evidence that we can attribute climate changes to increases in greenhouse gases."; "No study to date has positively attributed all or part of the observed climate changes to man-made causes."

Professor Seitz concluded: "I have never witnessed a more disturbing corruption of the peer review process than the events that led to this IPCC report."

In its reply the IPCC did not deny making these deletions, but it said there was no dishonesty or bias in the report; and that uncertainties about the cause of global warming had been included. The changes had been made, it said, in response to comments from governments, individual scientists, and non-governmental organisations."

In deciding whether this resulted in unfairness to the IPCC the Committee took account of Practice 7.11 of the Code (provided above).

In the Committee's view, this part of the programme referred to reported criticisms of the IPCC that were of a very serious nature. The Committee considered that viewers would have understood from the programme's presentation of this incident that the IPCC had been criticised by Professor Seitz for '*censoring*' the comments of scientist and allowing "*officials*" to significantly alter the report which had been approved by the scientists. In the Committee's opinion, the way in which the term "*officials*" had been used suggested to viewers that these individuals were not scientists. The Committee also noted that the quote by Professor Seitz, as included in the programme, explicitly alleged "*corruption of the peer review process*".

The Committee noted that the programme had included a contemporaneous response from a Lead Author, Dr Santer, who was responsible for Chapter 8 of the SAR (1995). This was portrayed in the programme as a response from the IPCC. The Committee considered this to be a fair description as Dr Santer's response had been co-signed by 40 scientists from eight countries, all of whom were either lead authors or contributing authors on the SAR (1996). This response had been published by *The Wall Street Journal* on 26 June 1996.

The Committee read the full copy of Dr Santer's response, as published in *The Wall Street Journal*. In the Committee's view, the summary of the response as provided in the programme appropriately reflected his statements that the changes had not been made in a dishonest way; that the report had included the uncertainties about the cause of global warming; and that the changes had been made in response to comments received from various parties. However, the Committee noted that the programme's summary of the response did not explain that the response had also stated that the "bottom-line" conclusions of the report had remained unchanged; the content of the deleted sentences had remained in the report; and Professor Seitz had made the criticisms when he had had no involvement in the SAR (1996) and had not attended the IPCC meeting in which the changes to the report had been discussed. The Committee considered these parts were important components of Dr Santer's published response.

The Committee noted that the programme makers had offered the IPCC an opportunity to respond to this part of the programme. The Committee went on to consider whether this opportunity to respond had been provided in a timely and appropriate way (as outlined in Practice 7.11, above).

The Committee considered the programme maker's emails to the IPCC. The Committee noted that the email of 26 February 2007 contained the following information about Professor Seitz' criticism:

"Also in regards to *The Wall Street Journal* article (link below), a 'Major deception on global warming' (June 12 1996), written by Frederick Seitz, and the response in *The Wall Street Journal* by Professor Ben Santer; does the IPCC have anything to add?"

In the Committee's opinion, the above information explained that the programme would revisit Professor Seitz's reported criticism and the published response from Dr Ben Santer. In the Committee's view, the programme makers had provided sufficient information for the IPCC to understand the nature of the criticism to be made against it.

The Committee next considered whether the IPCC had been provided with sufficient time for it to be able to respond to the programme maker's request for a response.

For the reasons set out in Head (i) of the Decision, the Committee found that the programme maker's emails offering an opportunity to respond, did not indicate the deadline for response in a timely way and did not allow sufficient time for the IPCC's response once a deadline was given.

Taking the above factors into consideration, in relation to Head (vi) the Committee found that the IPCC had not been provided with an appropriate and timely opportunity to respond to the re-broadcast of Professor Seitz's reported criticisms. In the Committee's view the programme's summary of Dr Santer's contemporaneous response had failed to represent his response in a fair manner, as important aspects of his response had been omitted. In the circumstances, the Committee considered that the serious allegations made by Professor Seitz were presented without any appropriate current or contemporaneous response from the IPCC. The presentation of Professor Seitz's criticisms without a proper opportunity being offered to the IPCC, was therefore unfair.

Accordingly the Committee had upheld this part of the IPCC's complaint.

In summary, the Committee found the programme broadcast a number of significant allegations which called into question the IPCC's scientific credibility and that the IPCC had not been offered an appropriate and timely opportunity to respond to these. This resulted in unfairness in the programme as broadcast

The Committee therefore partly upheld the IPCC's complaint of unfair treatment.

Channel 4 was found in breach of Rule 7.1 of the Code.

The broadcaster has been directed to broadcast a summary of this Adjudication on Channel 4 and on More4.

Complaint by Professor Carl Wunsch

The Great Global Warming Swindle, Channel 4, 8 March 2007

Summary: Ofcom has partly upheld this complaint of unfair treatment made by Professor Carl Wunsch.

On 8 March 2007 Channel 4 broadcast the programme *The Great Global Warming Swindle* which challenged the theory that man-made activity is a major cause of global warming. The programme included a contribution from an oceanographer, Professor Carl Wunsch.

Professor Wunsch complained that he was treated unfairly in the programme as broadcast as he was not properly informed about the nature and likely content of the programme and because the programme misrepresented both his general views on the subject of climate-change and his comments on the relationship between CO₂ in the ocean and temperature change.

