

Complaint by Ms Kate O'Shea on behalf of Ms Charlotte Crosby, about *Celebrities: What's Happened to Your Face?*

Type of case	Fairness and Privacy
Outcome	Not Upheld
Service	Channel 5
Date & time	22 April 2021, 22:00
Category	Fairness
Summary	Ofcom has not upheld this complaint about unjust or unfair treatment in the programme as broadcast.

Case summary

The programme, which was part of a series about whether four celebrities may have had cosmetic alterations to their appearance, featured contributions from medical professionals, journalists and people who knew the complainant, Ms Charlotte Crosby. The medical professionals reviewed photographs of Ms Crosby and discussed how they considered her face had changed over time. The programme also included comments which had been made about Ms Crosby on social media platforms. Ms Crosby complained that the programme was unfair to her because it included a number of statements made by people from the medical profession and other commentators and a selection of the “worst, cruellest comments that trolls have made online over the years”, which were “devastating” and “hurtful” to her. She also complained that the inclusion of the social media comments in the programme had elevated their status to a larger platform.

Ofcom’s decision is that the programme did not present, disregard or omit material facts in a way that was unjust or unfair to Ms Crosby. We also considered that the way that Ms Crosby had been portrayed in the programme was not likely to have materially and adversely affected viewers’ opinions of her in a way which was unfair to her.

Programme summary

On 22 April 2021, Channel 5 broadcast an edition of *Celebrities: What's Happened to Your Face?* a documentary series which explored whether or not four well-known celebrities, including the complainant, Ms Crosby, may have had cosmetic alterations to their appearance. The programme

featured contributions from medical professionals, journalists and people who knew Ms Crosby who reviewed photographs of Ms Crosby and discussed how they considered her face had changed over time.

The programme's narrator introduced the programme:

"The celebrity gossip industry is estimated to be worth over 800 million pounds a year...And by far the biggest talking point is what work stars have had done to their faces; with papers, magazines and social media awash with photos of stars before and after...But the question is, have they, or haven't they?"

The programme showed an interview with Mr Jordan Davies who was introduced later in the programme as a "TV Personality". Mr Davies said: "90% of them have all got fake teeth, Botox, lip fillers, hair extensions".

The narrator said:

"We've taken four well known celebrities who have had an enormous amount of column inches dedicated to how their faces look. Combining the insight of people who know them, with experts who study selected paparazzi photos from throughout their careers, we attempt to work out exactly what is natural aging, and what might not be".

The programme showed a woman, introduced later in the programme as "Cosmetic Surgeon Dr Sabrina Shah-Desai", holding up an iPad which showed a close-up image of Ms Crosby's face. The image had been altered by Dr Shah-Desai who had drawn red lines over the image to indicate where she believed Ms Crosby had received cosmetic alterations to her face. Dr Shah-Desai said: "She's had some Botox injected and she may have had some chin filler".

An image of Ms Crosby taken in 2011 was shown as the narrator said:

"In 2011, fresh faced Charlotte Crosby, barely out of her teens, burst onto our screens in the first series of 'Geordie Shore'. Since then, she has appeared in 'Big Brother', 'Celebs Go Dating', and fronted her own TV shows, to name a few. Loud mouthed and shameless, she has never failed to keep us guessing what she'll be up to next. But her changing face has given us even more to speculate about".

As the narrator spoke, various images of Ms Crosby's face were shown on screen. In an interview to camera, Mr Davies said:

"[Ms Crosby] has all these business things going on. You know, anyone would be happy with that. But it's so sad that she's not because she still feels like she needs to do more, especially with surgery, and all this sort of stuff. She's never, ever, happy with herself. Which is so sad".

The narrator said: *"Tonight, we ask the question: How did her face go from this, to this?"*. As the narrator spoke, two images taken of Ms Crosby's face were shown on screen side by side; one photograph had been taken in 2011, the other, in 2018.

The narrator continued:

"In 2011, Charlotte was just 21. Her youthful looks gained her a place as one of the original cast members MTV's reality show, 'Geordie Shore', about a group of young people hitting Newcastle's night life".

The programme showed an image of Ms Crosby's face which had been taken in 2011. Various clips taken from the programme *"Geordie Shore"* were also shown, which showed Ms Crosby dancing and kissing a fellow cast member in bed. The narrator continued:

"Charlotte soon became one of the show's most popular faces as fans followed her romance with fellow cast member, Gaz Beadle...By 2013, two years after her first appearance on 'Geordie Shore', 23-year-old Charlotte was now a household name and instantly recognisable. Her popularity bought her a place on 'Celebrity Big Brother'...The public fell for Charlotte's charms, and she was crowned winner...Returning to 'Geordie Shore', Charlotte's face was now one of reality TV's best-known. And speculation soon began about whether she'd had lip fillers".

The programme showed a clip of a person's hands typing on a laptop as the text of comments which Ms Crosby had received from members of the public on social media were shown:

"Replying to @Charlottegshore

@CharlotteGShore wats wrong with ur lips?? #mangled #duckface".

"@CharlotteGShore

#askcharlottegshore have you ever had lip fillers?! Xx".

The programme showed further footage of the interview with Dr Shah-Desai, who said:

"So, Charlotte at 23 is starting to show that she has had lip fillers, and you can see that her upper lip is now bigger than what it looked like when she was 21".

Two images taken of Ms Crosby's face were shown on screen side by side; one photograph had been taken in 2011 when Ms Crosby was 21 years old, the other, in 2013 when Ms Crosby was aged 23. Dr Shah-Desai continued:

"When you have lip fillers, you clearly don't want to over-volumize lips because they are extremely visible, and they're very easy to distort. And lips are essential beauty features".

The programme then showed an interview with Dr Joshua Van der Aa, described in the programme as an “Aesthetics Doctor”. He said:

“The lips show typical signs of injection. Already bordering over-injection, in my opinion, because you can see what’s called the ‘white border’, where if a lip is injected a bit too, enthusiastically, the product can sometimes migrate above the lip red. You want the light to catch your lip on what’s called the vermilion border, which is the border between the white and the red lip, but in these cases, this is being pushed forward due to the migrated filler and the light will fall kind of on the surface, here, and give this white shine”.

As Dr Van der Aa spoke, an image of Ms Crosby’s face was shown. The programme zoomed in on the image and focussed on Ms Crosby’s lips. The narrator said in commentary:

“Charlotte was totally up-front about what she’d had done. She said: ‘My lips used to be thin and I had no top lip. Now they are perfect, I love them’. But it also appears that she may have had other procedures”.

The programme then included an interview with Dr Aamer Khan, described in the programme as a “Cosmetic Surgeon”. Dr Khan was shown reviewing an image of Ms Crosby’s face on an iPad. He said:

“Her cheeks are a lot higher, and fuller. And this would indicate the use of some sort of filler, it’s actually changed the shape of her lips, and when she smiles, how you see her teeth and how she would look, would look quite different as well. And the filler is pushing up and making her eyes look a lot smoother. She’s got a very smooth forehead, very smooth skin. She may have had some skin treatments, like laser resurfacing or peels. And maybe some Botulinum toxin to relax the muscles as well. Botulinum toxin is one of the most toxic substances known to man. ‘Botox’ is a generic name for Botulinum toxin. The toxicity level is such that one teaspoon is enough, if administered properly, to kill seven billion people. However, we use microscopic doses”.

The narrator said: *“Charlotte would later tell The Sun that in the future, she wanted ‘more Botox and lip fillers’”.* The two photographs of Ms Crosby’s face, taken when she was aged 21 and 23, were shown again. The narrator continued:

“From our expert analysis of this press image, between 2011 and 2013 and the ages of 21 and 23, we can deduce that Charlotte started experimenting with lip and cheek fillers, changing the shape of her mouth and eyes, and possibly a peel or Botox to smooth out her forehead”.

