

Ofcom Broadcast and On Demand Bulletin

Issue 433
1 September 2021

COVID-19

Type of case Broadcast Standards

Outcome In Breach

Service CHS TV

Date & time 3 May 2020, 12:00

Category Abusive treatment
Generally accepted standards

Summary The presenter's comments during a programme about the Coronavirus pandemic amounted to derogatory and abusive treatment of Hindu people, which was not justified by the context. In breach of Rules 3.3 and 2.3 of the Broadcasting Code.

Introduction

CHS TV is a television channel providing news and information to the Bengali community in the UK. The licence for CHS TV is held by CHS TV Ltd ("CHS TV" or "the Licensee").

COVID-19 was an approximately two-hour live programme, in Bengali, presented by Mahee Ferdhaus Jalil ("Mahee Jalil") providing information and advice to viewers about the Coronavirus pandemic. The programme featured interviews with guests, such as religious figures or people from the business community, and was broadcast in Bengali. Mahee Jalil also presents a live talk show *Reality with Mahee* on CHS TV.

Ofcom received 369 complaints that the above programme included statements there were derogatory towards the Hindu community.

We requested an external translation of the material and gave the Licensee an opportunity to comment on the accuracy of the translation. The Licensee disputed the accuracy of this translation, and we address these comments below.

During the programme, the following exchange took place between presenter Mahee Jalil and a caller:

Caller: *"My father was associated with Mr Qudrutullah. However, I could not learn more about Mr Qudrutullah. You informed me a lot about Mr Qudrutullah. I am very pleased to know all this and many thanks to you. You informed the viewers of the background of such an important person. This is very important".*

Mahee: *"As we had such important people in Sylhet, we received the light of Islam. We were liberated by these people. That was a very difficult period when the Queen of Jainta used to take a bath in human blood. Those who became Muslim, Gour Gobinda used to confiscate their assets. We had to die from starvation. Shah Jalal liberated us. Without his contribution and effort, we would not have got any place in this world. Thank you brother for your call. Next caller, peace be upon you".*

Immediately after this exchange at approximately 1 hour and 45 minutes into the broadcast, the following discussion took place between the presenter and a caller on the issue of shopkeepers raising their prices during the Coronavirus pandemic:

Caller: *"Thank you very much for arranging this programme regarding Covid-19...I live in Poplar. Yesterday I went to purchase some fruit. They were charging £25 for a mango box. I used to buy a papaya for £3.60 and I had to pay £6 for that".*

Mahee: *"I did not go to market for the last two days. I will go today and will see the conditions. It looks like they have started [deceiving] customers. Mango and watermelon are getting rotten in Bangladesh and the price should not be that high. We live in a society where we are busy carrying dead bodies to bury them, some people are busy taking high prices for their goods. I thank you for this information. I will go out after 2pm. I will visit a few shops and if I see abnormalities in terms of prices, we will run a few programmes regarding this. However, you should remain vigilant during this time...We will visit markets and see the situation in terms of prices of goods. Please pray for us...Please remember, the price of bananas, cheese or milk will not increase. The price of eggs has not increased. They [some shops] have increased the price of eggs and if the government see it, they will fine them £25,000. We have come from our country and we have Hinduism blood within us¹. That is why there is some low-caste blood within us. If I speak then you will tell me I talk too much and you will tell me off. Since there is low-caste blood within us...You will know good blood from a person's work and word of mouth. However, if the blood is bad he will deceive you. He will give you three betel leaves when you are supposed to get five. Or he will insert a rotten one inside. He will always think about how he can deceive you. Stay safe*

¹ In its representations to Ofcom, CHS TV stated that some Bengali Muslims descend from Hindus from lower castes, who faced oppression under the caste system in India, and therefore converted to Islam.
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and please pray for me. Peace be upon you”.

The presenter then changed the subject by speaking with another caller about fundraising for people in Bangladesh.

We considered the above content raised potential issues under the following rule of the Broadcasting Code (“the Code”):

Rule 3.3: “Material which contains abusive or derogatory treatment of individuals, groups, religions or communities, must not be included in television...except where it is justified by the context”.

