

Ofcom broadcast bulletin

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Introduction

The Communications Act allows for the Codes of the legacy regulators to remain in force until such time as Ofcom developed its own Codes. Ofcom consulted in 2004 on its new Code, which has now been published and will take effect from 25 July 2005 (with the exception of Rule 10.17 which comes into effect on 1 July 2005).

The Code can be found at <http://www.ofcom.org.uk/tv/ifi/codes/bcode/>

The Codes and rules currently in force for broadcast content are:

- Advertising and Sponsorship Code (Radio Authority)
- News & Current Affairs Code and Programme Code (Radio Authority)
- Code on Standards (Broadcasting Standards Commission)
- Code on Fairness and Privacy (Broadcasting Standards Commission)
- Programme Code (Independent Television Commission)
- Programme Sponsorship Code (Independent Television Commission)
- Rules on the Amount and Scheduling of Advertising

From time to time adjudications relating to advertising content may appear in the bulletin in relation to the application of formal sanctions by Ofcom.

Copies of the full adjudications for Upheld and Not Upheld Fairness and Privacy cases can be found on the Ofcom website: www.ofcom.org.uk

Standards cases

In Breach

Sally Jesse Raphael

ITV 2, 25 February 2005, 10:50

Introduction

Sally Jesse Raphael is a US talk show. This edition included a discussion with the producer of US programmes devoted to clips of footage originally recorded for purposes other than broadcast (e.g. CCTV shot in the workplace) and clips from those programmes.

A viewer complained about one of the clips from *When Good Times Go Bad* that showed two skydivers colliding in mid-air. One skydiver died immediately and the other's legs were severed in the collision. The viewer was disturbed by the footage and felt that the death of a human being should not be used as entertainment.

Response

ITV told us that *Sally Jesse Raphael* was a long-established and popular feature of the ITV2 schedule and that the clip used was within the bounds of acceptability. The nature of some of the content was very clear to viewers from the *Sally Jesse Raphael* edition title: *Caught on Tape: Shocking Moments*.

The broadcaster considered that this clip was carefully contextualised and was not played gratuitously or in a manner likely to cause widespread offence. It stated that the clip was sufficiently signposted so viewers would have been aware that the stunt they were about to see would go badly wrong. ITV also considered that the footage of the accident was 'relatively indistinct and inexplicit' and that further context was offered by an interview with the producer of *When Good Times Go Bad* explaining that this was an inspiring story as the survivor went on to skydive again.

Decision

The Programme Code states that "actuality footage of executions or other scenes in which people are clearly seen being killed or about to die require exceptional justification".

The footage of the accident was clear enough to convey that a tragic accident had occurred. A red substance (that the viewer took to be blood) sprayed into the air at the point of impact and the obvious distress of the cameraman who captured the scene on tape could be heard. The clip was then repeated.

ITV argued that this clip was carefully contextualised. Although the commentary did state that the stunt was about to go terribly wrong, we do not consider that this would have sufficiently prepared viewers for a clip of this nature. The clip was shown amongst other footage of much less serious mishaps or accidents, many of which were humorous.

ITV stated that additional context was offered by the inspiring story of the surviving man and that an interview with the survivor was included in the programme.

Consent to use material of this kind does not negate the responsibility of the broadcaster to consider the audience's likely reaction. We consider that the key issue here is that the footage of the death of one of the skydivers was used in an entertainment context in this pre-watershed programme which did not provide the 'exceptional justification' required by the Code.

The programme was in breach of Section 1.7 (ii) (Violence in News and Other Programmes).

Resolved

Trailers for *Anatomy for Beginners*

Channel 4, week commencing 17 January 2005, various times

Introduction

We received 26 complaints about trailers for *Anatomy for Beginners*, a series broadcast on Channel 4 in the week commencing Monday 24 January 2005.

Many of the complainants spoke in general terms of the 'shocking' or 'distressing' nature of the trailers and did not refer to a particular trailer. However, 12 viewers specifically referred to trailers which showed a dissected chest cavity, with an exposed pair of lungs being inflated. Many of them seemed to have seen these trailers while waiting to watch either *Desperate Housewives* on Wednesday 19 January or *Celebrity Big Brother* on Friday 21 January. Two viewers complained about the nudity of live models.