As the presenter spoke, a 3-D computer generated model of Ms Crosby’s face was shown. The model’s face began to change to reflect the treatments which the experts had suggested Ms Crosby had undertaken on her face.

The narrator said: *“Charlotte was now filling pages of gossip magazines, and the changes to her face were attracting more and more attention, from both the press and the public”*. Mr Davies said:

“Reality TV is so bad because it’s made this image of you need to be perfect, you can’t have a wrinkle, you can’t have a bit of cellulite, you know, you can’t have, you’ve got to have a Hollywood smile”.

The narrator said: *“Coming up, Charlotte’s love life takes a turn for the better”*. The programme showed an interview with Ms Lucy Jones, introduced later in the programme as a *“Showbiz Reporter”*, who said: *“So, after five years of being on-off, Gary and Charlotte finally decide to give things a go”*. The narrator said: *“But it doesn’t last. And the heartbreak coincides with her face changing even more”*.

After a programme break, various images of Ms Crosby were shown as the narrator said:

“Reality TV star Charlotte Crosby is well known for her outlandish and often shocking behaviour, both on and off camera...But as her fame has grown, so has speculation about which parts of her face are natural and which are not. Our panel of experts are scrutinising photos of Charlotte to give their opinion about what work she might have had done”.

Two photographs of Ms Crosby were shown side by side. One photograph had been taken in 2013 when Ms Crosby was 23 years old, the other in 2015 when Ms Crosby was aged 25. The narrator continued:

“Between 2013 and 2015, Charlotte’s popularity continued to grow, making her a household name. But at the same time, the pressure to maintain a celebrity look, while still partying hard also intensified”.

As the narrator spoke, an image of Ms Crosby in a bikini was shown on screen, along with what appeared to be a newspaper headline, which read: *“‘Geordie Shore’s’ Charlotte Crosby flaunts curves in revealing red bikini”*.

Narrator: *“June 2014, Charlotte was papped on a beach”*.

Ms Jones: *“It wasn’t the most flattering picture. Having someone take photos, where, you know, you don’t realise they’re doing it and you’re caught at a horrible angle, must be so awful”*.

Narrator: *“But sassy Charlotte’s reaction to the video was to immediately lose two-and a half stone and release a fitness DVD...Once she had got the killer bod, rumours started flying around that she also got to work on the rest of her appearance”*.

Another newspaper headline was shown which read: *“Is Charlotte Crosby feeling pressure to look ‘Perfect’? Geordie Shore star sparks worry as she plans MORE surgery”*.

The programme then showed the clip of a person's hands typing on a laptop, which had been shown earlier on the programme, and the text of further comments which Ms Crosby had received on social media were shown:

"Something's happened to Charlotte Crosby's face, but I'm not quite sure what".

"Serious question now, what surgery has @Charlottegshore had, she's like a completely different person?"

The programme included further footage of Dr Shah-Desai commenting on a photograph of Ms Crosby taken in 2015. She said:

"She's getting some work done to change the shape of her face. Looking at Charlotte at 25, you can begin to see the typical contouring of the cheek. This is the typical look, it's called the 'top model' look, where filler is added to the cheek".

Dr Van der Aa was also shown holding an iPad and commenting on the same image. He said: *"The cheeks; the cheeks are definitely quite full, here you know, and quite low down, actually. So, her light reflection is around, here".*

Dr Van der Aa was shown drawing red lines onto the image of Ms Crosby's face to indicate where he believed Ms Crosby had received cosmetic alterations. Dr Van der Aa continued:

"And ideally, you want that much higher up, underneath the eyes. That will give you a much more refreshed look, so they did fill the cheeks but they kind of ignored the eye area, which is a bit of a shame. Very smooth forehead, no frown lines, so definitely some Botox going on there".

Dr Shah-Desai was shown again and said:

"She's also slimmed her nose. Her nose looks different to what it looked like when she was younger. Her brows are in a good position; they're not as high as they were. So, she's had some Botox injected. And she may have had some chin filler to try and improve how her lips are sitting. Charlotte lost a lot of weight very quickly, and when you lose a lot of weight, and you lose it fast, the face starts sagging. So, that's probably a reason why she would have wanted to get the volume put back in".

Dr Van der Aa said:

"Here, you can really see where we've got some volume sitting actually above the lip. And you've got a little shadow there, that shows that that top lip is being pushed out. That light reflection around here, that's the bit that I am talking about, that just, it just looks a bit heavy, it's over

projected and that gives you that 'duck lip' that people talk about. She's had a bit too much too soon".

Dr Van der Aa was again shown drawing red lines onto the image of Ms Crosby's face to indicate where he believed Ms Crosby's top lip had been *"pushed out"*.

The narrator said:

"Based on the images studied by our experts, in the two years between 2013 and 2015, it looks like Charlotte had more cheek and lip filler, chin filler, Botox in the forehead to smooth any fine lines, and work to slim down her nose".

The 3-D computer generated model of Ms Crosby's face, which was shown earlier in the programme was shown again. The image began to change to reflect the treatments which the experts had suggested Ms Crosby had undertaken on her face. The narrator said: *"She also played with her hair colour; dying it blonde helped to make her forehead appear bigger"*.

Mr Davies said:

"Because she's got all these new TV shows she's doing, all this work. It's almost like she wants to say, right ok, this is my new look because this is what I'm doing now".

Two more images taken of Ms Crosby's face were shown side by side, one photograph had been taken in 2016, the other in 2018.

Narrator: *"By early 2016, Charlottes' not-so-private life appeared settled as she and Gaz Beadle decided to make their on-off relationship more serious. But then tragedy struck as Charlotte suffered an ectopic pregnancy".*

Mr Davies: *"It must have been heart-breaking for her".*

Narrator: *"While all of this was going on, Gaz was in Australia filming for another reality show, leaving Charlotte to grieve alone".*

Mr Davies: *"Gaz put his career above Charlotte at a time when she needed him the most".*

Narrator: *"The whole experience seemed to be too much for the face of 'Geordie Shore'. Charlotte dumped Gaz and quit the reality show after appearing in twelve series".*

Mr Davies: *"It was horrible to watch, let alone imagine what she was going through, I think she must have thought, 'You know what, I can't do 'Geordie Shore' again now'".*

Narrator: *"But Charlotte picked herself. This time rather than making more changes to her face, she turned her attention to another part of her body".*

Ms Jones: *"Charlotte was born with a medical condition called Congenital Symmastia which is also known as a 'uni-boob', which meant that she didn't have a lot of cleavage".*

Narrator: *"Charlotte said in an interview: 'If a picture of me is online, people say things like, 'What is wrong with her boobs, they're deformed, they're stuck together?'"*

Mr Davies: *"It's finally become such a big thing, to the point where she's like, you know what, I've had enough then. That's another thing I'm going to change".*

Narrator: *"With her new found confidence, rubber lipped Charlotte released two fitness books, and in 2018 her career hit a new high when MTV gave her own show...Gaz had been permanently ditched, and after a string of short relationships, she had a new man in her life, ex-Love Islander Josh Ritchie".*

Ms Jones: *"He was another good-looking guy from 'Love Island'. She was absolutely obsessed with him; he seemed obsessed with her. They fought like cats and dogs. And she always talked about babies from the get-go with him, she spoke about engagement rings, and I have never seen her so in love".*

Narrator: *"With her career and love life taking new twists and turns, images from the time suggest that she decided her face needed some changes too. And the word on the street was not always complimentary".*

Comments which had been made about Ms Crosby on social media appeared as text on screen:

"She looks like a rubber sex doll".

"How much Botox has Charlotte Crosby had? She looks like she's been embalmed. Her face is totally frozen #GeordieShore".

"Charlotte Crosby should be the poster girl for why you shouldn't get Botox. I can't believe how different she looks".

