

## Decision by Ofcom

### Sanction: to be imposed on GB News Limited

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For material broadcast on GB News on 12 February 2024 at 20:00<sup>1</sup>.

**Ofcom's Sanction Decision against:** GB News Limited ("GB News" or "the Licensee") in respect of its service **GB News** (Ofcom TLCS licence TLCS103139BA).

**For:** Breaches of the Ofcom Broadcasting Code (the "Code")<sup>2</sup> in respect of:

Rule 5:11: "In addition to the rules above, due impartiality must be preserved on matters of major political and industrial controversy and major matters relating to current public policy by the person providing a service...in each programme or in clearly linked and timely programmes".

Rule 5:12: "In dealing with matters of major political and industrial controversy and major matters relating to current public policy an appropriately wide range of significant views must be included and given due weight in each programme or in clearly linked and timely programmes. Views and facts must not be misrepresented".

**Ofcom's Decision:** To impose a financial penalty payable to HM Paymaster General of **£100,000**; and,  
  
to direct the Licensee to broadcast a statement of Ofcom's findings on a date and in a form to be determined by Ofcom.

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<sup>1</sup> For the material broadcast on GB News and found in breach of the Code, see [Issue 498 of Ofcom's Broadcast and On Demand Bulletin](#).

<sup>2</sup> Ofcom Broadcasting Code, [Section Five](#).

## **Executive Summary**

1. GB News is a UK-based television channel that broadcasts a range of news and current affairs programmes. It describes itself as “Britain’s News Channel”.
2. On 12 February 2024 at 20:00, GB News broadcast the programme *People’s Forum: The Prime Minister* (the “Programme”), which featured the then Prime Minister, Rishi Sunak, in a question-and-answer session with a studio audience about the Government’s policies and performance in the context of the forthcoming UK General Election.<sup>3</sup>

## **The Breach Decision**

3. In Ofcom’s Decision published on 20 May 2024 in Issue 498 of Ofcom’s Broadcast and On Demand Bulletin (the “Breach Decision” or the “Breach”),<sup>4</sup> Ofcom found that the Programme had failed to preserve due impartiality and had breached Rules 5.11 and 5.12 of the Code.
4. The Breach Decision set out the broadcast material that was in breach, along with reasoning as to why the material had breached the applicable rules of the Code.
5. The Programme, which featured the Prime Minister, Rishi Sunak, was a question-and-answer session with a studio audience about the Government’s policies and performance, in the context of the forthcoming UK General Election. We therefore considered that this constituted a matter of major political controversy and a major matter relating to current public policy and the heightened special impartiality rules were engaged.
6. Ofcom found that an appropriately wide range of significant views were not presented and given due weight in the Programme, nor was due impartiality preserved through clearly linked and timely programmes. Given the very high compliance risks this Programme presented, we considered GB News could have, and should have, taken additional steps to mitigate these risks.
7. In view of the factors set out above, Ofcom put the Licensee on notice in the Breach Decision that it considered that the breaches were serious and repeated and it would consider the imposition of a statutory sanction.<sup>5</sup>
8. The Licensee has applied for judicial review of the Breach Decision.<sup>6</sup> The Licensee also sought interim relief from the Court in order to prevent Ofcom from completing the sanction process. By judgment dated 4 October 2024, Mr Justice Chamberlain dismissed this application, finding that there is “a significant public interest in allowing Ofcom to complete its process and publish its decision”. Ofcom will therefore publish this Sanction Decision but will not enforce the sanctions contained therein until the judicial review application relating to the Breach Decision is determined.

## **The Sanction Decision**

9. In accordance with Ofcom’s Procedures for the consideration of statutory sanctions in breaches of broadcast licences (the “Sanctions Procedures”),<sup>7</sup> Ofcom considered whether the Breach was serious, deliberate, repeated and/or reckless such as to warrant the imposition of

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<sup>3</sup> On the date the Programme was broadcast, the date of the next UK General Election had not been set. On 22 May 2024 a UK General Election was called for 4 July 2024. As this announcement was after the date of the Programme, this did not inform this Sanction Decision or the Breach Decision.

<sup>4</sup> [Issue 498 of Ofcom’s Broadcast and On Demand Bulletin](#).

<sup>5</sup> On 4 October 2024 Ofcom updated the Breach Decision to say that this was the initial view of the Breach decision-maker and it would be reconsidered by the Sanction Panel.

<sup>6</sup> Mr Justice Chamberlain granted permission on 4 October 2024. Ofcom is defending the claim.

<sup>7</sup> [Procedures for the consideration of statutory sanctions in breaches of broadcast licences](#), 3 April 2017.

a sanction on GB News. It has reached the Decision that a sanction is merited in this case since the breaches are serious and repeated for the reasons set out in paragraphs 75 to 131 below.

10. Ofcom's Preliminary View on sanction ("the Sanction Preliminary View") was that Ofcom was minded to impose statutory sanctions on the Licensee. Our Sanction Preliminary View took into account representations that GB News had previously made in advance of our Breach Decision. Ofcom sent a copy of the Sanction Preliminary View to GB News on 20 June 2024 and gave it the opportunity to provide further written and oral representations. After a five-week extension of time, the Licensee provided its written representations to Ofcom on 15 August 2024 and oral representations in person on 18 September 2024. The representations are summarised in paragraphs 39 to 71 below and, as relevant, throughout.
11. Having considered all the evidence and all the representations made to us, Ofcom has reached the Decision that a sanction is merited for the reasons set out in paragraphs 75 to 131 below.
12. Ofcom's Decision is that the appropriate sanction is to:
  - 1) impose a financial penalty of **£100,000**; and
  - 2) direct the Licensee to broadcast a statement of Ofcom's findings on a date and in a form to be determined by Ofcom.
13. This document sets out the basis for Ofcom's Decision, taking into account all the relevant material in this case and Ofcom's Penalty Guidelines (the "Penalty Guidelines").<sup>8</sup>

#### **Legal Framework**

14. We set out in the Breach Decision the relevant legal framework and the duties which Ofcom took into account in making the Breach Decision.
15. Ofcom must also act in accordance with these statutory duties in considering whether it is appropriate to impose a statutory sanction and, if so, the type and level of sanction which it would be proportionate to impose.
16. Ofcom's principal duty, set out in Section 3(1) of the Communications Act 2003 ("the Act"), is to further the interests of citizens in relation to communications matters and the interests of consumers in relevant markets.
17. Ofcom has a specific duty under section 319 of the Act to set such standards for the content of programmes in television and radio services as appears to it best calculated to secure the standards objectives set out in section 319(2). These objectives include that news included in television and radio services must be reported with due accuracy and presented with due impartiality, and that the impartiality requirements of section 320 of the Act are complied with (section 319(2)(c) and (d)).
18. Reflecting Ofcom's duties under sections 319 of the Act, Section Five of the Code requires that the special impartiality requirements are met. The relevant rules of the Code are set out in full at the beginning of this Decision.
19. In performing these duties, Ofcom must have regard to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, and among other things, to the need to secure the application of standards in television services in the manner that best guarantees an appropriate level of freedom of expression.<sup>9</sup>

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<sup>8</sup> [Penalty Guidelines](#), 14 September 2017.

<sup>9</sup> Sections 3(3) and 3(4)(g) of the Act.

20. Ofcom must perform its duties in accordance with the right to freedom of expression set out in Article 10 of the European Convention on Human Rights. Freedom of expression is one of the essential foundations of a democratic society. As is well established, it encompasses the broadcaster's right to freedom of expression as well as the audience's right to receive information and ideas without interference.<sup>10</sup> It applies not only to the content of information but also to the means of transmission or reception.<sup>11</sup> Any interference must be prescribed by law, pursue a legitimate aim and be necessary in a democratic society (i.e., proportionate to the legitimate aim pursued and corresponding to a pressing social need).
21. Decisions at both the domestic level and of the European Court of Human Rights make clear that there is little scope for restrictions on freedom of expression in two fields, namely political speech and on matters of public interest. Accordingly, a high level of protection of freedom of expression will normally be accorded, with the authorities having a particularly narrow margin of appreciation.
22. It is well established that the freedom of expression of licensed broadcasters may legitimately be restricted where such measures are necessary to achieve the positive objective of maintaining fair and equal democratic discourse on influential media platforms to the benefit of society generally.<sup>12</sup>
23. The due impartiality standards required under sections 319 and 320 of the Act form part of a tripartite series of measures (the others being a prohibition on paid political advertising<sup>13</sup> and the provision of free party political and party election broadcasts according to defined rules<sup>14</sup>) which aim to safeguard the integrity of democratic debate on matters of public concern<sup>15</sup> by preventing influential broadcast media platforms from being hijacked by wealthy or well-placed interests promoting a partial agenda.
24. In passing the Act, Parliament set out in legislation the restrictions prescribed by law and which it judged to be necessary in our democratic society. The legitimate aim is for the protection of the rights of others. The statutory framework set by Parliament specifically assigns an area of judgment, to be exercised by Ofcom, as to how the requirements of the legislation are to be applied to the facts of each case.
25. In 2020, the Divisional Court found: "the requirement that due impartiality has to be satisfied by the actual broadcaster and by the programme under consideration or specifically linked programmes drawn to the attention of the viewer, is one that accords with good sense and with the legislative objective, which the due impartiality regime is designed to safeguard. The legislative objective is the preservation of the democratic process itself, which is safeguarded by providing a level playing field for competing views and opinions so that those views and opinions are expressed, heard, answered and debated".<sup>16</sup>

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<sup>10</sup> *Lingens v Austria* (1986) 8 EHRR 407.

<sup>11</sup> *Autronic v Switzerland* (1990) 12 EHRR 485.

<sup>12</sup> *Animal Defenders v United Kingdom* [2013] EMLR 28 and *R (on the application of Animal Defenders International) v Secretary of State For Culture, Media and Sport* [2008] 1 AC 1312.

<sup>13</sup> See sections 319(2)(g) and 321(2) of the Act.

<sup>14</sup> Section 333 of the Act provides that licences for certain broadcasters must require the inclusion of free broadcasts and the observance of the Ofcom Rules on Party Political and Referendum Broadcasts. Those Rules regulate party political broadcasts (offered to qualifying parties outside election periods); party election broadcasts (offered to qualifying parties during election periods); and referendum campaign broadcasts (offered to each designated referendum organisation before each referendum).

<sup>15</sup> *R (Autonomous Non-Profit Organisation TV-Novosti) v Ofcom* [2020] EWHC 689 (Admin), paragraph 21, as upheld by *R (Autonomous Non-Profit Organisation TV-Novosti) v Ofcom* [2021] EWHC Civ 1534.