Response

Channel 4 explained that there were ten different trailers, scheduled at different times. The trailers featuring the images of the lungs were shown after 22:00.

Channel 4 said that, because of the importance of the series, it had been heavily trailed in the week before transmission. The broadcaster received 'some negative telephone calls' from viewers who objected to the trailers containing the images of the lungs. As a result, and as the purpose of trailers was to encourage viewers to watch a programme rather than to put them off, Channel 4 decided to stop using the trailers in question.

Decision

Viewers can choose whether to watch a programme but do not have the same choice with trailers. In creating and scheduling trailers, the expectations of viewers need to be considered very carefully, even after the watershed.

In this case, we considered that the trailers that did not feature the lung sequence were unproblematic. They were appropriately scheduled, and provided a clear flavour of the series without featuring unduly graphic images. There was little nudity before the watershed and even that was justifiable, appearing in a non-sexual and relevant context.

The remaining three trailers featured the lung sequence. Two of these trailers were forty seconds long, and featured a montage of clips from the series: the images in question only appeared near the end of each trailer. The third trailer, however, was different in two significant respects. It was twenty seconds long and went straight into a shot of a dissected cadaver, with no build-up, giving viewers no opportunity to avoid this image. It was also considerably more graphic than the other two trailers. We have serious concerns about the appropriateness of the third trailer, even when broadcast late at night, and consider that Channel 4 responded appropriately to viewers' concerns about these trailers by taking them off air.

Not in Breach/Complaints Resolved

The Big Story

Fox News, 26 April 2005, 22:20

Introduction

A viewer complained that during a discussion about the appointment of a new US ambassador to the United Nations, the presenter – Judge Andrew Napolitano – described the UN as an organisation that “sends peace-keepers to the Congo to rape young children”.

Response

Fox News said the comment had been made during an unscripted, animated, emotional and lively debate.

It apologised for any offence, but pointed out that Judge Napolitano had clarified his remark on the same programme two days later. He told viewers that what he had meant to say was that the UN had sent peace-keepers to the Congo “and there have been reports that some of them had raped children”. He apologised for any confusion.

Decision

The discussion on *The Big Story* centred on the nomination of John Bolton as the new American ambassador to the United Nations.

There was a heated, although generally well conducted and balanced debate, involving the Republican former Assistant Secretary of State for Defence, Frank Gaffney, and the Democrat former senator Carol Moseley Braun. The comment came when Judge Napolitano challenged Ms Moseley Braun over her assertion that the US should appoint a more conciliatory figure as UN ambassador.

We acknowledge that there have been serious allegations concerning the conduct of some United Nations peace-keeping troops in the Congo. However the remark was unfortunate, and certainly expressed in a clumsy manner. We welcome the apology and clarification by Fox News, and regard the matter as resolved.

Complaint Resolved

Our House

UKTV, 21 March 2005, 13:00

Introduction

Our House is a home make-over series offering DIY advice. A complaint was made on behalf of a viewer that this edition featured advice on how to fix an external electrical socket. The viewer was concerned that the programme gave no warning that new electricity regulations had come into force since the programme was made.

Response

UKTV acknowledged that the new regulations had come into force after the programme was made. It queried whether the regulations would in fact cover the majority of the DIY work shown in *Our House*. However, it acknowledged that the regulations were an important source of information for viewers and agreed to put a caption at the end of *Our House*, and any other programme dealing with electrical DIY, directing viewers to the regulations.

Decision

In view of UKTV's decision to draw viewers' attention to the new regulations, we consider the matter resolved.

Complaint Resolved

EPG entry for The Adult Channel on NTL

23 April 2005

Introduction

A viewer complained that the listing on the NTL electronic programme guide (EPG), of the title of a programme to be transmitted on the Adult Channel, contained explicit sexual language.

Response

NTL apologised for any distress caused by this incident. It said data for the EPG was supplied by a third party company, and that modified “EPG specific” titles were normally assigned to programmes listed on adult channels. This system should prevent offensive words reaching the EPG.

Unfortunately, the full title found its way onto the EPG on this occasion, instead of the EPG specific labelling. The system was now being revised to ensure that this could not happen in future. As an interim measure, the company had re-edited all titles on the database to make sure that there were no offensive words on the system, and so no explicit titles could be displayed by accident.

