
**Decision of the Election Committee on a
due impartiality complaint brought by the
Conservative Party in relation to Channel
4's *Channel 4 News Climate Debate*, 28
November 2019**

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1. Introduction and summary

- 1.1 Ofcom is the UK's independent broadcast regulator. As a post-broadcast regulator, we assess content once it has been broadcast.
- 1.2 During an election period, Ofcom establishes an Election Committee¹ which has delegated authority from the Ofcom Board to consider due impartiality complaints in respect of election-related programmes where the complaint, if upheld, might require redress before the election.
- 1.3 The Election Committee² has considered a complaint from the Conservative Party about the *Channel 4 News Climate Debate* which was broadcast on 28 November 2019 ("the Complaint").
- 1.4 The format of election debate programming is a matter of editorial freedom for the individual broadcasters, as long as the programming as broadcast complies with the Ofcom Broadcasting Code ("the Code"). Our rules on due impartiality require that when broadcasters are dealing with major matters relating to current public policy, such as climate change, an appropriately wide range of significant views must be included and given due weight, in each programme or in clearly linked and timely programmes. Due weight must be given to the coverage of parties during the election period.
- 1.5 In deciding upon the format of any election debates, it is for a broadcaster to propose a format, discuss and negotiate with the political parties. There is no obligation for any of the political parties or politicians to participate in any particular programme – it is up to the political parties to decide whether or not they wish to participate. If a broadcaster is unable to agree participation in a programme with any particular politician or party, it is then the broadcaster's editorial decision whether to proceed with the programme or not.
- 1.6 Depending on the particular circumstances, a broadcaster may decide to proceed with an election debate programme and to "empty chair" a political party or politician who decides not to participate. In any event, the broadcaster must ensure that the programmes (including linked programmes) as broadcast comply with the due impartiality requirements of the Code.
- 1.7 In the afternoon of 28 November 2019, the Conservative Party complained to Ofcom about pre-broadcast issues in relation to the *Channel 4 News Climate Debate* programme scheduled for broadcast at 7pm that evening. The Complaint concerned Channel 4's intention to "empty-chair" the Conservative Party and its refusal to accept senior Cabinet Minister, Michael Gove, to attend the *Channel 4 News Climate Debate* instead of the leader of the Conservative Party, Boris Johnson. The Complaint alleged that, Channel 4

¹ The [Terms of Reference for the Election Committee](#) are available on the Ofcom website.

² In this case the Election Committee consisted of the following members: Tim Suter (Chair, Member, Ofcom Board and Chair, Ofcom Content Board); Maggie Cunningham (Member, Ofcom Content Board); Jonathan Baker (Member, Ofcom Content Board); Kevin Bakhurst (Group Director, Content and Media Policy Group and Member, Ofcom Content Board); and Tony Close (Director, Content Standards, Licensing and Enforcement and Member, Ofcom Content Board).

failed to comply with its obligations in respect of due impartiality under Sections Five and Six of the Code in the format and transmission of the *Channel 4 News Climate Debate*.

- 1.8 The Conservative Party asked Ofcom to consider its complaint as a matter of urgency, at the same time acknowledging that Ofcom may take the view that it could not be considered until post-broadcast. The following day post-broadcast, Ofcom asked the Conservative Party if it had any further comments to make about the programme as broadcast and it chose not to provide any further response.
- 1.9 On 29 November 2019, we asked Channel 4 for background information about the *Channel 4 News Climate Debate* and it provided Ofcom with details around the process for making the arrangements for the debate with the various parties. It also told us the steps it had taken to ensure that due impartiality was maintained in the programme in light of Mr Johnson not appearing. Further, Channel 4 provided information regarding the clearly linked and timely programmes on which it was seeking to rely in order to demonstrate that due impartiality was preserved. These programmes included the episode of Channel 4 News broadcast the day after the *Channel 4 News Climate Debate*.
- 1.10 The Election Committee took into account, as context, the pre-broadcast issues that were made clear to the audience of *Channel 4 News Climate Debate* and considered whether the programme and linked programming were duly impartial in that context. The Committee also took into account references made in the programme to the Conservative Party and its policies on climate change, as well as linked Channel 4 News programmes such as the episode broadcast on the evening following the *Channel 4 News Climate Debate*, which summarised Conservative Party manifesto commitments and featured Michael Gove speaking on Conservative climate change policies.
- 1.11 **Ofcom's Election Committee assessed the Complaint from the Conservative Party and the programme as broadcast against the Code and, for the reasons set out below, decided that the programme did not raise any issues warranting further investigation.**