<sup>16</sup> *Ibid*, paragraph 36, see also *R (Autonomous Non-Profit Organisation TV-Novosti) v Ofcom* [2021] EWHC Civ 1534, paragraph 56.

26. As explained in the Government White Paper which led to the Act:
- “[Due impartiality] obligations have played a major part in ensuring wide public access to impartial and accurate information about our society and the opportunity to encounter a diverse array of voices and perspectives. They ensure that the broadcast media provide a counter-weight to other, often partial, sources of news. They therefore contribute significantly to properly informed democratic debate.”<sup>17</sup>
27. As Lord Bingham explained in the *Animal Defenders* case,<sup>18</sup> which related to paid political advertising, the underlying rationale for the due impartiality regime is as follows:
- “The fundamental rationale of the democratic process is that if competing views, opinions and policies are publicly debated and exposed to public scrutiny the good will over time drive out the bad and the true prevail over the false. It must be assumed that, given time, the public will make a sound choice when, in the course of the democratic process, it has the right to choose. But it is highly desirable that the playing field of debate should be so far as practicable level. This is achieved where, in public discussion, differing views are expressed, contradicted, answered and debated. It is the duty of broadcasters to achieve this object in an impartial way by presenting balanced programmes in which all lawful views may be ventilated”.
28. In *R (Autonomous Non-Profit Organisation TV-Novosti) v Ofcom*,<sup>19</sup> Lord Justice Dingemans further stated:
- “There is nothing to suggest that the need for accuracy or impartiality in the broadcasting media, or the contribution that an adherence to those standards in broadcasting makes to a properly informed democratic debate, has diminished or is any less important to safeguarding the interests of citizens now than it was at the time of the White Paper or the enactment of the 2003 Act. Indeed, there is reason to consider that the need is at least as great, if not greater than ever before, given current concerns about the effect on the democratic process of news manipulation and of fake news”.
29. In other words, a central purpose of the due impartiality requirements is that those subjected to the particularly potent and pervasive influence of broadcast media should be left in a position to make their own minds up on matters of important public interest, having been exposed to a plurality of views. In this way, both protections on free speech and the requirements of impartiality that may (to an extent) restrict free speech derive from the same fundamental concern: the need to safeguard the integrity of public discussion and thereby the democratic process. This remains a central concern today.
30. The interference with Article 10 attendant on imposing a statutory sanction in relation to findings of breaches of due impartiality requirements may, where appropriate and proportionate in the circumstances of the case, be justified by the need to achieve these legitimate aims.

### The Ofcom Broadcasting Code

31. Standards set by Ofcom in accordance with section 319 of the Act are set out in the Code.
32. Accompanying Guidance Notes to each section of the Code are published and, from time to time, updated on the Ofcom website. The Guidance Notes are non-binding but assist

<sup>17</sup> [Communications White Paper - A New Future for Communications, December 2000](#). See also *R (Autonomous Non-Profit Organisation TV-Novosti) v Ofcom* EWHC 689 (Admin), paragraph 64.

<sup>18</sup> *Animal Defenders v United Kingdom* [2013] EMLR 28 and *R (on the application of Animal Defenders International) v Secretary of State For Culture, Media and Sport* [2008] 1 AC 1312.

<sup>19</sup> *R (Autonomous Non-Profit Organisation TV-Novosti) v Ofcom* [2020] EWHC 689 (Admin), paragraph 23.

broadcasters in interpreting and applying the Code (“the Guidance”).<sup>20</sup> Updated Section Five Guidance has been published since the broadcast of the Programme and applies to programmes broadcast from 24 April 2024 onwards. As this version of the Guidance was not in force on the date of the Programme (12 February 2024), it did not apply at the time of the Programme, nor did it inform our Breach Decision or our Sanction Decision in this case. Accordingly, references to “Ofcom’s Guidance to Section Five of the Code” in this Sanction Decision are references to the version of the Guidance dated 22 March 2017 which was in force on 12 February 2024.

33. The relevant Code rules in this case are set out at the beginning of this Decision.

### **Remedial action and penalties**

34. Under section 325 of the Act, a licence for a programme service issued by Ofcom under the Broadcasting Act 1990 or 1996 must include conditions for securing that the standards set under section 319 are observed by the licensee. In the case of a television licensable content service (“TLCS”) licence, Condition 6 of the licence requires the licensee to ensure that the provisions of any Code made under section 319 are complied with. The Licensee in this case holds a TLCS licence.
35. Where Ofcom has identified that a condition of a TLCS licence has been contravened, its powers to take action are set out in sections 236 to 239 of the Act insofar as relevant to the case.
36. Section 236 of the Act provides Ofcom with the power to direct the holder of a TLCS licence to broadcast a correction or a statement of Ofcom’s findings (or both) and/or not to repeat a programme which was in contravention of a licence condition.
37. Under section 237 of the Act, Ofcom has the power to impose a financial penalty on the holder of a TLCS licence where it is satisfied the licensee has contravened a condition of its licence. The maximum level of a financial penalty that can be imposed on the holder of a TLCS licence in respect of each contravention of a TLCS licence condition is £250,000 or five per cent of the licensee’s qualifying revenue relating to its last complete accounting period for which its licence has been in force, whichever is greater.
38. Section 238 of the Act gives Ofcom a duty to revoke a TLCS licence if the licensee is in contravention of a condition of the licence or is failing to comply with a direction and Ofcom is satisfied that the contravention or failure, if not remedied, would justify the revocation of the licence.

### **The Licensee’s representations**

39. Ofcom provided the Licensee with the Sanction Preliminary View and the opportunity to make both written and oral representations.
40. The Licensee made general written and oral representations addressing a number of matters, as set out below. The Licensee also made specific representations regarding whether the Breach was so serious and/or repeated so as to warrant the imposition of a statutory sanction and regarding the various factors that Ofcom is required to take into account under the Penalty Guidelines when determining the level of any financial penalty. We set out a summary of the representations in paragraphs 41 to 71 below and address the specific representations where relevant throughout.

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<sup>20</sup> See Ofcom’s [Guidance to Section Five of the Code](#) as was in force on 12 February 2024.

General matters*The context within which the representations were made*

41. In its written representations GB News highlighted the specific circumstances in which it had submitted its representations and said that, as a result, it faced a “practical challenge” in responding to the Sanction Preliminary View. These circumstances included:
- “GB News’ ongoing claim for judicial review of the Breach Decision which was the subject of this Sanction Decision; and Ofcom’s rejection of GB News’ request that the Sanctions Process should be suspended pending conclusion on that claim; and
  - GB News’ ongoing claim for judicial review of two other Breach Decisions relating to two episodes of *Jacob Rees-Mogg’s State of the Nation*.”
42. However, the Licensee noted that “in order to engage with the Sanctions Process in a constructive and cooperative manner, GB News does not dispute in these representations the permissibility of Ofcom finding in the Breach Decision and the *Jacob Rees-Mogg* Decisions that breaches had occurred”. It emphasised, however, that “nothing in these representations is, or should be taken to be, any form of concession as to the legality of those decisions”. The Licensee’s view was that Ofcom’s Decision to proceed with the sanctions process despite the ongoing legal proceedings meant Ofcom “has chosen” to reach a Sanction Decision “without the benefit of the findings, observations and reasoning of the Court”. It noted that “should the Court uphold GB News’ claims, in full or in part, or otherwise make a relevant statement which is at odds with or has been considered by Ofcom in any sanctions decisions, it is likely that Ofcom will have to revisit its sanctions decision”.
43. Against this background, GB News clarified that the written representations it submitted on the Sanction Preliminary View focused on “the nature of the Breach” and “whether a statutory sanction is justified, and if so, what it should be”.

*GB News’ relationship with Ofcom and the regulatory landscape*

44. In its written representations, GB News explained that it had decided to launch on linear TV “rather than distributing solely online” because it wanted to be part of the “regulatory landscape for UK broadcast media” and that “regulatory compliance has always been important to GB News”. It also said that compliance is “an area in which GB News continues to heavily invest and make enhancements”. GB News referred to a statement by its Chief Executive, Angelos Frangopoulos, for more details on its compliance procedures. In its oral representations the Licensee made similar points, emphasising it had decided to be regulated as a mainstream broadcaster “rather than a digital maverick or social media outlier”, and that it had made significant investments in experienced personnel and compliance measures, including the recruitment of a compliance officer and ongoing training for staff and “an in the newsroom compliance resource”. It also highlighted the “incredibly challenging time” of GB News’ launch during the aftermath of the COVID-19 pandemic.
45. In its oral representations, the Licensee referred to its commitment to offer new formats and a platform for different voices and perspectives and to engage new audiences across the UK, in line with [then] Secretary of State’s call to the industry to “swing focus onto all of the United Kingdom”. GB News said it was “exactly what we have been striving to do, and the very gap in the market there that we identified prior to our launch”. GB News also recognised the importance of being trusted by the public and the regulator and that it understands that “sometimes that means respecting and being seen to respect” the Code. The Licensee added that GB News’ “aims are the same as Ofcom’s” and that it “regret[s] that has not been clear”.

46. In its oral representations, the Licensee specifically referred to its past compliance with the Code, acknowledging that it had “made compliance errors” on previous occasions and that it did not “seek to minimise any of those”. It said that it “regret[s] any breach” and that the situation “has come at a high price commercially”. The Licensee added that it had “learned from every error, and we’ve followed up with training sessions” as a result. However, the Licensee asked Ofcom to take into account the fact that GB News had broadcast “more than 25,000 hours of television since it started, most of it live”. It said that “a very high proportion” of its output is “on political and contentious topics”, falling within Section Five of the Code. In addition, it had a particular focus on topics to which Rules 5.11 and 5.12 apply, which it said is “much higher than any other broadcaster in the UK”. The Licensee referred to 2024 as being an election year and the “complex” topics covered on “almost every hour of television” on GB News this year, “including news and/or debate”. The Licensee argued that “every hour [of broadcast] is proof that we understand and respect the Code”.
47. The Licensee referred in its oral representations to a timeline of its compliance over the past 12 months, stating that GB News “have a good record” when looked at in the context of “hours and hours of complex subjects on TV [it] produce[s]”, and that this demonstrated “our commitment to the code and the work we have done to ensure compliance”. GB News said it was the result of the “reviews we do and the seriousness to which we take every investigation and breach”. It added that GB News was “still increasing our attention to compliance to ensure that we have in-house and external compliance support to ensure 24/7 cover for our teams”.
48. Regarding its ongoing applications for judicial review, GB News explained in its written representations that its decision to apply for judicial review of the *People’s Forum* and *Jacob Rees-Mogg* breach Decisions “should not in any way be seen as evidencing a lack of commitment to complying with its regulatory obligations”. The Licensee said that “there should be no suggestion of it obstructing or opposing Ofcom, which would not only be inconsistent with how a responsible broadcaster should act but would also make little commercial sense” and that, even if it was successful in challenging Ofcom’s breach Decisions, the legal costs would be higher than paying the financial penalty. It further clarified that its decision to pursue these proceedings was because it believed “in good faith that it correctly applied the Code to innovative and evolving formats and content”, and that the challenged breach Decisions, as they stand, “would create inappropriate and unworkable precedents as well as present a wholly misleading impression of GB News and its approach to compliance”. It emphasised, however, that “it does not want that litigation to prevent GB News and Ofcom building a more constructive relationship going forward”. It said GB News wanted to “play a positive role in the maintenance and development of licensed television and radio content”.