Decision

The language transmitted was particularly graphic and strong. We accept that this was an unintentional error, and that measures have now been put in place to ensure that this does not happen again. In the circumstances, we consider the matter resolved.

Complaint Resolved

Emmerdale

ITV 1, 31 March 2005, 19:00

Introduction

During this episode, a secretary was seen looking at a website on her computer screen. A viewer noted the web-site address and was disturbed to find that, when accessed, it contained pornographic material.

Response

ITV apologised unreservedly for the inclusion of an inappropriate web-site address in this pre-watershed soap.

The licensee had followed the usual procedure for establishing a fictional address, but unfortunately the address had been mis-read and a real address had inadvertently been used. This error had been taken very seriously and the production team had been reminded of the importance placed on care and accuracy in this area, particularly if it led to harm or offence.

Decision

We accept that this was an entirely unintentional error. Given the steps taken by the licensee, we consider the matter resolved.

Complaint Resolved

Not in Breach

Dead Like Me trail

Sky One, 3 March 2005, 19:30

Introduction

A viewer complained about the use of the phrase “Life’s a bitch” in this trail for the second series of this US comedy/drama. He felt it was inappropriate to show it during *The Simpsons*, which many children would be watching.

Response

The licensee explained that the trail was designed to re-introduce the characters from the first series and to set the scene for the new series. The trail began with a voice-over stating that “Life’s a bitch ...”. This was immediately followed by characters from the drama explaining that “the world doesn’t make any sense” and “it’s not fair”. The voice-over then continues “...and then you don’t die”, playing on the well-known expression. This tied into the theme of the comedy/drama about a young college drop-out, who becomes a ‘reaper’ following her untimely and accidental death.

Sky said that it believed that most viewers would understand that the phrase was describing a situation and not aimed at an individual. In this context, viewers would be unlikely to find this phrase offensive. The trail was scheduled during *The Simpsons*, which on occasions uses similar language, and appeals to a broad range of viewers at this time of the evening. The licensee felt that, at 19:00 and during this comedy, the trail would not be contrary to audience expectation.

Decision

Viewers tend to dislike the use of offensive language before the watershed and its use in a trail can be particularly problematic. However *The Simpsons* attracts a wide-ranging audience at this time of the evening – of which children are a minority.

On this occasion, the phrase was clearly used to describe an ill-fated situation and was not addressed at an individual. Although recent audience research shows that some viewers find the term ‘bitch’ offensive when directed at an individual, we believe that in this particular context, the indirect usage was unlikely to have offended the majority of viewers.

The trail was not in breach of the Code.

The Vicar of Dibley

BBC1, 25 December 2004, 21.25

Introduction

This was the first of a two episode special over the Christmas/New Year period and featured all the regular characters from previous series. In this story, the main character, Geraldine, questioned her calling as a vicar in the village and experienced further major set-backs, which seemed to confirm this point of view. At the end, however, the villagers' loyalty to her and the good work she had done as their pastor persuaded her to stay on.

In summary, viewers complained that some of the material denigrated Christianity, that similar material would not have been used if another religion had been featured, and/or it was unsuitable for Christmas night, one of the biggest festivals in the Christian year.

Viewers also complained about the general bad language and adult nature of some of the material including, at one point, a female character's speculation about a possible physical relationship with the Queen.

Response

The BBC said that it was sorry that viewers found the episode unacceptable and regretted the offence caused. However, comedy which includes religious references often takes writers and broadcasters into sensitive areas. The references to Christianity were no more than a reflection of the predominance of the faith in the UK.

The BBC did not feel that there was any intention to mock or challenge Christian belief or the Nativity. *The Vicar of Dibley* was a comedy that had consistently used religious references in its jokes over the past ten years and was intended to be a 'gentle' comedy with moments of irreverence. Most of the humour derived from the characters, their immature and naïve behaviour and reaction to different subjects or issues, which was, at times, more adult in nature.

While the topics of humour were very much in keeping with that description, this episode possibly pressed its jokes a little further than the programme usually did. The BBC did not feel that the carol or Alice's 'musings' about the Queen went beyond the well-established mix of earthiness and irreverence. The 'sexual' element was notable for the comic misunderstandings it led to, rather than any degree of explicitness.

