

## Complaint by The National Iranian American Council, on behalf of itself and of Mr Ehsan Zahedani about *The First Headline with Fardad Farahzad*

**Type of case** Fairness and Privacy

**Outcome** Not Upheld

**Service** Iran International

**Date & time** 14 August 2021, 15:30

**Category** Fairness

**Summary** Ofcom has not upheld this complaint about unjust or unfair treatment in the programme as broadcast.

### Case summary

The programme included a report on The National Iranian American Council (“NIAC”) which discussed its: founder, Mr Trita Parsi, stated aims, funding, relationship with the governments of Iran and the United States and the extent to which the organisation was a “*lobbyist for the Islamic Republic*”. The programme included an interview with one of the parties to the complaint, Mr Ehasan Zahedani. The NIAC and Mr Zahedani complained that they were treated unfairly because the nature of the programme had been misrepresented to them by the programme makers. The complainant’s said that, had they known, Mr Zahedani would not have given informed consent to take part in the programme.

Ofcom considered that the programme makers had obtained Mr Zahedani’s informed consent to contribute to the programme, and that the programme did not change substantially so as to invalidate his informed consent. We therefore considered that there was no unfairness to the NIAC or Mr Zahedani in the programme as broadcast.

### Programme summary

Iran International is a Farsi (Persian) language channel broadcast under an Ofcom licence held by Global Media Circulating Limited. As the programme was broadcast in Farsi, Ofcom provided an English translation to the complainant and the broadcaster. Neither party commented on the

translation and the parties were informed that Ofcom would use this translation for the purposes of this investigation.

On 14 August 2021, Iran International broadcast an edition of its news and current affairs programme *"The First Headline with Fardad Farahzad"*, which included a report about the NIAC and alleged *"lobbying for the Islamic Republic [i.e. the Government of Iran]"*. The presenter in the studio, Mr Fardad Farahzad, introduced the segment discussing the NIAC:

*"Right, in tonight's 'Under the Magnifier', what is NIAC? Who are NIAC people? What type of relationship have Javad Zarif<sup>1</sup> and Ahmadinejad<sup>2</sup> with NIAC people? Is NIAC, as some of its critics say, is a lobby for the Islamic Republic in the US, or as they themselves say, they defend the rights of Iranian Americans? We put NIAC under the magnifier tonight".*

The report about the NIAC in the programme began by discussing the NIAC's founder, Mr Trita Parsi, the establishment of the NIAC in 2002, and Mr Parsi's alleged attempts to establish a parallel organisation to the NIAC to "improve the relationship between Iran and the United States". The programme discussed the stated aims and objectives of the NIAC, as well as *"how much money"* the NIAC made and its sources of funding. The programme noted that the NIAC considered itself independent and that the NIAC had stated that it *"does not take money from any government"*, and that the majority of its funding came from *"personal donations"*.

The programme then discussed the extent to which the NIAC was a *"lobbyist for the Islamic Republic"* and, in doing so, noted that the NIAC had said that it was not and *"considers this an accusation"*. The programme also discussed the NIAC's court case against Mr Hassan Daei, who the programme explained *"had written that he believed that [the] NIAC was a lobbyist for the 'mullahs'<sup>3</sup> and an agent of the Islamic Republic"*. The programme explained that the NIAC said that *"the slander had damaged their reputation"*.

The programme showed the photographs of Mr Parsi and Mr Daei, followed by a series of documents, which were illegible, with portions of text highlighted. A caption read: *"Spring 2008"*. The presenter continued:

*"The court did not really examine whether or not NIAC was a lobbyist for the Islamic Republic, but rather whether Mr Daei lied or had malice. The trial lasted fifty-three months, and finally in 2012, the court ruled in favour of Daei, dismissing all charges against him and even forcing NIAC to pay part of Hassan Daei's legal fees, something around \$183,000".*

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<sup>1</sup> Mr Mohammad Javad Zarif, the former Minister of Foreign Affairs of Iran.

<sup>2</sup> Mr Mahmoud Ahmadinejad, the former President of Iran.

<sup>3</sup> Honorific title, most commonly applied to religious leaders and teachers.

A further caption read: *“The court ruled in favour of Hasan Daei”*. The programme went on to discuss Mr Parsi and the NIAC’s relationship with members of the governments of both Iran and the United States before going on to refer to some of the work done by the NIAC and a statement made by the judge in the NIAC’s court case against Mr Daei. The presenter said:

*“The NIAC have also stated that they oppose the repression of protesters and the inhumane behaviour of the Islamic Republic and consider themselves a supporter of human rights. There is a lot of this kind of content on the NIAC’s website. During the trial of Daei and NIAC, one of Trita Parsi’s accusations against Daei was that Daei considered NIAC to be the agent of the Islamic Republic, while ignoring NIAC’s criticism of the Islamic Republic. The judge denied the allegations, saying that Parsi making statements that contained balanced views and blamed both sides would not rule out the possibility that he was the agent of the Islamic Republic. The judge has said a few lines below that, given the notoriety of the Islamic Republic, any appointee with moderate intelligence would not want to be known as an appointee of the Iranian government”*.

