

Programme complaints bulletin

Standards & Fairness and Privacy

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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 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

Breaches

'18' rated films at 21:00

FX UK Channel, various dates in April

Introduction

A viewer complained that FX had been showing '18' rated films, including *Midnight Express*, *Money Train*, *Desperado* and *Death Wish II* at 9pm. The complainant felt these films were too violent to be shown at this time.

Response

FX confirmed that each of these films had been shown at 9pm on at least one occasion.

Before the channel had launched in January 2004, the schedules for the first three months were settled before Christmas 2003. This was an intensive start up phase and a mistake had been made when *Death Wish II* was broadcast at 9pm, which was rectified for later broadcasts of the film.

The target audience for the channel was men aged from 25 to 45 and all the marketing and promotion was aimed at this demographic. The rest of the films were well known and the Electronic Programme Guide description would have given viewers a clear indication of their nature and content. For these reasons, FX considered that these three films were suitable for transmission after 9pm. The broadcaster also said that its number on the platform meant that it was unlikely that viewers would have stumbled across these films. Instead viewers would have made a decision to view based on the content of the channel or the film.

FX said that it had now created a 10pm movie slot, adjusted its computer scheduling system to flag any scheduling restrictions, reiterated to the schedulers the issues concerned, and reconsidered its policy about viewer warnings.

Decision

The Programme Code states that where a BBFC classification exists, it should be used as a guide to scheduling. *Midnight Express*, *Money Train*, *Desperado* and *Death Wish II* are all rated 18 by the BBFC. Given their violent nature, they should not be scheduled to go out immediately after the watershed at 9pm on channels that are generally available (not premium subscription or pay per view services).

While we agree that channels should tailor their scheduling to the expectations of their audience, the scheduling rules in the Code are minimum requirements.

The scheduling of these films breached Section 1.4 (Feature Films and Other Acquired Material) of the Programme Code.

Ben's Breakfast

BEN Television, 16 June, 11:00

Introduction

A viewer complained that participants in a discussion about homosexuality used homophobic language.

Response

BEN Television was unable to supply a recording of this programme. The broadcaster apologised for this and explained that it had experienced technical difficulties recording its output. It was now installing new facilities.

Decision

As BEN Television was unable to provide a tape of the programme, it was not possible to make a judgement about the code issues involved.

Ofcom considers this failure a serious issue and will consider further regulatory intervention if this occurs again.

In failing to provide a tape, the channel was in breach of its licence.

The channel was in breach of its licence.

Dirty Sanchez Takes Over MTV2

MTV2, 19 May, 16:30

Introduction

This programme was part of a series featuring the cast of *Dirty Sanchez*, a group of young male friends who carry out a variety of stunts. A viewer was concerned about a scene in which one man let off a fire extinguisher in his friend's face. The complainant considered that this was particularly dangerous as children may have seen this.

Response

MTV agreed that the scene was not suitable for broadcast at 4.30pm, when a large number of children could be watching. It apologised for the inclusion of the scene in the programme.

The programme was made specifically as a daytime programme and was intended to be the 'opposite' of the late night *Dirty Sanchez*. However the production team was aware of the compliance issues involved in making a daytime-friendly programme featuring the *Dirty Sanchez* cast. The cast was briefed before filming as to what was acceptable and the resulting footage was edited significantly before broadcast. Unfortunately, this scene was mistakenly included in the programme.

When it received the complaint, MTV immediately re-checked and re-edited the edition. It also re-checked other recorded editions of the programme and re-briefed the cast prior to recording the remaining programmes in the series.

Decision

This programme was significantly different from the usual late night version aimed at an adult audience. It involved fundamentally harmless pranks, however we agree with MTV that this particular item was unacceptable for broadcast at a time when children were likely to be viewing.

As MTV acknowledged, it knew that there were likely to be compliance problems in a daytime programme featuring the *Dirty Sanchez* cast. Before broadcasting such a programme, we expect broadcasters to take steps to ensure that the material transmitted is suitable for the time of broadcast.