The BBC felt that none of the material was out of place in this post-watershed 'special'. It was not family entertainment, as suggested by some complainants. The preceding series also had some raunchy moments and the language used included none of the terms which the former BSC's research found were regarded as strong by most people.

Decision

In considering this programme, we took into account the requirements of the ex-BSC Code, by which BBC programmes are assessed. In particular we looked at whether:

- the material humiliated individuals or groups gratuitously (section 26)

In our view, there was a strong, positive Christian message at the outset, including, in discussion, the fact that Jesus would turn a world of hatred into a world of love. Throughout the show (as she has done in every series) Geraldine was constantly correcting the other characters' well-established absurd misconceptions about the Christian faith.

- the swearing was acceptable in context (sections 36-40)

The programme was broadcast after the watershed

- particular care was taken when referring to religion in entertainment (section 43)

The programme was peppered with farcical, broad comedy elements that would not have been out of place in a Carry-On film or a Whitehall farce. The culmination of Geraldine's frustrations leading to her questioning her calling as a vicar, which included her getting drunk, forgetting Midnight Mass and falling out of the pulpit, again, would not have been out of place in a more traditional sit-com from a bygone age. In effect, a routine and traditional 'comedy vicar' moment.

Overall, we felt that this series long ago established its ability to create bizarre and farcical moments from major misunderstandings within the community – this has included outrageous statements about figures in both Church and State, strong language, adult material and, indeed, drunkenness on the part of the vicar. While the programme may, in places, have been at the limits of audience expectations, it did not go beyond them.

There remains the question of whether it was appropriate to schedule this particular episode on Christmas night. While it was appropriately scheduled after the watershed, we felt that it was perhaps questionable for the material, making fun of people's misconceptions of Christianity, to be shown at this particularly important festival in the Christian calendar. However, on balance and bearing in mind the positive Christian messages throughout the episode, and Geraldine's rejection of the villagers' absurd religious naivety, we do not feel that this programme went so far as to actually denigrate the beliefs of those watching. In order for the jokes to work the audience needed to understand the real meaning of the Christian elements shown and discussed. The laughter demonstrated it was clear people were not laughing at the tenets of belief but at the characters' false interpretation of such elements.

The complaints were not upheld

Fairness and Privacy Cases

Where a complaint is not upheld there is only a note of the outcome. For a copy of a full adjudication, whether the complaint is upheld or not, go to Ofcom's website at www.ofcom.org.uk/bulletins/ or send a stamped addressed envelope to: Ofcom, Riverside House, 2a Southwark Bridge Road, London SE1 9HA.

Not Upheld

Complainant	Programme	Date & Broadcaster	Type of complaint
MyTravel plc on its own behalf and on behalf of Mr Chris Bebbington	Package Holiday Undercover	5 and 9 October 2004, ITV1 and ITV2	unfair treatment and unwarranted infringement of privacy

