

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. 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 lay-out of the report reflects these distinctions.

Standards cases

In Breach

My Parents Are Aliens

ITV1, 13 and 26 May, 16:30

Introduction

This children's series follows the misunderstandings that occur when an alien couple and their adopted human children try to deal with everyday life. Two viewers were offended by the use of the word "retard" in the programme of 13 May. They felt that the term was offensive and they were concerned that it might be copied by children.

Another viewer complained that in the episode of the 26th May, one of the children referred to another character as having "all the charisma of a tree stump with special needs".

Response

ITV said that the humour of the series revolved around Brian (the father) being a 'fool' who misunderstood everything. In this context, the term 'retard' was not used as a gratuitous insult but as a synonym for the word 'idiot'.

The line "all the charisma of a tree stump with special needs" was not a derogatory reference to individuals or any identifiable people or group. Instead, the term 'special needs' was referring to an inanimate object.

The broadcaster pointed out that it took great care to ensure respect and sensitivity towards people with disabilities. It would not seek to broadcast gratuitous, derogatory or offensive remarks, particularly in a children's programme.

Decision

The Programme Code states that "there is a danger of offence in the use of humour based on physical, mental or sensory disability, even where no malice is present. Reference to disability should be included only where necessary to the context and patronising expressions should be replaced by neutral terms".

We recognise that the humour of the series revolves around Brian's unusual behaviour. However, particular care needs to be taken when using expressions that can be seen as referring to mental illness. 'Retard' is a derogatory term generally used in the UK as an insulting way to describe someone with learning difficulties. We felt that, particularly in this comedy programme intended for children, the use of the word 'retard' could not be justified by its context.

Similarly, we believe that most viewers would associate the phrase "special needs" with people with learning difficulties.

Although the phrase may have been intended as an empty juvenile taunt, its use in this way was clearly meant to be insulting, and as such, was offensive.

The terms were in breach of Section 1.8 of the Programme Code (Respect for Human Dignity and Treatment of Minorities).

Live Sport on 5 Five Live, 28 March

Introduction A listener complained that a commentator used 'pidgin' English to suggest what a black football player may have been saying during a dispute with the referee. The expression used was "me no cheat".

Response The BBC told us that it regretted the offence caused by Alan Green's comment during the live coverage of the Manchester United v Arsenal game. The comment was made in the heat of a live broadcast and was meant as irreverent banter. Nevertheless, it was ill-judged.

Alan Green was well known as a campaigning anti racist and he had a 30 year track record of condemning racism whenever he had come across it. The Controller of the Network had reiterated to him the importance of the careful use of language, particularly in a live commentary situation.

Decision We considered that the suggestion that a black player was incapable of speaking grammatical English was inappropriate, particularly given the drive to eradicate racist attitudes in football. We believe that the experienced presenter should have been more alert to the implications of his comment.

The comment was in contravention of the Code on Standards.

Standards cases

Resolved cases

No Going Back Channel 4, 15 July, 20:00

Introduction This series follows families who have decided to move abroad and earn a living. In this edition, a young couple were in the process of setting up a guesthouse. Three viewers were concerned at the swearing, especially the repeated use of “shit”, in a programme scheduled before the 9pm watershed.

Response Channel 4 explained that the young couple featured were having a particularly stressful experience, as they struggled to cope with delayed building work and the wife breaking her leg. The programme was originally shown at 9pm and some of the strong language was edited to make it suitable for this pre-watershed slot. Unfortunately, the person responsible for the editing had not realised the impact of the cumulative effect of the remaining low-level bad language. The broadcaster accepted that this language was not ideal before the watershed. It had reminded staff of their responsibilities in this area and this would be reinforced as part of their compliance training.

Decision The Programme Code says that swearing of any sort must not be a frequent feature before the watershed. We welcome Channel 4’s recognition that although “shit” is a relatively mild swear word, when used repetitively in this context, it had a stronger impact. Given that Channel 4 had reminded its staff and would reinforce this as part of their compliance training, we consider the matter resolved.

Complaints resolved.

Standards cases

Not in Breach

American Beauty BBC2, 3 April, 21:10

Introduction

A viewer was concerned about the scheduling of this '18' rated film just after the watershed, when he considered it could easily be seen by children. In his view, it was inappropriate because of the graphic sexual content and seriously offensive language which occurred from the start of the film. In particular, he believed that the use of the word "cunt" was unacceptable shortly after 21:30.