The programme breached Section 1.2 (Family Viewing and the Watershed) and 1.2(i) (Children and Imitative Behaviour) of the Programme Code.

Standards cases

Resolved cases

Sports Disasters 2

Reality TV, 3 June, 00:00

Introduction

This programme, about 'sporting disasters', suggested that the Hillsborough disaster was caused by the hooliganism of Liverpool supporters.

Seven viewers complained. They felt that the way the events were described was inaccurate and the accompanying footage offensive, as it showed distressing film from the disaster.

Response

Reality TV said that it had also received complaints after the broadcast of the programme. It had then posted an apology on its website:

"Reality TV would like to formally apologise for the broadcast of the programme 'Sports Disasters 2', which was aired on 3 June 2004 at midnight. A segment within the programme implied that the Hillsborough disaster was caused by "soccer hooliganism". Reality TV fully supports the Taylor Report, which found that Liverpool fans were not to blame, in any way, for the tragic events of April 15, 1989. We apologize for any distress that the commentary to this programme may have caused the people of Liverpool, the supporters of Liverpool FC, and in particular, those directly affected by this terrible event. This portion of the programme will never be aired on any of our Reality TV channels again, and we have taken the necessary measures to ensure that the producer of the programme is aware of the upset the segment has caused".

Viewers who complained directly to Reality TV also received this apology.

Reality TV also said that it had now contacted the programme producer to arrange for the segment to be removed from the master tape and that it would ensure that the segment was never aired on its channels again.

Decision

We agreed that the description of the Hillsborough disaster had been inaccurate and understand why this offended some viewers. However, we welcome Reality TV's swift and appropriate action and consider the matter resolved.

Complaints resolved.

Red Dragon Trailer

Sky One, 10 May, 20:15

Introduction

A viewer was concerned about the scheduling of a trailer which contained violent imagery.

Response

Sky One apologised for showing a post watershed version of the trailer at this time. An operator error had meant that this version was shown twice before the mistake was noticed. Immediate changes were made to the scheduling system to ensure that the correct versions were shown at the appropriate times.

Decision

We agreed that the content of this trailer was too violent for broadcast before the 9pm watershed. Given the broadcaster's immediate action, we consider this case resolved.

Complaint resolved.

Sin Cities Trailer

Bravo, 3, 4, 10, 16 April, various times

Introduction

Five viewers were concerned about the scheduling of this trailer, which had sexual content.

Response

Bravo apologised for any distress caused. Unfortunately it had shown the wrong version. This trailer should have not been shown before 9pm, but, due to an error, it had only been excluded from programmes aimed specifically at children. The procedures had been re-examined and amendments put in place to prevent a recurrence.

Decision

We agreed that the sexual content of this trailer was inappropriate to show before the 9pm watershed. We welcomed the broadcaster's assurances that steps had been taken to prevent this happening again and we consider the case resolved.

Complaints resolved.

Richard and Judy

Channel 4, 9 June, 17:00

Introduction

In this edition of the afternoon programme, a presenter used the word “dyke” during an anecdote. Two viewers complained that the way the word was used was homophobic.

Response

Channel 4 said that it accepted that the term “dyke” could still be considered offensive in certain contexts. Richard Madeley understood that, historically, the word had been used to describe a lesbian in a disparaging manner. However, he genuinely believed that the term was now widely used in popular culture and accepted by the gay community. On this basis, he was using the word simply to describe a woman’s sexuality in a ‘hip’ way. The comment had been a light-hearted reference to a previous item about tanning, rather than any discussion of lesbianism, and was not meant to be at all malicious. However, in discussions during and after the show, both the Commissioning Editor for the programme and the compliance lawyer agreed it would have been preferable if the presenter had not used this term. The production company had now been instructed to edit it from any repeats and Richard Madeley apologised about the use of the term in the next show.

Channel 4 emphasised that there was no intention to condone or justify the general use of the word “dyke” as an abusive term.