At the end of the report, the programme included an interview with Mr Zahedani in the studio, who was present via video link. The following exchange took place:

Presenter: *“Ehsan Zahedani, the Director of Social Relations of NIAC, is with us from Los Angeles. Mr Zahedani, I know that NIAC and you are introducing NIAC as a civil society organisation in the United States. Why do you think there is such an image among the Iranian opposition in particular that NIAC is a lobbyist for the Islamic Republic?”*

Mr Zahedani: *Greetings to you, Mr Fardad, and the dear and esteemed viewers. I would first need to explain to you that parts of this report that you have just published are not true and are false. I will point out those parts if you wish. Unfortunately, saying that the court that you mentioned ruled in favour of Mr Daei was not true. Actually, it was a court to which NIAC had complained, and you know, eventually it is very, very difficult to prove slander in the United States, and it was Mr Daei who changed his mind after a while and said that in fact he ‘thought’ that NIAC was lobbying for the Islamic Republic. In the United States, when you have no malice, you can express your views based on freedom of expression and amendments to the US Constitution, and no one in the United States can convict you of defamation or slander.*

Presenter: *But the court was not convinced. The court did not rule in your favour. Is this false that the court did not rule in your favour?*

Mr Zahedani: *In the US, Mr Fardad, no one in the past 70-80 years, a hundred-year history, if you refer to legal cases in relation to defamation or slander,*

*99% of every hundred cases were not able to prove that, because they should prove that the person in question actually...*

**Presenter:** *But you complained to the court, I did not. You would have thought that your position was strong enough for you to win in the trial despite the supports provided by Amendment 1 of the US Constitution. The result, for any reason, was not in your favour, and you lost the trial. That is a fact, is it not?*

**Mr Zahedani:** *In fact, proving slander is almost impossible, especially when the person being sued changes his position and says that – instead of talking of the accusation they made – they actually thought that the accusation was true. Let me turn to your question, Mr Fardad. The matter is that the NIAC organisation is an anti-war and anti-sanctions organisation. Any organisation in the United States that is actually anti-war and anti-sanctions is accused by Iranian opposition groups of supporting the ruling regime in Iran. If you yourself tweet today or tomorrow and take a stand against the sanctions, you will also be accused of supporting the ruling regime in Iran.*

**Presenter:** *Well, look at Afghanistan; many may oppose US military intervention in Afghanistan but do not necessarily exchange e-mails with Taliban leaders, for example. The history of your organisation shows that at least Mr Trita Parsi, its former Director, had very comfortable relations with the Foreign Minister of the Islamic Republic, Javad Zarif, and the former representative of Iran to the United Nations. They have a lot of e-mails exchanged, and the literature you see in them also shows their relationship has been very good.*

**Mr Zahedani:** *Yes, look, the argument is that from the very first day that NIAC was founded in 2002, NIAC's organisational mission has been to strengthen the voice of the Iranian people in the United States and to work for peace and diplomacy, because as I mentioned earlier, we are against war and against sanctions. One of the tools, you cannot claim that you are working to promote peace and diplomacy, but only on paper. Yes, during Mr Trita Parsi's tenure at NIAC, efforts have been made to persuade governments based in Iran and the United States to talk to each other, to persuade them to talk instead of threatening, instead of putting the option of war on the table. That has been one of the tools.*

**Presenter:** *But, the highest rank in the Government of the Islamic Republic, the Supreme Leader of the Islamic Republic, has said many times that they do not negotiate with the United States, and then you see the behaviour of the Islamic Republic. And I know you yourself published statements several times in your website like about this Ukrainian airplane destruction, like their behaviour to protesters, how do you think the*

*international community should deal with such a government? Should they still try to ask them to come and negotiate with them about human rights, or could leverage such as sanctions be used? I'm not saying they should do so or not, but there are a number of Iranian-Americans who support such policies.*