Rule 2.3: “In applying broadcasters must ensure that material which may cause offence is justified by the context...Such material may include, but is not limited to... discriminatory treatment or language...”.

Ofcom requested comments from the Licensee on how the programme complied with these rules.

Response

Historical context of the Hindu caste system

CHS TV stated that the “majority of Bengalis” originating from Bangladesh are Muslim and were thought to have “converted” to Islam from between 1200 and 1600 AD after being “marginalised Hindus”. It said that research has cited the rationale for these Bengalis converting to Islam was to “abdicate, avoid and escape” the “rigid” caste system in India which the Licensee said is “entrenched and compounded” within “Hindu doctrine”, and that this system is unique to Hindu doctrine. CHS TV added that Bengalis who converted to Islam avoided being Shudras² or Dalits³ under the caste system⁴.

The Licensee described the caste system as one in which “one’s way of life...right to participate in civic society...hold public office...and own land” was “solely predetermined by one’s birth and no other factor”. CHS TV said that, for example, people who did not belong to the “supra Bahamin caste” could not become priests as their lower caste suggested that they “did not hold inherent virtue and honesty within them” and quoted from a [BBC article explaining India’s caste system](#). It stated that a principle of the Hindu-Indian caste system is that those of the “supra” upper caste were of “pure virtue” and “pure blood”, and that those of the lower caste carried “bad blood”, “lesser blood” or “non-blue blood” and lacked virtue. It stated that social interaction between castes was “taboo”, aside from “Master and servant relationships”, as lower castes were deemed “untouchables”.

CHS TV said that those of lower castes, who remain so due to “lack of access to education and learning” and “strict exclusion from social mobility” are considered to be “inherently...dishonest and deceitful”, and may adopt these traits as “survival technique”.

² A member of the fourth and lowest social class in India.

³ A member of the lowest caste.

⁴ While social class can be defined by multiple factors (such as economic status and education) and can change over a person’s lifetime, caste is a fixed, ritual status grounded in Hinduism.

The Coronavirus pandemic

The Licensee stated that during the UK Government's lockdown, as the nation prepared for "looming hardship", "many an errant tradesman" exploited "vulnerable" consumers, particularly in East London, which attracted "widespread criticism". It cited [news reports](#) of incidents, including in [Ilford](#) and [Brent](#), where businesses had been accused of raising the prices of their goods during the pandemic.

CHS TV said that the "primary focus" of the programme was on the price-hiking of "common food products" by Bengali tradesmen, and that Mahee Jalil pointed to examples of price increases such as that: a pack of mangos that usually cost £8 had increased to £28; a small chicken that had previously cost £2.50 was sold for £20; and the price of rice had increased by 50 per cent. It stated that "any fairly thinking person...regardless of faith" or "race" would have considered price hiking to be "unethical, immoral and wrong", and that regardless of social standing, anyone who engaged in this practice could be referred to as "metaphorically" having "bad blood" due to their "questionable values". CHS TV compared this metaphor to references in British history to social status as expressed in the terms "blue blood", "serf blood" and "common blood", and explained that these expressions are not "literal" or "racist epithets" but are "derogatory and divisive expressions". It added that, "in the same way", the use of "bad blood" or "low caste" in the programme were intended as "figurative derogatory expressions describing poor traits".

The Licensee considered that the programme was not a platform to "convey hate" or "offence", but a programme to highlight issues impacting "common folk" during the pandemic, and an attempt to "raise funds and awareness" with the aim of encouraging people to help others, "contrary to the conduct" of the tradesmen discussed. It added that this meaning was captured "eloquently" by the presenter at the end of the programme when he said:

"One cannot praise himself. God knows our intention. If there is a mistake in my intention, you need to forgive me. I will not do one thing that is for sure, I do not have any intention to take away what is your right. If that day comes, may God infect me with Corona and take me from this world. Stay well, and we will meet again at night. Pray for me. Peace be upon you".