2. Background

- 2.1 The *Channel 4 News Climate Debate* was a one-hour long programme featuring debate on environmental climate-related policy matters between leaders of political parties participating in the 2019 UK General Election due to take place on 12 December 2019. These leaders represented: the Green Party (Sian Berry); the Labour Party (Jeremy Corbyn); the Liberal Democrats (Jo Swinson); Plaid Cymru (Adam Price); and the Scottish National Party (Nicola Sturgeon). The debate involved questions being put to individual leaders by the presenter, Krishnan Guru-Murthy, before being discussed by the whole panel. The programme was moderated by the presenter.
- 2.2 At the start of the programme, which we understand was broadcast on Channel 4 and the Channel 4 + 1 service, the presenter made clear that the *Channel 4 News Climate Debate* was replacing the usual edition of *Channel 4 News*, the programme that ordinarily would be broadcast by Channel 4 at this time. The *Channel 4 News Climate Debate* was produced for Channel 4 by ITN, but we understand that responsibility for compliance rested with Channel 4.

The Complaint

- 2.3 Ofcom received the Complaint on the afternoon preceding the broadcast of the *Channel 4 News Climate Debate*. The Complaint alleged that, in broadcasting the *Channel 4 News Climate Debate*, Channel 4 failed to comply with its obligations in respect of due impartiality (under Section Five of the Broadcasting Code (“the Code”) in the format and transmission of the *Channel 4 News Climate Debate*. As the Complaint fell during the election period for the 2019 UK General Election (which commenced on 6 November 2019 and ends on the date of the poll on 12 December 2019), it said there were also issues to consider under Section Six of the Code (in respect of elections).
- 2.4 Specifically, the Complaint took issue with Channel 4's refusal to accept senior Cabinet Minister Michael Gove (the Chancellor of the Duchy of Lancaster and formerly the Secretary of State for Environment, Food and Rural Affairs) as the representative for the Conservative Party in the *Channel 4 News Climate Debate* if Conservative Party leader Boris Johnson did not attend. The Complaint said that Channel 4's proposed decision to “empty chair” the Conservative Party effectively sought to deprive it of any representation in the debate. This was unfair, breached the requirement to “preserve” impartiality, and did not offer an “appropriately wide range of significant views” to the public. Reference was also made to reports that Channel 4 was planning to commission an ice sculpture of the Prime Minister to represent the Conservative Party in the debate. “[S]uch a provocative partisan stunt”, it argued, would have amounted to “a significant breach” of Rule 7.1 of the Code, and “would itself constitute making a political opinion in its own right”.
- 2.5 The Complaint also argued that the 2019 UK General Election was not a presidential or mayoral election, and that it was the parties and their policies, not individual politicians, which were relevant; that there was precedent for alternative representatives to attend

cross-party leaders debates in lieu of their party leader; and that it would be detrimental to the public interest and news reporting by public service broadcasters if such a wide spectrum of speaking and debate events could not take place, purely because broadcasters insist on specific individuals attending. It also suggested wider issues of alleged bias by Channel 4 against the Conservative Party.

- 2.6 On 29 October 2019, Ofcom asked the Conservative Party if it wished to say any more about the *Channel 4 News Climate Debate* as broadcast and it chose not to provide any further response.