Mr Zahedani: *Yes, look, in 2009, before the JCPA talks began in its final form, when negotiations were to take place between the Obama administration and Iran, there are documents that you can refer to, NIAC tried to include the issue of human rights as a central issue in the negotiations the Obama administration decided to have with Iran. That is one of its achievements. In 2011, twenty-four US senators wrote a letter to the then-Secretary of State, following NIAC's efforts, seeking an affirmative vote in the Human Rights Council to appoint a human rights rapporteur. Well, these are the things that NIAC has done in practice to strengthen human rights and to condemn human rights violations in Iran. I'm surprised, and it's a ridiculous claim that opposition groups or others accuse an organisation that has actually been working for nearly 12-13 years to strengthen human rights in Iran. Well, let me point out that those who accuse NIAC are people who are belligerent in the United States, the Israeli right, as well as opposition groups that are trying to overthrow the regime.*

Presenter: *But not all people are from the right-wing parties. Even if they were, that would not be a crime. After all, some of the Iranian Americans are Democrats, and some are Republicans, and you want to be an umbrella, as you say, for all Iranian-Americans. Naturally, some of them have problems with your dealings and believe that the path you have taken results in a condition that the real face of the Islamic Republic – which we have seen many times in the recent years how they treat protesters and the like – would not be reflected among Americans.*

Mr Zahedani: *Well, this is not true, Mr Fardad. You yourself pointed out in the reportage, if our friends refer to [the NIAC's] website, we have a section entitled 'Human Rights Tracker' to monitor the human rights violations in Iran, which regularly reflects the violations of human rights in Iran on a weekly basis in the American media, [i.e. the incidents that happen]. Just today, a trial is ongoing in Europe to sentence someone who is accused of killing and executing many Iranians who have been imprisoned in the 1980s. We declared our support and issued a statement. Also, we issued statements in the most vigorous tone possible every week about the incidents that took place some weeks ago. I wonder how a group can be accused of lobbying for the Islamic Republic while doing so much meaningful human rights work. In your discussion of the Internet, which you covered earlier in our news, we have been trying since 2009 to lift technology sanctions that actually*

*punish the Iranian people. We are trying to do this still today. Today, when the Internet is to be restricted in Iran, we are trying to neutralise these sanctions through technology companies in the United States. What type of lobbying group is that, that is moving in the interests of the Iranian people? If we are talking about lifting the sanctions, it is because the Iranian people are being punished. The ruling regime will not be punished.*

**Presenter:** *I would like to ask you very briefly, if the people want this government to be overthrown, not through war but in any other way, do you, as a civil society organisation in the United States, support their efforts to change the regime or do you believe that the Islamic Republic regime should remain in power?*

**Mr Zahedani:** *You mentioned that we are an American organisation, that is, an American organisation based in the United States. According to the organisational mission we have, we cannot interfere in the internal affairs of Iran, but we fully support the aspirations and wills of the Iranian people for democracy and for a government founded upon human rights, and this has always been reflected in our statements over the last 20 years. Mr Fardad Farahzad, you know very well that in the last 20 years or so, no Iranian group outside Iran has lasted more than a few months or a few years. NIAC has lasted for almost 20 years; it has achieved so much; NIAC's achievements do not belong to a specific Iranian-American or Iranian group; NIAC's achievements belong to all Iranians, whether opposition groups that oppose NIAC or those who support NIAC. In fact, our goal is to serve the interests of Iranian-Americans in the United States, and in the field of human rights, to serve the interests of the Iranian people. This is a very important issue. If we are talking about lifting sanctions, if we are talking about diplomacy, it is in the interests of the Iranian people; it is in the national interests of Iran, not for the regime officials. We have always been in favour of smart sanctions against the authorities. We have always been in favour of sanctioning those who violated human rights; we even prepared a list of names, a list of those who violated human rights in Iranian prisons, in the Iranian judiciary. We tried to sanction them, and they have been sanctioned, and we will continue to do so. The problem is that this argument and accusation against NIAC is really cowardly. I will be happy to explain more if there is more opportunity in future programmes.*

**Presenter:** *Definitely, this is a hot topic, and every time you want to come, we will definitely welcome you, as well as those who were mentioned, including Mr Hassan Daei, if they want to attend our programmes, we will definitely welcome them. Thank you, Ehsan Zahedani, NIAC's Social Communications Manager from Los Angeles, California, was with us".*

The programme moved on to focus on other news stories. Neither the report about the NIAC nor the interview with Mr Zahedani were referred to again.

## **Summary of the complaint and broadcaster's response**

### **Complaint**

The NIAC complained that it, and Mr Zahedani, were treated unjustly or unfairly in the programme as broadcast because the broadcaster had not been fair in their dealings with the NIAC and Mr Zahedani as contributors to the programme. It said that Mr Zahedani was “entirely misled about the nature of the program” and that he “felt ambushed after [the broadcaster] failed to alter the programme...as they said they had done”. It said that “no NIAC representative would have appeared on-air” had the broadcaster not “misrepresented the report’s contents” and “falsely claimed to have altered and corrected the report”. The NIAC said that the broadcaster had sought an agreement to contribute through “misrepresentation or deception”.