The narrator said: *"Whilst in the past Charlotte had been upfront about what work she'd had done, she seemed reluctant to own up to everything".* The programme showed a newspaper headline: *"Lying about it is a joke. Fans slam Charlotte Crosby after she claims her lips are natural".*

The narrator said: *"Yet at the age of 28, plastic looking Charlotte showed no sign of quitting the surgeon's knife, saying: 'I do know what people mean about surgery being a slippery slope'"*.

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The programme then showed the medical experts discussing an image taken of Ms Crosby in 2018:

Dr Khan: *“What we’re seeing here is that she’s starting to go a little bit over the natural look. There is too much volume above the lip, which is causing her lip to curl outwards. The shape of the upper lip is starting to change, she’s starting to lose that natural cupid’s bow that she had, and her lower lip is to starting to become a little amorphous, and a bit big”.*

Dr Van der Aa: *“Here, what’s really obvious here is that white border. So, the light bouncing off of that top lip; a bit too high. So, you just know in side profile that that’s going to be over projected and pushed out and what they call the ‘duck face’ or ‘trout pout’, whatever you want to call it”.*

Dr Shah-Desai: *“She’s getting the visible signs of having filler. So, good jobs are not visible. Bad jobs are extremely visible. And you can see that her lips are becoming a little too full. The apple of her cheek is too big, and arterially projected when she smiles, almost like a golf ball. And then it starts looking slightly unreal”.*

Dr Van der Aa: *“Here, the nose has definitely been straightened, surgically. And also shows where the columella, the middle bit, is kind of pushed in, a little bit too much. Whereas, if we straighten the septum and the columella itself, they put little cartilage struts in there and sometimes when they give, it retracts, and you get that little upwards push”.*

Dr Khan: *“The nose has been refined and is looking a little slimmer on the top of the nose and this can be achieved by introducing filler along the ridge of her nose, here, which will give a better light reflection. Although we’re adding volume, it’s actually looking smaller”.*

Dr Shah-Desai: *“Charlotte has had a rhinoplasty; it looks like she’s had a surgical rhinoplasty to correct the bump on her nose. It’s a beautiful job”.*

The narrator said: *“Based on the images they’ve studied, our expert analysis deduces that by 2018, Charlotte had: more lip filler, especially in her top lip; more cheek filler, and a nose job”.* The programme showed the 3-D model of Ms Crosby’s face, which had been altered to reflect the cosmetic treatments which the experts had suggested Ms Crosby had received.

The narrator said: *“Charlotte may have been less than forthcoming about her lips, but she was ready to talk about the work on her nose”*, before quoting a statement made by Ms Crosby:

“My old nose looked awful; it was so bad. When I watched myself before and turned to the side, I felt sick because my nose looked so awful. No-one ever noticed my nose. I never got a comment in my whole entire life saying you’ve got a bad nose. But I wasn’t happy with it, I got it done for me”.

Ms Crosby’s statement also appeared as a caption on screen.

Mr Davies said:

“Charlotte was getting all this work done, but it’s got to the point where she’s had all this work done people are now going, ‘Oh my God, you’ve had too much’”.

The programme then showed two photographs taken of Ms Crosby in 2018 and 2020. The narrator said:

“Since crashing onto our screens in 2011, Charlotte Crosby has been the subject of constant media speculation about what work she’s had done to her face. Some she’s admitted to, and some she’s not, including her lip fillers, Botox, surgically plumped cheeks and boob jobs. Charlotte appears to have undergone at least six major cosmetic procedures to date. At one stage, she claims she was getting her lip fillers re-done every five months at between £250 and £500 a pop, and with her nose job costing around six and a half thousand pounds, on top of that, we can estimate that the ‘Geordie Shore’ star has spent at least £20,000 on her face over the last seven years. In 2018, at the age of 28, Charlotte’s face continued to be scrutinised online and increasingly met with abject horror at what she’s done to it, with comparisons to Michael Jackson and with Kerry Katona, remarking that she looked like a ‘Cross-eyed fish’”.

The programme showed again the clip of a person’s hands typing on a laptop as the text of comments which Ms Crosby had received from members of the public on social media were shown:

“I see Michael Jackson in that nose”.

“You look more like Michael Jackson with every photo I see”.

“Charlotte Crosby on ITV2 what the fuck has happened to her face it is either plastic surgery gone wrong or a face full of headboard and it really could be either”.

“Always loved Charlotte Crosby but she has got so bad with the plastic surgery... like I can’t stand to look at her anymore such a waster to say how naturally beautiful she was”.

The narrator said: *“Charlotte turns 30 in 2020, and even in the last two years her face has once again changed dramatically”.* The experts were shown reviewing a photograph of Ms Crosby taken in 2020:

Dr Khan: *"Here we see her looking totally different to what she did when she started. The chin is looking a lot more pointed, the shape of her face is changing. It makes it difficult to age her as well. She looks older, but we don't know how old".*

Dr Van der Aa: *"It's very interesting to kind of see the transformation, 'cause it also shows what at that time was the big trend, and actually what still is. You can see all of a sudden there's a sharpening of that jaw line and chin, which was the biggest growing treatment of 2019. We're seeing that continue in 2020 as well. Everyone is coming in to get their jawlines done. Now she looks a bit 'done'. In my professional opinion, I think she looks better, more herself as well, before she's had all of this done. They've taken a bit of a, what I call a 'cookie cutter approach' to filling her face. Where they don't really respect the natural anatomy".*

Dr Shah-Desai: *"No-one's willing to tell them they've gone too far. Their practitioner is not telling them. You know, they've got a circle of friends where they think it's acceptable. And they very quickly go into this 'filler fatigue', this face that quite obviously looks not beautiful anymore. But, just very plastic".*

The narrator said: *"If we take Charlotte's word for it, she will carry on with the surgery as long as she can"*. The narrator then read out a statement from Ms Crosby which appeared to have originally been reported in a newspaper article:

"I'd like to think when I'm 60, I'll look like Joan Rivers".

This statement was also shown as a caption.

The narrator said: *"So, what does the future hold for Charlotte's face?"*. The experts and the other commentators made the following concluding remarks:

Dr Van der Aa: *"I wouldn't advise that she continue filling, because it's going to age her face. My professional opinion would be to tone it down a little bit, make it more subtle and make it more in keeping to what her face was before"*.

Dr Shah-Desai: *"She's very young. You know, her skin will bounce back if she just dissolves some of the bad work"*.

Ms Jones: *"I do think she will go on to maybe the next trend, she'll get involved with that. And I do think that she'll go for a more natural look as she gets older, because trends change, times change"*.

Mr Davies: *"I would like to hope that Charlotte is going to stop the surgery now, because Charlotte, you don't need it, you're perfect as you are. People love you as you are for you, you don't need all this done. So, just be you and be happy"*.

The programme moved on to discuss the appearance of another celebrity, Mr Sylvester Stallone. Ms Crosby was not referred to again in the remainder of the programme.

Summary of the complaint and broadcaster's response

Complaint

Ms O'Shea complained on behalf of Ms Crosby that the latter was treated unjustly and unfairly treated in the programme as broadcast. In particular, Ms O'Shea said that the programme included a number of statements made by people from the medical profession and other commentators and a selection of the "worst, cruellest comments that trolls have made online over the years", which were "devastating" and "hurtful" to Ms Crosby. Ms O'Shea said that the programme had provided a platform for "social media trolling comments" on mainstream television, and therefore the programme had "elevated" these comments to a larger audience.

Broadcaster's response

Background

Channel 5 said that the series, *Celebrities: What Happened to Your Face?* explored the changing appearances of well-known celebrities, and the possible reasons for this. The broadcaster said that expert medical professionals (in this case, two cosmetic surgeons and an aesthetics doctor), journalists and people who know the celebrity, were shown paparazzi photographs and gave their opinions as to what cosmetic treatments and lifestyle choices may have led to changes in the celebrities' appearances over time. Channel 5 said that the series also explored the wider reaction of the media and sections of the public to the celebrities' changing appearances.