Response from Channel 4

- 2.7 To inform its assessment of the Complaint, Ofcom requested background information from Channel 4 regarding: i) the compliance steps it took to ensure due impartiality and that due weight was given to the viewpoint of the Conservative Party on environmental issues and issues related to climate change in this programme; and ii) any clearly linked and timely programmes which Channel 4 was seeking to rely on in order to demonstrate that due impartiality was maintained and due weight was given to the viewpoint of the Conservative Party on environmental issues and issues relating to climate change in the programme.
- 2.8 Channel 4 provided this information to Ofcom on 1 December 2019. Channel 4 said that from the outset, the programme was intended to be a party leaders' debate. It said that the leaders of the Labour Party, the Liberal Democrats, Plaid Cymru and the SNP and the co-leader of the Green Party, all agreed to participate in the programme on the understanding that it was a leaders' debate. It told Ofcom that significant communication took place with all the parties, including the Conservative Party, but in the end, Mr Johnson did not take part.
- 2.9 Channel 4 also informed Ofcom that it was not only the Conservative Party which tried to put forward a representative for the debate other than the Party Leader. Channel 4 said that the SNP Party Leader, Nicola Sturgeon, had asked for an alternative to attend in her place given that she was required to answer First Minister questions in the Scottish Parliament on the same day between 12:00 and 13:00. Channel 4 said that it explained that if Ms Sturgeon did not attend as leader she would be "empty chaired". However, Channel 4 told Ofcom that, in the end, Ms Sturgeon travelled from Edinburgh to London immediately after First Minister Questions to appear in the *Channel 4 News Climate Debate*.
- 2.10 Channel 4 explained that shortly before the start of the programme, Michael Gove MP, former Secretary of State for Environment, Food and Rural Affairs, arrived unannounced at the ITN building, seeking to take part in the *Channel 4 News Climate Debate*. Channel 4 considered that if Mr Gove had been allowed to participate it would have broken undertakings given to other parties that the programme was to be a debate between party leaders. According to Channel 4, Mr Gove suggested that the *Channel 4 News* team should ask the party leaders in attendance whether they would agree to Mr Gove participating in

the debate instead of Mr Johnson. Channel 4 said it asked the other party leaders, and they declined.

2.11 In relation to the programme as broadcast, Channel 4 said that it was made clear to viewers at the start of the programme that the leaders of the Conservative Party and the Brexit Party had declined to take part in the programme. At the end of the programme, an offer was also made to these leaders to be interviewed on *Channel 4 News* at a later time.

2.12 Channel 4 said the programme was subject to senior editorial and compliance input and oversight within ITN and with significant reference to Channel 4 to ensure due impartiality was maintained. It also said that the editorial team were “very much alive to the need to reflect the Conservative Party viewpoint in the programme where possible and/or in clearly linked and timely programmes”. Channel 4 provided a number of examples from the programme of where it considered the viewpoint of the Conservative Party was included in the programme. These included the following statements made by the presenter, Krishan Guru-Murthy:

- when posing the initial question to the party leaders, Mr Guru-Murthy said: “First, the Conservatives are committed to reaching the emissions target of net zero by 2050. That means the amount of greenhouse gases we are putting into the atmosphere will be balanced by the amount we are taking out. So is 2050 the right target?”;
- a “third of our emissions come from our homes, the Conservative Party say that they will invest over £9 billion on energy efficiency. Now you all talk big on cutting that with insulation and zero carbon homes, but how are you going to actually make people change their heating systems”;
- the “Conservatives for example have got a £640m nature for climate fund, what would you do?”; and
- at the end of the debate, Mr Guru-Murthy said: “Thank you to all our Party Leaders, thank you also to Michael Gove you came here but we made clear this was a debate for Leaders and our Leaders were only prepared to debate other Leaders and our offer to Nigel Farage and Boris Johnson to debate climate change remains open”.

2.13 Channel 4 emphasised that it is an editorial matter for the broadcaster as to how due impartiality is achieved. It considered this position had been recognised by the courts, including in the recent judgment in *The Liberal Democrat Party and The Scottish National Party v ITV Broadcasting Limited*³. In their judgment, Lord Justice Davis and Mr Justice Warby stated that:

“(3) The decision to schedule tomorrow’s debate in this format was a matter for the editorial judgment of ITV, which cannot be said to have displayed a want of due impartiality for the purposes of the Broadcasting Code: especially in the light of subsequent planned interviews, further debate and other programmes, which are properly to be

³ In November 2019, the Liberal Democrat Party and the Scottish National Party made an application to the High Court for a judicial review of ITV’s decision not to include the leaders of their respective parties in an election debate between the leaders of the Conservative Party and the Labour Party broadcast on 19 November 2019. The [judgment](#) stated that ITV was not exercising a public function and was not amenable to judicial review.

regarded as a series of “linked” programmes. No arguable breach of the Broadcasting Code is shown.