The NIAC explained that on 29 July 2021 it had been contacted by the programme makers stating that they had “prepared a report about the NIAC” and inviting a representative of the NIAC [i.e. Mr Zahedani] to appear in the programme. The NIAC said that it “subsequently learned [the broadcaster] may be intending to air a segment aimed at promoting false narratives [about the NIAC]” in a “televised debate” due to posts on social media by the programme makers. The NIAC said that it had contacted the programme makers and informed them that it was “concerned about the intent and potential bias of this report” and “would not consider an invitation to appear on this segment unless [we] received a transcript of the report”. It said that the transcript of the proposed programme it received from the programme makers was “based on highly misleading innuendo, distortions, and outright lies about our organization”, including that the NIAC “lobbies for the Islamic Republic of Iran”, and “does not support human rights in Iran”. The NIAC said that it told the programme makers that the proposed report “contained numerous falsehoods...and that [the NIAC] would not participate unless the report was corrected”. It said that, on the programme makers’ request, it had provided them with “corrections to the original transcript”, following which the presenter, Mr Farahzad, had sent them a voice note confirming “changes have been made to a great extent” to the original transcript “in light of [the NIAC’s] detailed response”. The NIAC said that, based on this response, it had agreed to participate in the programme as broadcast, including to the appearance of Mr Zahedani as an interview guest.

The NIAC said that when the programme was broadcast “no changes had been made to the original transcript” despite the broadcaster’s “assurance that significant corrections had been made”. It said that the broadcaster had “blatantly lied...in order to secure the on-air participation of [the NIAC], which itself helped lend further credence to their false and unfair representation [of the NIAC]”, and that the programme’s presenter engaged in “a hostile and biased interview” with Mr Zahedani.

### **Broadcaster's response**

#### **Background**

Iran International said that the programme makers first contacted Mr Zahedani via email on 29 July 2021, a copy of which was provided to Ofcom, explaining that the broadcaster was planning to include the item on the NIAC in an episode of *The First Headline* to be aired on 31 July 2021 and inviting Mr Zahedani to appear as a guest. It said that the 29 July email set out in very broad terms the issues to

be covered in the NIAC item. Iran International said that Mr Zahedani had asked for an opportunity to comment on the report before it was transmitted and requested a copy “for our [the NIAC’s] attorneys to review”. The broadcaster said that, while it was not normal editorial policy to send a contributor the full planned script of an item for comment before transmission, it wanted to be “as fair as possible to NIAC” and was “very keen to encourage NIAC to put up a spokesperson live for the programme”, so had, in this case, decided to “make an exception” and provided Mr Zahedani with a transcript of the report on the NIAC on 30 July 2021 (a copy of this correspondence and the transcript was also provided to Ofcom). Iran International said that Mr Zahedani had responded the same day (i.e. 30 July) alleging that the report contained “numerous falsehoods and inaccuracies”, following which it decided to postpone the broadcast of the NIAC item so as to give the NIAC an opportunity to identify and suggest corrections to any alleged falsehoods and inaccuracies in the transcript.

Iran International said that the NIAC provided it with corrections on 5 August 2021 (“the NIAC document”), and a copy of this document was also provided to Ofcom by the broadcaster. It said that the corrections were carefully assessed by the programme makers. Iran International said that, in a number of cases, the programme makers considered that the NIAC document was seeking to change or correct statements or allegations which were not made in the original transcript, and that it saw no reason to consider changes to the transcript in response to such requests. Iran International said that other comments made by the NIAC were simply matters of opinion or requests to present the NIAC in a more positive light. The broadcaster said that, in its view, such comments were not alleged factual errors or inaccuracies that merited any changes to the original transcript and that, by participating in the programme, Mr Zahedani would have sufficient opportunity to comment on these matters. Iran International said that there were some comments made by the NIAC which it decided did merit alterations to the original transcript and that, accordingly, five material changes were made, details of which were provided to Ofcom by the broadcaster in its response to the complaint.