Decision

In view of the action taken and apology by Channel 4, we consider that this matter is resolved.

Complaints resolved.

Other programmes not in breach/out of remit (6 July–19 July)

Programme	Channel	Trans Date	Category	No of complaints
As If	Channel 4	03/07/2004	Sexual Portrayal	1
Back to Reality	Five	26/02/2004	Language	1
Bad Girls	ITV1	18/05/2004	Offence	1
BBC Look East	BBC1	25/06/2004	Offence	1
BBC Midlands Today	BBC1	01/07/2004	Offence	1
BBC News	BBC1	13/04/2004	Offence	1
BBC News	BBC1	05/07/2004	Offence	1
BBC Promotion	BBC1	20/04/2004	Offence	1
BBC Promotion	BBC	06/07/2004	Offence	1
BBC Radio 3 News	BBC Radio 3	24/06/2004	Offence	1
BBC Radio 4	BBC Radio 4	–	Offence	1
BBC World Service	BBC World Service	–	Offence	1
Beat 106	BEAT_106	04/06/2004	Offence	1
Big Brother	Channel 4	29/05/2004	Offence	1
Big Brother	Channel 4	04/06/2004	Sexual Portrayal	3
Big Brother	Channel 4	10/06/2004	Offence	1
Big Brother	Channel 4	12/07/2004	Offence	1
Big Brother	Channel 4	23/06/2004	Offence	1
Big Brother's Little Brother	Channel 4	07/06/2004	Sexual Portrayal	4
Bodies	BBC3	11/06/2004	Sexual Portrayal	1
C3 News	ITV 24 News	23/02/2004	Impartiality	1

C4 News	Channel 4	15/05/2004	Impartiality	1
C4 Promo	Channel 4	08/03/2004	Offence	1
C4 Promo	Channel 4	19/03/2004	Language	3
C5 News	Five	13/04/2004	Offence	1
C5 News	Five	25/05/2004	Impartiality	4
C5 News	Five	06/07/2004	Impartiality	2
Call My Bluff	BBC1	16/05/2004	Language	1
CBeebies	BBC2	01/06/2004	Offence	1
CD:UK	BBC1	03/07/2004	Offence	1
Channel 4 News	Channel 4	16/07/2004	Offence	1
Choice FM	Choice FM	30/05/2004	Language	1
Chris Moyles	BBC Radio 1	–	Offence	1
Classic Serial: Earthly Powers	Radio 4	10/07/2004	Offence	1
Coronation Street	ITV1	12/04/2004	Offence	1
Coronation Street	ITV1	31/05/2004	Offence	1
Coronation Street	ITV1	06/07/2004	Offence	1
Coronation Street	ITV1	24/05/2004	Offence	2
Coronation Street	ITV1	28/06/2004	Violence	2
Coronation Street	ITV1	05/07/2004	Offence	1
Correspondent	BBC2	26/01/2004	Offence	1
Countdown	Channel 4	28/06/2004	Offence	1
Dead Ringers	BBC2	17/05/2004	Offence	1
Dead Ringers	BBC2	07/06/2004	Offence	1
Destination D-Day: the Raw Recruits	BBC1	02/06/2004	Offence	1