Mahee Jalil's comments

The Licensee stated that Ofcom's translation was incomplete, and that during the programme Mahee Jalil stated that:

"The people who became Muslims at the arrival of Shah Jalal⁵, were mostly low-caste Hindus. If Shah Jalal had not arrived there, we would still be in the dark and not seen the light. Some of the shopkeepers who may be of low-caste having 'bad blood' in them tend to look for opportunities of cheating their customers by overcharging or supplying less in quantity or hiding rotten items amongst the good ones".

⁵ Shahjalal was a 14th century Muslim saint who was attributed with introducing Islam to the Sylhet in northeast Bangladesh.

CHS TV said that Mahee Jalil's comments were made in response to a "caller's grievance" regarding price-hiking of food products at a Bengali shop during lockdown, and that the presenter criticised shopkeepers who were "profiteering" and making "exorbitant profits" at this time. The Licensee stated that Mahee Jalil expressed his "sheer anger and disbelief" at this practice, and that this was perhaps due to the "lower caste (bad) blood in some of those Bengali tradesman" who had "originally and historically" belonged to a "low Hindu caste". It clarified that the presenter did not intend, "nor did he in any way...make any derogatory remarks against Hindus...or in fact any one particular faith at all", as he only referred to the word "Hindu" in the "context of the caste system", and that his remarks were "directed solely and exclusively towards the errant Bengali-Muslim tradesmen" at a time where people were expected to be "altruistic" and assist others. CHS TV added that the intention of Mahee Jalil's comments was "purely to try to find meaning" behind the shopkeepers' "poor conduct" with "socio-historic reason".

The Licensee said that Mahee Jalil's comment began by referring to "an identified Sylheti⁶ Bangladeshi community of which he himself is part", and that he associated being of "low caste origins" with profiteering within this community. It considered that "bad blood" in this context referred to "poor heritage or traits: personality descriptors", and that a "strict interpretation" of his comments were that they referred to shopkeepers who "may be the descendants of Sylheti Hindu low-caste converts to Islam" in the 14th century, who "tend to profiteer" due to their "low blood" and "culturally inherited traits". CHS TV clarified that the presenter was not stating that "all low caste Hindus today have bad blood", or "that because of this they were likely to be profiteers". It added that the programme only included one use of the word "Hindu" which, in its views, could not alone have incited "hatred or offence" to anyone.

Apologies issued following the broadcast

CHS TV said that, to "dispel any hurt or harm" that may have been caused by an "incorrect interpretation" of Mahee Jalil's comments, the following apologies were broadcast on 9 and 10 May 2020.

During the broadcast of COVID-19 at 12:00 on 9 May 2020, Mahee Jalil said:

"On the 3rd May 2020, on the programme COVID-19 on Channel S, a viewer asked me about the high price of mangoes during the current Coronavirus outbreak. In answering that question, I have unnecessarily and unintentionally mentioned the name of the Hindu community. It shouldn't have happened in any way. And it can't even be on my mind. It is unintentional. But you have suffered so much, so I apologise to you without any conditions. Dear Hindu brothers and sisters, uncles, aunts and elders, my unreserved apology to all of you. I hope you will forgive me as your child or brother. You are saddened by the unintentional comment that came out of my mouth; I am also suffering a lot. In reality, I work with a lot of Hindus and many among them are my old friends. About 99.9% of all my teachers are Hindus. I never nurture any kind of negative thoughts about them. But for some of my words, I am

⁶ People who are native to the Sylhet region of northeast Bangladesh.
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shocked myself. And I apologise to all the viewers. Due to the pressure from lockdown and of various events on COVID-19, some slang language has come into my comments on impulse. After all, I don't actually do any programmes with the intention of hurting anyone. In these days of trouble, I do not do any such programme to give you pain or distress. I hope this clarifies any confusion that may have occurred".

During the News at 21:00 on 9 May 2020, an apology from CHS TV was broadcast (and repeated again at 09:00 on 10 May 2020):

"Channel S's unconditional apology for exceptional comments on the Hindu community

Dear viewers,

Channel S sincerely expressed regrets and unreservedly apologised to the Hindu community for the unsolicited remarks made on the programme COVID-19 at 12 noon on the 3rd May 2020 by the presenter Mahee Ferdhaus Jalil. A statement signed by the Director, Taz Choudhury, said that Channel S has been serving the Bengali community in the UK and Europe for the last 16 years, regardless of religion or caste. The comments made by the presenter of the COVID-19 program about people belonging to a particular religious community are very sad. Channel S never tolerates or believes in such comments. For this reason, Channel S has once again sincerely apologised to the Hindu community. Even Mahee Ferdhaus Jalil, the presenter of the program, separately apologised to everyone for his unsolicited comments in a video message. His video message is already being spread through social media including Channel S's Facebook page".