#### *Voice notes from Mr Farahzad*

Iran International said that, on 11 August 2021, the programme’s presenter, Mr Farahzad, sent the first of two voice notes to Mr Zahedani via WhatsApp. Copies of both voice notes sent by Mr Zahedani were provided to Ofcom. Iran International said that, in the first voice note, Mr Farahzad represented to the NIAC that the broadcaster would “apply” the “factual notes” in, or “factual parts” of, the NIAC document amending the original transcript, and that the broadcaster would “try” to “reflect [the NIAC’s] opinion as much as possible”. Iran International said that this is exactly what it did, i.e. it considered all of the NIAC’s comments against the original transcript and, consistent with its policy to maintain editorial control over all its output, make any amendments it thought appropriate. It said that it was important to note that the broadcaster did not represent or guarantee to the NIAC that it would necessarily make any changes at all to the original transcript, or that any changes had in fact already been made. The broadcaster said that, similarly, in the second voice note sent on 13 August 2021, Mr Farahzad did not make any representations or promises about any specific changes to the original transcript, only that Iran International “tried to apply the changes to a great extent especially those factual parts”. It added that Mr Farahzad had also underlined how it was exceptional for the channel to send the whole script in advance to a potential contributor for comment.



### *Consent*

Iran International referred to Ofcom's published guidance in relation to Practice 7.3<sup>4</sup>, which it said confirmed that the measures set out are not a definition of informed consent and "there may be times when it is unnecessary to follow each and every point, for instance in the production of a news item". It said that the evidence of communication as set out above showed clearly that, in inviting Mr Zahedani to contribute, Iran International had followed Practice 7.3. The broadcaster reiterated that the programme makers' 29 July email to Mr Zahedani explained that Iran International was planning the NIAC report, invited him to appear as a live guest and laid out in broad terms the issues that would be covered in the report. It said that, if Mr Zahedani and the NIAC were in any doubt about the approach to be taken, this was clarified when the programme makers took the exceptional step of sending Mr Zahedani the original transcript for comment, giving both Mr Zahedani and the NIAC far more information about the report than a contributor would usually receive in such circumstances. Iran International said that Mr Farahzad also underlined to Mr Zahedani why he was being asked to contribute to the report, i.e. to put across the viewpoint of the NIAC on the issues being discussed and raise or query any points he did not feel were covered appropriately in the report. Referring in particular to the transcripts of the voice notes sent by Mr Farahzad, Iran International said that, in his first note, Mr Farahzad said, "the rest you can come and say yourself on the programme" and, in the second, "those parts which were opinion, you can come and say yourself in the programme".

Iran International said that there were no significant changes made to the programme which might reasonably have affected Mr Zahedani's consent to participate, adding that the complaint seemed to be concerned with the lack of any significant change. It said that the complainants were given an opportunity to preview and comment on the original transcript and clear information about whether they would be able to effect any changes to it. It said that, in his two voice notes, Mr Farahzad was consistent in saying that Iran International would only "apply" the comments in the NIAC document to the factual parts of the transcript. Iran International reiterated its submission that at no point did it promise or make any assurances to the NIAC that it would make any amendments at all to the original transcript in response to the NIAC's comments, or that it would inform the NIAC before the interview with Mr Zahedani of any changes that it did in fact decide to make. Iran International said that the only promises made to the NIAC were that the comments in the NIAC document on (especially the factual) content of the original transcript would be considered, and that Iran International would subsequently exercise its editorial discretion to make any changes it thought necessary and/or appropriate; and that Mr Zahedani would have an opportunity to speak about the NIAC and comment on the Report in the interview which would form part of the NIAC Item. It said that both of these promises were honoured.

Iran International said that, accordingly, it did not misrepresent or deceive the NIAC about either the nature or content of the report on the NIAC or the interview with Mr Zahedani in the programme as broadcast in order to obtain his consent to contribute to it.

### *Unfairness in the programme as broadcast*

Iran International said that the programme broadcast on 14 August 2021 began with the NIAC report, which was then followed by the interview with Mr Zahedani which lasted approximately ten minutes. It said that Mr Zahedani not only had the opportunity to dispute the accuracy of the NIAC report,

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<sup>4</sup> [Guidance notes on Section Seven: Fairness.](#)

which it said he did in his opening remarks that *“part of this report...are not true and are false”*, but also had ample and uninterrupted time to put across the NIAC’s viewpoint. It said that the complainant’s allegation that the programme’s presenter engaged in a “hostile and biased interview” with Mr Zahedani was untrue, and that during the interview Mr Zahedani was free to say whatever he wished in the way he wished. It said that Mr Farahzad asked Mr Zahedani some probing questions but did not do so in a hostile way, and that he was “merely doing his job as a journalist”. Iran International said that even if there was some material unfairness in the way that it had secured Mr Zahedani’s agreement to take part in the programme, which it said it wholeheartedly disputed, Mr Zahedani was, by means of the interview, given ample opportunity to correct it.

## **Preliminary View**

Ofcom prepared a Preliminary View that the NIAC’s complaint on behalf of itself and Mr Zahedani should not be upheld. Both parties were given the opportunity to make representations on the Preliminary View and both parties chose to do so. Their representations, insofar as they are relevant to the complaint entertained and considered by Ofcom, are summarised below.