Other programmes not in breach/out of remit

4 May – 17 May

Programme	Trans Date	Channel	Category	No. of complaints
100 Greatest War Films	15/05/2005	Channel 4	Offence	1
101 Greatest Bands	30/04/2005	MTV2	Language	1
64 Zoo Lane	05/05/2005	CBeebies	Offence	1
Ali G Indahouse	04/05/2005	ITV1	Impartiality	2
Bad Girls	10/05/2005	ITV1	Offence	1
BBC News	22/04/2005	BBC1	Impartiality	2
BBC News	05/05/2005	BBC1	Offence	1
BBC News 24	30/04/2005	BBC News 24	Impartiality	1
Beat 106	27/04/2005	Beat 106	Offence	1
Best Friends	06/05/2005	CBBC1	Offence	1
Casualty	14/05/2005	BBC1	Offence	2
Cathouse	28/04/2005	Channel 4	Offence	1
Celebrity Wrestling	23/04/2005	ITV1	Offence	1
Celebrity Wrestling	30/04/2005	ITV1	Offence	1
Celebrity Wrestling	10/05/2005	ITV1	Offence	1
Celebrity Wrestling	14/05/2005	ITV1	Offence	1
Channel 4 News	14/02/2005	Channel 4	Accuracy	1
Channel 4 News	13/04/2005	Channel 4	Language	1
Channel 4 News	25/04/2005	Channel 4	Impartiality	1
Channel 4 News	02/05/2005	Channel 4	Impartiality	1
Channel 4 News	28/04/2005	Channel 4	Impartiality	1
Channel 4 News	09/05/2005	Channel 4	Offence	1
Children in Need	15/11/2004	BBC1	Offence	1
Children in Need	16/11/2004	BBC1	Offence	1
Children in Need	12/11/2004	BBC1	Offence	1
Children in Need	19/11/2004	BBC1	Offence	2
Comedy Lab	13/05/2005	Channel 4	Offence	1
Coronation Street	29/04/2005	ITV1	Offence	1
Coronation Street	02/05/2005	ITV1	Offence	2
Coronation Street	04/05/2005	ITV1	Offence	1
Coronation Street	29/04/2005	ITV1	Offence	1
Coronation Street	09/05/2005	ITV1	Offence	2
Coronation Street	13/05/2005	ITV1	Offence	1
Cosmetic Surgery Live	-	Channel 4	Sexual Portrayal	1
Denis Norden's 8th Laughter File	11/05/2005	ITV1	Offence	1
Derren Brown: Trick of the Mind	29/04/2005	Channel 4	Offence	1
Desperate Housewives	19/04/2005	Channel 4	Sexual Portrayal	1
Diary of a Porn Virgin	26/04/2005	Channel 4	Sexual Portrayal	2
Drawn Together	03/05/2005	MTV Base	Offence	1
Election 2005	27/04/2005	Isle of Wight Radio	Impartiality	1

Election 2005	04/05/2005	BBC1	Offence	1
Election 2005: Ask the Leaders.	02/05/2005	ITV1	Impartiality	1
Election 2005: Ask the Leaders.	18/04/2005	ITV1	Impartiality	1
Election Night	05/05/2005	BBC1	Impartiality	4
Election Night	06/05/2005	ITV1	Impartiality	2
Emmerdale	04/05/2005	ITV1	Offence	1
Emmerdale	05/05/2005	ITV1	Offence	2
Emmerdale	06/05/2005	ITV1	Offence	1
Emmerdale	12/05/2005	ITV1	Offence	1
FAQ U	04/05/2005	Channel 4	Religious Offence	1
FAQ U	09/05/2005	Channel 4	Offence	1
FAQ U	10/05/2005	Channel 4	Offence	2
FAQ U	07/05/2005	Channel 4	Offence	1
Five Live	23/04/2005	BBC Radio 5	Language	1
Footballers' Wives	09/05/2005	ITV2	Offence	2
Fox News	05/05/2005	Fox News	Impartiality	1
Friday Night With Jonathan Ross	13/05/2005	BBC1	Offence	1
Friendly TV	-	Friendly TV	Sexual Portrayal	1
Friends	19/04/2005	Channel 4	Sexual Portrayal	1
Futurama	29/03/2005	Channel 4	Offence	1
GMTV	12/05/2005	ITV1	Language	1
Heatwave	11/05/2005	BBC1	Offence	1
Hell's Kitchen	29/04/2005	ITV1	Offence	1
Human Mutants	03/05/2005	Channel 4	Offence	1
ITV News	20/04/2005	ITV1	Impartiality	1
ITV News	02/05/2005	ITV1	Impartiality	4
ITV News	03/05/2005	ITV1	Impartiality	2
ITV News	29/04/2005	ITV1	Impartiality	1
ITV News	10/05/2005	ITV1	Impartiality	1
Jon Gaunt	03/01/2004	BBC Radio WM	Offence	1
Jonathan Ross	22/01/2005	BBC1	Offence	1
Kerrang Radio	24/04/2005	Kerrang	Language	1
Key103FM	01/01/2004	Key 103FM	Misleading	1
Kiss 100 FM Breakfast	04/03/2005	Kiss FM	Offence	1
Kiss FM	04/05/2005	Kiss FM	Language	1
Kiss FM	14/05/2005	Kiss FM	Language	1
LBC Programme	18/04/2005	LBC97.3	Language	1
Life Isn't All Ha Ha Hee Hee	06/05/2005	BBC1	Offence	1
Life Isn't All Ha Ha Hee Hee	16/05/2005	BBC1	Offence	1
Mad Cows	17/05/2005	Channel 4	Offence	1
Malcolm in the Middle	12/03/2005	Sky One	Offence	1
Mass for Pope John Paul II	03/04/2005	ITV1	Religious Offence	1
Men and Motors	03/05/2005	Granada Men & Motors	Offence	1
Men and Motors	06/05/2005	Granada Men & Motors	Offence	1