#### *The process*

49. In its oral representations GB News made some additional points on process, arguing that there was a “significant difference between Ofcom’s preliminary or provisional view in the sanctions process and in the investigations process”. It said that, during the initial investigation, the Licensee could provide written representations before Ofcom issued its Preliminary View in relation to the Breach investigation (“the Breach Preliminary View”), whereas for the sanction process the Licensee could only comment on the Sanction Preliminary View and not prior to it being issued. The Licensee said that the Panel should therefore be more ready to depart from its Sanction Preliminary View.
50. GB News also suggested that the Panel “ought to proceed entirely independently and without regard to the judicial review proceedings” and “reach a decision itself”.

GB News' considerations relating to the making of the Programme

51. In its oral representations, the Licensee explained its reasons for producing the Programme. GB News said that, in 2023 it started to think about “what an election year would look like for GB News”, including thinking about the agenda for election events, “to offer an alternative to the usually carefully crafted leaders’ debates and interviews in which the broadcaster, the presenter, interpose themselves between the politicians and the public”. The Licensee said that it branded itself the “Election Channel” on 1 January 2024 and that this was “anchored around the *People’s Forum* format”. GB News said it wanted to broadcast the first of the *People’s Forum* episodes as early as possible in 2024 to “have first mover advantage” but reiterated that, at the time, it did not know when the UK General Election would take place.
52. The Licensee said that the Programme’s format gave “the studio audience direct access to the politician” and “without the intervention of a host”. It also said that it “had pioneered the format and tried and tested [it] in Australia, modelled on the town hall”. GB News said that it was “trying to create a new format for scrutinising would-be leaders in an election year”. The Licensee added that, in its view, this was “a really important public interest piece of programming, a positive innovation for the British public” and that even its competitors “applauded the show as refreshing, with the questions unlike anything they get from the Westminster bubble journalists”.
53. GB News said it acted “in good faith and with the best intentions” with due impartiality always in mind. It said that the intention had always been to have a “series of *People’s Forums*, at leadership, ministerial and issues level, involving all parties” and that “as part of our election channel branding and positioning, we knew Labour was our first priority”. The Licensee added that this was the reason why it had had “extensive discussions” with the Labour Party “before proposing the programme to the Conservative Party”.
54. GB News argued that, as a result of the method of choosing questions and audience members, “the whole thing was 100% transparent”. It also noted that “the public did offer a great deal of criticism and challenge to Rishi Sunak”.
55. The Licensee said that other options for programming were discussed before broadcast, including different formats. However, it explained that it had made an editorial judgement to use this format. It reiterated both in its written and oral representations that GB News had “sufficiently strong confidence that Labour would follow” and that Sir Keir Starmer would take part “within weeks” in a second *People’s Forum*.

The nature of the Breach

56. In its written representations, GB News argued that “when determining what, if any, sanction to impose, Ofcom must consider the actual nature of the Breach found”. The Licensee considered there were inconsistencies between the Sanction Preliminary View and the Breach Decision in how Ofcom had characterised the “nature of the breach”. It said that it understood that “the Breach was not the broadcast of the Programme or the format of the Programme as such”. It said that the Breach Decision “accepts that GB News was entitled to broadcast the Programme in the format and with the content that it did and satisfy the requirements of Rules 5.11 and 5.12 through a linked and timely programme with Keir Starmer”. The Licensee understood from the Breach Decision that Ofcom “found a breach because the programme with Sir Keir Starmer had not been “scheduled” and “agreed at the time of broadcast, nor subsequently” (i.e. within a week, before Ofcom announced its investigation). GB News said that the nature of the Breach as set out in the Breach Decision therefore appeared to be the absence of what it called an “Ofcom-level agreement”, which it explained referred to “the need for there to have been an agreement within a week of the Programme”.

57. GB News reiterated several of the points it made during the investigation to contend that the Programme was compliant with the Code, because the Programme with Rishi Sunak was not intended to be judged as “a standalone programme” and that it was “unfair and inaccurate” for Ofcom to do so. GB News said, rather, that it was intended to be judged as part of a series of programmes, including the next one, which would have featured Sir Keir Starmer. GB News argued that:
- “the Programme was not designed, intended or billed as a standalone programme but as the first episode in a series of *People’s Forums*”;
  - it planned to broadcast an episode featuring Sir Keir Starmer and giving him the “same exposure and opportunity” as to Rishi Sunak and that “it said as much in the Programme and in associated publicity”; and
  - Rules 5.11 and 5.12 “expressly in their terms allow broadcasters to satisfy the requirements of providing a range of viewpoints either in a single programme or in a series of linked and timely programmes” and that, therefore, “to judge it as a standalone programme was unfair and inaccurate”. In GB News’ view, Ofcom’s Sanction Preliminary View suggested that, “given the absence of what it [Ofcom] regards as sufficient agreement with the Labour Party, it was inappropriate for GB News to have proceeded with the Programme without adopting “*editorial techniques*” [italics added by the Licensee] to ensure the Programme included a sufficiently wide range of views”. The Licensee explained why, in its view, this reasoning “does not however stand up to scrutiny”: it reiterated that, in its view, the Breach, as set out in the Breach Decision, was “not that there had to be an agreement with the Labour Party before broadcasting the Programme, but rather before broadcast or “*subsequently*” [italics added by the Licensee] (within a week); it was not a breach to proceed with the Programme without an agreement with the Labour Party”. GB News said, “In that case, it is not logical or fair to criticise (let alone sanction) GB News for having gone ahead with the Programme in the way that it did.”
58. On this point, GB News said that “meeting Ofcom’s requirement of a firm agreement with the Labour Party would not necessarily have made any difference to the viewer. It would not have been referred to in the Programme, particularly if it was only secured subsequently”. The Licensee argued that, if it had adopted the editorial techniques within the content to ensure a sufficiently wide range of views, “this would have required GB News to adopt an entirely different format (which would not have been in any way innovative or achieved the editorial aims of the *People’s Forum*).” It argued that “the optimal way of ensuring that other political viewpoints, particularly those of the Labour Party, were sufficiently prominently and explicitly drawn to viewers’ attention was in a linked and timely programme, which is precisely what GB News planned to do”.
59. In its oral representations GB News reiterated several of the arguments made in the written representations about the nature of the Breach. It said that Ofcom’s Breach Decision “found that an appropriately wide range of significant viewpoints was not presented – given due weight in this case”, even though Ofcom considered the audience’s questions were challenging. GB News argued that including the views of the Labour Party or another political party would be “simply impossible, without significant modifications to the format of the programme”. It, however, pointed to the fact that Ofcom “accepted expressly that the format of the programme was itself acceptable”.
60. GB News concluded that “since the nub of the Decision was the failure to provide the views of in particular the Labour Party, and this could not be done within the format, and the format itself was acceptable, the crux of the Decision had to be the failure to secure a linked and timely programme”. It said there was “a reference to the fact that it [the Programme] would

be the first in a series and that it was hoped there would be a future programme with Sir Keir Starmer” but noted that “there was no further programme” and this would “be a breach [of 5.11 and 5.12]”. However, the Licensee explained the necessity to consider the circumstances surrounding why the programme did not take place when evaluating the seriousness of the Breach. Based on this interpretation of Ofcom’s reasoning in the Breach Decision, it argued “the fact that GB News did not have a confirmed agreement with the leader of the opposition and was therefore unable to make a sufficiently definite reference to a future programme was the breach”.

61. The Licensee also said in its oral representations that it had contingency in case Sir Keir Starmer did not participate. It said that “The *People’s Forum* format gave GB News the resilience to pivot to other individuals to fill that slot if Sir Keir Starmer was ill or decided he didn’t want to participate unexpectedly – other people on the left, if not Labour”.

*Factual context relevant to the Programme/mitigating factors*

62. GB News reiterated in its written representations that, as the Programme was not “designed, intended or billed” as a standalone programme, it should not be judged as a standalone programme. It said that it was intended that “the alternative views of the Labour Party would be communicated through the broadcast of a linked and timely episode of the *People’s Forum* with Sir Keir Starmer”. The Licensee said that “GB News’ actions should not be judged with the benefit of hindsight”. It said that it “had genuine and justifiable belief” that it would be able to broadcast that episode and that this would satisfy its obligations under the Code. It said that “even if Ofcom disagrees with the conclusion that GB News reached, the fact that it reached its conclusion based on sound evidence and in good faith provides significant mitigation”.
63. GB News explained that, if the Programme was, however, to be considered as “a standalone programme”, there were several “mitigating factors” that Ofcom should take into account, including that:
  - the Programme was “conceived as an important piece of public interest programming and an innovative format that would allow ordinary people, and not committed political party supporters, direct access to leading political figures and, for those in the studio audience, an opportunity to engage with them and to ask questions in an unmediated way”, similar to a “radio phone-in”.