Channel 5 said that Ofcom has a duty to secure the application of television and radio standards "that provide adequate protection to members of the public and all other persons from...unfair treatment in programmes"¹. Channel 5 said that in performing this duty, Ofcom must have regard to the need to secure that the application of this standard "is in the manner that best guarantees an appropriate level of freedom of expression"². Channel 5 said that it is firmly established in case law from UK courts and the European Court of Human Rights that the right to freedom of expression under Article 10 of the European Convention on Human Rights ("ECHR") is applicable 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 disturb³. Channel 5 further said that it was well-accepted that journalistic freedom under Article 10 ECHR, "also covers possible recourse to a degree of exaggeration, or even provocation"⁴, and it is not for national authorities "to substitute their own views for those of the press as to what technique of reporting should be adopted by journalists", as "Article 10 protects not

¹ s.3 (2)(f)(i) of the Communications Act 2003 ("the 2003 Act").

² s.3 (4)(g) of the 2003 Act.

³ *Nilsen and Johnsen v Norway* (2000) 30 EHRR 878 at [43].

⁴ *Prager and Oberschlick v Austria* (1996) 21 EHRR 1 at [38].

only the substance of the ideas and information expressed, but also the form in which they are conveyed”⁵.

Channel 5 said that it was aware of the distress that the programme had caused the complainant, Ms Crosby, and added that it had apologised to her for this. However, Channel 5 said that it had “serious concerns” that should Ofcom uphold Ms Crosby’s complaint as a violation of the fairness provisions of the Ofcom Broadcasting Code (“the Code”), such a finding would constitute an “alarming expansion of the scope of these provisions (and one not foreshadowed anywhere in the Code or its guidance), as well as an unjustified encroachment on broadcasters’ and programme makers’ editorial freedom”.

In setting out the broadcaster’s submissions, Ofcom has adopted the headings used by Channel 5 in its response.

Hurtful statements from commentators

Channel 5 said that it refuted any suggestion that the comments about Ms Crosby’s appearance made by independent, qualified medical professionals could be considered in any way unfair to her. Channel 5 said that it was clear from the programme that the professionals were expressing an opinion based only on the “paparazzi” photographs that had been shown to them, and their comments did not represent a direct medical assessment of Ms Crosby, or any other knowledge of her cosmetic medical history. Channel 5 said that each of the opinions expressed by the professionals in the programme were clearly and carefully justified by reference to paparazzi photographs of Ms Crosby, and each was expressed in medically accurate terms. Channel 5 said that where the experts referred to non-medical terms such as “duck face” and “trout pout”, this was in the context of explaining their professional opinion to a non-medical audience. For instance, Dr Van der Aa referred to Ms Crosby’s top lip as being “over-projected and pushed out in what they call the duck face, or the trout pout, or whatever you want to call it”. The broadcaster said that as independent experts, the medical professionals were entitled to express negative views about the procedures and each expert provided comprehensive reasons for doing so, based on his or her professional judgment and experience. By way of example, Channel 5 said that Dr Van der Aa had explained why he considered Ms Crosby’s lip fillers showed signs of over-injection, due to the visual indications of filler migration over the lips’ vermillion border. Channel 5 added that the experts also provided positive feedback on some procedures, for example, Dr Shah-Desai commented that Ms Crosby’s eyebrows were positioned well.

In relation to the comments expressed by the other commentators interviewed in the programme, Mr Davies and Ms Jones, Channel 5 said that it refuted any suggestion that the inclusion of these comments resulted in unfairness. The broadcaster said that both commentators had the right under Article 10 ECHR to express their views, both positive and negative, on Ms Crosby’s changing appearance. Channel 5 said that both Mr Davies and Ms Jones expressed their views in moderate terms, and also made a number of positive or neutral comments on Ms Crosby’s appearance, for example:

Mr Davies’ comment:

⁵ *Jersild v Denmark* (1995) 19 EHRR 1 at [26].
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“Because she’s got all these new TV shows she’s doing, all this work. It’s almost like she wants to say, right ok, this is my new look because this is what I’m doing now”.

Mr Davies’ comment:

“I would like to hope that Charlotte is going to stop the surgery now, because Charlotte, you don’t need it, you’re perfect as you are. People love you as you are for you, you don’t need all this done. So, just be you and be happy”.

Ms Jones’ comment:

“I do think she will go on to maybe the next trend, she’ll get involved with that. And I do think that she’ll go for a more natural look as she gets older, because trends change, times change”.

Channel 5 said that the fact that Ms Crosby was unhappy with some of the comments made by Mr Davies and Ms Jones did not make them unfair.

In relation to the comments taken from social media and shown in the programme, Channel 5 said that these comments were obtained from publicly available platforms. The broadcaster said that each time such comments were introduced, they were prefaced with narration that explained that Ms Crosby’s procedures had begun to attract public speculation and comment. Channel 5 said that accordingly, the comments were used as examples of the increasingly negative reaction on certain parts of social media to Ms Crosby’s changing appearance. The broadcaster said that while some of the comments were expressed in hurtful terms, there was no suggestion that they did not genuinely reflect the opinion of their authors. Channel 5 said that it was well within the bounds of the programme maker’s and Channel 5’s editorial discretion to include these examples, to illustrate to viewers the increasingly negative reaction from some sections of the public to Ms Crosby’s cosmetic procedures. It said that this approach is consistent with the position in domestic case law, which, Channel 5 said, has “firmly established at the highest levels that the courts should be slow to interfere with the editorial discretion afforded to the media when determining which information is necessary to include to ensure a story’s credibility”⁶.

The broadcaster said that in any event, on the particular facts of this case it considered that it took reasonable care to satisfy itself that the comments were not presented in a way that was unfair to Ms Crosby.

Channel 5 said that Ms Crosby is a high-profile reality TV star and TV presenter with a significant social media presence. The broadcaster noted that at the time of writing its response to the complaint

⁶ *Re BBC* (No 3 of 1999) [2010] 1 A.C. 145 (House of Lords) at [25] and *Viagogo Limited v Paul Myles* [2012] EWHC 433 (Ch) at [66].

entertained by Ofcom, Ms Crosby had 7.3 million followers on Instagram; 773,600 followers on TikTok; 2.8 million followers on Twitter; 2.3 million followers on Facebook and over 429,000 YouTube subscribers. It said that Ms Crosby has not shied away from openly discussing controversial matters which have led to previous criticism in the press and online. By way of example, Channel 5 provided a link to [an article published on the website of the Daily Star](#), and a link to a [YouTube video](#) which showed footage of Ms Crosby during her appearance on *Celebrity Big Brother*⁷. The broadcaster further said that Ms Crosby had spoken openly to the media many times in the past about her cosmetic procedures and the negative reaction she had received. Channel 5 identified the following examples of this:

- Ms Crosby has spoken openly about having: a [rhinoplasty](#); lip fillers⁸; and a [‘boob job’](#) to correct her Symmastia. Channel 5 noted that the programme featured a number of comments that Ms Crosby herself had previously made to the media about her procedures.
- [Ms Crosby has responded robustly to negative social media comments many times in the past](#);
- In 2018, Ms Crosby conducted [an ‘exclusive’ interview with the Sun Online](#) to discuss trolling comments. One social media user had compared her likeness to Michael Jackson, to which she commented during the interview, “I like this comment, it’s one of my favourite ones”. Channel 5 noted that the ‘trolling’ comments themselves were reproduced in full in the body of the article.
- In January 2019, Ms Crosby uploaded an ‘Instagram Story’ in which she ‘called out’ trolls and said, “So I got a really nice compliment on Twitter and retweeted it...and these were some of the replies she got and, wait for it, from...men”. Ms Crosby posted screenshots of the relevant tweets and told followers: “So I can understand girls can have like bitchy comments and stuff, but men, men with daughters and children who should know better...typing on the computer about a young girl. I’ve seen it all now”. Channel 5 said that Ms Crosby’s ‘Instagram Story’ was embedded [in an article published on the website of Capital FM](#).
- In February 2019, Ms Crosby stated that she takes steps to make her lips appear larger in photographs to encourage trolling behaviour. Channel 5 referred to [an article published on the website of the Daily Star](#), which included the following comments from Ms Crosby: “Sometimes I do it on purpose. The more interaction I get on a photo, the better it does...So I’m like, right I’m going to make sure people have bad things to say about this because the more comments it gets the more likes it gets, because it goes out to more people”.
- [In March 2021](#), Ms Crosby stated that trolls did not bother her, as they were just people who were jealous that she was “doing better than them”.