Professor Wunsch's complaint was considered by Ofcom's Fairness Committee, its most senior decision making body in matters of Fairness and Privacy. In summary the Committee found the following:

- The Committee found that the programme makers failed to properly inform Professor Wunsch that the programme was a polemic which would claim that the consensus on the theory of man-made global warming was based on unsound science. The Committee found this resulted in unfairness in the programme as broadcast.
- The use of Professor Wunsch's contribution in the programme was likely to have left viewers with the impression that he agreed with the premise of the programme. Such an impression was inconsistent with the views Professor Wunsch expressed during his full untransmitted interview. This was unfair.
- The editing of Professor Wunsch's comments about the presence of CO₂ in the ocean did not result in unfairness.

Introduction

On 8 March 2007 Channel 4 broadcast *The Great Global Warming Swindle*. This programme sought to challenge the theory that human industrial activity is a major cause of climate change and global warming. The programme included contributions from a wide range of scientists who argued that the current consensus on the causes of global warming was based on unsound science and was politically motivated:

"In this film it will be shown that the earth's climate is always changing. That there is nothing unusual about the current temperature and that the scientific evidence does not support the notion that climate is driven by carbon, dioxide, man-made or otherwise. Everywhere you are told that man-made climate change is proved beyond doubt. But you are being told lies.

"...this is a story of how a theory about climate turned into a political ideology...it is the story of the distortion of a whole area of science...it is

the story of how a political campaign turned into a bureaucratic bandwagon...”

The programme included a contribution from Professor Carl Wunsch, who the programme described as an expert in oceanography. Professor Wunsch made a number of comments on various topics including the limitations of statistical models, the ‘memory’ of the ocean and the bias towards dramatic scientific reports.

Professor Wunsch also spoke about the presence of carbon dioxide (CO₂) in the ocean. Professor Wunsch’s comments on this topic followed a section of the programme which identified oceans as the world’s biggest source of CO₂. Professor Wunsch stated that the ocean is the major reservoir of CO₂ which when heated tends to emit CO₂, and when cooled is able to dissolve CO₂.

Professor Wunsch complained to Ofcom that he was treated unfairly in the programme as broadcast.

The Complaint

In summary, Professor Wunsch complained that he was treated unfairly in the programme as broadcast in that:

- a) He was misled about the nature and likely content of the programme. Professor Wunsch said that he had been led to believe that he was being asked to appear in a film that would discuss, in a balanced way, the complicated elements of understanding climate change. Professor Wunsch said that at no time was he informed of the title of the film, nor was it even hinted to him that the programme would be polemical.
- b) The programme misrepresented his views, both in general and specifically:
 - i) Professor Wunsch complained that his comments were juxtaposed with those of other experts in such a way that viewers would have understood that he was adhering to their extreme positions as “global warmer deniers”. Professor Wunsch said that he had made it clear, in the preliminary discussions and in the interview itself, that global warming is a very serious threat that needed equally serious discussion. Professor Wunsch said that no one who watched the programme could possibly deduce that this was his true scientific view.
 - ii) Professor Wunsch said that the programme makers used his contribution, through its context, to imply that CO₂ was all natural, coming from the ocean, and that therefore the human element is irrelevant. Professor Wunsch said he had told the programme makers that a warming ocean could expel more CO₂ than it absorbs – thus worryingly exacerbating the greenhouse gas build-up in the atmosphere. Professor Wunsch said that the use of his remarks in this way came close to fraud.

Channel 4’s statement in response to the complaint

In summary Channel 4 responded as follows:

- a) In response to Professor Wunsch’s complaint that he had been misled about the nature and likely content of the programme, Channel 4 said the programme makers had been recommended to contact Professor Wunsch precisely because

he had been outspoken in the past about the unscientific nature of the global warming panic about the Gulf Stream¹¹ turning off.

Channel 4 referred to the pre-broadcast correspondence between the complainant and the programme makers and said it showed that Professor Wunsch could have been in no doubt whatsoever as to the nature of the programme. Channel 4 provided Ofcom with a copy of the letter that the programme makers had sent to Professor Wunsch, inviting him to take part in the programme. Channel 4 said the letter spelled out in the clearest possible terms the programme's content and nature.

Channel 4 said that when the programme makers interviewed Professor Wunsch, at no time did he give them any reason to suppose that he was out of sympathy with the programme. On the contrary, Channel 4 said the programme makers swapped anecdotes with him about the absurd apocalyptic reporting of the global warming scare in the press and TV. Channel 4 said the programme makers also informed the complainant of other contributors who it said were well-known for their critical views on the theory of man-made global warming.

In relation to the programme's title, Channel 4 said the programme did not have one at the time of filming, and noted that very often programme titles are not finalised until near to the transmission date. Channel 4 said the working title of the programme was "Global Warming".

- b) In response to Professor Wunsch's complaint that the programme misrepresented his views, both in general and specifically, Channel 4 stated that it wholly denied this complaint.

In its statement, Channel 4 identified the four extracts of Professor Wunsch's interview which were used in the programme. It then highlighted the context in which the extracts had originally been made (in the complainant's unedited interview) and the context in which it had been used in the programme as broadcast. Channel 4 said when compared like this, it was apparent that the extracts used in the programme had not been taken out of context or unfairly edited, and did not misrepresent Professor Wunsch. Channel 4 said the four issues which Professor Wunsch addressed in the programme mirrored the anticipated subject areas of the interview as set out in the letter inviting Professor Wunsch to participate.

- i) In response to the complaint that the programme created the impression that Professor Wunsch was a "global warming denier", Channel 4 said that at no point did the programme or the contributors deny that climate change is taking place. Rather the programme disputed whether the recent warming is unusual or alarming, and the degree to which green house gases in general, and human emissions of CO₂ in particular, are primarily responsible for it.