On the “innovative format”:

- it was intended that the role of the presenter would be “light touch” and limited to ensuring the audience’s questions were answered;
- the audience members were selected by an independent “experienced polling company” and it was intentionally composed of “undecided voters who were not members of the Conservative Party”;
- neither Rishi Sunak nor GB News knew the audience’s questions in advance, so that “viewers knew that the questions were authentic and independent of the broadcaster and host and, crucially, could see for themselves how the Prime Minister reacted and chose to address those questions”. The Licensee added, “that, in itself, was a matter of huge public interest”. The Licensee said that, selecting the audience independently and giving it the

ability to ask “unprepared” question to the Prime Minister, “ensured the questions were free of any influence from GB News, the presenter or anyone else”;

- GB News argued that “employing questions put to an interviewee is one of the editorial techniques listed in paragraph 1.37 of Ofcom’s Guidance Notes” and that “almost all of the questions put to the Prime Minister did precisely this”; and
  - GB News said that “choosing which viewpoints to include or not include and how to present them is a challenging editorial decision which production teams address every day in order to meet due impartiality obligations” and that “what viewpoints are pertinent and significant on any particular issue varies widely depending on the nature of the issue”. On a number of questions, the Licensee said that “the viewpoints of the Labour Party would not have been the most pertinent” and that “Ofcom would be mistaken to suggest [deciding which viewpoints are pertinent] is a simple matter and could always be achieved, for example, by including a Labour Party view to contrast every Conservative Party view, particularly when even the main political parties are divided and factional on many significant matters.” Instead, the Licensee said that alternative viewpoints were presented by the audience through the “questions [which] were challenging, both in substance and in tone”. GB News stated that including alternative viewpoints in any other way would have been “incompatible” with the format GB News adopted, because it would have “unduly restricted the flow of the programme” and “the central role of the audience”. The Licensee also referred Ofcom to a table it submitted as an annex to its written representations which, it argued, “shows the range of viewpoints that were expressed and their alignment with the views of political parties other than the Conservative Party”.
64. GB News said it understood from Ofcom’s reasoning that the specific requirement to include the competing policy positions of the Labour Party was found by Ofcom to be necessary because of the supposed proximity of the UK General Election and the fact that the Programme was billed as election related. However, it argued that no UK General Election had yet been called at the time of the broadcast, “its future date was unknown; it was not imminent”, and therefore the “specific rules imposed on broadcasters during election periods in Section 6 of the Code did not apply”. It said that at the time of broadcast the “widespread belief was that a General Election would be held in the second half of 2024, probably in November or December after the summer recess and party conference season, (i.e. around eight months after the Programme aired)”. GB News said that the “July election was unexpected and took people by surprise”.
65. The Licensee emphasised that it had identified “no other Ofcom decision or legal case or guidance document that reflects Ofcom’s ruling that it is necessary for the views of specific political parties (as opposed to a range of viewpoints from different perspectives) [to] be provided”.
66. GB News further submitted that the Licensee’s “belief that it would be able to broadcast an episode of the *People’s Forum* with Sir Keir Starmer” was another “mitigating factor” going to the seriousness of the Breach that Ofcom should take into account. It argued that Ofcom did not dispute that it “intended and expected to provide the Labour’s Party’s viewpoint” through that subsequent programme to ensure “due impartiality would be preserved and an appropriately wide range of significant views conveyed”. The Licensee said it went ahead with the first episode with Rishi Sunak after reaching “the considered editorial judgement of senior decision-makers within GB News that the Labour Party would participate in a future episode of the Programme”.
67. GB News said that it had been speaking to the Labour Party about the participation of Sir Keir Starmer in a *People’s Forum*. During the Licensee’s oral representations Mr Frangopoulos

elaborated on this further, saying that those meetings had “informed” his view and adding that “based on those events, our relationships with the individuals involved and our experience in arranging political broadcast” both himself and his “very experienced” editorial team “firmly and confidently believed that we’d be offering the audience a follow-up *People’s Forum* with Sir Keir Starmer”. Mr Frangopoulos emphasised that this is why the team had made a decision to go ahead with the Programme featuring Rishi Sunak and they would not have gone ahead if they “had not felt confident in producing the Sir Keir show”. In its written representations the Licensee also said GB News’ intention “was expressly signalled on air, in particular at the start and end of the Programme”. The Licensee said this was an “*explicit editorial link*” [italics added by the Licensee] “of the kind of the Sanction Preliminary View asserts is required”.

68. Regarding what the Licensee termed the “Ofcom-level agreement”, the Licensee (as outlined above) said that it understood the Breach to be that it did not have such an agreement with the Labour Party for participation in a future episode, “either at the time of the Programme *“or subsequently”* [italics added by the Licensee]”. However, the Licensee argued that “no prior case or guidance Ofcom has identified sets out a requirement that there must be a formal agreement in place”, nor that “such agreement must be in place within a week to be “timely””. It said that “on the contrary, the Sanction Preliminary View rightly emphasises that politicians cannot be made agree to participate in a programme”. The Licensee expanded on this in its oral representations, with Mr Frangopoulos outlining that the Breach Decision concluded that “the assurances we had from Labour were not sufficient” but adding that, if “Ofcom feels that we should have had a firmer agreement, perhaps a signature on a dotted line, a resolution within a week. I tell you that it is not how it is done”. Additionally, he added that this was “a question of our professional judgement versus Ofcom’s in what is a highly complex and highly sensitive negotiation with political parties in an election year” but that the difference in judgement “is not enough to merit a sanction”.
69. In relation to the fact that a future *People’s Forum* programme featuring Sir Keir Starmer was not broadcast, GB News contended in its written representations that it was as a result of Ofcom’s announcement that it was investigating the Programme that the Labour Party made the decision to “put on hold” the discussions with the Licensee. The Licensee clarified that until that point, and even following the broadcast of the Programme, it had “remained satisfied” about the participation of the Labour Party in a future programme and that “the evidence was clear that Ofcom’s intervention led to an immediate change of position” from the Labour Party. It said that “the fact that a week had passed and the Labour Party had not communicated a final decision was attributable to the number of unrelated issues it was having to address at the time, and was quite understandable”. GB News concluded this point by saying that “[o]n a balanced assessment of the evidence, it can be said with confidence that Ofcom’s intervention prevented the further programme occurring, and would have done so whether there had been an ‘Ofcom-level’ agreement with the Labour Party in place or not. This is a very significant mitigating factor.”
70. GB News added that the correspondence between the Licensee and Ofcom on 14 and 17 May 2024, in which GB News sought to suspend the investigation process “in order that an agreement with the Labour Party could be finalised, and a linked edition of the Programme broadcast”, was evidence of the Licensee’s “continuing intention...to broadcast a further episode of the *People’s Forum*” with the Labour Party.
71. In its oral representations GB News reiterated this point, stating its view that Ofcom’s public announcement of an investigation rendered the brand “toxic” and prevented it from broadcasting a series of *People’s Forums* “as we had planned and invested in”. It further argued that Ofcom’s actions had had a significant impact on GB News. It said that “we’ve been hit reputationally, commercially and practically in terms of our ability to host any leadership

event during a general election” and that “Ofcom’s intervention has proven to be a sanction in itself in what was supposed to be a key moment for us as a UK broadcaster and which we had invested heavily in”.

#### **Ofcom’s Decision to impose a statutory sanction**

72. As set out in paragraph 1.13 of the Sanctions Procedures, the imposition of a sanction against a broadcaster is a serious matter. Ofcom may, following due process, impose a sanction if it considers that a broadcaster has seriously, deliberately, repeatedly<sup>21</sup> or recklessly breached a relevant requirement. As part of that process, Ofcom therefore considers:
- 1) whether the breach is so serious as to warrant the imposition of a statutory sanction; and
  - 2) if so, the appropriate and proportionate sanction and, if it is decided that a financial penalty is the appropriate and proportionate sanction, the amount of that penalty.
73. Having taken into account all the relevant information in this case, our Decision is that the Breach was both serious and repeated and so warrants the imposition of a statutory sanction. The reasons are set out below.
74. Ofcom does not have evidence indicating that the Breach was a deliberate act by the Licensee. We also gave very careful consideration as to whether or not we considered the Breach to be reckless. We noted that the Breach represented a particularly serious failure of compliance, and the Licensee ought to have understood the rules and anticipated that a contravention was highly likely to occur in the circumstances of the broadcast. However, we did not have sufficient evidence to indicate that this behaviour amounted to recklessness.

#### **Serious nature of the Breach**

75. As set out in the Breach Decision and at paragraphs 14 to 30 above, the public policy rationale for the requirement of due impartiality in broadcasting is that this obligation plays a major part in ensuring wide public access to impartial and accurate information about important societal and democratic issues, thereby providing a counterweight to other, often partial, sources of news. It therefore contributes significantly to properly informed democratic debate.<sup>22</sup> Breaches of the due impartiality rules have the potential adversely to affect and distort the dynamic of ensuing debate, with viewers becoming exposed to narrow and one-sided programming on important policy and political matters in which competing views are either ignored or raised only to be denigrated and dismissed.<sup>23</sup>
76. Breaches of the due impartiality rules in the Code may cause harm to the specific audience of the broadcasts in that they will be exposed to partial broadcasting on matters of important political and public interest.<sup>24</sup> They may also cause indirect harm to members of society more generally by the provision of broadcast current affairs that lacks due impartiality.<sup>25</sup> If programming of this nature was permitted on licensed radio and television services, then at a wider societal level the balance of informed public debate and discussion on important

<sup>21</sup> The [Sanctions Procedures](#) specifies that a repeated breach of a relevant requirement would include, for example: a repeat of the breach of the same requirement as has already been recorded; repetition of the same or similar conduct as that which earlier contravened a requirement; or multiple breaches of other requirements.

<sup>22</sup> See the [Government’s Communications White Paper](#) (Safeguarding the interests of citizens, 6.6.1) and *R (Autonomous Non-Profit Organisation TV-Novosti) v Ofcom* [2020] EWHC 689 (Admin) paragraph 64.

<sup>23</sup> See *R (Autonomous Non-Profit Organisation TV-Novosti) v Ofcom* [2020] EWHC 689 (Admin), paragraphs 37, 66 and 73.

<sup>24</sup> See *R (Autonomous Non-Profit Organisation TV-Novosti) v Ofcom* [2020] EWHC 689 (Admin), paragraphs 37, 66 and 73.

