

Programme complaints bulletin

Standards & Fairness and Privacy

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Introduction

Some of the following complaints were received by the legacy regulators prior to the commencement of Ofcom. Under the terms of the Communications Act 2003, they became the responsibility of Ofcom on 29 December 2003.

The Communications Act allows for the Codes of the legacy regulators to remain in force until such time as Ofcom has developed its own Codes. These will be published at the end of 2004 following a full public consultation.

The Codes currently in force for programming are:

- **Advertising and Sponsorship Code**
Radio Authority
- **News and Current Affairs Code & Programme Code**
Radio Authority
- **Code on Standards**
Broadcasting Standards Commission
- **Code on Fairness and Privacy**
Broadcasting Standards Commission
- **Programme Code**
Independent Television Commission
- **Code of Programme Sponsorship**
Independent Television Commission

These are all available on the Ofcom website: www.ofcom.org.uk

The cases have been considered against the above Codes.

- Some programmes will have breached the relevant code (Upheld).
- Others will not have breached the code (Not upheld).
- However, there may be occasions where Ofcom recognises that a broadcaster has taken appropriate action in response to an issue (for instance, the broadcaster may recognise that an error has occurred and taken responsible steps to rectify it). Ofcom will consider that these complaints have been resolved. But even when such action has been taken, Ofcom may still consider it appropriate to find that the programme breached the Code due to the seriousness of the issues involved.

The layout of the report reflects these distinctions.

Standards cases

Upheld cases

Stitch Up

CBBC, 27 February, 17:00

Issue	<i>Stitch Up</i> is a 'hidden camera' programme in which child actors play tricks on unsuspecting members of the public. During this programme three Greek tourists were tricked into acting out a horror movie. During the sequence, one of the participants shouted a comment in Greek. A viewer objected that the comment meant "I'm going to fuck your virginal mother". The viewer was concerned that the BBC did not check what had been said before broadcasting the programme.
Response	The BBC said that it very much regretted the offence caused to the complainant. The production team, aware of the fact that a comment had been made in a foreign language, took advice from a Greek speaker. She did not recognise the words used, and the judgement was that in any event the comment was no more than inaudible shouting which would be incomprehensible to viewers. The BBC acknowledged that a children's programme would clearly not wish to be associated in any way with expletives such as those used. As soon as it was aware of the complaint, it issued instructions that the tape should be edited and the shouting removed. The production team was also instructed to be more rigorous in future in identifying any foreign word or phrases in such programmes.
Decision	We considered that this error was serious. While we appreciated the efforts made by the broadcaster prior to broadcast, we felt that as the person consulted had not recognised the words, the onus was on the broadcaster to make further enquiries, given the programme's likely audience. The item contravened the Standards Code of Guidance.

The Brit Awards

ITV1, 17 February, 20:00

Issue	A viewer complained about the use of the word 'fuck' in the subtitles, during a performance by 50 Cent at the Brit Awards, at approximately 20.45.
Response	ITV said that 50 Cent is well known to be a controversial act, and as the programme started at 20:00, it took precautions to ensure that the song was suitable for a young audience. ITV therefore edited several uses of the word during the song. The word did, however, appear in the subtitles. ITV said that its policy was to mask swearwords before the watershed. However, on this occasion, because of the time constraints on subtitling during a live show, the word slipped through as a result of human error. ITV said that it was sorry if it had caused offence to any of the audience.
Decision	We agreed that such strong language was unacceptable at that time. The Code states that the most offensive language should not be used before the watershed. The item was in breach of Section 1.5 of the Programme Code (bad language).