(4) The editorial judgment was, in public law terms, a judgment properly and reasonably open to ITV. It did not take into account irrelevant or immaterial factors or fail to take into account relevant or material factors; and the decision cannot be regarded as irrational or perverse. That the Liberal Democrat and the Scottish National Party strongly and sincerely disagree with that editorial judgment gives rise to no valid object in law”.

- 2.14 Channel 4 considered the position of the courts has been consistent when challenges have been made regarding how broadcasters conduct political debate programmes. Channel 4 also considered that in previous cases brought by political parties in England and Scotland the courts have recognised the high public interest importance of this kind of political speech and the strong protection afforded to broadcasters when making editorial choices for such programmes.
- 2.15 Channel 4 also highlighted that the obligation placed on it was for “due” impartiality and to give “due” weight to the Conservative Party’s views. It considered that to be duly impartial in the absence of Mr Johnson, it was not necessary to include every single Conservative Party policy on the environment, but rather to make sure that the Conservative Party’s position on the issues being debated was appropriately reflected either in this particular programme or in clearly linked and timely programmes.
- 2.16 In respect of the decision to place ice sculptures on the podia of the party leaders who declined to attend the debate, Channel 4 said this was a metaphor for the melting of the polar ice caps. Channel 4 considered these sculptures (which took the form of representations of the globe with the name and logo of the relevant party beneath) were in no way pejorative of either party leader personally or the party which they represent. It was also of the view that the editorial decision to include these sculptures was well within the margin of editorial discretion.
- 2.17 With regard to editorially linked programmes, Channel 4 said that the idea to hold a debate between the party leaders on the topic of climate change had been adopted by ITN for the purpose of a special episode of *Channel 4 News* in the lead up to the 2019 UK General Election. To this end, the programme “was broadcast (and clearly identified) as part of the Channel 4 News strand”.
- 2.18 During the election period, Channel 4 considered that “significant coverage [had] been given” to the Conservative Party and its policies, which were “at the heart of the coverage of the election”. In addition, Channel 4 stated that “events, meetings and interviews are broadcast... about the Conservative Party” every day, and cited the recent coverage of the Conservative Manifesto on 24 November 2019, as well as an interview with Michael Gove on 27 November 2019. In relation to *Channel 4 News*’ coverage of environmental policies, Channel 4 referenced a report on fracking on 2 November 2019 which focussed on Conservative policy and featured a discussion between representatives of the major parties, including the Conservative Party.

- 2.19 Channel 4 said that Mr Gove was invited to attend an interview about the Conservative Party's environmental policies after the *Channel 4 News Climate Debate* was broadcast but "this was declined". However, as the programme had received "wide media coverage", a further report was broadcast on *Channel 4 News* the next day on 29 November 2019 as part of *Channel 4 News*' "continuing and linked coverage of the Election". This report was broadcast "in the same time slot and was directly linked to" the leaders debate of the previous night. The segment was covered by *Channel 4 News*' Chief Reporter and included an account of what happened when Mr Gove appeared at ITN seeking to participate in the *Channel 4 News Climate Debate*. The report went on to set out further details of the Conservative Party's environmental policies: on green emissions, their wish to plant 75,000 trees per annum; and spending promises of £500m on ocean protection, £9.2bn on energy efficiency and £1bn on charging points for electric vehicles. It also included Mr Gove stating that his party had "a great record on the environment", how under them the UK had been "the first major developed country to declare a climate emergency" and that they were aiming for net zero emissions of greenhouse gases.
- 2.20 Channel 4 concluded that coverage of Conservative Party policy, along with those of the other parties, would "continue throughout the election".