<sup>25</sup> See *R (Autonomous Non-Profit Organisation TV-Novosti) v Ofcom* [2021] EWHC Civ 1534, paragraph 62.

matters of public concern is liable to become distorted. This could have damaging consequences for the democratic and societal objectives which the due impartiality regime is designed to promote, as well as the credibility of broadcast media as a trustworthy source of information on matters of public concern.<sup>26</sup>

77. In response to Ofcom's Sanction Preliminary View, GB News submitted that, when properly characterised, "it is clear that the Breach was neither serious nor repeated" and that it does not justify the imposition of a statutory sanction. The Licensee said that it was unfair to judge the Programme as a standalone programme as it was intended to be part of a series.
78. GB News said that "the legal principles addressed in the Sanction Preliminary View do not include the particular and strong protection afforded by Article 10 to the right of journalists and journalism organisations – such as GB News – to make their own editorial judgements as to the form in which news material should be conveyed to the public" and referred to two cases.<sup>27</sup> It said that it is not for Ofcom to "micro-manage the editorial format or content" of the way in which GB News delivers political journalism to its viewers.<sup>28</sup> The Licensee said that "a sanction decision which arises from precisely such an exercise of editorial judgement – with which Ofcom disagrees – calls for a particularly high level of restraint and justification on the part of Ofcom".
79. The Licensee said that, even allowing for Ofcom's inaccurate characterisation of the Breach, there were "flaws in the reasoning of the Sanction Preliminary View as to why the Breach should be considered so serious as to justify the imposition of a statutory sanction". The Licensee considered that a finding that the Breach justifies a statutory sanction would be at odds with Ofcom's past approach.
80. It said that there were "a significant number of mitigating factors" which were not reflected or given due weight in the Sanction Preliminary View (see also paragraphs 62 to 71). It said that "GB News legitimately intended to provide the views of the Labour Party in a linked and timely programme as a means of complying with Rules 5.11 and 5.12" and reiterated that it had "formed an editorial assessment that a second *People's Forum* with Sir Keir Starmer would take place before broadcasting the Programme". It had taken "steps which it considered, reasonably and in good faith, would enable it to secure compliance over a series of clearly linked and timely programmes" and that, "if the seriousness of the Breach was analysed with proper consideration given to these facts and factors, it becomes apparent that the Breach was not so serious as to justify the imposition of a statutory sanction".
81. The Licensee agreed with the "importance of the impartiality principle and... the Code" but said that "there is nothing inherent in Rules 5.11 and 5.12 which makes a breach of them more serious than other rules". It noted that "other parts of the Code seek to protect individual privacy, or prevent people from hate or harm, which are clearly extremely serious matters". The Licensee acknowledged that the due impartiality rules are intended to safeguard the integrity of democratic debate on matters of public concern. However, it submitted that "within that, however, they are not intended to unduly restrict a licensee's editorial freedom or the opportunity for the public to engage with politicians".
82. The Licensee said that Ofcom "placed too much emphasis on the supposed proximity of the General Election". It said that there was "no date for the upcoming election, it was not

<sup>26</sup> See *R (Autonomous Non-Profit Organisation TV-Novosti)* [2020] EWHC 689 (Admin), paragraphs 67 and 73, and *R (Autonomous Non-Profit Organisation TV-Novosti) v Ofcom* [2021] EWHC Civ 1534, paragraph 62.

<sup>27</sup> *In Re BBC and In Re Attorney General's Reference (No 3 of 1999)* [2009] UKHL 34, [2010] 1 AC 145 at [24] and *Jersild v Denmark* (1995) 19 EHRR 1 at [31].

<sup>28</sup> In this respect, citing *R (The Liberal Democrats & The Scottish National Party) v ITV Broadcasting Ltd* [2019] EWHC 3282 (Admin) [2020] 4 WLR 4 at [111].

imminent and it was widely expected that it would not be held until November or December 2024". The Licensee said that the emphasis on the proximity of the UK General Election "seems to involve the application of hindsight and confirmation bias" because the UK General Election had been called by the time of the Sanction Preliminary View. It added that, since the date of the UK General Election was not known at the time the Programme was made, this should not be a relevant factor for consideration. It said that the election period had not begun and Section Six of the Code did not apply, so "Ofcom should not try to create an enhanced category of programmes within Rules 5.11 and 5.12".

83. The Licensee did not accept that the Breach was serious because it resulted in Rishi Sunak having an "almost uncontested" one-hour long platform to defend his policies. It said that the questions in the Programme "were challenging in content and tone and reflected alternative viewpoints" and that "no viewer could have failed to appreciate the existence of serious criticism of Mr Sunak and his Party".
84. GB News said that it was "well aware of its due impartiality obligations" but that "the editorial means of achieving that is a complex process". The Licensee said that the Programme involved a "relatively innovative but transparent format with an important public interest aim" and that "whether discussions with the Labour Party had reached a sufficient level of certainty required editorial experience and judgement". It said that there is "no rule, template or precedent which could or should dictate what would be sufficient in any particular case" and that "it is right that editorial teams assess each situation individually".
85. In assessing the seriousness of the Breach in question in this case, Ofcom considered its nature and the context in which it took place.
86. Ofcom took into account the Licensee's view that it should not "micro-manage" broadcasters and that it should "exercise a particularly high level of restraint and justification" in cases involving political journalism. Ofcom also considered the Licensee's representations that the impartiality rules are not intended to unduly restrict a licensee's editorial freedom, or the opportunity for the public to engage with politicians. Ofcom acknowledges the right of broadcasters to make programmes covering matters of major political controversy and major matters relating to current public policy. Broadcasters and audiences clearly benefit from Article 10 rights. However, Article 10 rights are not unqualified rights. Broadcasters have freedom to decide the editorial approach of their programmes, as long as they comply with the Code. This is the regulatory framework within which GB News (and all other licensed broadcasters) operate. In this case, for the reasons set out in detail in the Breach Decision, Ofcom considered that the broadcaster had failed to comply with the Code and, accordingly, found it in breach of the Code.
87. As set out above, Ofcom considers that the imposition of a statutory sanction is a serious matter. In considering whether this Breach was so serious as to warrant a sanction, Ofcom has also considered the extent to which the imposition of a sanction would be an appropriate and proportionate interference with GB News' Article 10 rights, justified by the need to achieve the legitimate aims set out in paragraphs 20 to 30 above. In this case, for the reasons set out below, Ofcom considers that it is appropriate and proportionate to conclude that the Breach was sufficiently serious so as to warrant the imposition of a statutory sanction and that this is justified by the need to achieve the legitimate aims set out in paragraphs 20 to 30 above.
88. Ofcom took into account the Licensee's general representations and representations as to the correct "characterisation of the breach", (see paragraphs 56 to 61) in determining whether the Breach was sufficiently serious as to warrant the imposition of a statutory sanction. Ofcom considers that the Sanction Preliminary View accurately set out and referred to the findings of the Breach Decision in detail, in setting out its preliminary assessment of the seriousness of

the Breach. This Decision analyses the circumstances of the Breach and the Licensee's representations in detail.

89. The Breach Decision found the Licensee in breach of Rules 5.11 and 5.12. Ofcom considered the Licensee's representations that "there is nothing inherent in Rules 5.11 and 5.12 which makes a breach of them more serious than other rules", as compared to other parts of the Code which aim to protect individual privacy or people from hate or harm. As the Licensee accepts, any breach of Rule 5.11 and 5.12 is potentially serious. This is because these rules concern the specific requirement to maintain due impartiality in relation to matters of major political or industrial controversy and major matters relating to current public policy. The obligations on licensees to take measures to preserve due impartiality are correspondingly more onerous where Rules 5.11 and 5.12 are applicable than when Rule 5.5<sup>29</sup> is engaged.
90. Generally, a single breach of the due impartiality rules is likely to be less serious in principle than a single breach of the rules concerning hate speech or incitement to crime. However, it may nevertheless be a serious matter due to the potential impact on democratic debate and public trust in regulated broadcast news and current affairs, in relation to which, in some circumstances, a sanction may be warranted. Ofcom considers each case on its own facts and context. Ofcom has imposed sanctions on licensees for breaches of Rules 5.11 and 5.12 on a number of occasions, where it has found a breach so serious and repeated so as to warrant the imposition of a statutory sanction.<sup>30</sup>
91. The Breach concerned a failure to preserve due impartiality on a matter of major political controversy and a major matter relating to current public policy, namely the Conservative Government's performance and policies in the context of the forthcoming UK General Election. It featured the then Prime Minister, Rishi Sunak.
92. We took into account the Licensee's representations that the Sanction Preliminary View had "placed too much emphasis on the proximity of the General Election". GB News stated that at the time of the Programme it was "widely expected that [the election] would not be held until November or December 2024". Following publication of the Breach Decision on 20 May 2024, an election was called on 22 May 2024 for 4 July 2024. Ofcom has not taken the fact that an election was subsequently called for July 2024 into consideration in its Breach Decision nor in its assessment for the purposes of this Sanction Decision, rather Ofcom has considered the broadcasting and political context at the time the Programme was broadcast in making this Sanction Decision. As the Licensee notes, in the Breach Decision Ofcom did not find that an election period in terms of Section Six of the Code had begun, nor that the rules in Section Six of the Code applied.
93. We noted that, as set out in our Breach Decision, at the time the Programme was broadcast, while the next UK General Election had yet to be called, the latest date (at that time) on which the next UK General Election could take place was 28 January 2025,<sup>31</sup> and that in the weeks preceding the broadcast Rishi Sunak had made several suggestions that he would call the

<sup>29</sup> Rule 5.5 of the Code states that: "Due impartiality on matters of political or industrial controversy and matters relating to current public policy must be preserved on the part of any person providing a service (listed above). This may be achieved within a programme or over a series of programmes taken as a whole".

<sup>30</sup> For example, in [Sanction 138 \(20\)](#), [Sanction \(117\)19](#) and [Sanction \(126\)19](#), Star China Media Limited ("CGTN"), (ANO) TV Novosti ("RT"), and Baltic Media Alliance Limited were found to have serious and repeated breaches of Rules 5.1, 5.11 and 5.12. In [Sanction \(124\)19](#), TalkSport was found to have serious and repeated breaches of Rules 5.11 and 5.12.

<sup>31</sup> We also noted in the Breach Decision that on 2 May 2024 there would be local, London Assembly and Mayoral elections taking place in some parts of England and elections for Police and Crime Commissioners for England and Wales and that national topics may be of interest to voters in local elections.

election in the second half of 2024.<sup>32</sup> GB News said that in 2023 it started to think about “what an election year would look like for GB News”, including thinking about the agenda for election events. Further, the Licensee had branded itself the “Election Channel” on 1 January 2024 and stated this was “anchored around the *People’s Forum* format”. We also noted that as set out in the Breach Decision, this context was specifically emphasised within the Programme, for example by GB News referring to itself as “GBN Britain’s Election Channel” and on-screen branding. In the Programme’s introduction, the Presenter described the audience, saying “everyone here is either undecided on who they’d vote for in a General Election or openminded to changing their vote”. We disagreed with the Licensee’s contention that by taking this relevant context into account Ofcom has created an “enhanced category of programmes within Rules 5.11 and 5.12”. We considered that, given the clearly politically controversial content of the Programme - covering the Conservative Government’s performance and policies - and the participation of the Prime Minister, it was appropriate to take the specific context of the forthcoming UK General Election and how it was referenced in the Programme into account in assessing the seriousness of the Breach. Given the Programme concerned the Conservative Government’s performance and policies, we considered that the major matter under discussion in the Programme was of very high public and political concern at the time of the broadcast. GB News itself considered that the Programme had “an important public interest aim”. Again, we noted that the Programme prominently featured the Prime Minister. Viewers were likely to consider him as one of the most important and high-profile politicians in the UK and his views on the issues under discussion would be of very high interest and significance to the public.