Mansfield 103.2

23 February, 13:00

Issue	A listener complained that a presenter made bigoted and offensive remarks during a phone-in programme in which one of the subjects was the issue of gay adoptions. The listener thought that the presenter had been unnecessarily rude to callers who wished to make a serious contribution to the discussion.
Response	The broadcaster told us that it accepted that the phone-in was not of a standard that they would normally broadcast. It also agreed that some callers were treated in a manner which it did not condone, although they were given the chance to put their views.
Decision	We noted that the presenter started the programme with a serious agenda about whether it was appropriate for homosexual couples to be allowed to adopt. However, during the course of the phone-in, the presenter ridiculed and insulted some callers who wanted to make legitimate points about the subject. He made derogatory remarks about homosexuality, some of which were directed to those who rang and declared that they were gay. We thought that the discussion lacked balance and that some of the comments were offensive. The complaint was upheld.

The broadcast was in breach of Section 1.1 (Taste, Decency, Offence to Public Feeling)

Love on a Saturday night

ITV1, 28 February, 19:15

Issue	This entertainment show comprises a variety of features and games, including a presenter surprising single people, live on air, and arranging dates for them. Five viewers complained about the use of the word 'fuck' by a surprised contestant. They considered that the broadcaster should have been aware of the possibility of this type of reaction and taken appropriate steps beforehand. One viewer also considered that the apology given was inadequate.
Response	ITV1 apologised for offending viewers by unintentionally broadcasting unacceptable bad language in an early evening family entertainment programme. This element of the programme was a genuine surprise to the subject. It ran live, in real-time, via an outside broadcast unit. These items are arranged with great care, with the help and advice of the subject's family and friends. Someone who frequently or habitually used serious bad language certainly would not have been approached. The broadcaster said that it had no reason to expect that such language would be used by this person. Increasingly, people surprised in this way – especially young people – may unthinkingly respond with the light-hearted use of bad language, TV camera present or not. They do not intend to cause offence and nor are they voicing hostility or objection – bad language is merely an expression of surprise. Following this programme, Granada installed a delay mechanism on all live outside broadcast elements within the series. This had not been used initially for two reasons. Firstly, this problem had not occurred in previous outside broadcast "surprise" features – e.g. <i>Ant & Dec's Saturday Night Takeaway</i>. Secondly, there were technical reasons for not using delay equipment. It can unintentionally turn the whole screen to black in the middle of the show. However, the broadcaster recognised that the delay was now a requirement in such circumstances and necessary to prevent any recurrence of the unfortunate incident.
Decision	We acknowledged that it is not easy to predict the reaction of people surprised live in a show. However we felt that the potential for outbursts of this kind should have been taken more seriously, particularly as the show was pre Watershed and aimed at a wide-ranging audience, including children. The use of such strong language was inappropriate for the time of broadcast and its potential audience. Although the studio presenter had given an apology, the incident was dismissed as a 'blooper' and, whilst accepting that it had been unfortunate, implied that it was understandable in a

live broadcast.

This programme was in breach of Section 1.5 (Bad Language) of the Programme Code.

James Stannage

Key 103 (Manchester), 10, 11 and 12 February 2004, 2200

Issue	A listener complained that a presenter read out text ‘jokes’ sent in by listeners over three successive evenings, which made fun of the deaths of the Chinese nationals who had drowned off the coast of Morecambe Bay. The complainant thought that the items were offensive and particularly objected to the use of the word ‘chink’, which had been used in one of the ‘jokes’.
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Response	The station’s programme director acknowledged that, in retrospect, there was no place for humour in such a scenario and that the broadcasts were regrettable.
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Decision	We thought that the decision to read out a variety of texted ‘jokes’, a week after the incident, was seriously ill judged and that the items had been offensive.
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The items were in breach of 1.1 General – Taste, Decency, Offence to Public Feeling

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Standards cases

Resolved cases

The Message Factory

TMF, 6 March, 12:40

Issue	TMF is a music channel operated by MTV Networks Europe. A viewer complained about a text message containing the words 'fuck' and 'shit' that was scrolled across the screen during a music video. The viewer considered that the language was particularly inappropriate when broadcast at lunchtime when his children were watching.
Response	MTV acknowledged that the language was clearly not suitable and apologised for its inclusion in the programme. The person responsible for moderating the messages during this live programme had been fully briefed by the Broadcast Standards team. It also issued internal guidelines as to what was, and was not, acceptable content for such a programme. The programme, and the moderator's performance, was also subject to random monitoring. Unfortunately, in spite of these compliance procedures, the message was broadcast by mistake. As a result of the mistake, MTV broadcast an apology on TMF before The Message Factory on 17 and 24 April and the moderator concerned was dismissed.
Decision	We accepted that the text message had been broadcast by mistake. We concluded that in view of the comprehensive remedial action taken by the broadcaster, including a clear and full apology, the matter had been suitably resolved. The complaint was resolved.