Statutory Framework

- 2.21 Under section 319 of the Communications Act 2003 (the "Act"), Ofcom has a duty to set such standards for the content of programmes to be included in television and radio services as appear to them best calculated to secure a range of statutory standards objectives. Ofcom has discharged this duty by producing, and from time to time revising, the Code. The standards objectives set out in the Act include special impartiality requirements in respect of matters relating to current public policy. These may be satisfied through a series of programmes taken as whole. See the Annex for full details of the relevant statutory framework.

Applicable provisions of the Broadcasting Code

- 2.22 The Committee considered the Complaint by reference to Sections Five (Due Impartiality and Due Accuracy and Undue Prominence of Views and Opinions) and Six (Elections and Referendums) of the Code and accompanying Guidance Notes. See the Annex for full details of the relevant Code provisions.

3. The Committee's Decision

- 3.1 The Committee assessed the Complaint, along with the information provided by Channel 4, and the *Channel 4 News Climate Debate* programme and linked programme as broadcast.

Pre-broadcast issues

- 3.2 As a post-broadcast regulator, Ofcom assesses content once it has been broadcast. In assessing the due impartiality of this programme, we did so against the backdrop of those pre-broadcast contextual factors that were made clear to the audience in the *Channel 4 News Climate Debate*.
- 3.3 In deciding upon the format of any election debates, it is for a broadcaster to propose a format and then discuss and negotiate with the political parties as to how that format will work in practice. There is no obligation for any of the political parties or politicians to participate in any particular programme – it is up to them to decide whether or not to participate. If a broadcaster is unable to agree participation in a programme with any particular politician or party, it is then the broadcaster's editorial decision whether to proceed with the programme or not. Depending on the particular circumstances, a broadcaster may decide to proceed with an election debate programme and to "empty chair" a political party or politician who decided not to participate. In any event, the broadcaster must ensure that the programme as broadcast (including linked programmes) complies with the requirements of the Code.
- 3.4 As stated at paragraph 1.16 of Ofcom's Guidance Notes on Section Six of the Code, there is no obligation on broadcasters to transmit leaders' or candidates' debates. The format of election debate programming is a matter of editorial freedom for the individual broadcasters and, as appropriate, the relevant political parties, as long as the programming complies with Ofcom's rules on due impartiality and due weight is given to the coverage of parties during the election period.
- 3.5 In the Committee's view, it was Channel 4's editorial decision to propose a debate on the topic of climate change and to frame it as a "leaders' debate". Having done so, the format of the programme was then a matter of negotiation between Channel 4 and the political parties as to who would agree to take part.
- 3.6 Channel 4 secured the agreement of the participants on the basis that the debate would be between party leaders. The Committee considered that Channel 4's refusal to allow Michael Gove to attend the debate in place of Boris Johnson, which it confirmed after checking with the participants if they would agree to vary the terms on which they had agreed to participate, was reasonable. The Committee did not consider that this undermined the due impartiality of the programme in itself, given that the other participants had only agreed to attend on the basis that they would be debating against other leaders.

- 3.7 As we explain above, in deciding to proceed with the *Channel 4 News Climate Debate* without Boris Johnson, Michael Gove, or any other representative of the Conservative Party, Channel 4 had to ensure that the programme as broadcast (including linked programmes) complied with the requirements of the Code.
- 3.8 In its Complaint, the Conservative Party referred to the fact that in the 2017 General Election, the BBC had held a party debate on 1 June 2017 where the then Home Secretary, Amber Rudd, represented the Conservative Party. The Conservative Party argued that there is clear precedent for cross-party debates to take place without party leaders necessarily contributing. However, as explained above, as the format of debate programming is an editorial decision for the individual broadcaster, the approach taken by other broadcasters in previous election periods was not a relevant factor when determining whether Channel 4 had complied with the Code in this case.