The Licensee said that Mahee Jalil, having "appreciated" the potential harm or offence his comments may have caused if interpreted "out of context" and "incorrectly", had taken "every effort" to clarify that his comments were "solely directed" at the Bengali shopkeepers who "may be carrying 'bad blood'" due to their "low caste origin". It stated that this live programme was not repeated.

The complaints received

CHS TV noted that it had not received any complaints from viewers three days after the 3 May 2020 broadcast. It said that viewer complaints to Ofcom only "gathered momentum" after a campaign led by three politicians from East London, and that complaints to Ofcom were only received after this campaign had started and after the above apologies had been given.

Comments under Rule 3.3

CHS TV said that Mahee Jalil's statements had to be considered in context, which was that Mahee Jalil highlighted a "social injustice" and made a "plea" to "dishonest and errant tradesman" to stop this "unmeritorious conduct" and consider "hard-pressed" consumers. It considered that the comments did not contain "abusive or derogatory language" to any individuals, groups, religions or communities but were an "opinion" based on "socio-economic and historic fact" about behaviour that was

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“contrary to the message of helping fellow humans...contained in both Islam and Hinduism”. The Licensee added that Maheel Jalil’s statements had been taken out of context and “showcased” on social media.

CHSTV referred to Ofcom’s 2017 Sanction of Kanshi Radio Ltd which was found in breach of Rules 2.3 and 3.3, and stated that in regard to Rule 3.3, while Ofcom had referred to the tone of content in this precedent, the “tone and manner of delivery” of Maheel Jalil’s statements were not abusive or disrespectful to Hindus or anyone of faith.

Comments under Rule 2.3

The Licensee said that the Maheel Jalil’s comments did not have the potential to offend a “right thinking member of society” when his intentions and the context of the comments were understood. It stated that his comments did not contain “explicit” or “offensive” language but were a statement of “presumptive historic fact”. CHS TV added that as caste was not a characteristic protected under the Equality Act 2010, the presenter’s comments could not be considered “discriminatory” under the Act.

CHS TV again referred to Ofcom’s Sanction of Kanshi Radio Ltd in which our reasoning referred to the content promoting hate between two groups; in this case the Licensee considered that Maheel Jalil’s comments were an opinion about his “own ethnic community” and “did not in any way” promote hate between groups or have the potential to offend when considered in context.

The Licensee concluded by requesting that the complaint be “dismissed without any further action” as the presenter had “unreservedly stated his sincere regret and remorse” for any offence caused.

Response to Ofcom’s Preliminary View

In its representations on Ofcom’s Preliminary View, CHS TV submitted that the programme had not breached Ofcom’s rules. The Licensee acknowledged that the presenter’s comments were “careless, regrettable and poor” and apologised to Ofcom that the comments were not “rectified” within the programme. It noted an additional apology which it said was posted on Channel 5 on 10 May 2020, in which the presenter said: “some words came out of my mouth unintentionally... I did not mean what I have said about the Hindu community and these were purely unintentional and did not mean to hurt anyone”.

CHS TV cited a number of additional points which it felt demonstrated that the programme, taken as a whole, did not breach the Code.

It said that the programme was a two hour live television programme which focused on the effect of COVID-19 on the local Bengali community. The programme features call-ins from members of the local community. The comments relating to low caste Hindus were made approximately 1 hour and 45 minutes into the broadcast.