94. We took into account the Licensee’s representation that it is a mitigating factor that the *People’s Forum* was “conceived as an important piece of public interest programming and an innovative format... allowing ordinary people direct access to leading political figures... in an unmediated way”, and that it was intended that the role of the presenter was deliberately “light touch”. We noted the Licensee’s representations as to the selection of the audience, so that the questions were “authentic” and “independent of the broadcaster and host” so the audience could judge themselves how the Prime Minister reacted. While we acknowledge the efforts made by the Licensee to attempt to comply with the Code, and it is helpful to understand the factual background and context of the Programme, compliance with the heightened special impartiality requirements of the Code is not a matter of aspiration but of broadcasting result.
95. We took into account the Licensee’s representations disagreeing with Ofcom’s Sanction Preliminary View that the Breach was serious because it resulted in Rishi Sunak having an “almost uncontested” [italics added by Licensee] one-hour long platform to defend his policies, and its view that the questions in the Programme “were challenging in content and tone and reflected alternative viewpoints”. We noted that in the Breach Decision and the Sanction Preliminary View Ofcom did not find that the Prime Minister had an “almost uncontested” platform. Ofcom found that the Prime Minister had a “mostly uncontested, almost hour long” platform to defend his policies.
96. We took into account the Licensee’s analysis of the questions asked by the audience, which it said demonstrated challenge of the Prime Minister and is one of the editorial techniques listed in Ofcom’s Guidance Notes: “where an interviewee is expressing a particular viewpoint, interviewers could reflect alternative viewpoints through questions to that interviewee” [italics added by Licensee]. We considered that, as acknowledged in the Breach Decision, many of the questions were critical of the policies and performance of the Conservative Government, with

<sup>32</sup> See: [Rishi Sunak suggests general election in second half of year - BBC News](#), [When could the next general election be - and what factors will influence Rishi Sunak's decision? | Politics News | Sky News](#).

members of the audience sometimes expressing, in their questions, their strong disagreement with the Government's handling of specific issues. We took into account that the line of questioning and criticism from members of the audience therefore provided some different perspectives to those expressed by Rishi Sunak about the policies and performance of his Conservative Government. However, we noted the conclusion in the Breach Decision, that the major political parties and, in particular the Labour Party – the Official Opposition at the time – were likely to have had significant views and/or positions on the approach to the policy priorities and other issues set out by the then Leader of the UK Government, and that the audience views and challenge did not amount to what could be considered an “appropriately wide range of significant views”.

97. We were therefore particularly concerned that, while the audience did provide some different perspectives to that of Rishi Sunak, including some questions that were critical of the policies and performance of Rishi Sunak's Government, the Licensee's failure to adhere to the heightened special impartiality requirements of Rules 5.11 and 5.12 in this case provided the Prime Minister with a mostly uncontested almost hour-long platform to promote the policies and performance of his Government, in a period preceding a UK General Election. This was particularly likely to have damaging consequences for the democratic and societal objectives which the due impartiality regime is designed to promote, at a significant point in the UK's political debate.
98. We noted the Licensee said it had always intended to “provide an equivalent and counter-balancing edition of the Programme involving Sir Keir Starmer”. It said it had taken “steps which it considered, reasonably and in good faith”, would ensure the views of the Labour Party would be provided in a linked and timely programme, in order to comply with Rules 5.11 and 5.12, and that its editorial assessment at the time of the broadcast was that a second *People's Forum* with Sir Keir Starmer would take place, and that these factors should be taken into account in assessing the seriousness of the breach.
99. We considered all the statements provided by GB News explaining the steps it had taken in preparation for a further *People's Forum* programme and which, in its view, demonstrated: that GB News had engaged with senior members of the Labour Party and Sir Keir Starmer's team to secure his participation in a future *People's Forum* programme; and intended to broadcast such as to ensure the Programme met the requirements of the Code. However, for the reasons set out in the Breach Decision, we did not consider that these discussions alone were sufficient to preserve due impartiality in the Programme as broadcast featuring the Prime Minister. We considered that relying on unsighted audience questions and the participation of an “impartial” audience alone in the scenario above (in particular, given the fact a clearly linked and timely programme had not been scheduled), to provide alternative viewpoints such as to preserve due impartiality, was a very high-risk approach to compliance with the special impartiality requirements.
100. We took into account the Licensee's representation that “the editorial means of achieving [due impartiality] is a complex process” and that “any suggestion otherwise, that achieving due impartiality in any particular programme or on any particular issue is straightforward and can follow a clear template, is wholly erroneous”. We agree that achieving due impartiality on a major matter does not follow a template. However, the action which GB News took in this case represented an inadequate and very high-risk approach to compliance. As was clear from the Programme as broadcast, the Licensee only “hoped” that the Labour Party would participate in a future programme. If a broadcaster is unable to agree participation in a programme with any particular politician or party, it is then the broadcaster's responsibility under the Code to ensure that it complies with the special impartiality rules by finding other ways to reflect alternative viewpoints within the programme or within a clearly linked and timely programme, and/or provide context as appropriate.

101. As stated in Ofcom’s Guidance to Section Five of the Code, broadcasters can consider employing a variety of editorial techniques to maintain due impartiality (see examples at paragraph 1.37).<sup>33</sup> In its oral representations, the Licensee stated that it had “contingency” which would allow it to broadcast another programme with other individuals in case Sir Keir Starmer did not participate. Such a programme was never broadcast. In this case, given the nature of the Programme, we considered that at the time of the broadcast the Licensee should reasonably have anticipated that there was a very high risk that the Programme itself might not comply with Rules 5.11 and 5.12 and we did not consider that it had taken sufficient steps to ensure an appropriately wide range of significant views would be broadcast, either within the Programme or in a clearly linked and timely programme. Ofcom considered that this level of risk-taking in relation to the coverage of a matter of major political controversy and major matter of current public policy in the context of the Programme contributed to the seriousness of the Breach.
102. We noted the Licensee’s representations that it was Ofcom’s intervention (the fact that Ofcom opened an investigation on 15 February 2024 and then publicly announced the investigation on 19 February 2024) which led to the Labour Party putting its discussions with GB News “on hold”, in turn preventing the further programme from taking place. As explained in the Breach Decision, Ofcom disagreed with this line of argument. It was apparent to Ofcom that, both at the time of the broadcast and up to a week after the broadcast of the Programme and before the announcement of Ofcom’s investigation, GB News had still not secured agreement to include Sir Keir Starmer in a future programme, and that no clearly linked and timely programme containing content such as to achieve the preservation of due impartiality for “major matters” was subsequently scheduled or broadcast. Consequently, we did not consider that the fact that Ofcom had opened and then publicised the opening of its investigation a week after the broadcast of the Programme was a mitigating factor in assessing the seriousness of the breach.
103. We also took into account the Licensee’s representation that the Breach Decision found that GB News did not have in place a formal agreement with the Labour Party for participation in a future episode, whether at the time of the Programme or subsequently, within a week. The Licensee emphasised its view that no prior Ofcom case or Guidance identifies a requirement for such an agreement, which should be taken into account as a mitigating factor in assessing the seriousness of the breach.
104. In its oral representations, the Licensee also argued that the Breach “might have been more serious, indeed would have been more serious, had there been clear guidance on previous decisions making clear that broadcasters cannot rely on a programme as being clearly linked unless the programme is confirmed or scheduled”. GB News added, “it is true that GB News put their eggs in the basket of the *People’s Forum* to provide the necessary versatility”, and that there was nothing in Rule 5.11 and 5.12 preventing GB News from doing so.
105. It said that “in any event, GB News could not have known that there was a need to have an ‘Ofcom-level’ agreement with a political party in order to rely on a future broadcast with such a party as a linked programme, for the reasons explained; nor could GB News have predicted Ofcom’s actions that effectively eliminated its ability to hold a *People’s Forum* with Sir Keir Starmer”. We disagree with the Licensee’s characterisation of the Breach in this respect.
106. The Breach Decision did not conclude that GB News was required to have “an Ofcom-level agreement”, nor does Ofcom’s Code and Guidance require it. The Breach Decision made clear that broadcasters have freedom to decide the editorial approach of their programmes, as long as they comply with the Code. The purpose of the due impartiality requirements is to

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<sup>33</sup> See Section Five Guidance. See footnote 20 for this Guidance.

safeguard the integrity of democratic debate on licensed broadcasters on matters of public concern. The heightened special impartiality requirements of the Code require the Licensee to preserve due impartiality on matters of major political controversy and major matters relating to current public policy and to include an appropriately wide range of significant views, given due weight either within a programme or in clearly linked and timely programmes. There are a number of ways in which broadcasters can do this, including those set out in our Guidance. As noted above, the broadcasting result is paramount. Ofcom considers the content as broadcast to the audience in each case.

107. We noted that the Breach Decision found that such a clearly linked, timely programme was not agreed at the time of broadcast, nor subsequently, and there were no clear editorial linkages made in the Programme to any other scheduled content which might have, or did in fact, contain alternative significant views to those expressed in the Programme. We further noted that the Breach Decision did not agree that the alternative approach to the interpretation of ‘clearly linked and timely programmes’ suggested in this case by the Licensee was sufficient, i.e. that a hypothetical programme about which no agreement had been obtained is capable of being a clearly linked and timely programme, meeting the requirements of Rule 5.12.
108. Ofcom considers that previous court judgments<sup>34</sup> and Ofcom Decisions, covering a very wide range of licensees, set out very clearly the requirements of Rules 5.11 and 5.12. We noted that, in considering how to ensure that the Programme complied with the Code, GB News, like all Ofcom licensees, should have taken into account these Decisions, including the two breach Decisions mentioned above. It should also have taken into account other Ofcom Decisions, for example, Ofcom’s Decisions in relation to RT (*RT News*, RT, 27 February 2022<sup>35</sup> and *Various Programmes*, RT, 17 March to 4 May 2018<sup>36</sup>), the BBC (*World at One*, BBC Radio 4, 24 February 2021<sup>37</sup>), and Channel 4 (*Channel 4 News Climate Debate*, Channel 4, 3 November 2019<sup>38</sup>). In addition, Ofcom has provided detailed guidance to all licensees on these requirements in the Section Five Guidance accompanying the Code. In light of these clear precedent Decisions, recent court judgments, the available Ofcom Guidance and GB News’ two recent previous breaches of Rules 5.11 and 5.12, Ofcom considers that the Licensee should have been in no doubt about its obligations under these rules when considering how to ensure the Programme would be compliant with the Code.
109. Further to this, the Licensee said the only guidance on the application of Rule 5.6 in Ofcom’s Guidance Notes is a reference to Ofcom’s 2008 Decision on Channel 4’s *Location, Location, Location*. The Licensee said that, in that case, Channel 4 was found not in breach of the Code when a presenter made partial comments about stamp duty, supporting the Conservative Party, but the presenters of the programme “despite their repeated efforts” were “unable to get a Government spokesperson to comment” until an interview with the Housing Minister was secured four weeks later. The Licensee said that “Ofcom found no breach on the basis that in subsequent programmes, the views of the Liberal Democrats were broadcast, and a minister was later interviewed”. The Licensee argued that the reference to that second

<sup>34</sup> See for example, *R (Autonomous Non-Profit Organisation TV-Novosti) v Ofcom* [2020] EWHC 689 (Admin), as upheld by *R (Autonomous Non-Profit Organisation TV-Novosti) v Ofcom* [2021] EWHC Civ 1534.

