Programme complaints bulletin

Standards & Fairness and Privacy

Issue number **18**
20 September 2004

Ofcom
OFFICE OF COMMUNICATIONS

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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. Ofcom is currently consulting on its new draft Code. This can be found at http://www.ofcom.org.uk/consultations/current/broadcasting_code/

The new Code will be published at the beginning of 2005.

The Codes currently in force for programming 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)
- Code of Programme Sponsorship (Independent Television Commission)

The cases have been considered against the above Codes.

- Some programmes will have breached the relevant code or been found to be unfair or to have infringed privacy without good reason (Upheld).
- Others will not have breached the code or been found to be unfair or to have infringed privacy without good reason (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). 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

In Breach

Salaam FM
28 April

Introduction

Salaam FM held a Restricted Service Licence (RSL) from 24 April to 21 May to gain experience in community radio broadcasting and cover events celebrating the birth of the Prophet Mohammed.

A listener complained that the station broadcast a programme which made a number of contentious comments. He particularly objected to the views expressed about religious groups and the general anti-Western stance taken.

Response

Salaam FM said that the programme was from an independent production company and had been available as a CD since 1998. At the time of the broadcast the station had no live programming and the CD was broadcast in its entirety, without any editorial input from the station. It put forward a number of views about the history of freemasonry, Christianity, Western popular culture and the international political situation. The broadcaster thought that the subjects it explored had been discussed in a similar manner by a variety of other media and did not think its inclusion in the station's schedule would be problematic. However, Salaam FM wished to point out that it did not agree with everything contained in the broadcast. With hindsight, it appreciated that people might have read too much into the recording, given the current difficult international situation.

Decision

The programme put forward a number of contentious and potentially offensive claims that could have been interpreted as the opinions of the licensee. There was no attempt to put the programme into context, or an opportunity for listeners to challenge what they had heard. We reminded the station that it could not abdicate its editorial responsibility when using acquired material. Restricted Service Licences, like other commercial radio services, must comply with the Programme Code. The item was in breach of the Code.

This breach will remain on the broadcaster's file and be taken into account when considering any future RSL applications from this group.

The programme breached Section 1.1 of the Programme Code (General Offence to Public Feeling).

Dumb Foreigners
ITV1, 26 June, 18:30

Introduction

This was an entertainment programme featuring clips of people doing bizarre acts around the world.

We received 129 complaints about a variety of issues.

- Most viewers complained about the general xenophobic tone of the programme, which they thought ridiculed people from other countries.

There were also concerns about:

- the use of the Scottish and Irish flags;
- that clips showing dangerous and irresponsible behaviour trivialised potentially life threatening situations e.g. being stung by bees, putting your head under water whilst playing with a toy;
- distressing and offensive content, including scenes of people being attacked by animals, which were unsuitable for children to see; and
- the humiliation and mistreatment of animals which might encourage children to copy the behaviour.

Response

ITV explained that it was developing a new strand under the Dumb title to show fresh TV clips. Two editions of *Dumb Britain?* had been transmitted without attracting a single complaint about the title. 'Dumb' was intended to mean "foolish" or "daft". In the USA, its use in this context was more commonplace but it was now in everyday use in the UK in popular film titles such as *Dumb and Dumber*. ITV believed the title summarised the content and tone of this clip show – it did not imply a value judgement of the intellect of individuals included in the programme.

Turning to the main issues of complaint:

- **Endorsement and encouragement of racist attitudes**
The broadcaster denied any suggestion of fostering racism or xenophobia. It said that some of the clips featured would be amusing to a British audience precisely because they were from another culture, others would have been amusing wherever they were recorded, but happened to feature people in or from another country. As part of a strand including two editions of *Dumb Britain?*, the programme played to a universal theme, which did not imply that foreigners were stupid because they were from another country. Many of these clips had been played previously in entertainment shows in their countries of origin.