Response

The BBC stated that this was an award-winning film and one of the most acclaimed of recent years. It was previously scheduled on BBC1 at 10.05pm, when it had attracted only one complaint about the strong language. Taking this into account, the broadcaster believed that a BBC2 audience, who were generally more selective in their viewing, would be comfortable with this scheduling. A pre-transmission warning was carefully worded to inform viewers that the film "*makes for graphic and uncomfortable viewing with very strong language*".

In the BBC's view, the use of more extreme language in this instance was key to explaining the character at the heart of the film, Angela. She was part of Lester Burnham's fantasy and appeared as just another teenager in her role as a cheerleader. However, in the eyes of her school friends, she was a foul-mouthed, precocious know-all. Her utterance of the word "cunt" was part of the constant subversion of viewers' opinions about the characters.

Decision

We acknowledge that some viewers are deeply offended by the use of this kind of language. However, audience research also suggests that viewers are more tolerant of adult content in films, preferring them to be unedited.

This well-publicised film about the darker aspects of American culture carried a clear warning. It was shown after the 9pm watershed, when it is generally accepted that parents share responsibility with the broadcasters for what their children watch. The more explicit sexual imagery did not occur until later in the film, as did the strongest language, which was integral to the character development.

Given these factors, we believe that this film would not have caused widespread offence on a channel which has a reputation for showing challenging films unedited.

The film was not in contravention of the Code.

Fantasy Football: Euro 2004

ITV1, 13, 15, and 27 June, 22:00

Introduction

This series of Fantasy Football, hosted by David Baddiel and Frank Skinner, followed the European Championships. We received several complaints about various editions in the series.

13 June

45 viewers complained about an opening sketch, which featured Baddiel and Skinner dressed as “Sven and Nancy”, having sex in the changing rooms while England was losing to France. Viewers felt the images were too explicit, particularly as the programme followed the England game, and some children would have been allowed to stay up.

15 June

We received eight complaints about David Baddiel’s comment that, as a Jew, he was “already frightened” when he discovered that there were Germans in the audience. Viewers complained that the Holocaust was not a joking matter. They also thought that it was unfair and racist to suggest that Germans were anti-Semitic. Some also said they were offended that this type of xenophobic sentiment was linked to supporting the England team.

27 June

Ten viewers complained about an item in which Ray Houghton had to ‘prove’ he was Irish. Viewers were offended by what they felt was a stereotyped portrayal of Irish people. In particular, they objected to the inclusion of a person apparently intended to represent a gunman.

Response

Channel Television said that *Fantasy Football* was an established format, and that Baddiel and Skinner were familiar faces on ITV. *Fantasy Football* aimed to take a sideways look at ‘the beautiful game’ and to comment – from a fan’s perspective – on the events of the tournament. Football was perceived as England’s national game, and the passion for the England team informed the series, which was a celebration of the game.

13 June

The broadcaster pointed out that both Skinner and Baddiel were decently clothed, and the overall effect was ludicrous rather than lewd or erotic. Channel Television acknowledged that a certain number of children were still watching, although substantially less than the number that watched the match. The game was played on a Sunday night in term-time, and the continuity announcement before the programme warned viewers to expect some strong language, which the broadcaster felt would have indicated to parents that the programme was unsuitable for younger viewers.

15 June

Channel Television said that the Germans in the audience that night were fully aware of the likely content and tenor of the show and took part willingly in the light-hearted banter. The broadcaster said that true xenophobia was unacceptable, but to expect a programme which is essentially a televisual football fanzine to avoid mild jingoism was ridiculous. Emotions run high during any tournament, and stereotypical representations of other teams and their supporters are not restricted to those who play for another country.

27 June

Ray Houghton participated in the 'Phoenix from the Flames' element of the show. The broadcaster said it regretted any distress caused to viewers who did not find the humour of this sketch to their taste. However Ray was very happy to participate and indeed found the sketch to be very funny. No malice was intended and the overall effect was ludicrous.

Decision

Some viewers were obviously surprised by the 'Sven and Nancy' sketch and many commented about children still in the audience. However the programme did not begin until over half an hour after the match itself finished. As this was a Sunday night, during term-time, many parents had obviously used this programming juncture to end their children's viewing: BARB figures show that the child audience had reduced from 2.5million at 21:30 to 0.6 million at 21:55. Although the warning preceding the programme could have been clearer, particularly with reference to the images as well as the language, it should have alerted viewers to the type of content likely to follow. The sketch itself was not explicit and we believe that it was not unsuitable for broadcast at that time.