Channel 4 said that while many of the interviewees disagreed with one another on a variety of aspects pertaining to climate theory, as far as the programme makers were aware, all were in one way or another critical of the global warming alarm. Channel 4 said Professor Wunsch's generally critical view of the global warming alarm was abundantly clear from the whole tenor of his interview. Channel 4 stated that he made very few allusions to potential dangers of global warming and even these were vague and heavily qualified.

¹¹ The Gulf Stream is one of the strongest ocean currents in the world.

Further, Channel 4 said that Professor Wunsch had argued repeatedly that any risks were not certain and that they could not be directly linked with anthropogenic (man-made) causes. Channel 4 noted that the interview was concerned overwhelmingly with discussions of the oceans and the unscientific alarmism over the Gulf Stream shutting down, the unreliability of models, the distorting effects of governmental funding for science and problems with the relationship between science and the media.

- ii) In response to Professor Wunsch's complaint that the programme specifically misrepresented his comments in relation to CO₂ and the ocean, Channel 4 stated that it wholly rejected this allegation.

Channel 4 stated that Professor Wunsch's complaint that the programme had implied that CO₂ was all natural, was patently incorrect. Channel 4 said that at no point did the programme suggest CO₂ was "all natural".

Channel 4 said that the programme explained that CO₂ is a greenhouse gas and that warmer oceans produce more CO₂ and that there is a very long delay between a change in temperature and a change in the amount of CO₂ being emitted or absorbed by the oceans.

Channel 4 said the questions which elicited the comments from Professor Wunsch were specific and his answers were clear and correct. Further, Professor Wunsch's statements that were included in the programme perfectly, accurately and fairly reflected the views of Professor Wunsch as expressed in his interview.

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 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.

Professor Wunsch's complaint was considered by Ofcom's Fairness Committee, its most senior decision making body in matters of Fairness and Privacy. In reaching its decision, the Committee carefully considered all the material provided by both parties, including a recording and transcript of the programme as broadcast, recordings (and transcripts) of Professor Wunsch's unedited interview and the written submissions from both parties (which included supporting documents).

The Committee acknowledged that while there is a declared consensus amongst scientists, governments and the public that global warming is directly related to anthropogenic causes, this is still a topic of debate. There continues to be discussion about the different methods of measuring change in the climate, the best way these changes should be analysed, and what predictions, if any can be made from the data. Indeed such discussion and debate are essential for the formulation of robust,

scientifically sound, theories, projections and conclusions. Global warming is clearly a legitimate and important subject for programme makers and it is not Ofcom's role to adjudicate on whether global warming is a man-made phenomenon or on the validity of particular scientific views. Rather, in regard to this complaint, Ofcom is required to determine whether the programme has resulted in the unfair treatment of Professor Carl Wunsch.

With this in mind, the Committee found as follows:

- a) The Committee first considered Professor Wunsch's complaint that he had been misled about the nature and likely content of the programme. In his complaint Professor Wunsch had said that he had been led to believe he was being asked to appear in a film that would discuss, in a balanced way, the complicated elements of understanding climate change and that at no time was he informed of the title of the film, nor was it even hinted to him that the programme would be polemical.

In reaching a decision about this element of the complaint the Committee took account of Practice 7.3 which includes the following:

“Where a person is invited to make a contribution to a programme (except when the subject matter is trivial or their participation minor) they should normally, at an appropriate stage: be told the nature and purpose of the programme, what the programme is about and be given a clear explanation of why they were asked to contribute.”

The Committee considered the complaint that Professor Wunsch had not been advised of the programme's title. There is no obligation under the Code for programme makers or broadcasters to inform potential or existing contributors of a programme's title.

However, as set out above, potential contributors to a programme should be given sufficient information about the programme's nature and purpose to enable them to make an informed decision about whether or not to take part. It is important to note that, in Ofcom's view, consent is a continuum that applies from the commencement of a contributor's participation and continues until their involvement is concluded. Therefore in assessing whether a contributor has given informed consent for their participation, Ofcom will not only look at the information that was provided to the contributor prior to the recording of the contribution (that has been made available for its consideration), but where possible will also consider the contribution itself. In this case, the Committee was able to view pre-interview correspondence and the unedited recordings of Professor Wunsch's full interview.

The Committee noted that Professor Wunsch had been contacted initially by the programme makers via email on 15 September 2006. The initial email advised Professor Wunsch that they were producing a programme “about the climate change debate” and that they had read reports about the “effects of climate change on the Great Ocean Conveyor Belt and the Gulf Stream, and wanted to ask if you agree with the conclusions that they are in imminent danger of shutting down”. The letter went on to say that “We are looking for a contributor to talk to us about whether global warming is having a detrimental effect on the oceans or if it is just the case that we don't yet have enough information to make it a full gone [sic] conclusion”.

Professor Wunsch responded to the email on 18 September 2006. He responded that this was “absolutely not” the case, stating that “you can’t turn the Gulf Stream off as long as the wind blows over the North Atlantic and the earth continues to rotate!” and went on to describe the ‘conveyor’ as “a kind of fairy-tale for grownups”. Professor Wunsch said that “I’m willing to talk about these things. I believe that there are all kinds of things happening in the oceans, many highly troubling, but I also believe that one should distinguish what the science tells us and what is merely fantasy”.