Channel 5 said that it, along with the programme makers, had considered that the comments that were selected for inclusion in the programme were of the same tone as the comments that Ms Crosby had previously publicised or discussed, as demonstrated in the examples referred to above. Channel 5 reiterated its position that the comments featured in the programme were publicly available on social media platforms, and, while some were expressed in unpleasant terms, the broadcaster said that

⁷ In the video, Ms Crosby can be seen waking up and discovering that she has urinated on her bed during the night.

⁸ “I don’t actually, I get them done once a year, I had a big problem down the sides, but once a year that’s it and I don’t think they’re that bad,” Interview on This Morning, ITV, 28 March 2018.

there was no suggestion that they did not reflect the genuine views of the individuals who published them, who were entitled to express such views in accordance with the right to freedom of expression under Article 10 of the ECHR.

Channel 5 said that in the above circumstances, it did not see a basis on which Ofcom could find that the inclusion of the comments subject to complaint were unfair to Ms Crosby. Channel 5 said that in the event that Ofcom made such a finding, it would represent an “alarming encroachment on the programme maker’s and Channel 5’s Article 10 rights (and a concerning extension of the scope of Ofcom’s fairness jurisdiction)”. Channel 5 said that neither the Code, nor its accompanying guidance, indicated that Ofcom would consider publicly available and genuine social media comments to be unfair because their content was upsetting. Channel 5 said that this was even so where Ms O’Shea had alerted the programme maker prior to broadcast, to the possibility that Ms Crosby would be distressed should a programme be broadcast where her appearance would be “judged and analysed”. Channel 5 said that were it otherwise, any subject of a programme would be able to exercise editorial control over its content, by setting out to the programme maker in advance of broadcast which content they considered unacceptable, and thereby substitute their views as to which reporting techniques should be used. Channel 5 said that this would be an unacceptable incursion into the programme maker’s and Channel 5’s editorial freedom.

Channel 5 concluded that upholding Ms Crosby’s complaint would create a significant “chilling effect” as broadcasters would be at risk of censure on the basis that individuals were distressed by the content of accurate and publicly available, albeit unpleasant and upsetting, material about them.

Platform for trolling

Channel 5 also expressed concern that should Ofcom uphold this element of the complaint, such a finding would represent a significant expansion in the scope of the fairness provisions of the Code. Channel 5 said that it was not aware of any previous Ofcom decision which has found that it was unfair to broadcast publicly available and genuine social media comments because the broadcaster “elevated” them to a larger audience. Channel 5 said that for all the reasons set out above at head a), upholding the complaint on this basis would represent an alarming encroachment on Channel 5’s and the programme maker’s editorial freedom to include such comments as an illustration to viewers of the negative reaction from some sections of the public to Ms Crosby’s changing appearance.

Channel 5 said that, in any event, it did not accept that it is accurate to say that the programme makers “elevated” negative social media comments to a larger audience, as alleged by Ms Crosby in her complaint. Channel 5 said that it had determined that, across all television and online platforms, the programme was viewed 500,000 times. Channel 5 said that by way of comparison:

- The Sun, which published negative social media comments as part of Ms Crosby’s [interview](#) has an average print circulation of 1.2 million and [an online readership of over 39 million](#).
- Ms Katona published her comment about Ms Crosby’s appearance (and quoted in the programme, “Kerry Katona remarking that she looked like a ‘cross-eyed fish’”) in her column in New! Magazine, which has an [average print circulation](#) of over 96,000. Channel 5 said that the comments were then republished by numerous national media outlets, including [Sun Online](#) (which Channel 5 said has an online readership of over 39 million) and [Mail Online](#) (which [Channel 5 said has an online readership of almost 34 million](#)).

Channel 5 said that numerous other national media outlets have repeatedly published the same or similar social media comments about Ms Crosby's cosmetic procedures, and these publications reproduced the text of the comments themselves. Channel 5 referred to a number of examples of national media stories which it said featuring such comments: [Mail Online](#)⁹; [Sun Online](#)¹⁰; [Metro](#)¹¹; [Mirror Online](#)¹²; [Closer](#) and [OK! Magazines](#); and others¹³.

Channel 5 said that like all the other media outlets that have published social media comments, the programme did not endorse their content. Rather, they were used as an illustration for viewers of the kind of reaction prompted by Ms Crosby's cosmetic procedures.

Preliminary View

Ofcom prepared a Preliminary View that the complaint should not be upheld. Both parties were given the opportunity to make representations on the Preliminary View. Both parties made representations, which are summarised insofar as they are relevant to the complaint entertained and considered by Ofcom, below.

Complainant's representations

Ms O'Shea's further representations, made on behalf of Ms Crosby, said that "much has been made of the size of Ms Crosby's social media platforms", however, Ms O'Shea said that the relevant consideration in this case was the demographic of the audience that would likely watch the programme. Ms O'Shea said that the programme elevated historical abusive comments made by online trolls to an older TV audience, who were not on social media and would not have previously had access to this type of content, including members of Ms Crosby's family. She also claimed that the programme misrepresented Mr Davies as having known Ms Crosby personally, which was not in fact true, and he had no authority to claim such things as *"She's never, ever, happy with herself"*.

⁹ ["She got a new face! Viewers flood Twitter with comments on Charlotte Crosby's extreme lips and VERY taut features on I'm A Celebrity - after she 'wet herself' during failed challenge](#), Mail Online, 5 January 2020, and ["Lying about it is kind of a joke": Fans slam Charlotte Crosby after she claims her lips are natural in very pouty Instagram snap](#), Mail Online, 24 July 2017.

¹⁰ ["DAFFY DUCK! Charlotte Crosby shocks fans with HUGE new trout pout as they beg her to stop having lip fillers"](#), thesun.co.uk, 10 March 2017, and ["NOT SHORE Charlotte Crosby sparks concern she's had more surgery as fans beg her to stop going under the knife during Brazil trip"](#), thesun.co.uk, 25 April 2019, and, ["ARE YOU SHORE IT'S CHARLOTTE? Charlotte Crosby is almost unrecognisable after glamorous makeover for Australian fashion magazine"](#), thesun.co.uk, 8 June 2017.

¹¹ ["Charlotte Crosby debuts new fringe – but fans are more concerned with her lip fillers"](#), metro.co.uk, 22 March 2018. And ["Charlotte Crosby's dramatic transformation continues as fans plead with her to stop surgery"](#), metro.co.uk, 21 March 2021.

¹² ["Charlotte Crosby slammed by fans for 'unnatural' lips after sharing exceptionally pouty selfie"](#), mirror.co.uk, 4 October 2017 and ["Charlotte Crosby slammed by fans for 'looking like Michael Jackson' in her latest selfie after surgery on her nose"](#), mirror.co.uk, 19 October 2017.