The broadcaster explained that the flags shown in the opening credits were not the Irish tricolour or the Cross of St Andrew. They differed in either design or shading from the authentic flags. There was no intention to be derogatory about Scottish or Irish people.

- **Dangerous and irresponsible behaviour**
  The broadcaster was mindful that children would be watching at this time and took care to assess the likely impact of the clips. In its view, the clips did not raise a real risk of harmful, imitative behaviour by children. Neil Fox emphasised that these activities were foolhardy and "dumb". There was no encouragement to imitate any of the activities and the unusual circumstances and settings made it unlikely than any viewers would try or have the resources necessary to replicate them.

- **Distressing and offensive content**
  The whole tone of the programme was light-hearted and humorous and the broadcaster believed it was unlikely to cause significant distress to the audience, including younger members. Canned laughter was used, which was a common feature of clip shows. As no actual cruelty or distressing images were shown, the broadcaster did not feel it was inappropriate or tasteless.

  The clips of the bears attacking people showed the foolishness of the humans. The people in the clips were not in serious danger and it was pointed out that no one was hurt.

- **Humiliation and mistreatment of animals**
  None of the clips featured included the consumption or mistreatment of animals, nor did the programme advocate or endorse cruelty to animals. The clips, and the humorous comments by Neil Fox, were intended to look at the cultural differences between nations and their behaviour towards animals.

Whilst acknowledging that this kind of programme was not to everyone's tastes, the broadcaster pointed out that a large number of viewers did enjoy such programmes.

Decision

It is unusual for us to receive such a large number of complaints for a programme shown during prime time on a Saturday. We fully accept that ITV did not intend to endorse or encourage racist attitudes. In building a new brand, which included the title *Dumb Britain?* the following week, we accept that ITV was not trying to belittle foreigners. However, many viewers did not seem familiar with the brand and did not appreciate the placing of this programme in this occasional series. Individually, many of these clips would not be out of place in an entertainment show at this time of the evening, but the mass grouping of them under this title clearly offended many viewers. Whilst recognising that the presenter's comments were meant to be humorous, this also contributed to reinforcing the impression of "stupid" foreigners. Taken overall, we can understand why the general tone of the programme offended many viewers.

Some viewers believed that the flags of Ireland and Scotland were included. It is understandable that for the brief time they were on screen, the dissimilarity to the national flags may have not been noticed. However, as the broadcaster pointed out, there was no intention to single out any individual nation whether foreign or otherwise.

We accept that ITV took care to choose clips that it thought would not encourage imitative behaviour by children. We agree that most of the clips would be difficult to imitate. However there were also scenes showing a person doing a trick while holding his breath under water in a bath and dangerous attempts to put out a fire, accompanied by laughter. We thought that these were not advisable in the context of a light-hearted programme. Similarly, the concentration of clips of people being attacked by bears was distressing and did not sit well within this programme intended for a mixed family audience.

The broadcaster has assured us that no animals came to any harm in these clips. It was not immediately clear, though, that some of the animals were not in distress. However, we believe most viewers would have been left with the impression that no lasting harm had come to these animals.

The programme was in breach of Sections 1.1 (General offence) and 1.2(i) (Children and Imitative Behaviour)

Standards cases

Resolved cases

Dick and Dom in da bungalow
BBC1, 27 March, 09:00

Introduction

A viewer complained that a presenter had worn a t-shirt bearing an offensive sexual slogan. She felt that this was completely inappropriate for a children's programme.

Response

The BBC said that Dominic Wood was wearing a t-shirt bearing the legend "Morning Wood", clearly visible in block capital letters. On one level the slogan could be viewed as harmless, in that it was the morning and the presenter's name was Wood. However it was also clear to some that the phrase had a sexual meaning. The presenter and members of the production team were also likely to have been aware of this additional meaning. The BBC said that it considered that the innuendo was aimed at people well outside the show's core audience of 8 to 12-year olds. As children of that age could not be expected to recognise the joke, it actually specifically excluded that core audience.