## **Complainant’s representations**

The NIAC disagreed with Ofcom’s Preliminary View and said that it had given “far too much weight” to the fact that Mr Zahedani had been provided with an opportunity to rebut the allegations made in the report. The NIAC said that, although Mr Zahedani “did handle himself well”, it “did not seek” the opportunity to appear on the programme and rebut the report, and that the interview had been obtained through deceptive practices. The NIAC said that it would not have participated in any on-air interview to “lend Iran International or its report credibility” had it not been led to believe that the report in question had been significantly corrected.

The NIAC reiterated that it, and Mr Zahedani’s, decision to participate in the programme had rested on the “assurance” that the presenter had given Mr Zahedani that “changes have been made to a great extent” to the original transcript. It said that, despite this, no substantive changes were made to the programme, and that the broadcaster had made only “superficial alterations”. The NIAC said that the changes made to the original transcript regarding the nature of the court case involving Mr Daei had “actually made its transcript less accurate”, and that the NIAC had not sued Mr Daei for defamation for his beliefs, but rather for his “actions in falsely accusing the NIAC”. It said that it was “imperative that Ofcom not credit Iran International for edits that actually made the transcript more inaccurate as justification to dismiss [our] complaint”. The issue of inaccuracy regarding the court case in the report was considered by Ofcom in its Entertainment Decision on the complaint and is not revisited again in this decision.

The NIAC said that it had been “lured” to participate in a programme that “spread disinformation and innuendo in an effort to damage the reputation of [the NIAC] and Mr Zahedani”. It said that Mr Zahedani had been misled that material changes to the programme were made to counteract the original transcript, which was “materially unfair”, and that it had appeared to Mr Zahedani that the broadcaster had made “some good faith effort to change the transcript after [the NIAC’s] review, when in fact there was none”.

### Broadcaster's representations

Iran International said that it had provided Mr Zahedani with “far more” information about the programme than a contributor would “typically receive”, including details about the nature and purpose of the programme and Mr Zahedani’s proposed contribution to it, as well as a full transcript of the report on the NIAC.

The broadcaster acknowledged that the complainants had “queried certain aspects of the material”, but said that it was important to note that the programme’s presenter had responded by stating that “although Iran International would take the NIAC’s comments on board and use its editorial discretion to make any changes it deemed necessary, ‘those parts which were opinion, you can come and say them yourself on the programme’”. It also reiterated that the presenter had told Mr Zahedani that “all the notes will not be applied 100%”. The broadcaster said that these comments made it “crystal clear” to Mr Zahedani that at least some of the points which the NIAC felt should be included in the programme would be “left for him to make”, and that Mr Zahedani had provided his informed consent to take part in the programme on this basis.

Iran International said that, when the programme was broadcast, it was “not substantially different to the programme as described to Mr Zahedani before his appearance”, and that this showed that the broadcaster had not misrepresented the programme to Mr Zahedani “at all”. It said that, when Mr Zahedani agreed to appear on the programme he had a “very good understanding of what both the programme and his proposed contribution to it would be”, and that no aspect of the programme as broadcast had invalidated the informed consent that he had provided, or caused the complainants to be treated unfairly.

### 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 its decision, Ofcom carefully considered all the relevant material provided by both parties. This included a recording and translated transcript of the programme, and both parties’ written submissions, and the representations made by both parties in response to the Preliminary View. After careful consideration of the representations, we considered that the points raised did not materially affect the outcome of Ofcom’s Preliminary View not to 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, programmes, or in the making of programmes. 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.

We considered the complaint, which was reiterated by the NIAC in its representations on the Preliminary View, that the NIAC and Mr Zahedani were treated unjustly or unfairly in the programme as broadcast because they were “misled about the nature of the program” and that broadcaster had sought an agreement to contribute through “misrepresentation or deception”. In particular, the broadcaster “falsely claimed to have altered and corrected the report”, and neither the NIAC nor Mr Zahedani “would have appeared on air” had the broadcaster not “misrepresented the report’s contents”.

### *Informed consent*

Ofcom began by considering whether the programme makers were fair in their dealings with the NIAC and Mr Zahedani as a potential contributor to the programme and, in particular, whether the complainants gave informed consent to participate in the programme.

The Code requires programme makers and broadcasters to be fair in their dealings with contributors and that contributors should normally be told the nature and purpose of the programme, what the programme is about and be given a clear explanation of why they were asked to contribute. However, it is important to note that, in cases such as this, any alleged unfair treatment in the making of a programme will only constitute a breach of the Code where it results in unfairness to an individual or organisation in the programme as broadcast.