Following this, the programme makers and Professor Wunsch discussed by telephone the possibility of an interview on at least one occasion. While Ofcom was not provided with information indicating the exact contents of their phone conversation, it was provided with an email from the programme makers to Professor Wunsch which was sent shortly after the phone conversation on 19 September 2006. The email outlined the approach to be taken by the programme makers and aimed to clarify the “position” of the programme makers. The email stated:

“We are making a feature length documentary about global warming for Channel Four in the UK. The aim of the film is to examine critically the notion that recent global warming is primarily caused by industrial emissions of CO₂. It explores the scientific evidence which jars with this hypothesis and explores alternative theories such as solar induced climate change. Given the seemingly inconclusive nature of the evidence, it examines the background to the apparent consensus on this issue, and highlights the dangers involved, especially to developing nations, of policies aimed at limiting growth.”

The email then went on to set out areas about which they wished to interview Professor Wunsch:

“We would like to do an interview with you to discuss the notion that there is a scientific consensus on the effects of global warming on the Great Ocean Conveyor Belt, the Gulf Stream and the North Atlantic Drift. It has been widely reported that Britain and Western Europe could soon be plunged into a mini ice age, and we would like to show that this is simply not true that they will shut down.

We would like to talk to you about the numerical models and whether they give us a realistic perspective of the impact of climate change on our oceans.

We would also like to talk to you about the ‘memory’ of oceans and how it can take varying amounts of time for a disturbance to be readable in the North Atlantic.

Fundamentally, we would like to ask you whether scientists have enough information about the complex nature of our climate system. Do the records go back far enough to identify climate information about the complex nature of our climate system? Do the records go back far enough to identify climate trends, and can we conclusively separate human induced change from natural change?”

On 21 September 2006, the programme makers wrote again to Professor Wunsch and said that “I hope you will be able to participate and discuss some of the issues

that have been misunderstood by the public concerning the relationship with climate change and the oceans”.

The remainder of the pre-broadcast correspondence between the complainant and the programme makers related to the filming schedule and the arrangement of a date and time for the interview.

The Committee carefully considered all of the pre-interview correspondence and Professor Wunsch’s unedited recorded interview.

In relation to the type of contribution that the programme makers were seeking from Professor Wunsch, the Committee considered that the pre-interview correspondence had indicated that the programme makers intended to ask his view on a number of different topics. These included discussing with him whether there was a real danger of particular ocean currents ‘shutting down’ and the notion that there is a scientific consensus on this, the limitations of numerical models, the ‘memory’ of oceans and the resulting time lag for a disturbance to be readable when attempting to interpret ocean data, and whether there is sufficient information for scientists (and the general public) to draw conclusions about any relationship between human activity and climate change. The Committee noted from the unedited recording of Professor Wunsch’s interview that these were indeed the topics that were raised with the complainant, and were the same ones which Professor Wunsch was shown commenting on in the programme as broadcast (see Head b(ii) below).

In relation to the nature and purpose of the programme, the Committee considered that the pre-interview correspondence indicated that the programme was going to examine in a critical way the current consensus on man-made climate change. It was also clear from the correspondence that the programme makers intended to do this through exploring theories which went against the scientific consensus and through looking at the potential dangers (in light of the inconclusive evidence of man-made climate change) of policies aimed at limiting industrial growth. The Committee noted that the recorded interview with Professor Wunsch also proceeded on this basis.

In the Committee’s view, the pre-interview correspondence and the recorded interview did accurately describe parts of the programme. However, the Committee felt that neither the pre-interview correspondence nor the recorded interview gave a sufficient indication of the programme’s overall nature and purpose.

The programme referred to “*propaganda*” and “*lies*” and set out to show that the theory of man-made global warming does not represent credible science. In the Committee’s view, the programme was a polemic which argued that the theory of man-made global warming had been promoted and funded by politicians and other groups for their own agenda and that the consensus of man-made global warming was based on unsound science.

While the Committee acknowledged that the programme makers had informed Professor Wunsch it would “examine critically” the “apparent consensus”, and may have discussed with Professor Wunsch the other programme contributors, it found no indication that Professor Wunsch had been informed of the polemical line that the programme would take, for example that the programme would state that the public was “*being told lies*” and the “*scientific evidence does not support the notion that climate is driven by carbon dioxide, man-made or otherwise*”. In the

circumstances, the Committee considered that Professor Wunsch was not provided with adequate information to enable him to give informed consent for his participation.

The Committee found this caused unfairness to Professor Wunsch in the programme as broadcast in that his contribution had been used in a programme, in circumstances where he had not given informed consent for his participation. Please see Head b(i) below for a related finding.

Accordingly, the Committee upheld this part of Professor Wunsch's complaint.

- b) Professor Wunsch complained that the programme misrepresented his views. The Committee looked separately at the way the programme presented Professor Wunsch's general views and those specifically relating to the presence of CO₂ in the ocean.

In reaching its decision in relation to Heads b(i) and b(ii) the Committee took account of Practice 7.6 which states that:

"When a programme is edited, contributions should be represented fairly."

- i) Professor Wunsch complained that his comments were juxtaposed with those of other experts in such a way that viewers would have understood that he was adhering to their extreme positions as "global warmer deniers". Professor Wunsch said that he had made it clear in the preliminary discussions and in the interview itself that global warming is a very serious threat that needed equally serious discussion. Professor Wunsch said that no one who watched the programme could possibly deduce that this was his true scientific view.