The executive in charge of the series was extremely concerned by this incident. This had been made clear to both presenters, and she had called a meeting of the entire production team to make her displeasure clear in the strongest terms. The presenters' clothing was now vetted before each show.

Decision

We agreed that, on one level, the t-shirt's logo was inappropriate for inclusion in this Saturday morning children's show, but also recognise that for its core audience the double entendre was likely to be lost. Given that this is a children's programme, we welcome the action taken by the broadcaster and consider the matter resolved.

Complaint resolved.

Galaxy 105 -106 (Newcastle)
14 August, 18:30

Introduction	A listener complained about a track containing the word "motherfucking" in an early evening programme.
Response	Galaxy said that the unedited version of this song had been played in error. Radio edits were played during daytime and original versions were confined to late night specialist programmes. On this occasion, the presenter and producer had not sufficiently vetted the song. The broadcaster agreed that the lyric might cause offence at this time to a section of the audience expecting peak-time output. Presenters and producers therefore had been reminded of station policy and the broadcaster did not anticipate a similar lapse.
Decision	The track was broadcast during the *Club Fresh* programme, which aims to reflect the music and lifestyle of the club scene. In view of the station's acknowledgement that the track was played in error and the internal measures taken, we consider the matter resolved. **Complaint resolved.**

Standards cases

Not in Breach

How Gay Are You?
Sky One: Various times and dates in May

Introduction

The trailer and programme questioned whether heterosexual men, if they were to adopt some of the alleged traits of homosexual men, could improve their relationships with women. Thirty one viewers were concerned that some of the measures used to establish a rating of 'gayness' were stereotypical and offensive.

Response

Sky said that the programme's portrayal of traits 'commonly associated with gay men' by the programme were not negative. Neither were any terms used pejoratives. For example, the term 'too gay' was used to indicate the appropriateness or suitability of a particular 'look' or conduct to a particular individual, in a way that was consistent with that used by many sections of the public and media for a number of years. Terms such as 'overgay', 'undergay' and 'just gay enough' had been used for some years by both the heterosexual and homosexual communities to describe both homosexual and heterosexual men. Sky quoted various media who had used such phrases in similar contexts - this had led it to believe that the majority of the gay community would not be offended by a similar use in this programme.

Decision

We thought that the programme was not intended to be malicious or mocking. It was also neither negative nor pejorative towards gay people.

There are obviously people who do not conform to the lifestyle traits suggested and who object to what they view as stereotyping. Highlighting certain habits and characteristics of a group of people obviously doesn't take into account a person's individuality and runs the risk of being disrespectful. However, this was an entertainment programme rather than any attempt at a serious documentary. While acknowledging that such programmes also have a part to play in portrayal, we believed that few viewers would have perceived the programme as an authoritative source of information.

The programmes were not in breach.

British National Party (BNP) Election Broadcast
BBC1, BBC2, ITV, Five, Sky News, S4C
28 May, various times

Introduction

In elections, political parties that field candidates in a sixth of the contested seats (modified as necessary for the various proportional representation systems) qualify for a Party Election Broadcast (PEB). Under the law the British National Party is a political party (BNP) and for the European election met this requirement.

The Party produced a number of different versions of their PEB for broadcast:

- one for showing on the BBC, ITV and Sky News in England;
- different versions in Scotland and Wales on BBC and ITV but which shared some elements with the English PEB;
- an entirely different Welsh language version on S4C; and
- another quite different version for showing on Five.

All versions had dealt with the issue of immigration and alleged an incompatibility between Muslim fundamentalism and what the BNP deemed to be "western" values of democracy, tolerance, intellectual freedom and women's rights.

The Five version, and to a less extent that shown in Scotland, focused on allegations that racist anti-white crimes were ignored by the authorities and the media. Five believed that the version it had been given by the BNP was not compatible with the Programme Code. Five therefore requested the BNP to edit the video before it would transmit it. The version eventually broadcast by Five was so heavily edited by the BNP, with bleeps and rushing wind noises to obscure sections of the script, as to be barely comprehensible in places.