¹³ ["People Are Being Really Cruel To Charlotte Crosby As They Slam Her For Having Further Cosmetic Surgeries"](#), capitalfm.com, 21 March 2017, and, ["Charlotte Crosby's striking pout prompts fans to urge to her to ditch lip fillers"](#), Chronicle Live, 28 September 2016, and, ["Fans urge Charlotte Crosby to ditch her lip fillers after sharing pout selfie"](#), planetradio.co.uk, 27 September 2016.

Ms O'Shea said that Channel 5 had included links to articles published in the press for Ofcom's consideration which "bore no relevance whatsoever to the programme". Ms O'Shea said, in fact, the articles "clearly illustrated that Charlotte was sensitive to these kinds of attacks, those articles don't defend the channel's position they totally undermine it".

Ms O'Shea also said on behalf of Ms Crosby that at no point did the programme condemn any of the abusive social media comments, which Ms O'Shea said were viciously targeted at a young woman in the public eye. Ms O'Shea said that the narrator used similar abusive and derogatory language in their narration, thereby endorsing the examples of abusive language shown in these comments.

Broadcaster's representations

Channel 5 reiterated its representations that it had apologised to Ms Crosby for the distress caused to her. However, Channel 5 said that for the reasons set out in its response to the entertained complaint, as set out above, it did not accept that the programme breached the Ofcom Broadcasting Code.

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 unjust or unfair treatment in programmes in such services.

In carrying out its duties, Ofcom has regard to the need to secure that the application of these standards is in the manner that best guarantees an appropriate level of freedom of expression. Ofcom is also obliged to have regard, in all cases, to the principles under which regulatory activities should be transparent, accountable, proportionate and consistent and targeted only at cases in which action is needed.

In reaching this decision, Ofcom carefully considered all the relevant material provided by both parties. This included a recording and transcript of the programme, as well as both parties' written submissions, including the representations on Ofcom's Preliminary View. After careful consideration, however, we considered that the points raised did not materially affect the outcome of Ofcom's Preliminary View to not uphold the complaint.

When considering complaints of unjust or unfair treatment, Ofcom has regard to whether the broadcaster's actions ensured that the programme as broadcast avoided unjust or unfair treatment of individuals and organisations, as set out in Rule 7.1 of Ofcom's Broadcasting Code ("the Code"). In addition to this rule, Section Seven (Fairness) of the Code contains "practices to be followed" by broadcasters when dealing with individuals or organisations participating in, or otherwise directly affected by programmes¹⁴. Following these practices will not necessarily avoid a breach of Rule 7.1 and failure to follow these practices will only constitute a breach where it results in unfairness to an individual or organisation in the programme. In assessing the broadcaster's compliance with this Rule, Ofcom acknowledges that what constitutes unjust or unfair treatment is not defined in the Code, and the 'practices to be followed' set out in the Code are not intended to be exhaustive; the Code does not

¹⁴ These include new provisions regarding the protection of participants that have recently been added Section Seven of the Code. However, these provisions apply only to programmes made on or after 5 April 2021 and are not applicable to the complaint in this case.

and cannot seek to set out all the “practices to be followed” in order to avoid unfair treatment. Whether a programme results in unfairness will depend on all the particular facts and circumstances of a case.

Ofcom considered Ms Crosby’s complaint, made on her behalf by Ms O’Shea, that the programme had included a number of statements made by people from the medical profession and other commentators and which were “devastating” and “hurtful” to Ms Crosby.

In considering this element of the complaint, we had regard to Practice 7.9 of the Code, which states:

“Before broadcasting a factual programme, including programmes examining past events, broadcasters should take reasonable care to satisfy themselves that material facts have not been presented, disregarded, or omitted in a way that is unfair to an individual or organisation...”.

Whether a broadcaster has taken reasonable care to present material facts in a way that is not unfair to an individual or organisation will depend on all the particular facts and circumstances of the case including, for example, the seriousness of any allegations and the context in which they were presented in the programme.

When considering a complaint of unjust or unfair treatment, Ofcom takes into account all the relevant context.

We had regard to Channel 5’s submissions that Ms Crosby is a high-profile reality TV star and TV presenter with a significant social media presence. At the time the broadcaster submitted its response to the complaint, Ms Crosby had 7.3 million followers on Instagram; 773,600 followers on TikTok; 2.8 million followers on Twitter; 2.3 million followers on Facebook and over 429,000 YouTube subscribers. We also took into account that, based on the articles supplied by Channel 5 (links to which are set out above), it appeared to Ofcom that Ms Crosby had spoken openly to the media in the past about her cosmetic procedures and the negative reaction she had received, including on her own social media platforms. We acknowledged that in such circumstances, it was reasonable to conclude that Ms Crosby might likely expect that members of the public may draw their own conclusions about the type of cosmetic treatments she had received, and for those views to be expressed to her publicly. However, Ofcom takes the view that the status and notoriety of an individual does not negate the need for broadcasters to ensure that they are not subject to unjust or unfair treatment in broadcast programmes.

In considering the relevant context, we also took into account that the programme made clear from the outset that it would be focusing on “*the biggest talking point*” in the “*celebrity gossip industry*”, which it described as “*what work stars have had done to their faces*”. The presenter had gone on to explain:

“We’ve taken four well known celebrities who have had an enormous amount of column inches dedicated to how their faces look. Combining the insight of people who know them, with experts who study selected

paparazzi photos from throughout their careers, we attempt to work out exactly what is natural aging, and what might not be”.

We considered that it was made clear to viewers from the outset that Ms Crosby had been chosen for discussion in the programme because of the previous media interest that her appearance had received. In the above context, we turned to consider the content of the programme subject to complaint.

Statements from medical professionals

We first considered the statements made by the medical professionals which were included in the programme.

As set out in the “Programme summary” above, the programme had included commentary from two cosmetic surgeons and an aesthetics doctor, who were shown reviewing a number of ‘paparazzi’ photographs taken of Ms Crosby over several years. We took into account that, in the programme’s introduction, the narrator had explained that the programme would focus on four famous people, and, *“combining the insight of people who know them, with experts who study selected paparazzi photos from throughout their careers. We attempt to work out exactly what is natural aging, and what might not be”*. The narrator had also said that: *“our panel of experts are scrutinising photos of Charlotte to give their opinion about what work she might have had done”*. Throughout the programme, the medical professionals were shown viewing paparazzi photographs of Ms Crosby, drawing red lines over the images to indicate where they believed Ms Crosby had received cosmetic alterations, and speaking critically about the outcome of these treatments. For example, the programme had included the following statements:

- *“The lips show typical signs of injection. Already bordering over-injection, in my opinion, because you can see what’s called the ‘white border’, where if a lip is injected a bit too, enthusiastically, the product can sometimes migrate above the lip red”;*
- *“What we’re seeing here is that she’s starting to go a little bit over the natural look. There is too much volume above the lip, which is causing her lip to curl outwards. The shape of the upper lip is starting to change, she’s starting to lose that natural cupid’s bow that she had, and her lower lip is to starting to become a little amorphous, and a bit big”;*
- *“Here, what’s really obvious here is that white border. So, the light bouncing off of that top lip. A bit too high; so, you just know in side profile that that’s going to be over projected and pushed out and what they call the ‘duck face’ or ‘trout pout’, whatever you want to call it”;*
- *“She’s getting the visible signs of having filler. So good jobs are not visible, bad jobs are extremely visible. And you can see that her lips are becoming a little too full. The apple of her cheek is too big, and arterially projected when she smiles, almost like a golf ball. And then it starts looking slightly unreal”.*

We had regard to Channel 5's representations that it would have been clear to viewers that the medical experts interviewed in the programme were expressing their own professional opinion on Ms Crosby's appearance based solely on the paparazzi photographs that had been shown to them, and that their comments did not represent a direct medical assessment of Ms Crosby, or any other knowledge of her cosmetic medical history. We also considered Channel 5's representations that as independent experts, the medical professionals interviewed in the programme were entitled to express negative views about the procedures which they believed Ms Crosby had received, and each expert provided comprehensive reasons for doing so, based on his or her professional judgment and experience.