In the programme as broadcast, Professor Wunsch was described as an expert on oceanography and was shown making a number of comments about the ocean such as its ability to absorb and emit CO₂ and to reflect past events from as far back as 10,000 years. Professor Wunsch also spoke about the limitations of statistical models and the bias towards dramatic scientific reports. Examples of his comments in the programme include the following statements:

"The ocean has a memory of past events running out as far as 10,000 years so for example, if somebody says 'oh I'm seeing changes in the north Atlantic this must mean that the climate system is changing', it may only mean that something happened in a remote part of the ocean decades or hundreds of years ago whose effects are now beginning to show up in the north Atlantic."

"The models are so complicated you can often adjust them in such a way that they do something very exciting."

"...So there is a bias, there is a very powerful bias within the media and within the science community itself towards results which are dramatisable [sic]."

Professor Wunsch did not make any wider comments in the programme about his own views on man-made global warming. However, in the Committee's opinion, viewers were very likely to understand from the context of the

programme in which his comments were used, that Professor Wunsch's agreed with the premise of the programme.

The Committee considered that such an impression was inconsistent with the views Professor Wunsch expressed in his full untransmitted interview. In Professor Wunsch's unedited interview he expressed a number of concerns about the public's misunderstanding of the climate change debate, for example he said that it is not yet possible to *prove* that particular changes in our environment are being caused by human industrial activity, and that the media tended to favour those scientific predictions which warned of disaster. However, on a number of occasions Professor Wunsch endorsed the scientific consensus as reasonable:

"So it isn't the consensus *per se* that is the issue, and **most of the time consensus is at least operationally the correct way to proceed**, it's [the issue that is] the need apparently for consensus in the midst of the turmoil of science that is advancing rather more slowly...than we would like."

"**The consensus** that emerges through the IPCC [Intergovernmental Panel on Climate Change] process **is generally a reasonable one**. But very little of it can actually be proven in the sense that one might say, okay, I can demonstrate to you that Newton's laws of motion will describe the flight of a ball..."

"I believe a consensus of most scientists who work in climate, given that it is a rather young science, without sufficiently long records, is that there is a very real threat of global warming. Most of the data we have do show that the Earth is warming up, has been warming roughly over the last 100 years. The extent to which this is anthropogenic is the subject of fierce debate. **There is a consensus I think of the great majority of scientists that there's strong evidence that a big part of it, if not most of it, is anthropogenic**...And even were it to turn out that it was natural, the threat to humans is very much the same. And one might argue that there has been too much debate about whether it is anthropogenic and whether is it natural and too little attention paid, first of all what are we going to do if this continues to happen? Because there will be real effect on human beings even if it were natural."

"**The healthy science says that, "yeah, there is a working story, but at the same time there are problems with it"**, and it's quite possible that many of the elements that go into the consensus in ten years' time will be understood actually not to have been true or as accurate as people thought."

Professor Wunsch also stated:

"I agree that **there's a very serious risk here** [with global warming]. But where I begin to disagree is where people say "the data shows" or "my model proves that", it's not at that level."

[Ofcom emphasis]

The Committee did not consider that the editing of the programme presented Professor Wunsch as denying that global warming is taking place. However it noted that the programme included his edited interview in the context of a range of scientists who denied the scientific consensus about the anthropogenic causes of global warming. In the Committee's view Professor Wunsch made clear in his full unedited interview that he largely accepted this consensus and the seriousness of the threat of global warming (albeit with caveats about proof) and therefore found that the presentation of Professor Wunsch's views, within the wider context of the programme, resulted in unfairness to him.

Accordingly the Committee upheld this part of Professor Wunsch's complaint.

- ii) Lastly, the Committee considered whether the programme misrepresented Professor Wunsch's views in relation to the oceans and CO₂.

Professor Wunsch complained that the programme makers used his contribution to imply that CO₂ was all natural, coming from the ocean, and that therefore the human element is irrelevant. Professor Wunsch said he had explained to the programme makers that warming oceans could expel more carbon dioxide than they absorb – thus worryingly exacerbating the greenhouse gas build-up in the atmosphere.

The Committee noted that in the programme as broadcast Professor Wunsch's comments about this topic were presented in the following way:

Commentary: [commentary and programme contributions explaining that "*Humans are not the main source of carbon dioxide*"]

Commentary: "*...But the biggest source of CO₂ by far is the oceans.*"

Commentary: "*Carl Wunsch is professor of Oceanography at MIT. He was also visiting professor in oceanography at Harvard University and University College London and a senior visiting fellow in mathematics and physics at the University of Cambridge. He is the author of four major text books on oceanography.*"

Professor Wunsch: "*The ocean is the major reservoir into which carbon dioxide goes when it comes out of the atmosphere or from which it is readmitted to the atmosphere. If you heat the surface of the ocean it tends to omit carbon dioxide. Similarly if you cool the ocean surface, the ocean can dissolve more carbon dioxide.*"

Commentary: "*So the warmer the oceans the more carbon dioxide they produce and the cooler they are the more they suck in but why is there a time lag of hundreds of years between a change in temperature and a change in the amount of carbon dioxide going into or out of the sea. The reason is that oceans are so big and so deep*

they take literally hundreds of years to warm up and cool down.”

Professor Wunsch: *“The ocean has a memory of past events running out as far as 10,000 years. So for example, if someone says oh I’m seeing changes in the North Atlantic this must mean that the climate system is changing. It may only mean that something happened in a remote part of the ocean decade or hundreds of years ago whose effects are now beginning to show up in the North Atlantic.”*

From the above extracts in this part of the programme, the Committee believed viewers would have understood that the ocean is the biggest reservoir of CO₂ (both natural and man-made CO₂), that temperature fluctuations can cause the ocean to omit or absorb CO₂, and that the ocean does not react to temperature changes immediately as there is a time lag of up to hundreds of years. The Committee viewed a recording of Professor Wunsch’s unedited interview and, in its opinion, the programme had provided a fair representation of Professor Wunsch’s unedited contribution about the relationship between the CO₂ in the ocean and temperature.