In considering this part of the complaint, we had particular regard to the following Code practices:

Practice 7.2 states:

“Broadcasters and programme makers should normally be fair in their dealings with potential contributors to programmes unless, exceptionally, it is justified to do otherwise”.

Practice 7.3 states:

“Where a person is invited to make a contribution to a programme...they should normally, at an appropriate stage:

- be told the nature and purpose of the programme, what the programme is about and be given a clear explanation of why they were asked to contribute...;
- be told what kind of contribution they are expected to make...;
- be informed about the areas of questioning and, wherever possible, the nature of other likely contributions;
- be made aware of any significant changes to the programme as it develops which might reasonably affect their original consent to participate, and which might cause material unfairness;

...

- be given clear information, if offered an opportunity to preview the programme, about whether they will be able to effect any changes to it.

...

Taking these measures is likely to result in the consent that is given being 'informed consent'...".

We first examined the information that was made available to the NIAC and Mr Zahedani by the programme makers with regards to the nature and likely content of the programme, and Mr Zahedani's likely contribution, in advance of him agreeing to participate. In doing so, we took account of both parties' submissions (set out in detail in the "Summary of complaint and broadcaster's response" section above). We also considered whether there were any significant changes to the nature and content of the programme prior to broadcast which may have altered the complainants' willingness to be involved and invalidated the consent they had given earlier in the programme making process.

From the complaint, Ofcom understood that the NIAC and Mr Zahedani believed that the broadcaster had "falsely claimed to have altered and corrected the report" and that, had the complainants known this, they would not have agreed to participate in the programme. The NIAC said that it had provided the broadcaster with "corrections to the original transcript", and that it had understood from its correspondence with the programme makers that changes to the transcript had subsequently been implemented "to a great extent". This was reiterated by the NIAC in its representations on Ofcom's Preliminary View.

Ofcom took into account the records of communication between the broadcaster and the NIAC as provided by both parties. We considered that, in an email sent to Mr Zahedani on 29 July 2021, Iran International informed Mr Zahedani that it intended to broadcast "a short report about the NIAC...after the report there will be an approximately 15 minutes debate between two guests" on 31 July 2021. It was also stated that the debate in the programme would include: "an analysis of the current situation of Iran and USA negotiations, especially considering Mr Biden's Interaction with Iran's new President. Critics[sic] about NIAC by some of the Iranian diaspora opposition groups, particularly an argument that the NIAC has a close relationship with Iranian officials and government. Support or oppose sanctions, reasons will be discussed by both sides". We took into account that, by way of response, Mr Zahedani requested a copy of the script for the report "prior to airing it for [the NIAC's] attorneys to review", and that a copy of this was subsequently provided to Mr Zahedani by the programme makers on 30 July 2021. We also took into account Mr Zahedani's response on the same date, in which he said that the report contained "numerous falsehoods and inaccuracies" and that the NIAC would "not participate in its dissemination".

Ofcom understands that Mr Zahedani provided the programme makers with a document detailing "feedback and corrections to the script" via email on 5 August 2021. We took into account that, in the same correspondence, Mr Zahedani requested that the report "fairly highlight what the NIAC is and its many accomplishments, not simply rehash baseless allegations or speak about what [the NIAC] are

not". Ofcom considered that, in a voice note sent to Mr Zahedani on 11 August 2021, the programme's presenter informed Mr Zahedani that he had "sent the notes [i.e. the document detailing the NIAC's changes to the original transcript]" to the programme makers and had "told [the programme makers] to apply them wherever there are factual notes". We considered that, in the same message, the presenter informed Mr Zahedani that "all the notes will not be applied 100%" and that the programme would try to reflect the NIAC's opinion "as much as possible", and that "the rest [Mr Zahedani] can come and say yourself on the programme". Ofcom also considered that, in a second voice note sent to Mr Zahedani on 13 August 2021, i.e. the day before the programme was broadcast, the presenter reiterated that the programme makers had "tried" to apply factual changes, and that "part of the notes [Mr Zahedani] mentioned have been applied, and those parts which were theoretical, you can come and say them yourself on the programme".

We compared the emails and two voice notes exchanged between Mr Zahedani and the programme makers about the nature of the programme with the content of the programme as broadcast. We considered that the content broadly aligned with the information provided to the complainants in advance of Mr Zahedani's participation. In particular, we took into account that, while the programme did not include all of the "corrections" and/or information provided by the NIAC, the programme followed the format as described by the programme makers in that it included a short analysis of the NIAC, including topics such as the relationship between Iran and the USA, some criticism of the NIAC and discussion of the relationship between the NIAC and the Iranian government. In addition, the report in the programme was followed by an interview with Mr Zahedani, during which he was provided with the opportunity to give his opinion on the report and was able to put forward the NIAC's viewpoint, which he did in a clear and robust manner.