Some changes were also required to be made to the version shown in Scotland. Comprehensive editing was insisted on by S4C for the Welsh language version. The BNP's editing of their PEB for broadcast on S4C rendered most of it incomprehensible.

127 complaints were received, 36 of them pre-transmission objecting to the fact that the BNP were to be allowed a PEB. The majority of post-transmission complaints were not specific as to the channel upon which the PEB was broadcast. Three of them related to the version that went out on Five.

Complainants expressed the following views:
1. That as an organisation the BNP should not have been allowed a broadcast at all.
2. That the PEB (in its various versions)
(a) inflamed racial hatred, and
(b) misrepresented Islam and was generally offensive to Muslims.

Decision

1. The BNP is a registered political party (under the law) and, as long as it fields the required number of candidates, the party is entitled to a PEB provided it complies with the law on matters such as libel, obscenity, and incitement to racial hatred, and with broadcasting codes on matters such as harm and offence, privacy and fairness. Within these limits, under the law the BNP is entitled to freedom of political expression as with any other political party.

Unlike any other controversial programme material on television and radio, a Party Election Broadcast may be as 'partial' as it chooses to be. Its purpose is to promote a particular ideology or point of view. In the case of the BNP, subject only to the limitations referred to above, this may extend to the expression of views that are outside those of mainstream politics.

2(a) As broadcast - once the broadcasters had themselves required the BNP to edit or obscure parts of the PEB which they felt would be in breach of the law or the Programme Code - the language used to lay out the party's views on immigration and asylum was not strident to the point at which the broadcasts, on any reasonable judgement, could be said to incite racial hatred. We are therefore satisfied that all versions of the PEB, *as broadcast*, were not racially inflammatory.

2(b) We also consider that all the versions of the PEB as actually broadcast – and again once edited – were sufficiently specific in their comments about Islamic extremism, as distinct from the vast majority of Muslim people to whom no such allegations could apply, for charges of misrepresentation and general offensiveness not to stand.

We are sympathetic to the sense of threat some viewers, particularly Muslims, may have felt on seeing these broadcasts. But by the criteria against which such broadcasts must be measured, we concluded that all the broadcasters which had transmitted the PEBs (after requesting editing them for compliance) had acted reasonably.

The broadcasts were not in breach.

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

Complaint from Mrs Cathryn Mills on behalf of Mrs Marianne Sullivan

Alex Dyke Show, Isle of Wight Radio, 6-8 October 2003

Ofcom has upheld a complaint by Mrs Cathryn Mills, on behalf of Mrs Marianne Sullivan, that three editions of the *Alex Dyke Show* broadcast between 6 and 8 October 2003 were unfair to Mrs Sullivan. The *Alex Dyke Show* is a phone-in programme.

In her capacity as the Mayor of Brading, Mrs Sullivan had made some controversial and widely reported comments to the effect that in August she wanted all holidaymakers dead in Brading, as they got in the way and drove slowly. Mrs Sullivan is also a teacher in the Isle of Wight.

As a result of her comments, one of the presenters repeatedly questioned whether Mrs Sullivan was suitable to be a teacher. One caller suggested she used to take guns into school. The presenters repeatedly demanded, on-air, a statement from Mrs Sullivan and action by the school.

Ofcom decided that no-one was likely to interpret Mrs Sullivan's remarks as seriously advocating violence. The repeated comments about her suitability as a teacher and demands for her statement and action by the school were excessive and sensationalist in manner. There was no evidence to suggest Mrs Sullivan had ever taken guns into school and the presenters' intemperate comments on the subject went beyond acceptable banter. The programmes were unfair to Mrs Sullivan.

Unfairness: upheld

Ofcom directed the broadcaster to broadcast this summary on 6 September 2004 at 1pm.