Diarmuid's Big Adventure	BBC2	11/05/2004	Language	1
dick and dom in da bungalow	BBC1	27/03/2004	Offence	1
dick and dom in da bungalow	BBC1	10/04/2004	Offence	1
Distraction	Channel 4	11/06/2004	Miscellaneous	1
Emmerdale	ITV1	05/05/2004	Offence	1
Emmerdale	ITV1	05/05/2004	Violence	1
Emmerdale	ITV1	06/07/2004	Offence	1
Emmerdale	ITV1	07/07/2004	Language	1
Emmerdale	ITV1	13/07/2004	Offence	4
ER	Channel 4	28/04/2004	Offence	1
Experimental	Channel 4	24/04/2004	Offence	1
Experimental	Channel 4	07/05/2004	Offence	1
Footballers' Wives	ITV1	25/02/2004	Sexual Portrayal	1
Friday Night With Jonathan Ross	BBC1	14/05/2004	Offence	1
Friendly TV	Friendly TV	23/06/2004	Offence	1
Game Over	Trouble TV	01/06/2004	Language	1
GMTV	ITV1	07/07/2004	Offence	1
GMTV	ITV1	09/07/2004	Offence	1
Golf	BBC2	09/04/2004	Offence	1
Grumpy Old Men	BBC2	07/05/2004	Offence	1
Grumpy Old Men	BBC2	21/05/2004	Offence	1
Hell's Kitchen	ITV1	31/05/2004	Language	1
Hollyoaks	Channel 4	05/07/2004	Violence	2
Hollyoaks	Channel 4	08/07/2004	Sexual Portrayal	1

Hope	Five	03/07/2004	Religious Offence	1
Horizon Radio	103.3 Horizon	10/06/2004	Offence	1
How To Catch a Child Killer	Five	11/01/2004	Offence	1
I Survived	Bravo	13/03/2004	Violence	1
ITV News	ITV1	29/05/2004	Impartiality	1
ITV News	ITV1	15/06/2004	Offence	1
ITV News	ITV1	20/06/2004	Offence	1
ITV News	ITV1	25/06/2004	Offence	1
ITV News	ITV1	20/06/2004	Offence	1
Jay Leno Show	Kanal 5	06/07/2004	Offence	1
Jon Gaunt Show	BBC Radio London	26/05/2004	Offence	1
Kirsty's Home Videos	Sky One	04/05/2004	Offence	1
Kirsty's Home Videos	Sky One	30/06/2004	Offence	2
KM-FM Radio	KM-FM Radio	03/06/2004	Offence	1
Learning	BBC2	09/07/2004	Offence	1
London	BBC2	22/05/2004	Offence	1
Look North	ITV1	28/04/2004	Offence	1
Loose Women	ITV1	15/06/2004	Offence	1
Loose Women	ITV1	21/06/2004	Offence	2
Loose Women	ITV1	29/06/2004	Sexual Portrayal	1
Midsomer Murders	ITV1	29/02/2004	Religious Offence	1
Ministry of Mayhem	ITV1	29/05/2004	Sexual Portrayal	1
MTV	MTV	01/05/2004	Offence	1
My Family	BBC1	21/05/2004	Language	1

Newsnight	BBC2	07/06/2004	Offence	1
Offside	BBC1	21/05/2004	Offence	1
Pop Beach	Channel 4	06/06/2004	Scheduling	1
Porn: A Family Business	Channel 4	03/06/2004	Sexual Portrayal	1
Pornography, A Secret History	UK Documentaries	01/06/2004	Sexual Portrayal	1
Radio 2	BBC Radio 2	01/06/2004	Language	1
Radio Aire	Radio Aire	15/06/2004	Offence	1
Radio Nottingham	BBC Radio Nottingham	06/07/2004	Offence	1
Reagan - Lying in State	BBC2	09/06/2004	Accuracy	1
Reagan - Lying in State	BBC2	09/06/2004	Impartiality	1
Real Crime: Who Killed the Pageant Queen?	ITV1	15/07/2004	Offence	2
Real Crime: Who Killed the Pageant Queen?	ITV1	15/06/2004	Offence	1
Real Story With Fiona Bruce	BBC1	19/04/2004	Offence	1
RHS Chelsea Flower Show	BBC1	23/05/2004	Offence	1
Richard and Judy	Channel 4	04/05/2004	Sexual Portrayal	1
Richard and Judy	CH4	03/06/2004	Offence	1
Richard and Judy	Channel 4	30/06/2004	Offence	1
Richard and Judy	Channel 4	06/07/2004	Offence	1
Rose & Maloney	ITV1	05/07/2004	Violence	1
Rose & Maloney	ITV1	13/07/2004	Religious Offence	2
Rose & Maloney	ITV1	12/07/2004	Religious Offence	1
Secret History	Channel 4	12/07/2004	Misleading	1
Secret Swami	BBC2	17/07/2004	Offence	1
Secret Swami	BBC2	17/06/2004	Accuracy	1