In Ofcom's view, the comments made by the medical professionals generally amounted to a critical dissection of Ms Crosby's personal appearance based on their view of the cosmetic surgery she had undergone, and we acknowledged that this may have had the potential to be upsetting and distressing to Ms Crosby. However, as set out above, in assessing complaints of unjust or unfair treatment, Ofcom has regard to the broadcaster's and audience's right to freedom of expression under Article 10 of the ECHR. In exercising this right, a person may express views that are potentially offensive, are targeted at a specific individual, and which individuals may find upsetting or uncomfortable. Broadcasters also have the right to include such views in their programming, in line with the broadcaster's right to freedom of expression and audience's right to receive information, but in doing so they must ensure they comply with the Code.

In this instance, we considered that it would have been clear to viewers that the medical professionals were providing their own professional judgements as to the cosmetic treatments that they believed Ms Crosby had received and which viewers would have understood were solely based on a series of paparazzi photographs of Ms Crosby, and not an actual medical examination. For example, we took into account that one of the medical professionals shown in the programme, Dr Van der Aa, had prefaced some of his comments with, *"in my opinion"* and *"in my professional opinion"*. We also recognised that the experts' comments were clearly contextualised for viewers. As referenced above, we considered that it would have been made clear to viewers that the experts were providing their own professional analysis of Ms Crosby's appearance in the context of previous media interest in the way she looked.

We also recognised that the professionals had referred to cosmetic treatments and Ms Crosby's anatomy, using medically accurate terminology. We acknowledged that in his analysis of Ms Crosby's appearance, Dr Van der Aa had used terms such as *"duck face"* and *"trout pout"*, which might be seen as pejorative terms to describe a person's appearance. We also had regard to Channel 5's representations that, in using these terms, Dr Van der Aa was explaining his professional opinion that lip filler product had *"migrated above the lip red"* and created a *"white border"* above Ms Crosby's top lip, to a non-medical audience. Taking this into account, we considered that viewers would have perceived these comments to be common, non-medical phraseology to describe the outcomes of certain procedures and that the statements about Ms Crosby's appearance were the professional's own assessment of the quality of the treatments which he believed she had received. We also took into account that the programme did include one expert remarking in positive terms about the outcome of the cosmetic treatments which they considered Ms Crosby had received to her nose, *"Charlotte has had a rhinoplasty; it looks like she's had a surgical rhinoplasty to correct the bump on her nose. It's a beautiful job"*. While we recognised Ms Crosby's position that she had been distressed

and upset by the conclusions which the professionals had reached, on balance, we did not consider that the way in which these comments were presented in the programme would have led viewers' opinions of Ms Crosby to be so adversely affected as to be unfair to her.

Statements from other commentators

Next, we turned to consider the statements made in the programme by the other commentators named in the programme, Mr Davies and Ms Jones, who were introduced as a "TV personality" and a "Showbiz reporter", respectively.

As set out in the "Programme summary" above, all commentators had spoken in general terms about Ms Crosby's appearance, career, and personal life. We had regard to Channel 5's representations that both Mr Davies and Ms Jones expressed their views on Ms Crosby's appearance in moderate terms and made a number of positive or neutral comments about her. We also took into account that in making out her complaint to Ofcom, Ms Crosby had not specified why she considered the inclusion of the comments made by Mr Davies and Ms Jones and broadcast in the programme had resulted in unfairness to her and in Ofcom's view, neither commentator made any significant allegations about Ms Crosby's appearance or character so as to result in unfairness to her. We took into account Ms O'Shea's further representations that the programme had misrepresented Mr Davies as having personally known Ms Crosby, and that he therefore had some authority when speculating that "she's never ever happy with herself". However, we did not consider that the programme presented Mr Davies as having personally known Ms Crosby, or that if such authority could be attributed to him in the programme, that this materially changed the nature of his comments so as to cause unfairness to her in the programme as broadcast.

Taking the above factors into consideration, we did not consider that Ms Crosby had been treated unjustly or unfairly in the programmes as broadcast, with regards to the comments made by medical professionals and other in-person commentators in the programme.

Social media comments

We then turned to consider Ms Crosby's complaint, made on her behalf by Ms O'Shea, that the programme had included a selection of the "worst, cruellest comments that trolls have made online over the years", and provided a platform for the comments on mainstream television, therefore "elevating" these comments to a larger audience. We also took into consideration Ms O'Shea's representations on Ofcom's Preliminary View that the programme elevated abusive comments made on social media to a different older TV audience, who were not on social media and would not have previously had access to this type of content, including members of Ms Crosby's family. In considering whether the use of the comments from social media created unfairness to Ms Crosby in the programme, we again had regard to Practice 7.9, outlined above.

As set out in the "Programme summary" above, the programme had displayed the text of a number of comments which had apparently been posted on social media over a number of years about Ms Crosby's appearance. For example:

- "@CharlotteGShore wats wrong with ur lips?? #mangled #duckface";
- "She looks like a rubber sex doll";

- *“How much Botox has Charlotte Crosby had? She looks like she’s been embalmed. Her face is totally frozen #GeordieShore”;*
- *“Charlotte Crosby should be the poster girl for why you shouldn’t get Botox. I can’t believe how different she looks”;* and
- *“Charlotte Crosby on ITV2 what the fuck has happened to her face it is either plastic surgery gone wrong or a face full of headboard and it really could be either”.*

We recognised that the programme’s reference to social media comments, such as the ones referred to above, posted by members of the public, had caused distress to Ms Crosby. We also recognised that, as referenced by Ms O’Shea in her representations on Ofcom’s Preliminary View, Ms Crosby had been particularly distressed that older members of her family, who were not on social media, were made aware that she had received this type of reaction from members of the public on social media for the first time. Before considering the substance of the complaint, we first considered Channel 5’s representations that neither the Code, nor its accompanying guidance, indicated that Ofcom would consider publicly available and genuine social media comments to be unfair because their content was upsetting. However, as referenced above, what constitutes unjust or unfair treatment is not defined in the Code, and the ‘practices to be followed’ are not intended to be exhaustive. The key consideration in assessing any fairness complaint under the Code is whether the broadcaster has avoided unjust or unfair treatment of the relevant individuals or organisations in the programme. Further and as set out above, whether a broadcaster has taken reasonable care to present material facts in a way that is not unfair to an individual or organisation will depend on all the particular facts and circumstances of the case, including, for example, the seriousness of any allegations and the context in which they were presented in the programme.

In Ofcom’s view, the content of the social media comments which were selected by the broadcaster for inclusion in the programme were particularly unpleasant, and some were of an abusive nature. We considered that they amounted to highly critical judgements on Ms Crosby’s personal appearance and were at the extreme end of the criticism in the programme regarding her appearance. These comments were also anonymised, which meant that the identity of who was making them, and in what context would not have been made clear to viewers. We took into account that the narrator did acknowledge that some of the comments were not *“complimentary”*. However, Ofcom also considered that, except for some of the positive comments made by Mr Davies and a comment set out above from one of the experts that Ms Crosby’s rhinoplasty was a *“beautiful job”*, the programme did not at any point expressly undermine or challenge these comments.