In considering whether or not the NIAC's, and Mr Zahedani's, informed consent had been obtained, it is important to note that it is a matter for the programme makers and broadcaster to decide how best to ensure that they have obtained any necessary informed consent from contributors, and there are a number of potential ways in which this can be demonstrated. In this case, we carefully considered the material provided by both parties. Ofcom considered that, given the circumstances set out above, it was reasonable for Iran International and the programme makers to have understood that they had sought and obtained the complainants' informed consent. In particular, we considered that the programme makers had taken steps to provide Mr Zahedani with information regarding the format and nature of the programme and his expected contribution, Mr Zahedani was provided with a copy of the transcript of the programme for comment in advance of his participation and Iran International subsequently informed Mr Zahedani that it had made some changes where these related to what the broadcaster consider to be "factual" matters, following which Mr Zahedani had appeared on the programme.

Ofcom acknowledged that the NIAC said that the broadcaster had "falsely claimed to have altered and corrected the report" and that it was on this basis that Mr Zahedani had agreed to participate in the programme. This point was reiterated in its representations on the Preliminary View. We therefore went on to consider the NIAC and Mr Zahedani's complaint that the programme makers had misrepresented the nature of the programme and Mr Zahedani's expected contribution to it, and whether there was a failure by Iran International to make the complainants' aware of any significant changes to the programme that might reasonably affect their informed consent.

Decisions regarding what content to include, or exclude, from a programme are editorial matters for the broadcaster. We recognised that the complainants felt that they had been given assurances that changes had been made to the programme when in fact they had not, however, we took into account that, in the voice notes sent to Mr Zahedani, the programme makers clearly stated that “all the notes will not be applied 100%” and that, while the programme would try to reflect the NIAC’s opinion “as much as possible...the rest [Mr Zahedani] can come and say yourself on the programme”. We also had regard to the copy of the original transcript and the document containing corrections submitted by the NIAC, which were provided to Ofcom by the broadcaster. Ofcom understood that, following the correspondence between Mr Zahedani and the programme makers, a number of changes were made to the original transcript to address a number of the “corrections” submitted by the complainants. We understand that the NIAC may have preferred that the programme had incorporated more of the “corrections” it submitted to the original transcript and/or included further details about the work undertaken by the NIAC and its “accomplishments”. However, as set out above, this is an editorial matter for the broadcaster and, in our view, the content of the programme as broadcast did otherwise broadly align with the information provided to Mr Zahedani in advance of his participation. In particular, it included some analysis of the NIAC and a number of the criticisms that have been made of it, in addition to reflecting the NIAC’s response to such claims, for example in relation to how the organisation is funded, the court case and any alleged lobbying, and outlining some of the organisation’s work and stated objectives.

Ofcom also considered that there was nothing in the material provided to Ofcom by either party to this complaint, such as the correspondence between the parties and the presenter’s voice notes, which suggested that the programme makers had deliberately set out to mislead the complainants into contributing to the programme. In any case, in Ofcom’s view, any dispute between the parties about the extent to which changes would be made to the original transcript did not result in unfairness to the NIAC or Mr Zahedani in the programme as broadcast. As noted above, during the interview with him in the programme, Mr Zahedani was given the opportunity to comment on the report and set out the NIAC’s position, which he did in a clear and robust manner. In particular, we took into account that Mr Zahedani began the interview by stating that *“parts of this report that you have just published are not true and are false”*, and that he went on to challenge aspects of the report, including statements relating to the court case, and provided examples of the NIAC’s work on human rights. Ofcom considered it would have been clear to viewers that Mr Zahedani, and the NIAC, considered the parts of the report, and those concerning the court case in particular, to be false. Therefore, irrespective of whether the programme was inaccurate in this respect, we considered that the programme as broadcast was unlikely to materially and adversely affect viewers’ perceptions of the NIAC in a way that was unfair to it.

Given all the factors above, we considered that the programme makers had taken steps to establish that the informed consent of the NIAC and Mr Zahedani had been obtained, and that, in the particular circumstances of this case, the fact that the programme had not been amended in the way that the complainants would have liked did not amount to a significant change in the nature of the programme so as to invalidate the NIAC and Mr Zahedani’s informed consent and result in unfairness to the complainants in the programme as broadcast.

**Ofcom has not upheld the NIAC’s complaint on behalf of itself and Mr Zahedani of unjust or unfair treatment in the programme as broadcast.**

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