The Committee had regard to Professor Wunsch’s claim that he had been trying to make the point that warming oceans could expel more carbon dioxide than they absorb – thus worryingly exacerbating the greenhouse gas build-up in the atmosphere. The Committee noted from the unedited interview that Professor Wunsch had referred to the greenhouse effect on a couple of occasions. However, in the Committee’s opinion Professor Wunsch’s comments in this respect had not been primarily to warn of the dangers of warming the ocean (as Professor Wunsch had suggested in his complaint). Rather the references had been used to make the point that the relationship between carbon dioxide and atmospheric temperature is complicated. In the Committee’s view, it was entirely at the programme maker’s editorial discretion to decide whether to include these comments in the programme.

In relation to Head b(ii) the Committee therefore found that the programme maker’s editing of Professor Wunsch’s comments about the presence of CO₂ in the ocean did not result in unfairness in the programme as broadcast. Accordingly the Committee did not uphold this part of Professor Wunsch’s complaint.

In conclusion, the Fairness Committee has partly upheld Professor Wunsch’s complaint of unfair treatment.

The Committee found Channel 4 in breach of Rule 7.1 of Ofcom’s the Code.

The broadcaster has been directed to broadcast a summary of this Adjudication on Channel 4 and on More4.

Other Programmes Not in Breach/Resolved

2 – 15 July 2008

Programme	Trans Date	Channel	Category	No of Complaints
8 Out of 10 Cats	27/06/2008	Channel 4	Generally Accepted Standards	7
Alan Carr's Celebrity Ding Dong	08/02/2008	Channel 4	Generally Accepted Standards	1
Alan Lake	21/06/2008	Q Radio	Crime (incite/encourage)	1
All New You've Been Framed	28/06/2008	ITV1	Animal Welfare	1
All New You've Been Framed	28/06/2008	ITV1	U18's in Programmes	1
All Star Family Fortunes	05/07/2008	ITV2	Generally Accepted Standards	2
Allan Beswick	17/06/2008	BBC Radio Manchester	Generally Accepted Standards	1
BBC News	25/06/2008	BBC News 24	Information/Warnings	1
BBC News	16/06/2008	BBC1	U18's in Programmes	6
Basil - The Great Mouse Detective	08/06/2008	Disney Cinemagic	Substance Abuse	1
Beat the Star	27/04/2008	ITV1	Generally Accepted Standards	1
Bedroom TV	25/06/2008	Bedroom TV	Generally Accepted Standards	1
Big Brother 9	09/07/2008	E4+1	Generally Accepted Standards	1
Big Brother 9	10/07/2008	Channel 4	Generally Accepted Standards	2
Big Brother 9	03/07/2008	Channel 4	Sex/Nudity	1
Big Brother 9	08/07/2008	Channel 4	Generally Accepted Standards	2
Big Brother 9	07/07/2008	Channel 4	Generally Accepted Standards	1
Big Brother 9	03/07/2008	Channel 4	Offensive Language	1
Big Brother 9	09/07/2008	Channel 4	Religious Offence	1
Big Brother 9	20/06/2008	Channel 4	Sex/Nudity	1
Big Brother 9	03/07/2008	Channel 4	Offensive Language	1
Big Brother 9	30/06/2008	Channel 4	Generally Accepted Standards	1
Big Brother 9	01/07/2008	Channel 4	Crime (incite/encourage)	1
Big Brother 9	01/07/2008	Channel 4	Substance Abuse	1
Big Brother 9	25/06/2008	Channel 4	Generally Accepted Standards	3
Big Brother 9	05/07/2008	Channel 4	Generally Accepted Standards	1
Big Brother 9	27/06/2008	Channel 4	Advertising	1
Big Brother 9	14/07/2008	Channel 4	Generally Accepted Standards	1

Big Brother's Big Mouth (trailer)	08/07/2008	Channel 4	Sex/Nudity	1
Big Brother's Little Brother	03/07/2008	E4	Offensive Language	1
Big Brother's Little Brother	02/07/2008	E4	Generally Accepted Standards	1
Big Brother's Little Brother	15/07/2008	Channel 4	Offensive Language	1
Breakfast Show	23/06/2008	Leicester Sound	Sex/Nudity	1
Britain's Got Talent	31/05/2008	ITV1	Use of Premium Rate Numbers	34
Britain's Got Talent	26/05/2008	ITV1	Use of Premium Rate Numbers	6
Britain's Got Talent	27/05/2008	ITV1	Inaccuracy/Misleading	1
C4 "Pigeon" ident	07/07/2008	Channel 4	Animal Welfare	2
Central News	09/06/2008	ITV Central	Inaccuracy/Misleading	1
Channel 4 News	03/07/2008	Channel 4	Offensive Language	3
Channel 4 News	03/07/2008	Channel 4	Due Impartiality/Bias	1
Chris Moyles Show	24/06/2008	BBC Radio 1	Generally Accepted Standards	1
Coronation Street	07/07/2008	ITV1	Substance Abuse	4
Coronation Street	09/07/2008	ITV1	Sex/Nudity	1
Coronation Street	30/06/2008	ITV1	Substance Abuse	1
Cricket	01/07/2008	Sky Sports 1	Generally Accepted Standards	1
Criminal Justice	01/07/2008	BBC1	Sex/Nudity	1
Deal or No Deal	18/06/2008	Channel 4	Animal Welfare	5
Disarming Britain (trailer)	15/06/2008	Channel 4	Generally Accepted Standards	1
Disarming Britain (trailer)	17/06/2008	Channel 4	Generally Accepted Standards	1
Disarming Britain (trailer)	30/06/2008	Channel 4	Generally Accepted Standards	1
Dispatches: In God's Name	19/05/2008	Channel 4	Due Impartiality/Bias	1
Dispatches: It Shouldn't Happen to a Muslim	07/07/2008	Channel 4	Due Impartiality/Bias	2
Dispatches: The Truth About Street Weapons	30/06/2008	Channel 4	Violence	1
Doctor Who	21/06/2008	BBC1	Generally Accepted Standards	1
Doctor Who (trailer)	04/07/2008	BBC1	Generally Accepted Standards	1
Eastenders	02/06/2008	BBC1	Offensive Language	1
Eastenders	26/06/2008	BBC1	Crime (incite/encourage)	1
Eddie Murphy Raw	22/06/2008	Sky Movies Comedy	Generally Accepted Standards	1
Emmerdale	30/06/2008	ITV1	Commercial References	1