Due impartiality in the programme

- 3.9 The Committee assessed whether due impartiality had been preserved in the *Channel 4 News Climate Debate* as broadcast.
- 3.10 As the Code states, “due” is an important qualification to the concept of impartiality. Impartiality itself means not favouring one side over another. “Due” means adequate or appropriate to the subject and nature of the programme. So “due impartiality” does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. The approach to due impartiality may vary according to the nature of the subject, the type of programme and channel and the likely expectation of the audience. Context is important.
- 3.11 In particular, the Committee noted that it is an editorial matter for a broadcaster as to how it maintains due impartiality. As explained at paragraph 1.33 of Ofcom’s Guidance Notes on Section Five of the Code, whether or not due impartiality has been preserved will depend on a range of factors such as, for example: the nature of the programme; the programme’s presentation of its argument; the transparency of its agenda; the audience it is aimed at; and the audience’s expectations.
- 3.12 As discussed above, the format and structure of any election debate programme is an editorial matter for the broadcaster and it is for a broadcaster to propose, discuss and negotiate with the political parties. Ofcom’s role is to determine whether a programme, as broadcast, has complied with the due impartiality requirements of the Code. The Committee considered that a significant contextual factor was that the Conservative Party leader, Boris Johnson, had been invited to take part in the *Channel 4 News Climate Debate* but had chosen not to do so. Further, Michael Gove had asked to take part in the *Channel 4 News Climate Debate*, he was not a party leader, and Channel 4 said that the other leaders’ agreement to participate was predicated on the basis they would be debating with leaders of the other main political parties. The Committee therefore recognised that the manner in which Channel 4 preserved due impartiality had to be assessed against the backdrop of

these contextual factors that were made clear to the audience of the *Channel 4 News Climate Debate*.

- 3.13 The Committee took into account that Channel 4 used various editorial techniques to reflect the viewpoints of the Conservative Party within the *Channel 4 News Climate Debate* on the issue of climate change and environmental matters. For example, at the beginning of the programme, the presenter explained the background as to why Boris Johnson was not appearing in the programme. In addition, at various points in the programme, Mr Guru-Murthy, when introducing a new topic, summarised Conservative Party policy on a particular policy area, such as: a target date for reaching 'net zero' carbon emissions; emissions from domestic homes; and biodiversity targets. In addition, at the end of the programme, the presenter referred to the fact that Michael Gove had asked to take part in the *Channel 4 News Climate Debate* but Channel 4 had:

"made clear this was debate for leaders and our leaders were only prepared to debate other leaders and our offer to Nigel Farage and Boris Johnson to debate climate change remains open".

- 3.14 One of the issues raised by the Conservative Party in its Complaint was the use of an ice sculpture to represent the viewpoint of the Conservative Party in the *Channel 4 News Climate Debate*. At the time it made its Complaint, which was prior to the broadcast of the programme, the Conservative Party had understood that the ice sculpture was to take the form of an image of the Prime Minister. The Conservative Party considered this would be a "provocative partisan stunt, which would itself constitute making a political opinion in its own right". In fact, in the programme as broadcast, the ice sculpture was not in the form of an image of Boris Johnson but was a representation of the globe with the name and official logo of the Conservative Party beneath it. The Committee took this into account as well as the editorial treatment of the ice sculpture during the programme, which was relatively low key with little focus being placed on it either visually or in references made by the presenter or the debate participants. Taking these factors into account, the Committee did not consider that the use of the ice sculpture undermined the preservation of due impartiality in the programme.

Due impartiality in clearly linked and timely programmes

- 3.15 The Committee also took into account that due impartiality in relation to matters of major political controversy and major matters relating to current public policy, can be preserved through clearly linked and timely programmes.
- 3.16 The Committee noted that there is no definition in the Code for the term "clearly linked and timely programmes". However, in its view, the reference to "clearly linked" programmes should be read as capturing programmes that are editorially and explicitly linked. It also emphasised the reference to "timely" in the Code Rules which, in its view, indicates that the programmes should be broadcast at sufficiently close intervals and at broadly similar times.