<sup>35</sup> Ofcom’s Decisions on 29 programmes broadcast on RT published on 18 July 2022 in the [Broadcast and On Demand Bulletin](#).

<sup>36</sup> Ofcom’s Decisions on seven programmes broadcast on RT published on 20 December 2018 in [Broadcast and On Demand Bulletin Issue 369](#), and upheld by the Court of Appeal in *R (Autonomous Non-Profit Organisation TV-Novosti) v Ofcom* [2020] EWHC 689 (Admin).

<sup>37</sup> [World at One, BBC Radio 4, 24 February 2021](#), Broadcast and On Demand Bulletin Issue 455, 25 July 2022.

<sup>38</sup> Ofcom’s [Election Committee Decision in relation to Channel 4 News Climate Debate, 28 November 2019](#), published on 3 December 2019.

programme to be broadcast was only that the broadcaster was “trying to get a response from the government”. In its oral representations the Licensee said that, in complying the content of the Programme, in light of this precedent, GB News was right to think that it was on the right side of the line and it was “relatively fine distinctions of editorial judgment and not serious, grotesque, risky risk-taking”. The Licensee said that, “surprisingly”, Ofcom’s Breach Decision or Sanction Preliminary View did not address that decision or “the fact that, unlike Channel 4, GB News had taken concrete steps to secure the involvement of the Labour Party before it broadcast the Programme, rather than reactively leaving matters to chance after the event”.

110. Ofcom considered GB News’ representation that an intended further edition of the Programme was sufficient in this case, and in its view was consistent with Ofcom’s Decision in *Location, Location, Location*. However, *Location, Location, Location* concerned breaches of Rules 5.5, 5.6 and 5.8, which relate to coverage of “a matter” as opposed to “major matters”. In relation to these rules, the heightened requirement for an appropriately wide range of significant views in “each programme” or in “clearly linked and timely programmes” does not apply (Rule 5.12). Instead, due impartiality can be achieved “within a programme” or “over a series of programmes taken as a whole” (Rule 5.5). In Ofcom’s Decision *Location, Location, Location* Ofcom found that due impartiality was achieved in subsequent editorially linked programmes in this series and that this was made clear to the audience in the first programme (as required by Rule 5.6). Ofcom noted that in the present case, no such programme was ever scheduled, linked or broadcast.
111. Ofcom considered GB News’ representation that a finding that this Breach is sufficiently serious so as to warrant the imposition of a statutory sanction would be at odds with its past approach. The Licensee cited Ofcom’s *World at One* Decision published on 25 July 2022, which it said involved a “strikingly similar fact pattern” to the Breach Decision. The Licensee said that the *World at One* Decision concerned the broadcast of an extended interview with Ruth Davidson (former leader of the Scottish Conservative Party and then leader of their group of MSPs at Holyrood) on a high-profile and highly controversial news story about the criminal charges faced by Alex Salmond and his very serious accusations against his SNP successor as First Minister of Scotland, Nicola Sturgeon, in which Ms Davidson was highly critical of her political rivals without adequate challenge or presentation of different views. The Licensee highlighted that the interview took place in the direct run-up to Scottish Parliamentary elections.
112. GB News said that in the *World at One* breach Decision Ofcom decided that, whilst there was a breach, it was not serious enough to impose a sanction. The Licensee said that, although Ofcom’s Sanction Preliminary View referred to the *World at One* case, it was “silent on the issue of why the Breach is considered to be materially more serious than the breach in the July 2022 *World at One* decision”. It said that “all five of the elements that Ofcom relies on in this case were also present” in the *World at One* case, namely: it concerned Rules 5.11 and 5.12, there was proximity to an election; it involved a high-profile politician; there was a lack of adequate alternative views; and the compliance obligations were clear. The Licensee said that Ofcom’s approach in the Sanction Preliminary View “fundamentally differs from that which it took in relation to the July 2022 *World at One* Decision” and “provides no rationale for why this is”.
113. We took into account the Licensee’s representations. Ofcom considers each case on its own facts and in its own context. Ofcom has sanctioned a number of broadcasters for breaches of Rules 5.11 and 5.12 in the past, for failure to provide an appropriately wide range of significant views with due weight as required by the Code, as was the core of the compliance failure in this case.

114. We noted that the breach in the *World at One* decision was the first recorded breach of Rules 5.11 and 5.12 by the BBC.<sup>39</sup> The *World at One* programme concerned the leader of the Scottish Conservatives in the Scottish Parliament discussing matters related to a dispute between the Scottish Government and the former First Minister, Alex Salmond, over the Scottish Government's handling of harassment complaints against Alex Salmond and the consequent Holyrood inquiry. The content concerned lasted less than 13 minutes. In contrast, we noted that the Breach in this case was particularly serious because it was the third breach by the Licensee of Rules 5.11 and 5.12 in eleven months<sup>40</sup> and it gave the Prime Minister (at the time of broadcast), one of the most prominent politicians in the UK and the leader of the UK Government, whose actions affected the whole of the UK, a mostly uncontested, almost hour long platform to speak about a range of policies, in the period preceding a UK General Election, without an appropriate wide range of significant views being provided and given due weight within the Programme or within a clearly linked and timely programme.
115. GB News referred to Ofcom's statement in the Sanction Preliminary View that GB News had demonstrated its ability to comply with Rules 5.11 and 5.12 in the programme *Lee Anderson's Real World*.<sup>41</sup> It said Ofcom did "not properly explain how a previous finding of GB News having been compliant is relevant evidence against GB News in the present case" and rather "suggests active and successful work being carried out by GB News to secure compliance". The Licensee said that it would be "wrong" and "irrational" for Ofcom to suggest that this was the only example of GB News having been compliant with Rules 5.11 and 5.12. It requested that Ofcom take into account as a mitigating factor the fact that "a very high proportion" of its output is "on political and contentious topics", with a focus on topics to which Rules 5.11 and 5.12 apply, and it has broadcast "more than 25,000 hours of television since it started, most of it live". It said it has only been found in breach of the Code "on a handful of occasions". Insofar as the *Lee Anderson* programme assessment was included as a form of "should have known better" argument, this "is hardly an argument in favour of a substantial sanction".
116. The Licensee therefore considers it has a good compliance record when looked at in the context of "hours and hours of complex subjects on TV [it] produce[s]". The Licensee also emphasised that it acted "in good faith and with the best intentions".
117. Ofcom noted the Licensee's representations as to the *Lee Anderson* Assessment Decision. We did not consider that the fact that Ofcom had found GB News to have broadcast content which, in that instance, complied with the Code, to be an aggravating factor in assessing whether the *People's Forum* Breach was so serious as to warrant the imposition of a statutory sanction. We noted that it was an example of compliance with Rules 5.11 and 5.12.
118. However, Ofcom does not consider that a general intention to comply, and the existence of compliant content, mitigates the seriousness of this Breach for the purposes of sanction. Compliance with the Code is not optional – it is a key requirement of GB News' licence (and all broadcast licences) and a fundamental part of the regulatory framework within which the Licensee operates.
119. We also took into account that, given GB News broadcasts a range of news and current affairs programmes and describes itself as "Britain's News Channel", and as acknowledged by the Licensee in its representations, it was especially foreseeable that the Licensee would routinely cover major matters in its programmes. It was therefore foreseeable that it would need to

<sup>39</sup> Ofcom started regulating the BBC in 2017.

<sup>40</sup> See paragraphs 123 to 131 below.

<sup>41</sup> [Lee Anderson's Real World, GB News, 29 September 2023](#), Broadcast and On Demand Bulletin Issue 484, 23 October 2023.

understand and be able to comply with the Code's heightened special impartiality requirements.

120. We consider that, in this case, it should have been clear to the Licensee that the Programme, featuring the Prime Minister, setting out his views on the policies and performance of the Conservative Government, in the context of the forthcoming UK General Election, was dealing with a matter of major political controversy and major matter relating to current public policy and so it could have, and should have, taken additional steps to mitigate the compliance risks presented in this case.
121. As set out below, we found that the Breach in this case represented a repeated breach of Rules 5.11 and 5.12. We considered that the repeated nature of the Breach – the fact that this was the third breach of those rules within a year – aggravated the seriousness of the Breach.
122. Given all of the above, we considered that the current case represented a particularly serious failure of GB News' compliance with Rules 5.11 and 5.12. This was likely to have had the effect of undermining public confidence in the due impartiality of, and therefore trust in, broadcast current affairs, which these rules are intended to safeguard.