Euro 2008 Highlights	29/06/2008	ITV1	Due Impartiality/Bias	2
Euro 2008 Live	09/06/2008	ITV1	Advertising	3
Euro 2008 Live	09/06/2008	ITV1	Other	3
Euro 2008 Live, Greece v Russia	14/06/2008	ITV1	Generally Accepted Standards	3
Euro Zone	n/a	Talksport	Inaccuracy/Misleading	1
Five News	30/06/2008	Five	Generally Accepted Standards	1
Football Focus	28/06/2008	BBC1	Generally Accepted Standards	1
Four Eyes (trailer)	14/06/2008	CITV	Generally Accepted Standards	1
Fried Green Tomatoes at the Whistle Stop Café	30/06/2008	Film4	Generally Accepted Standards	1
Friends	17/06/2008	E4	Other	1
Fur TV	30/06/2008	MTV	Violence	1
GMTV	27/06/2008	ITV1	Generally Accepted Standards	1
GMTV	11/06/2008	ITV1	Generally Accepted Standards	1
GMTV	17/06/2008	ITV1	Due Impartiality/Bias	1
George Gently	13/07/2008	BBC1	Generally Accepted Standards	1
Gladiators	13/07/2008	Sky One	Crime (incite/encourage)	1
Gok's Fashion Fix	05/07/2008	Channel 4	Sex/Nudity	1
Gordon Ramsay's F Word	08/07/2008	Channel 4	Offensive Language	1
Gordon Ramsay's F Word	01/07/2008	Channel 4	Generally Accepted Standards	1
Gordon Ramsay's F Word	01/07/2008	Channel 4	Offensive Language	1
Gordon Ramsay's F Word	08/07/2008	Channel 4	Animal Welfare	2
Gordon Ramsay's F Word	01/07/2008	Channel 4	Animal Welfare	5
Graham Norton	03/07/2008	BBC2	Generally Accepted Standards	1
HappyHourGirls	07/04/2008	HappyHourGirls	Sex/Nudity	1
HappyHourGirls	17/03/2008	HappyHourGirls	Sex/Nudity	1
Higgly Town Heroes	30/06/2008	Playhouse Disney	Generally Accepted Standards	1
Holby Blue	10/04/2008	BBC1	Violence	1
Holby City	24/06/2008	BBC1	Violence	1
Hollyoaks	14/07/2008	Channel 4	Sex/Nudity	1
Homes Under the Hammer	n/a	BBC1	Inaccuracy/Misleading	2
Hooked Up	14/06/2008	Red	Sex/Nudity	1
How TV Changed Britain	28/06/2008	Channel 4	Generally Accepted Standards	3
ITV News	07/07/2008	ITV1	Due Impartiality/Bias	1

Jeremy Vine	24/06/2008	BBC Radio 2	Generally Accepted Standards	1
Jeyes sponsorship of The Bill	n/a	ITV1	Inaccuracy/Misleading	1
Jimmy Carrs Commercial Breakdown	29/06/2008	BBC1	Generally Accepted Standards	1
Jo & Twiggy	01/07/2008	Trent FM	Generally Accepted Standards	1
Jon Gaunt	n/a	Talksport	Inaccuracy/Misleading	1
Jon Gaunt	19/06/2008	Talksport	Generally Accepted Standards	1
Jon Gaunt	08/07/2008	Talksport	Inaccuracy/Misleading	1
Julian Worricker	24/06/2008	BBC Radio 2	Generally Accepted Standards	1
Katie & Peter: The Next Chapter	01/07/2008	ITV2	Dangerous Behaviour	1
Kindergarten Cop	05/07/2008	ITV1	Violence	1
Last of the Dambusters: Revealed	17/06/2008	Five	Generally Accepted Standards	1
Lawn or Porn competition	25/06/2008	XFM Scotland	Sex/Nudity	1
Legend of the Crystal Skulls: Revealed	24/06/2008	Five	Inaccuracy/Misleading	1
Location, Location, Location	25/06/2008	Channel 4	Inaccuracy/Misleading	1
Location, Location, Location	02/07/2008	Channel 4	Inaccuracy/Misleading	1
Location, Location, Location	04/06/2008	Channel 4	Due Impartiality/Bias	17
Location, Location, Location	18/06/2008	Channel 4	Inaccuracy/Misleading	5
Marco's Great British Feast	02/07/2008	ITV1	Substance Abuse	4
Marco's Great British Feast	09/07/2008	ITV1	Substance Abuse	4
Margaret Thatcher: The Long Walk to Finchley	12/06/2008	BBC4	Offensive Language	1
Midsomer Murders	06/07/2008	ITV1	Generally Accepted Standards	2
Midsomer Murders	06/07/2008	ITV1	Animal Welfare	1
Most Evil	11/06/2008	Five	Generally Accepted Standards	1
New You've Been Framed	05/07/2008	ITV1	Animal Welfare	4
Nick Ferrari	18/06/2008	LBC 97.3FM	Crime (incite/encourage)	1
Nytt läge	21/04/2008	TV3 Sweden	Other	1
Past Its Sell-by Date: Tonight	13/06/2008	ITV1	Dangerous Behaviour	1
Playboy TV	29/01/2008	Playboy TV	Sex/Nudity	1