- 3.17 In this case, Channel 4 put forward various programmes which it considered to be editorially linked to the *Channel 4 News Climate Debate*. The Committee took into account the name of the programme and that it was introduced in a pre-broadcast continuity announcement as a "*Channel 4 News Special*", and that at the start of the programme, the presenter said that Channel 4 was "*devoting the whole of Channel 4 News*" to the issue of climate change. In this context, the Committee put significant weight on the fact that, the day after the *Channel 4 News Climate Debate*, the edition of *Channel 4 News* broadcast on 29 November 2019 featured a lengthy item labelled "*Emergency on Planet Earth: Debate Debrief*". This item included a recap of aspects of the *Channel 4 News Climate Debate*, as well as coverage of Michael Gove being interviewed where he was shown arguing why he should have been allowed to take part in the *Channel 4 News Climate Debate* and also defending the Conservative Party's record on the environment. The news item also outlined details of Conservative Party environmental policy on issues such as: tree planting; ocean protection; energy efficiency; and electric vehicles. In the Committee's view, the edition of *Channel 4 News* broadcast on 29 November 2019 prominently reflected the viewpoint of the Conservative Party on climate change and environmental policy.
- 3.18 The Committee also took into account that viewers were informed that the regular edition of *Channel 4 News* on 28 November 2019 was being substituted by the *Channel 4 News Climate Debate*, and the following night's edition of *Channel 4 News* broadcast at the same time (7pm) specifically referred to the preceding evening's *Channel 4 News Climate Debate*. The Committee recognised that the *Channel 4 News Climate Debate* did not specifically signal to viewers that subsequent editions of *Channel 4 News* would represent the Conservative Party viewpoint. However, the Committee considered that viewers would, particularly during an election period, have recognised these two programmes, which were presented to viewers as being part of the same *Channel 4 News* timeslot, to be part of the same editorial strand. In the Committee's view, in these particular circumstances, the edition of *Channel 4 News* broadcast on 29 November 2019 was clearly linked and timely for the purposes of Rule 5.12, and that this programme and the *Channel 4 News Climate Debate* were editorially linked.
- 3.19 Taking all the above factors into account, the Committee considered that Channel 4 had given due weight to the viewpoint of the Conservative Party on climate change and environmental policy in the context of the 2019 UK General Election. The Committee therefore considered that the *Channel 4 News Climate Debate* did not raise issues warranting investigation under Rules 5.11, 5.12, 6.1 or 6.2 of the Code.
- 3.20 **For the reasons set out above, the Committee considered that the programme did not raise issues warranting investigation under the Code.**

A1. Statutory Framework and Sections Five and Six of the Broadcasting Code

Statutory Framework

- A1.1 Under section 319 of the Communications Act 2003 (the “Act”), Ofcom has a duty to set such standards for the content of programmes to be included in television and radio services as appear to them best calculated to secure a range of statutory standards objectives. Ofcom has discharged this duty by producing, and from time to time revising, the Code.
- A1.2 Specifically, the standards objectives include an objective that the impartiality requirements set out in section 320 of the Act are complied with (section 319(2)(c)). Section 320 imposes certain “special impartiality requirements” in respect of “matters of political or industrial controversy” and “matters relating to current public policy”. In particular, section 320(1)(b) requires “the preservation, in the case of every television programme service..., of due impartiality, on the part of the person providing the service, as respects all of those matters”.
- A1.3 Section 320(4)(a) provides that the requirement in section 320(1)(b) “may be satisfied by being satisfied in relation to a series of programmes taken as a whole”.
- A1.4 Section 320(5) provides that Ofcom’s standards code shall contain provision setting out the rules to be observed in connection with (a) the application of the requirement specified in section 320(1)(b), and (b) the determination of what, in relation to that requirement, constitutes a “series of programmes”.
- A1.5 Section 320(6) then provides that any provision made for the purpose of section 320(5)(a) must, in particular, take account of the need to ensure the preservation of impartiality in relation to the following matters (taking each matter separately) – (a) matters of major political or industrial controversy, and (b) major matters relating to current public policy, as well as of the need to ensure that the requirement specified in section 320(1)(b) is satisfied generally in relation to a series of programmes taken as a whole.⁴