Sky News	Sky News	09/06/2004	Accuracy	1
Sky News	Sky News	07/06/2004	Offence	1
Steve Wright in the Afternoon	BBC Radio 2	18/06/2004	Language	1
Tarrant on TV	ITV1	05/07/2004	Offence	1
Tarrant on TV	ITV1	05/07/2004	Offence	1
Test the Nation	BBC1	22/05/2004	Offence	1
The Bill	ITV1	19/05/2004	Violence	1
The Bill	ITV1	09/06/2004	Scheduling	2
The Bill	ITV1	17/06/2004	Offence	3
The Hits	The Hits	01/07/2004	Miscellaneous	1
The Long Firm	BBC1	30/06/2004	Offence	1
The Operation – Live	Five	10/05/2004	Offence	1
The Salon	E4	25/02/2004	Offence	1
The Simpsons	Sky One	28/03/2004	Scheduling	1
The Wright Stuff	Five	31/05/2004	Offence	1
The Wright Stuff	Five	17/06/2004	Offence	1
This Morning	ITV1	24/05/2004	Offence	1
This Morning	ITV1	–	Accuracy	1
This Morning	ITV1	14/06/2004	Offence	1
This Morning	ITV1	17/06/2004	Impartiality	1
Thought For The Day	BBC Radio 4	16/06/2004	Religious Offence	1
Today	BBC Radio 4	08/06/2004	Impartiality	1
Today Programme	BBC Radio 4	04/05/2004	Scheduling	1
Today Programme	BBC Radio 4	27/05/2004	Accuracy	1

Top Gear	BBC2	30/05/2004	Offence	1
Tour de France	ITV2	07/07/2004	Miscellaneous	1
Traffic Cops	BBC1	13/06/2004	Language	1
Trailer	Channel 4	08/03/2004	Language	1
Trisha	ITV1	14/04/2004	Offence	3
Trisha	ITV1	07/06/2004	Offence	1
Trisha	ITV1	22/06/2004	Offence	1
Trisha	ITV1	09/07/2004	Scheduling	1
Two Pints of Lager and a Packet of Crisp	BBC2	08/06/2004	Sexual Portrayal	1
Two Pints of Lager and a Packet of Crisp	BBC2	14/06/2004	Religious Offence	1
UK Gold	UKTV Gold	24/06/2004	Religious Offence	1
Wax on...	BBC Radio 2	15/05/2004	Religious Offence	1
Weakest Link	BBC2	13/07/2004	Offence	1
White Fang	BBC2	17/07/2004	Violence	1
Wire in the Blood	ITV1	19/02/2004	Misleading	2
Women Who Kill	ITV2	31/05/2004	Offence	1
WWF Wrestling	Sky One	08/05/2004	Offence	1

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.

Not Upheld

Complainant	Programme	Date & Broadcaster	Type of complaint
Mr Ian Price	Bee In Your Bonnet	2.3.04 BBC2	Unfairness
Mr James Murray	The Curse of Friends Reunited	8.9.03 Five	Unfairness
Mr Ifor Lloyd	Y Byd Ar Bedwar	26.2.03 S4C	Unfairness

Resolved

GMTV, 24 October 2003

Mrs Diane Stott complained, on behalf of Mr John Arundell (deceased), that his privacy had been unwarrantably infringed in the broadcast and making of the programme. GMTV accepted Mr Arundell had been included in error and undertook not to show the footage of him again.

Black Ambition, BBC2, 21 January 2004

Ms W Rukwira withdrew her complaint that this programme was unfair to her and that the broadcast and making of the programme unwarrantably infringed her privacy.