Not upheld cases

Footballer's Wives

ITV1, 25 February, 21:00

Issue	Eighteen viewers complained about a sex scene in this drama which features the lives and relationships of a fictional football team. In the scene, a leading character, Tanya, seduces a star player, Conrad, whilst posing as a flight attendant on a private plane. Despite Conrad's show of reluctance, they had sex on board the plane. Viewers felt that this scene was too sexually explicit for a drama starting at 9pm.
Response	Channel Television believed that, by this third series, regular viewers would be aware of the nature of this drama which charted the sexual exploits and bitter jealousies of its cast of spoilt and glamorous stars. Some previous storylines had included scenes of a sexual nature and nudity and the broadcaster did not believe that the treatment of this scene was excessive compared with these. It said that the drama was established as a cult hit with viewers and critics alike, attracting a regular audience of around 6 million viewers, with 44% of viewers aged between 16 and 24. Even with this core audience's familiarity with the series, the broadcaster decided to precede the episode with a comprehensive warning alerting viewers that on this occasion <i>'This programme contains scenes of nudity and scenes of a sexual nature'</i>. The scene was shown well after the watershed at around 21:45. The series also received considerable pre-transmission coverage in the press. Channel Television believed that the scene served a legitimate narrative purpose, as it was an integral part of the development of the relationship between these two characters. The final shots show Tanya scratching her initial on Conrad's buttock, which his wife, later saw, contributing to the downfall of their marriage.

Decision

We appreciate that some viewers do not wish to see any explicit sexual acts in programmes starting immediately after the watershed. However, audience research shows that viewers are generally most upset when they are not prepared for such scenes. By this third series, we considered that most viewers would have been familiar with this drama's exaggerated characters and would not be surprised at this type of sexual behaviour. By the time this scene was shown, well into the programme, most viewers would have been aware of Tanya's designs on Conrad. The development of this sexual relationship was a major story within the drama and Tanya's parting shot was instrumental in ruining Conrad's marriage. Given this context, the publicity and the pre-transmission warning alerting viewers to the content, we believed that this drama would not have offended the majority of viewers.

This programme was not in breach of the Programme Code.

Fairness and Privacy cases

Where a complaint is upheld, a summary of the adjudication is included. Where a complaint is not upheld there is only a note of the outcome.

For a copy of the full adjudication in either case 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.

Upheld in part

Complaint from Mr Tim Spencer

Breakfast, BBC Radio Lincolnshire, 14 November 2003

Ofcom received a complaint from Tim Spencer, the active partner in Spencer Farm Produce, that he was treated unfairly in *Breakfast*, a news magazine programme broadcast by BBC Radio Lincolnshire on 14 November 2003. The programme contained a news item about the local council postponing a decision on his application for planning permission for a wind farm. That was followed by an interview with a leading member of a local group opposed to the wind farm and a phone-in on the subject of wind farms.

The interview strayed from the specific news item into a wider discussion about opposition to Mr Spencer's application. The BBC did not invite Mr Spencer onto the programme to answer the criticisms made. The BBC did offer him an opportunity later, but not in the programme itself. This was unfair to him.

The phone-in discussion about the general issue of wind farms reflected a variety of opinions and was not unfair to Mr Spencer. Mr Spencer also complained that there was a conspiracy between the BBC and the local group to discredit the planning application, but there was no evidence of this.

Unfairness – upheld in part