It submitted that the call prior to the discussion about traders, which included a discussion of the period when Hindus were converted to Islam in Sylhet, provided cultural and historical context to the presenter’s comments which the audience would have been familiar with.⁷

⁷ CHS TV cited the following precedent cases in which context was presented as a relevant factor in Ofcom’s reasoning: [decision on Complaint by Lord Ashcroft KCMG made on his behalf by Harbottle and Lewis LLP, Today, Issue 433 of Ofcom’s Broadcast and On Demand Bulletin](#)
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CHS TV submitted that the presenter did not intend to offend or use derogatory or abusive language towards those of the Hindu faith. The reference to *“Hinduism blood within us”*, was a reference to the historic ethnic origins of the presenter’s own Bangladeshi community. The comments “low caste origin” and “bad blood”, which followed, were intended to cast aspersions on traders who were inflating their prices and Mr Jalil was suggesting that they may have acted as they did because they are inherently bad or because they have innate bad traits. The two, it submitted, have no nexus. The presenter strongly denied that he was suggesting traders had acted as they did because they are descendants of Hindus.

It argued that the audience would have understood the comments to be a reference to the historic caste system and the ethnic origin of the presenter’s community. In providing an explanation for the morally reprehensible actions of the errant traders Mr Jalil went on to make the point “that some people act badly because they have bad blood in them meaning that bad blood may go back generations. He makes no further reference to Hindu blood or low caste blood”. It said that an audience member of CHS TV would understand Mr Jalil’s point to be that inherently some people are good and some people are bad. Any viewer of the programme would have understood Mr Jalil to have been criticising members of his own community, with which the presenter strongly aligned himself.

CHS TV said that overall the programme was “constructive and optimistic”, including a fundraiser for “those in need” in the community in Bangladesh that the presenter is from and which he made positive statements about during the programme. The comments were totally at odds with the show as a whole. As a result it said it was highly unlikely that any audience member would conclude that the relevant comments were intended to be derogatory, abusive or offensive and any offence that was caused would have been mitigated to such an extent that it would be rendered negligible.

On the complaints received by Ofcom, CHS TV submitted that members of the public complained after viewing an edited and uncontextualized section of the programme and not the programme as a whole, and may have complained because they supported the politicians concerned. It concluded that those audience members who viewed the programme live did not feel that the comments were derogatory, offensive or abusive.

Finally, it said that for Ofcom to record a breach of the Code against CHS TV would “encroach” upon the Licensee’s and presenter’s right to freedom of expression and to freedom of thought, conscience and religion, and go “far beyond” what was necessary and proportionate in this case.

Decision

Reflecting our duties under the Communications Act 2003, Section Two and Three of the Code require that generally accepted standards are applied so as to provide adequate protection for members of the public from the inclusion of harmful or offensive material in programmes, including material containing hatred, abuse and derogatory treatment of individuals, groups, religions or communities.

Ofcom takes account of the audience’s and the broadcaster’s right to freedom of expression set out in Article 10 of the European Convention on Human Rights when considering a broadcaster’s compliance with the Code. Ofcom recognises the importance of the broadcaster’s right to freedom of expression

[Radio 4, 17 December 2009](#); [assessment of Good Morning Britain, 22 June 2020](#); and, [decision on James O’Brien Show \(presented by Sadiq Khan\), LBC 97.3 FM, 27 October 2017](#).

and the audience's right to receive information and ideas without undue interference.

Ofcom also had due regard⁸ in the exercise of its functions to the need to eliminate unlawful discrimination, to advance equality of opportunity and to foster good relations between those who share a relevant protected characteristic, such as religion or belief, and those who do not.

Ofcom considered the Licensee's representations that caste was not a characteristic protected under the Equality Act (2010). We disagreed. Ofcom considered that the Equality Act refers to nine protected characteristics, including race, of which ethnic origin is explicitly stated to be an aspect⁹. As [UK case law demonstrates](#)¹⁰, caste discrimination can be considered under the Equality Act to amount to race discrimination based on ethnic origin. In our view, given the facts of this case, it was appropriate for Ofcom to consider this programme under Rules 3.3 and 2.3.

Rule 3.3

Rule 3.3 of the Code states:

“Material which contains abusive or derogatory treatment of individuals, groups, religions or communities, must not be included in television and radio services...except where it is justified by the context”.