Applicable provisions of the Broadcasting Code

- A1.6 Section Five of the Code contains rules in relation to “Due Impartiality and Due Accuracy and Undue Prominence of Views and Opinions”.
- A1.7 The *Channel 4 News Climate Debate* featured debate surrounding what policies should be introduced to counteract climate change within the context of the 2019 UK General Election, was properly to be regarded as a programme relating to “major matters relating

⁴ In the absence of a complaint post-broadcast of the programme from any person affected, the Committee did not consider any fairness issues under Section Seven of the Code. This Section of the Code is pursuant to section 3(2)(f) of the Act and section 107 of the Broadcasting Act 1996.

to current public policy". Such matters are defined in Section Five as being "...generally... matters of current public policy which are of national, and often international, importance...". The Committee also noted, in this regard, that Rule 6.1 of the Code provides that the rules in Section Five of the Code relating to major matters relating to current public policy "apply to the coverage of elections and referendums".

A1.8 As such, the Committee considered the following provisions of Section Five of the Code to be relevant.

- **Rule 5.5:** "Due impartiality on matters of political or industrial controversy and matters relating to current public policy must be preserved on the part of any person providing a service (listed above). This may be achieved within a programme or over a series of programmes taken as a whole."
- **Rule 5.6:** "The broadcast of editorially linked programmes dealing with the same subject matter (as part of a series in which the broadcaster aims to achieve due impartiality) should normally be made clear to the audience on air."
- **Rule 5.11:** "*...due impartiality must be preserved on matters of major political and industrial controversy and major matters relating to current public policy by the person providing a service (listed above) in each programme or in clearly linked and timely programmes.*"
- **Rule 5.12:** "In dealing with matters of major political and industrial controversy and major matters relating to current public policy an appropriately wide range of significant views must be included and given due weight in each programme or in clearly linked and timely programmes. Views and facts must not be misrepresented."

A1.9 The Committee also considered the meaning of "due impartiality" as defined at the beginning of Section Five of the Code:

"Due" is an important qualification to the concept of impartiality. Impartiality itself means not favouring one side over another. "Due" means adequate or appropriate to the subject and nature of the programme. So "due impartiality" does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. The approach to due impartiality may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content, and the extent to which the content and approach is signalled to the audience. Context, as defined in Section Two: Harm and Offence of the Code,^[5] is important."

⁵ In relation to the meaning of "context", Section Two states that: "Context includes (but is not limited to):

- the editorial content of the programme, programmes or series;
- the service on which the material is broadcast;
- the time of broadcast;
- what other programmes are scheduled before and after the programme or programmes concerned;
- the degree of harm or offence likely to be caused by the inclusion of any particular sort of material in programmes generally or programmes of a particular description;
- the likely size and composition of the potential audience and likely expectation of the audience;

A1.10 In addition, the Committee considered the meaning of “series of programmes taken as a whole” as set out in Section Five of the Code:

“This means more than one programme in the same service, editorially linked, dealing with the same or related issues within an appropriate period and aimed at a like audience. A series can include, for example, a strand, or two programmes (such as a drama and a debate about the drama) or a ‘cluster’ or ‘season’ of programmes on the same subject.”

A1.11 As well as the provisions of Section Five, the Committee considered Section Six of the Code in relation to “Elections and Referendums” as the Complaint related to programming broadcast within the election period for the 2019 UK General Election. Section Six sets out rules relating to, amongst other things, the preservation of due impartiality in the coverage of elections and the giving of due weight to political parties in coverage during the election period.

A1.12 The Committee considered the following provision of Section Six of the Code to be relevant.

Rule 6.2: “Due weight must be given to the coverage of parties and independent candidates during the election period. In determining the appropriate level of coverage to be given to parties and independent candidates broadcasters must take into account evidence of past electoral support and/or current support. Broadcasters must also consider giving appropriate coverage to parties and independent candidates with significant views and perspectives.”

A1.13 The Committee noted that the “election period”, for the purposes of Section Six of the Code, commenced on 6 November 2019 and will end on 12 December 2019, i.e. the polling date for the 2019 UK General Election.

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- the extent to which the nature of the content can be brought to the attention of the potential audience for example by giving information; and
 - the effect of the material on viewers or listeners who may come across it unawares.”