Although Baddiel and Skinner's brand of humour is well known, we recognise that not all programmes will appeal to all viewers. The German supporters in the audience on 15 June had contacted the production team prior to broadcast to take part and were aware of the likely tone of the programme. They willingly took part in the programme and accepted Baddiel's comments in good spirit. The 'paramilitary' figure in the programme of 27 June was played by the programme's producer, a Dubliner. Although we acknowledge that the humour would not be shared by all viewers, we believe that it was not intended to be malicious or offensive.

The programmes 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.

Not Upheld

Complainant	Programme	Date & broadcaster	Type of complaint
Mr Glyn Kenyon	<i>Crimewatch - Solved</i>	20 August 2003 BBC1	Unfair treatment
Jones Webb Limited	<i>Watchdog</i>	13 January 2004 BBC1	Unfair treatment
Mr David Merrick	<i>Bodyshock: Riddle of the Elephant Man</i>	5 January 2004 Channel 4	Unfairness and unwarranted infringement of privacy
Mrs Irene Merrick	<i>Bodyshock: Riddle of the Elephant Man</i>	5 January 2004 Channel 4	Unwarranted infringement of privacy

Other programmes not in breach/out of remit (31 August – 13 September)

Programme	Channel	Category	Trans Date	No of Complaints
101 Most Shocking Moments in Entertainment	Five	Offence	09/06/2004	1
Airline	Sky Travel	Offence	02/07/2004	1
American History X	BBC2	Violence	05/09/2004	1
As If	Channel 4	Sexual Portrayal	05/08/2004	1
Bam Bam Breakfast Show	Kiss FM	Offence	20/07/2004	1
Bam Bam Breakfast Show	Kiss FM	Offence	17/08/2004	1
BBC News	BBC1	Offence	05/08/2004	1
BBC News	BBC1	Offence	03/09/2004	1
BBC News	BBC1	Offence	09/09/2004	2
BBC News 24	BBC1	Offence	25/07/2004	1
Big Brother	Channel 4	Violence	30/06/2004	4
Big Brother	Channel 4	Offence	13/07/2004	2
Big Brother	Channel 4	Offence	01/08/2004	1
Bo Selecta!	Channel 4	Language	15/08/2004	11
Borat's Television Programme	Channel 4	Offence	22/08/2004	1
Borat's Television Programme	Channel 4	Religious Offence	20/08/2004	2
Brainteaser	Five	Misleading	13/08/2004	1
Brilliant Creatures	ITV1	Violence	06/08/2004	1
C4 News	Channel 4	Violence	22/06/2004	1
C4 News	Channel 4	Accuracy	29/07/2004	1
Capital FM Breakfast	Capital FM	Offence	09/08/2004	1
Casualty	BBC1	Offence	28/08/2004	1
Casualty	BBC1	Language	06/09/2004	1
Channel 4 Test Cricket	Channel 4	Offence	-	1
Coronation Street	ITV1	Offence	02/06/2004	1
Coronation Street	ITV1	Offence	06/09/2004	1
Coronation Street	ITV1	Religious Offence	09/09/2004	1
Cosmetic Surgery Live	Five	Misleading	06/09/2004	1
dick and dom in da bungalow	BBC1	Offence	-	1
Eastenders	BBC1	Offence	06/09/2004	1
Eastenders	BBC1	Offence	07/09/2004	1
Emmerdale	ITV1	Offence	29/08/2004	1
Emmerdale	ITV1	Sexual Portrayal	30/08/2004	1
Emmerdale	ITV1	Offence	31/08/2004	1
Emmerdale	ITV1	Offence	03/09/2004	1
Emmerdale	ITV1	Language	06/09/2004	1
Emmerdale	ITV1	Sexual Portrayal	02/09/2004	1
Emmerdale	ITV1	Sexual Portrayal	07/09/2004	1
Emmerdale	ITV1	Offence	13/09/2004	1