The Code does not prohibit criticism of any religion or people who follow a particular religion. However, such criticism must not spill into pejorative abuse. In the context of Rule 3.3, when assessing whether content complies with the Code, Ofcom must take into consideration the right to freedom of expression, which encompasses the broadcaster's and audience's right to receive material, information and ideas without interference, as well as the right to freedom of thought, conscience and religion and the right to enjoyment of human rights without discrimination on grounds such as nationality or ethnicity.

We first considered whether this programme contained any abusive or derogatory treatment of individuals, groups, religions or communities. In this programme which was targeted at the Bangladeshi community in the UK, the presenter addressed that community and stated that it had *“come from our country and we have Hinduism blood within us”* which was why members of this community had *“some low-caste blood within us”*. He added that people with *“bad”* blood will *“deceive you”* and always think of ways to do so, and gave the example that these people would *“give you three betel leaves when you are supposed to get five”* or *“insert a rotten one inside”*.

In its response to Ofcom's Preliminary View, the licensee said that it, “acknowledges that the comments made were careless, regrettable and poor,” and apologised to Ofcom that the comments were not “rectified” within the programme.

As stated above, CHS TV stated that the translation commissioned by Ofcom was incomplete and that

⁸ Under section 149 of the Equality Act 2010.

⁹ Section 9(1) Equality Act 2010.

¹⁰ [Tirkey v Chandhok](#), Employment Appeal Tribunal, 19 December 2014.
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the presenter made further comments about Bengali Muslims descending from low-caste Hindus and the behaviour of some shop keepers with “bad blood”.

Ofcom did not agree that these further comments were broadcast in the programme and has therefore not taken these comments into consideration in our Decision.

We considered CHS TV’s representations that the principles of “pure blood” and “bad blood” and their associations with virtue were established in the Hindu-Indian caste system, which it compared to references to “blue blood”, “serf blood” and “common blood” in British history. We took into account its view that the presenter was addressing “an identified Sylheti Bangladeshi community of which he himself is part” and that the reference to “*Hinduism blood within us*”, was a reference to the historic ethnic origins of the presenter’s own Bangladeshi community. We also considered the Licensee’s argument that the reference to Hinduism in the programme was an “opinion” based on “historic fact”, and the use of a “figurative derogatory expressions describing poor traits” could not be considered abusive to Hindus or anyone of faith. We noted the presenter’s denial that he had suggested that traders had acted badly because they were “descendants of Hindus”, but had suggested that the traders had “low caste blood” or “bad blood” and were therefore “inherently bad” or had innately “bad traits”. We considered the suggestion that the audience would have understood the comments to mean that “some people act badly because they have bad blood in them meaning that bad blood may go back generations”.

We acknowledged that CHS TV’s viewers would probably be familiar with the historical context of the Hindu caste system and the ethnic origin of some Bengali Muslims having descended from Hindus. However, we did not accept that this meant that the reference was purely historical. Nor did we consider it correct to suggest that the references to “*Hinduism blood*” and “*low caste blood*” were unrelated to the references to “bad blood”.

In the passage concerned, the presenter said:

We have come from our country and we have Hinduism blood within us¹¹. That is why there is some low-caste blood within us. If I speak then you will tell me I talk too much and you will tell me off. Since there is low-caste blood within us...You will know good blood from a person’s work and word of mouth. However, if the blood is bad he will deceive you. He will give you three betel leaves when you are supposed to get five. Or he will insert a rotten one inside. He will always think about how he can deceive you.

We therefore considered that the programme clearly identified Bengali Muslims as having “*Hinduism blood*”, some of which was “*low caste*” blood which was characterised as “*bad*” blood which predisposes them to “*deceive*” people.

We were concerned that in response to Ofcom’s Preliminary View, the Licensee’s representations continued to link low caste with dishonesty, suggesting that it did not understand the nature of

¹¹ In its representations to Ofcom, CHS TV stated that some Bengali Muslims descend from Hindus from lower castes, who faced oppression under the caste system in India, and therefore converted to Islam.

Ofcom's concern. It said that the comments "low caste origin" and "bad blood", were "intended to cast aspersions" on traders who were inflating their prices and Mr Jalil was suggesting that they may have acted as they did because they are inherently bad or because they have innate bad traits.