In considering whether the programme had resulted in unfairness in this regard, Ofcom considered all the relevant context. We had regard to Channel 5’s representations that Ms Crosby was a high-profile reality TV star and TV presenter with a “significant” social media presence, who had previously discussed her appearance publicly, as indicated by the articles hyperlinked above. We took into account that the programme had contained reference to comments which Ms Crosby had made in previous interviews concerning the cosmetic treatments which she had received. For example, the narrator said: *“Charlotte would later tell The Sun that in the future, she wanted ‘more Botox and lip fillers’”, and “Charlotte was totally up-front about what she’d had done. She said: ‘my lips used to be thin and I had no top lip. Now they are perfect, I love them’”.*

We also considered the articles identified by Channel 5 (hyperlinked above) which demonstrated how Ms Crosby had “not shied away from openly discussing controversial matters which have led to previous criticism in the press and online”. We acknowledge that Ms Crosby is a high-profile reality TV star and TV presenter with a significant social media presence who has received criticism about her appearance, including on social media and in the press, in the past. We note that, while the programme did refer to the fact Ms Crosby had engaged with general media commentary on her appearance and cosmetic procedures in the past, no specific reference was made in the programme to her having engaged with or challenged individual comments about her appearance made on social media, and this was not the context in which the social media comments included in the programme were presented. In any event, we did not agree with Channel 5’s claim that the fact Ms Crosby had openly engaged with negative comments about her appearance in the media means that the inclusion of similar comments in the programme was not capable of causing unfairness to her in this case. We also considered that the fact that Ms Crosby had reacted strongly to similar comments about herself in the past might suggest that she was potentially sensitive to these types of comments about her appearance, even if she had also publicly said that she was not affected by many ‘trolling’ comments made about herself on social media. Ofcom also took into account Ms O’Shea’s further representations on behalf of Ms Crosby that the articles provided by Channel 5 and hyperlinked above bore no relevance to the programme and, if anything, demonstrated that Ms Crosby was “sensitive” to these types of attacks.

We then considered the manner in which the social media comments were presented in the programme. We took into account Channel 5’s representations that the comments from social media were obtained from publicly available platforms, and that each time such comments were introduced, they were prefaced with narration that explained that Ms Crosby’s procedures had begun to attract public speculation and comment.

In considering whether the programme resulted in unfairness, we assessed the extent to which the significant criticism expressed by the public regarding Ms Crosby’s appearance, as set out above, were endorsed in the programme. We had regard to Ms O’Shea’s representations on Ofcom’s Preliminary View that at no point did the programme condemn any of the abusive social media comments, and the narrator used similar abusive and derogatory language in their narration, thereby endorsing the comments made on social media. We also had regard to Channel 5’s representations that the social media comments were merely used as examples of the increasingly negative reaction publicly and on certain parts of social media to Ms Crosby’s changing appearance.

We acknowledged that the inclusion of the social media comments was in the context of the other commentary in the programme about how Ms Crosby’s appearance had changed over time and how these changes could have been affected by cosmetic procedures that she had undergone (or might have undergone). We also took into account that before the social media comments were shown they were prefaced by narration which drew out the fact that her changing appearance had resulted in public speculation and increasing criticism, and that many of the social media comments shown expressly questioned or criticised the impact of (actual or suspected) cosmetic procedures on her appearance, and therefore highlighted the extent of the public criticism she had faced as a result. We also took into account that these comments had been included in a programme which had posed the question in its title, *“What’s Happened to your Face?”*, and had gone on to include critical statements from other commentators about Ms Crosby’s appearance in the context of speculation about how

much cosmetic surgery she had had, as discussed in detail above. The narrator had also referred to Ms Crosby as “*rubber lipped Charlotte*” and “*plastic looking Charlotte*”. In Ofcom’s view, these comments by the narrator had the potential to amount to an endorsement of some of the critical views expressed by members of the public on social media about the negative impact that Ms Crosby’s supposed cosmetic procedures had had on her appearance. However, we recognised that this was to a limited extent, as the programme did not include commentary that explicitly supported the sentiments expressed, and some of the comments made by other commentators presented Ms Crosby in a favourable light, such as those by Mr Davies. In addition, we took into account that the programme included reference to comments which Ms Crosby had made publicly regarding her motivations for having cosmetic surgery: “*My old nose looked awful; it was so bad. When I watched myself before and turned to the side, I felt sick because my nose looked so awful*”.

We also took into account Channel 5’s representations that the comments featured in the programme were publicly available on social media platforms, and, while some were expressed in unpleasant, or even abusive, terms, the broadcaster said that there was no suggestion that they did not reflect the genuine views of the individuals who had published them. We had regard to Channel 5’s representations that it was not aware of any previous Ofcom decision which has found that it was unfair to broadcast publicly available and genuine social media comments because the broadcaster “elevated” them to a larger audience. We took into account Channel 5’s representations, which reiterated its position as set out at a) above, that upholding this element of the complaint would represent an “alarming encroachment” on Channel 5’s and the programme maker’s editorial freedom. We also considered Channel 5’s representations that it was entitled under Article 10 to include these publicly available comments as an illustration to viewers of the negative reaction from some sections of the public to what they perceived as Ms Crosby’s changing appearance.

As discussed above, consistent with the right to freedom of expression, Ofcom considered that broadcasters are free to broadcast a range of opinions and views, including those which may be controversial or upsetting to the subject of those comments. As referenced at head a) above, Ofcom recognised that Channel 5’s decision to broadcast negative posts which had been shared by members of the public on social media, had caused distress to Ms Crosby, in particular since Ms Crosby’s older family members were alerted to these comments by the programme. However, in assessing whether or not the programme had resulted in unfairness in this regard, Ofcom starts from the position that the approach a broadcaster takes in the selection of material it includes or does not include in a programme, is an editorial decision for it to make, provided it complies with the Code. Similarly, the prominence afforded to certain material in a programme is an editorial decision for the broadcaster to make, provided that it complies with the Code.

In this instance, we considered that it was made clear to viewers that the programme was making reference to critical comments which had been published on social media by members of the public. Although these views were not directly challenged in the Programme, we do not consider that they were explicitly endorsed either but were presented as examples of the opinions expressed by members of the public in reaction to what they perceived to be Ms Crosby’s changing appearance. For instance, we noted that the comments were introduced by the narrator as “*word on the street*” and as examples of Ms Crosby’s appearance being “*scrutinised online*”. We took into account Channel 5’s submissions that each time such comments were introduced, they were prefaced with narration that explained that Ms Crosby’s procedures had begun to attract public speculation and comment,

suggesting that the commentary was included to reflect the strong public reaction to the surgeries that Ms Crosby was believed to have undergone.

We considered that, where a broadcaster may wish to present material obtained from social media which reflects such strong public reaction, it is not unreasonable to expect that a broadcaster be particularly alive to the possibility that such material may be capable of causing unfairness to the subject of such comments in a broadcast programme, particularly where such material could materially and adversely affect viewers' opinions of the subject of this criticism. However, in this instance, and in Ofcom's view, the social media comments were sufficiently contextualised by the narrator and by the views expressed by the other commentators in the Programme such that viewers would have had sufficient information to make up their own mind about the sentiments expressed by the authors of these posts.

Taking the above factors into consideration, while we recognised that Ms Crosby had been distressed by the inclusion of the social media comments in the broadcast programme, on balance, we did not consider that viewers' opinions of Ms Crosby would have been adversely affected by the inclusion of the social media comments such as would result in unfairness.

For these reasons Ofcom considered that the comments made about Ms Crosby's appearance that were included in the programme (both by the commentators and the social media posts that were shown) were sufficiently contextualised and, on balance, we did not consider that viewers' opinions of Ms Crosby would have been adversely affected such as would result in unfairness to her.

In conclusion, Ofcom considered that, in the particular circumstances of this case, the broadcaster had taken reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to Ms Crosby. We therefore did not consider that the broadcaster's decision to include the comments subject to the complaint in the broadcast programme resulted in unfairness to Ms Crosby.

Ofcom has not upheld Ms Crosby's complaint, made on her behalf by Ms O'Shea, of unjust or unfair treatment in the programme as broadcast.