Police, Camera, Action	n/a	ITV1	Crime (incite/encourage)	1
Police, Camera, Action!	01/07/2008	ITV4	Inaccuracy/Misleading	1
Priced Off the Road? Tonight	30/06/2008	ITV1	Inaccuracy/Misleading	5
Quiz Call	05/07/2008	Five	Competitions	1
Quiz Call	21/06/2008	Five	Competitions	1
Reporting Scotland	20/05/2008	BBC1 (Scotland)	Offensive Language	1
Richard & Judy	07/07/2008	Channel 4	Animal Welfare	1
Richard & Judy	07/07/2008	Channel 4	Inaccuracy/Misleading	1
Rick Shaw	17/06/2008	XFM (London)	Generally Accepted Standards	1
Room 101	25/06/2008	BBC2	Generally Accepted Standards	3
Rugby Union	12/04/2008	BBC1 (Scotland)	Offensive Language	1
STV News	03/05/2008	STV	Due Impartiality/Bias	1
Sanningens ögonblick	15/05/2008	Kanal 5	Generally Accepted Standards	1
Sanningens ögonblick	04/05/2008	Kanal 5	Inaccuracy/Misleading	1
Sanningens ögonblick	20/04/2008	Kanal 5	Other	1
Scien-trific!	18/06/2008	D MAX +1	Dangerous Behaviour	1
Secret Diary Of A Call Girl	23/06/2008	ITV3	Sex/Nudity	1
Sexcetera	01/07/2008	Virgin1	Sex/Nudity	1
Sky News	n/a	Sky News	Due Impartiality/Bias	1
Sky Sports News	01/07/2008	Sky Sports News	Violence	1
Sky Sports promo	11/06/2008	Sky Three	Crime (incite/encourage)	1
Sky Sports promo	30/05/2008	Sky Sports News	Crime (incite/encourage)	1
South Park	20/06/2008	Paramount Comedy 1	Generally Accepted Standards	1
Sunrise Radio	n/a	Sunrise Radio	Inaccuracy/Misleading	1
Supernatural (trailer)	15/06/2008	ITV2	Generally Accepted Standards	1
Tarrant on TV	22/06/2008	ITV1	Generally Accepted Standards	2
The Apprentice	11/06/2008	BBC1	Crime (incite/encourage)	1
The Bill	02/07/2008	ITV1	Crime (incite/encourage)	1
The Charlotte Church Show (trailer)	08/07/2008	Channel 4	Offensive Language	1
The Conspiracy Files: 9/11 - The Third Tower	06/07/2008	BBC2	Offensive Language	1
The Gadget Show	07/07/2008	Five	Generally Accepted Standards	1

The Graham Norton Show	26/06/2008	BBC2	Animal Welfare	1
The Hits	27/06/2008	The Hits	Offensive Language	1
The Invisibles	05/06/2008	BBC1	Dangerous Behaviour	1
The Jeremy Kyle Show	01/07/2008	ITV1	Generally Accepted Standards	1
The Man With 20 Kids	07/07/2008	BBC1	Animal Welfare	1
The Real Hustle	22/06/2008	BBC Three	Crime (incite/encourage)	1
The Simpsons	18/06/2008	Sky One	Substance Abuse	1
The Simpsons	04/07/2008	Sky One	Offensive Language	1
The Slammer	13/06/2008	BBC1	Dangerous Behaviour	1
The Sunday Night Project	22/06/2008	Channel 4	Offensive Language	1
The Truth About Street Weapons	30/06/2008	Channel 4	Generally Accepted Standards	1
The Truth About Street Weapons	01/07/2008	Channel 4	Offensive Language	1
This Morning	03/07/2008	ITV1	Inaccuracy/Misleading	1
This Morning	03/07/2008	ITV1	Advertising	1
This Morning	01/07/2008	ITV1	Generally Accepted Standards	1
Tony Horne in the Morning	20/06/2008	Metro Radio	Generally Accepted Standards	1
Top Gear	29/06/2008	BBC2	Offensive Language	1
Top Gear	29/06/2008	BBC2	Generally Accepted Standards	1
Top Gear	06/07/2008	BBC2	Dangerous Behaviour	2
UEFA Cup Live	10/04/2008	ITV4	Generally Accepted Standards	1
UTV Live	23/06/2008	UTV	Animal Welfare	1
UTV News	19/05/2008	UTV	Due Impartiality/Bias	1
Wave 105FM	11/06/2008	Wave 105 FM	Crime (incite/encourage)	1
Weakest Link Special	26/06/2008	BBC1	Generally Accepted Standards	1