The references were made while the presenter was expressing strong criticism of shop owners increasing the price of essential goods during the Coronavirus pandemic. In our view, the audience of this programme would have understood the use of these references in this context to be derogatory of low-caste Hindus today.

In our view, the implication of these comments in the context in which they were used was to characterise all lower caste Hindus as deceptive and immoral. We therefore considered that the broadcast contained material which amounted to abusive or derogatory treatment of low-caste Hindus. We did not consider that content which is derogatory of a group with protected characteristics is consistent with generally accepted standards in the UK (which has legislated to protect such groups from discrimination) and therefore would not be within audience expectations.

We next considered whether there was sufficient context to justify the broadcast of the abusive and derogatory treatment of low-caste Hindus.

The Code states that contextual factors relevant to Rule 3.3 of the Code may include, but are not limited to:

- the genre and editorial content of the programme;
- the extent to which sufficient challenge is provided;
- the status of anyone featured in the material; and
- the service on which the programme is broadcast and the likely size and expectations of the audience.

We therefore considered whether these or any other contextual factors were relevant to this case.

We acknowledged that CHS TV is a Bengali television channel providing news and information with a specific focus on issues impacting the Bangladeshi community in the UK. We accepted that the programme aimed to highlight issues impacting, what the Licensee termed, "common folk" during the pandemic, and an attempt to "raise funds and awareness" with the aim of encouraging people to help others. We accepted that CHS TV's viewers would expect to see robust discussions, providing information and advice to viewers about the Coronavirus pandemic. We also recognised that viewers would be likely to expect that a programme discussing the effects of lockdown on the public, price-hiking of "common food products" and exploitation of "vulnerable" consumers may involve some panellists expressing challenging views.

We took into account CHS TV's representations that it considered Mahee Jalil's comments had been taken out of context and "showcased" on social media. We noted its view that not all the complainants may have seen the whole programme. Ofcom has considered the presenter's comments in the context of the programme in which they were broadcast.

We noted the Licensee's view that the statements were contextualised in the programme as they reflected the presenter's "sheer anger and disbelief" upon hearing a "caller's grievance" about price increases at a Bengali shop at a time where people were expected to be "altruistic" towards others.

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We acknowledged that the discussion of Bengali shop owners increasing prices of essential goods was a legitimate topic for discussion in a programme on a channel specifically aimed at the Bengali community in the UK. We also acknowledged that the presenter's intent was to highlight a "social injustice" in defence of "hard-pressed consumers". We took into consideration CHS TV's representation that overall the programme was "constructive and optimistic", including a fundraiser for "those in need" in the community in Bangladesh that the presenter is from and which he made positive statements about during the programme.

However, we were particularly concerned that, in his role as presenter of the programme, Mahee Jalil was responsible for voicing derogatory statements towards low caste Hindus by suggesting that behaviour that was harmful to consumers was due to the predisposed qualities of Hindus from low castes. In our view, Mahee Jalil's status as an established presenter on CHS TV gave a legitimacy to these statements which compounded their derogatory nature.

We did not consider that the fact that the statements were brief or that the programme as a whole related to the Bengali Muslim community mitigated the derogatory nature of what was said. The programme considered as a whole did not give any positive views of low caste Hindus.

Ofcom noted the Licensee's representations that the presenter did not intend his comments to be derogatory, abusive or offensive. We took into account that on 9 May 2020, both CHS TV and the presenter issued broadcast apologies to "dispel any hurt or harm", including an apology from Mahee Jalil to his "*Hindu brothers and sisters, uncles, aunts and elders*" whom he stated he had never had "*any kind of negative thoughts about*", and that he had used "*slang*" on "*impulse*" and that he himself was "*shocked*" by some of his comments. We acknowledged that CHS TV "*expressed regrets and unreservedly apologised*" to the Hindu community in a statement broadcast during a 9 May 2020 *News* programme that was repeated on 10 May 2020 and stated that it "*never tolerates*" comments on this nature. We also took into account that: the Licensee issued an apology to its viewers after directly receiving complaints and prior to being alerted by Ofcom of a potential issue; and that the programme was not repeated.