Not Upheld

Complainant	Programme	Date & broadcaster	Type of complaint
Dr Zofia Luklinska on behalf of Mr Bogdan Luklinski	UK's Worst... Quacks	31 July 2003 BBC 1	Unfairness
Mr Alan Williams	Wales This Week	12 June 2003 ITV1 (HTV Wales)	Unfairness
Mrs Julie Evans	Panorama: Fair Cops	2 November 2003 BBC1	Unfairness and unwarranted infringement of privacy
Ms Yasmine Khaldi	Fame Factory	24 March 2004 TV3 Sweden	Unfairness

Other programmes not in breach/out of remit (18 August – 30 August)

Programme	Channel	Trans Date	Category	No of complaints
Adult Channels	Adult channels	17/08/2004	Offence	1
Art Attack	ITV1	30/07/2004	Offence	1
As If	Channel 4	23/07/2004	Sexual Portrayal	4
B4U trailer	B4U	–	Offence	1
Bad Lads Army	ITV1	08/07/2004	Offence	1
Bad Lads Army	ITV1	29/07/2004	Language	1
BBC London News	BBC1	05/08/2004	Offence	1
BBC Midlands Today	BBC1	05/08/2004	Accuracy	1
BBC News	BBC1	10/08/2004	Impartiality	1
BBC News	BBC1	12/08/2004	Offence	1
BBC News	BBC1	16/08/2004	Miscellaneous	1
BBC News	BBC1	10/08/2004	Accuracy	1
BBC Radio 4	Radio 4	19/07/2004	Offence	1
Big Brother	Channel 4	25/07/2004	Language	1
Big Brother	Channel 4	04/08/2004	Offence	1
Big Brother	Channel 4	04/08/2004	Misleading	7
Big Brother	Channel 4	06/08/2004	Offence	1
Big Brother's Little Brother	Channel 4	05/08/2004	Offence	1
Birth Stories	Living TV	24/06/2004	Scheduling	1
Bo Selecta!	Channel 4	06/08/2004	Offence	1
Brainteaser	Five	13/08/2004	Misleading	1
Broadland 102	Broadland 102	10/08/2004	Offence	1

C3 News	ITV1	05/08/2004	Offence	1
C3 News	ITV1	06/08/2004	Misleading	1
C5 News	Five	11/08/2004	Misleading	1
Capital Gold Breakfast Show	Capital Gold	–	Miscellaneous	1
CD:UK	ITV1	30/07/2004	Religious Offence	1
Central News	ITV	30/07/2004	Offence	1
Channel 4 Test Cricket	Channel 4	19/08/2004	Offence	1
Charmed	Five	31/07/2004	Religious Offence	1
Chart Show TV	Sky	25/07/2004	Language	1
Chris Moyles	BBC Radio 1	08/07/2004	Offence	1
Classic FM News	Classic FM	10/06/2004	Offence	1
Coronation Street	ITV1	12/07/2004	Offence	1
Coronation Street	ITV1	16/08/2004	Accuracy	1
Cubix	Toonami	03/07/2004	Offence	1
Dalziel and Pascoe	BBC1	07/08/2004	Offence	1
Dumber and Dumber	Five	20/07/2004	Offence	1
Edge of the City (pre tx)	Channel 4	26/08/2004	Offence	2
Emmerdale	ITV1	17/08/2004	Offence	1
Emmerdale	ITV1	19/08/2004	Offence	1
Essex FM	Essex FM	–	Language	1
Family Affairs	Five	23/08/2004	Sexual Portrayal	1
Fantasy Football: Euro 2004	ITV1	13/06/2004	Offence	4
Fantasy Football: Euro 2004	ITV1	23/06/2004	Offence	1
Fantasy Football: Euro 2004	ITV1	25/06/2004	Offence	1