Monaco Grand Prix	24/04/2005	ITV1	Offence	1
Most Haunted Live	15/12/2004	Living	Offence	1
My Parents Are Aliens	25/04/2005	ITV1	Language	1
My Parents Are Aliens	11/05/2005	ITV1	Offence	1
Nathan Barley	18/02/2005	Channel 4	Offence	1
Newsnight	23/11/2004	BBC2	Offence	1
No Angels	12/04/2005	Channel 4	Language	1
Only Fools and Horses	-	BBC	Scheduling	1
Paramount Channel	28/04/2005	Paramount 2	Offence	1
Parkinson	19/03/2005	ITV1	Language	3
Party Election Broadcast	03/05/2005	ITV1	Accuracy	1
Pete & Geoff Breakfast	12/05/2005	Virgin Radio	Offence	1
Playing it Straight	-	Channel 4	Offence	1
Queer Eye for the Straight Guy	04/05/2005	Living	Offence	1
Radio 1	07/05/2005	BBC Radio 1	Language	1
Radio 2	22/03/2005	BBC Radio 2	Offence	1
Radio 2	06/05/2005	BBC Radio 2	Language	1
Revelation TV	17/05/2005	Revelation TV	Offence	1
Richard and Judy	28/04/2005	Channel 4	Offence	1
Richard and Judy	05/05/2005	Channel 4	Impartiality	3
			Religious	
Saturday Night Fry	29/04/2005	BBC7	Offence	1
Scott Mills	29/04/2005	BBC Radio 1	Offence	1
Sea of Souls	08/01/2005	BBC1	Offence	1
Selling Houses	05/05/2005	Channel 4	Language	2
Sky News	30/05/2005	Sky News	Impartiality	1
Streetmate	19/04/2005	Trouble TV	Offence	1
T4	30/04/2005	Channel 4	Offence	1
Talksport	31/03/2005	Talksport	Offence	1
The Bill	05/05/2005	ITV1	Offence	1
The Chris Moyles Show	08/07/2004	BBC Radio 1	Offence	1
The Chris Moyles Show	05/07/2004	BBC Radio 1	Language	1
The Chris Moyles Show	27/04/2005	BBC Radio 1	Offence	1
			Sexual	
The Curse of Club 18-30	06/05/2005	Five	Portrayal	1
The Farm	12/05/2005	Five	Offence	1
The Farm	13/05/2005	Five	Offence	1
The Farm	17/05/2005	Five	Offence	1
The Fugitives	14/04/2005	ITV1	Language	1
The Godfather	01/05/2005	Five	Offence	1
The Kelly Show	08/04/2005	UTV	Offence	1
			Religious	
The Morning After Show	08/05/2005	Channel 4	Offence	3
The Morning After Show	03/04/2005	Channel 4	Offence	1
The Paul O'Grady Show	09/05/2005	ITV1	Offence	1
The Secret Election	06/05/2005	Channel 4	Offence	2
The Simpsons	04/05/2005	Channel 4	Violence	1
The Today Programme	06/05/2005	BBC Radio 4	Offence	1
The Wright Stuff	29/04/2005	Five	Offence	1
			Religious	
The Wright Stuff	25/04/2005	Five	Offence	1
The Wright Stuff	04/04/2005	Channel 4	Offence	1

They Think it's all Over	25/10/2004	BBC1	Offence	1
Thought for the Day	18/04/2005	BBC Radio 4	Offence	1
Today Programme	13/05/2005	BBC Radio 4	Offence	1
Tonight with Trevor McDonald	09/05/2005	ITV1	Offence	3
Tonight with Trevor McDonald	12/05/2005	ITV1	Offence	2
Trisha Goddard	09/05/2005	Five	Offence	1
Two and a Half Men	01/05/2005	Five	Offence	1
Weather	16/05/2005	BBC1	Offence	2
Weather	17/05/2005	BBC1	Offence	5
World Snooker	03/05/2005	BBC2	Offence	1
You're Fayed	31/03/2005	Channel 4	Offence	1