In Ofcom's view, however, the apologies, broadcast nearly a week after the 3 May 2020 programme, did not sufficiently mitigate the high potential for offence from the presenter's derogatory remarks.

We also acknowledged that *COVID-19* was a live programme. However, we were concerned that Mahee Jalil's derogatory comments did not appear to have been noticed by CHS TV at the time of broadcast.

Rule 3.3 is clear that individuals, groups, religions, or communities must not be subject to uncontextualised abusive or derogatory treatment. In our view, the viewers of this programme would have understood the comments by the presenter to be abusive and derogatory to the Hindu community.

CHS TV in its representations argued that the presenter's comments were within the "broadcaster's and audience's right to freedom of expression" and their right to freedom of thought, conscience and religion. It said that for Ofcom to find that there has been a breach in this case "would encroach upon CHS TV's and Mr Jalil's right to express a historical opinion".

The Broadcasting Code does not prohibit people or organisations from expressing their views just because they have the potential to cause offence. To do so would, in our view, be a disproportionate restriction of the broadcaster's right to freedom of expression and the audience's right to receive information and ideas. However, where people or organisations are given the chance to articulate their views on television or radio, broadcasters must always ensure that they comply with the Code by challenging and placing in context those views as appropriate. As set out above, in our view Mahee Jalil's comments were not merely expressing a historical opinion. They were in addition, derogatory towards low caste Hindus by suggesting that the "morally reprehensible actions" of the shop owners who had "inflated" the price of their products and were "deceiving" consumers during the pandemic was due to their low caste Hindu blood. In our view, the comments lacked sufficient context, went unchallenged and were contrary to audience expectations.

Given the above, we considered that the Licensee broadcast an abusive and derogatory treatment of low-caste Hindus without sufficient context. Our Decision was, therefore, that the programme was in breach of Rule 3.3 of the Code.

Rule 2.3

Rule 2.3 requires broadcasters to ensure that the broadcast of potentially offensive material is justified by the context. Context includes, for example, the nature of the content, the service in which the programme is broadcast, its editorial content and the likely expectations of the audience.

We first considered whether the presenter's comments had the potential to cause offence.

We considered the Licensee's view that the presenter's comments, addressed to his "own ethnic community" did not have the potential to offend a "right thinking member of society" when considered in context, and that they did not contain "explicit" or "offensive" language but were a statement of "presumptive historic fact". Ofcom disagreed. As discussed under Rule 3.3, the programme contained material which was derogatory towards low caste Hindus in that it suggested that behaviour that was harmful to consumers was due to the predisposed qualities of Hindus from lower castes. We therefore considered this programme clearly had the potential to cause significant offence.

We then considered whether the broadcast of these comments was justified by the context. As previously discussed, context is assessed by reference to a range of factors including: the service on which the material was broadcast, the editorial content of the programme, likely audience expectations, warnings given to viewers, and the effect on viewers who may come across the material unawares.

As discussed above, CHS TV is a Bengali television channel providing news and information with a specific focus on issues impacting the Bangladeshi community in the UK. It was therefore entirely legitimate for a channel of this type to discuss concerns about Bengali shop owners increasing the price of essential goods during the Coronavirus pandemic. However, this programme contained potentially highly offensive material through its inclusion of derogatory statements about people from lower Hindu castes.

We acknowledged that this programme was a live broadcast and that Mahee Jalil's comments about low-caste Hindus were made in response to a caller's "grievances" about the increasing price of goods.

Further, there was no material broadcast before or after this discussion that provided any warning or mitigation for viewers about the statements made by the presenter.

Finally, we took into account the Licensee's representations that: it had not repeated the programme; it had issued an apology to the Hindu community; and the presenter had "unreservedly stated his sincere regret and remorse" for any offence caused. However, as discussed above, we did not consider the apologies were sufficient to mitigate the high potential for offence in this case.

For all the reasons set out above, Ofcom's Decision is that the presenter's comments exceeded generally accepted standards and, therefore, the programme was in breach of Rule 2.3 of the Code.

Breaches of Rules 3.3 and 2.3