Euro 2004	ITV1	Offence	20/06/2004	1
Experimental	E4	Offence	27/04/2004	1
Five news	Five	Offence	20/07/2004	1
Friends	Channel 4	Language	10/08/2004	1
Galaxy 105	Galaxy 105	Language	08/08/2004	1
Galaxy Competition	Galaxy 105	Language	04/08/2004	1
Game In TV	Game In TV	Offence	07/07/2004	1
GMTV	ITV2	Offence	22/08/2004	1
Gross	Discovery	Offence	26/08/2004	1
Hellboy Film Trailer	Fox Kids	Offence	08/09/2004	1
Holby City	BBC1	Offence	07/09/2004	1
Hollyoaks	Channel 4	Offence	19/07/2004	1
Hollyoaks	Channel 4	Offence	19/07/2004	2
ITV News	ITV1	Offence	03/09/2004	1
ITV News	ITV1	Impartiality	07/09/2004	1
Jazz FM	Jazz FM	Offence	-	2
Jon Gaunt	BBC Radio WM	Offence	17/07/2004	1
Judging Amy	Channel 4	Language	27/08/2004	1
Life of Grime	BBC1	Offence	-	1
Loose Women	ITV1	Offence	-	1
Messiah	BBC1	Offence	-	1
Messiah 3	BBC1	Violence	30/08/2004	3
Ministry of Mayhem	ITV1	Offence	19/06/2004	1
Ministry of Mayhem	ITV1	Sexual Portrayal	-	1
Ministry of Mayhem	ITV1	Offence	04/09/2004	1
Monkey Magic	Five	Offence	24/08/2004	3
MTV Hits	MTV	Offence	20/07/2004	1
My Foetus	Channel 4	Offence	-	1
Night Class - Radio 4	BBC Radio 4	Religious Offence	-	1
Nip/Tuck	Channel 4	Offence	23/08/2004	1
Olympic Grandstand	BBC1	Offence	19/08/2004	1
Olympic Grandstand	BBC1	Language	26/08/2004	1
Olympics Today	BBC1	Offence	19/08/2004	1
Other People's Holidays	Channel 4	Language	07/08/2004	1
Palestine is Still the Issue: A Special	ITV	Impartiality	25/07/2004	1
Party Political Broadcasts	ITV1	Offence	-	1
Pete & Geoff Breakfast	Virgin105	Offence	17/08/2004	1
Real Wife Swaps	Five	Sexual Portrayal	02/09/2004	1
Richard and Judy	Channel 4	Offence	06/09/2004	1
Richard and Judy	Channel 4	Scheduling	07/09/2004	1
Ricky Gervais Live: Animals	Channel 4	Language	27/08/2004	2
Rush Hour	BBC1	Offence	05/09/2004	2
Sally Jesse Raphael	ITV2	Offence	12/07/2004	1
Sally Jesse Raphael	ITV2	Offence	18/08/2004	1
Scott Mills	BBC Radio 1	Offence	29/06/2004	1
Scott Mills	BBC Radio 1	Offence	12/07/2004	1
Silent Witness	BBC1	Scheduling	05/09/2004	1
Simply The Best	ITV1	Offence	28/08/2004	1

Sky News	Sky	Impartiality	11/08/2004	1
Smash Hits Chart	Channel 4	Sexual Portrayal	03/05/2004	1
Smile	BBC2	Offence	25/07/2004	1
Soccernight	ITV1	Language	12/08/2004	1
Soccernight	ITV1	Offence	02/09/2004	1
Surviving Nugent	VH2	Offence	13/08/2004	1
T4	Channel 4	Sexual Portrayal	10/08/2004	1
Talksport	Talksport	Offence	21/07/2004	1
Talksport	Talksport	Offence	22/07/2004	1
That'll Teach 'Em	Channel 4	Offence	24/08/2004	1
That'll Teach 'Em	Channel 4	Offence	07/09/2004	4
The Basil Brush Show	BBC1	Sexual Portrayal	11/08/2004	1
The Best of Swag	Five	Offence	13/07/2004	1
The Daily Pollitics	BBC2	Language	12/05/2004	1
The Defender	BBC1	Violence	-	1
The Ice Storm	BBC2	Offence	30/08/2004	2
The Shield	Five	Violence	24/07/2004	1
The Swarm	Channel 4	Offence	29/08/2004	1
This Morning	ITV1	Offence	-	1
Trading Treasures	BBC1	Offence	01/09/2004	1
TV's Naughtiest Blunders	ITV1	Language	26/08/2004	2
UK Gold	UK Gold	Offence	28/07/2004	1
UK Gold	UK Gold	Offence	11/08/2004	1
UP2U CITV	ITV	Offence	15/08/2004	1
UTV Live	ITV1	Offence	17/07/2004	1
UTV News	ITV1	Misleading	12/07/2004	1
Weakest Link	BBC1	Offence	06/09/2004	1
When Good Marriages Go Bad	Five	Sexual Portrayal	06/09/2004	1
Where the Heart Is	UK Gold	Offence	15/07/2004	1
Who Wants to be a Millionaire	Challenge t.v.	Language	06/08/2004	1
X Rated: Music Videos They Tried to Ban	Channel 4	Language	24/07/2004	1
You are what you eat	Channel 4	Accuracy	06/07/2004	1
You are what you eat	Channel 4	Offence	20/07/2004	1