Film Release Stepford Wives	Channel 4	28/07/2004	Scheduing	1
Get a New Life	BBC2	06/08/2004	Language	1
Globo Loco	ITV1	01/07/2004	Offence	1
GMTV	ITV1	16/08/2004	Offence	1
Greatest Kids TV Moments	Five	19/08/2004	Offence	1
HTV West Local News	ITV1	04/07/2004	Accuracy	1
Ian Danter's Sunday Carve Up	100.7 Heart FM	04/07/2004	Language	1
Island at War	ITV1	–	Accuracy	1
ITN News	ITV1	05/08/2004	Offence	1
ITV News	ITV1	01/07/2004	Impartiality	1
ITV News	ITV1	01/07/2004	Offence	1
ITV News	ITV1	13/07/2004	Offence	1
ITV News	ITV1	24/08/2004	Offence	1
James O'Brien	LBC97.3	08/08/2004	Religious Offence	1
Jazz FM	Jazz FM	17/08/2004	Misleading	1
Jenny Jones	Sky One	17/06/2004	Offence	1
Kirsty's Home Videos	Sky One	30/06/2004	Offence	1
Loose Women	ITV1	25/08/2004	Scheduling	1
Loose Women	ITV1	09/08/2004	Language	1
Love, Honour and Obey	BBC3	23/07/2004	Offence	1
Messiah	BBC1	18/08/2004	Offence	1
Monsoon Wedding	Channel 4	14/08/2004	Language	1
More Kids from Alright on the Night	ITV1	12/08/2004	Offence	1
Moto sponsorship of ITV films	ITV1	30/07/2004	Offence	1

Nip/Tuck	Channel 4	11/08/2004	Offence	1
Peter Deeley - Through the Night	LBC97.3	07/08/2004	Language	1
Pushed To The Limit	BBC1	21/07/2004	Offence	1
Radio 1	BBC	15/07/2004	Offence	1
Real Life	ITV1	15/08/2004	Offence	1
Room 101	BBC2	28/07/2004	Offence	1
Rose & Maloney	ITV1	13/07/2004	Violence	1
Rose & Maloney	ITV1	12/07/2004	Religious Offence	1
Sangamam	Sangamam	03/03/2004	Offence	1
Sex, Footballers and Videotapes	S4C	23/08/2004	Sexual Portrayal	1
Six TV	Six TV	–	Regionality	1
Sky News	Sky News	07/05/2004	Offence	1
Sky News	Sky News	12/07/2004	Impartiality	1
Smile	BBC2	25/07/2004	Offence	1
South Country Ways	ITV1	25/03/2004	Offence	1
Sunday Best	BBC Radio 4	08/08/2004	Offence	1
Talksport	TalkSport Radio	20/07/2004	Sexual Portrayal	1
Talksport	TalkSport	21/07/2004	Offence	1
Terror Alert: Could You Survive	Sky One	12/08/2004	Offence	1
The Bill	ITV1	26/11/2003	Offence	1
The Bill	ITV1	05/08/2004	Religious Offence	1
The Chart	Five	01/08/2004	Offence	1
The Importance of Being Elegant	BBC2	14/08/2004	Offence	1
The OC	Channel 4	23/05/2004	Offence	1

The Square Meal	BBC Radio 4	16/08/2004	Offence	1
Tonight with Trevor McDonald	ITV1	09/08/2004	Impartiality	1
Travel Sick	FTN Channel	16/08/2004	Offence	1
Waggy	TAYFM	06/08/2004	Offence	1
Waking the Dead	BBC1	16/08/2004	Offence	1
Waking the Dead	BBC1	08/08/2004	Sexual Portrayal	1
Weapons of Mass Distraction	ITV1	11/06/2004	Offence	
Westcountry News	ITV1	–	Miscellaneous	1
Whatever	Channel 4	04/05/2004	Offence	1
Wife Swap	Channel 4	29/06/2004	Language	1
World at One	BBC Radio 4	–	Impartiality	1
World of Pain	Bravo	09/06/2004	Offence	1