### Repeated nature of the Breach

123. We also considered the repeated nature of the Breach. We noted that GB News had breached Rules 5.11 and 5.12 twice previously in less than a year. The Licensee first breached Rules 5.11 and 5.12 in the broadcast of *Saturday Morning with Esther and Phil* on 11 March 2023. It breached Rules 5.11 and 5.12 for a second time in the broadcast of *Martin Daubney* on 16 June 2023. In the Sanction Preliminary View we considered that, like the present case, both these previous breaches involved current affairs programming and had dealt with similar issues. Full details of these previous breaches can be found in the relevant Breach Decisions.<sup>42</sup>
124. We took into account the Licensee's representations that, while it accepted that it had breached Rules 5.11 and 5.12 twice in the past year, the breaches found in *Saturday Morning with Esther and Phil*, and *Martin Daubney* were not "broadly similar" as they were not relying on the "broadcast of linked and timely programmes as a means to satisfy rules 5.11 and 5.12". GB News said "[t]his was not a case of a broadcaster broadcasting a programme that was one-sided or partial without intending to broadcast contrasting viewpoints in a succeeding programme". It considered that "the contexts are materially dissimilar, and the nature of the breaches do not provide support for a conclusion that GB News has repeated the same error". It highlighted that, in the *Loveworld* Decision, Ofcom found that previous breaches of the same Code provision was not sufficient to justify a finding of a repeated breach where the context of the findings is materially different.<sup>43</sup>
125. In relation to the *Esther and Phil* Decision, it said "Ofcom criticised GB News because all of the critical perspectives put to Mr Hunt came from a Conservative Party perspective". The Licensee said, however, that in the *People's Forum*, the questions that were put to Rishi Sunak clearly spanned the political spectrum.
126. In relation to the *Martin Daubney* Decision, the Licensee said it had accepted that the programme had not complied with Rules 5.11 and 5.12 but said that "the situations are not

<sup>42</sup> [Martin Daubney \(standing in for Laurence Fox\), GB News, 16 June 2023](#), Broadcast and On Demand Bulletin Issue 484, 23 October 2023. [Saturday Morning with Esther and Phil, GB News, 11 March 2023](#), Broadcast and On Demand Bulletin Issue 481, 18 September 2023.

<sup>43</sup> [Sanction 155 \(22\)](#), Loveworld Ltd.

similar” because the *Martin Daubney* Decision did not concern a linked series of programmes” and “the circumstances were also entirely dissimilar to the Programme”.

127. We took into account that the *Saturday Morning with Esther and Phil* programme was presented by two Conservative MPs and included an interview with the Chancellor of the Exchequer about the Government’s approach to economic and fiscal policies in the context of the forthcoming Spring Budget (which was due to be announced four days after the broadcast of the programme, on 15 March 2023). We found that the programme was overwhelmingly reflective of the viewpoints of different strands of opinion within the Conservative Party, with only very limited references to what the Licensee referred to as “wider perspectives” on UK economic and fiscal policy in the context of the forthcoming budget.
128. The *Martin Daubney* programme included a discussion between the presenter Martin Daubney and Richard Tice, the then leader of the Reform UK Party, on various aspects of asylum and immigration policy in the UK at the time of the broadcast. We found that Richard Tice had been able to present his views on this major matter with insufficient challenge and the limited alternative views presented had been dismissed. As set out above, the Licensee had recognised that the programme was in breach of Rules 5.11 and 5.12 and we acknowledged the additional steps it said it was taking to ensure compliance with the due impartiality requirements of the Code (which included that relevant staff would receive further training focused on the issues raised by the broadcast).
129. Ofcom noted that in the *Loveworld* sanction Decision a recurrence of a breach of Rule 2.1 was sufficiently different that the breach was found to not be repeated. In *Loveworld*, Ofcom also took into account that it was the first time that the licensee had breached Rule 4.6. We considered that *Loveworld* concerned different rules and breaches occurring in materially different circumstances which Ofcom did not consider to be repeated in that case.
130. We considered that, while the particular circumstances of the *Esther and Phil* and *Martin Daubney* breaches differed in some respects to the *People’s Forum* Breach, being in relation to different programmes and having different presenters, we considered that they were all breaches of the same heightened special impartiality requirements (i.e. Rules 5.11 and 5.12). They all concerned failures (for whatever reason) to preserve due impartiality either within a programme, or within a clearly linked and timely programme in relation to a matter of major political controversy or major matter relating to current public policy, and failed to provide alternative views on those matters such as to preserve due impartiality. They were therefore repeated breaches of the same rules. We considered, in particular, that the repeated breaches of the same rules within a year potentially aggravated the detriment to viewers and were likely to have had the effect of undermining public confidence in the due impartiality of, and therefore trust in, broadcast current affairs, which these rules are intended to safeguard.
131. In view of all the factors set out above, Ofcom considered that the Breach was both serious and repeated, and it warrants the imposition of a statutory sanction.

#### **Imposition of sanction**

132. The following paragraphs set out the enforcement action we have considered and the sanctions we have decided to impose.

#### **Directions to the Licensee**

133. Section 236 of the Act provides Ofcom with the power to direct the holder of a TLCS licence to broadcast a correction or a statement of Ofcom’s findings (or both) or not to repeat a programme which was in contravention of a licence condition.

134. Ofcom is not aware that the Licensee has repeated the Programme. However, we considered that a direction not to repeat the Programme is not necessary as the Licensee is aware that the Programme in the form as broadcast was in breach of the Code.
135. The Licensee accepted that, “if the nature and context of the breach is such that a statutory sanction is justified, then a direction to broadcast a statement” would be an appropriate sanction. However, for the reasons it has already set out, it stated that Ofcom “should not make a direction for GB News to broadcast a statement of Ofcom’s findings”. For the reasons set out at paragraphs 75 to 131 above, Ofcom considers that a statutory sanction is warranted in this case.
136. The purpose of directing a licensee to broadcast a statement of Ofcom’s findings in relation to a serious due impartiality breach is to inform its audience of Ofcom’s findings and ensure they are aware of the specific way in which the programme breached the Code. Our Decision is therefore that the Licensee must broadcast a statement, to be prepared by Ofcom and in a form and on a date to be determined by Ofcom, to ensure that Ofcom’s findings are drawn to the attention of the Licensee’s viewers and to help deter future misconduct by the Licensee and other broadcasters.
137. Ofcom also considered that, on its own, a direction to broadcast a statement of Ofcom’s findings would not act as an effective disincentive to discourage the Licensee from repeating similar serious breaches of Rules 5.11 and 5.12 or other licensees from contravening the Code in a similar manner. As set out above, Ofcom has provided Guidance to assist broadcasters in interpreting and applying these rules and there are also multiple previous published Decisions and court judgments covering the interpretation and application of these rules, including the two previous breaches recorded against the Licensee, which highlighted our previous concerns about its failure to comply with Rules 5.11 and 5.12.
138. The Licensee therefore ought to have been familiar with how to comply with Rules 5.11 and 5.12 in advance of the Programme, particularly given the nature of its service and output. We are concerned that, despite in particular the two previous breaches recorded against it in relation to these specific rules, and notwithstanding some evidence of its ability to comply with these rules,<sup>44</sup> the Licensee committed such a serious failure of compliance in this instance, which led to a repeated and serious breach of these provisions. Therefore, our Decision is that a direction to broadcast a statement of Ofcom’s findings should be combined with another category of sanction, to act as an effective deterrent.

#### **Financial penalty**

139. Section 237 of the Act provides Ofcom with the power to impose a financial penalty on the holder of a TLCS licence. The maximum penalty that can be imposed on the holder of a TLCS licence in respect of each contravention of a TLCS licence condition is the greater of £250,000 or five per cent of the licensee’s qualifying revenue relating to its last complete accounting period for which its licence has been in force.
140. For the purposes of determining the maximum penalty in this case, Ofcom requested from GB News financial data setting out its qualifying revenue for the last accounting period.
141. Based on the figure provided by the Licensee, the maximum penalty that Ofcom could impose in this case was £250,000.

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<sup>44</sup> For example, see paragraph 115.

142. Ofcom's Penalty Guidelines<sup>45</sup> state (in paragraph 1.11) that: "Ofcom will consider all the circumstances of the case in the round in order to determine the appropriate and proportionate amount of any penalty. The central objective of imposing a penalty is deterrence. The amount of any penalty must be sufficient to ensure that it will act as an effective incentive to compliance, having regard to the seriousness of the infringement. Ofcom will have regard to the size and turnover of the regulated body when considering the deterrent effect of any penalty".
143. GB News said that the Breach Decision "should not be considered to justify a statutory sanction, including a financial penalty" and considered that the proposed amount of £[REDACTED] was "excessive and disproportionate". It considered a financial penalty is not justified in all the circumstances of this case including the "significant mitigating factors" (see paragraphs 62 to 70). The Licensee said that there was a "lack of consideration" of the message that such a penalty would send.
144. The Licensee further stated that the amount was a "disproportionate interference with the Article 10 rights, including where GB News is trading at a loss".
145. Ofcom has taken into account the Licensee's representations, as set out in detail above. In this case, Ofcom's Decision is that a financial penalty is necessary to reflect the serious and repeated nature of the Breach recorded against the Licensee, and to act as an effective incentive to comply with the Code, both for GB News and other licensees (see paragraph 1.4 of the Penalty Guidelines).
146. In considering the appropriate amount of financial penalty, Ofcom took account of the specific relevant factors set out in the paragraph 1.12 of the Penalty Guidelines as set out below.

#### **Factors taken into account in determining the amount of a penalty**

##### *The seriousness and duration of the contravention*

147. In response to the Sanction Preliminary View on the seriousness and duration of the contravention, the Licensee repeated the representations which it made in relation to the assessment of the seriousness of the Breach for the purposes of whether or not a sanction was warranted. These are set out at paragraphs 56 to 70 above. Ofcom took these representations into account in assessing the seriousness and duration of the Breach for the purposes of determining the financial penalty.
148. We repeated our analysis of the seriousness of the contravention for the purposes of determining the penalty. As set out above at paragraphs 75 to 122 above, and for the reasons set out in our assessment in those paragraphs, we placed particular weight on the nature, timing and context of this Breach when considering its seriousness. We considered that the fact that this Programme featured the Prime Minister, one of the most important and high-profile politicians in the UK, made the Breach more serious. We considered that his views on the issues under discussion would be of very high interest and significance to the public. We acknowledged that the studio audience questions to the Prime Minister were challenging, including some that were critical of the policies and performance of Rishi Sunak's Government. However, we noted that Rishi Sunak, an expert on his own party's policies and performance and, as Prime Minister, highly experienced in answering questions on the same, was able to respond to these questions at length and to put forward his own views without further challenge and without the presentation of an appropriately wide range of significant views (either within the Programme itself or within a clearly linked and timely programme). While politicians are of course able to present their views in programmes, licensees must

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<sup>45</sup> Penalty Guidelines, 14 September 2017. See footnote 8 for these Guidelines.

ensure that due impartiality is preserved. We were therefore very concerned that the Licensee's failure to comply with Rules 5.11 and 5.12 provided the Prime Minister and Leader of the Conservative Government with a mostly uncontested almost hour-long platform to promote the policies and performance of his Government in the context of a forthcoming UK General Election. The purpose of the due impartiality requirements is to safeguard the integrity of democratic debate on licensed broadcasters on matters of public concern. Therefore, we considered that this case involved the potential for particular detriment to the audience and for undermining public confidence in the due impartiality of, and therefore trust in, broadcast current affairs, at a significant point in the UK's political debate.

149. We also placed particular weight on the fact that this was the third breach by the Licensee of Rules 5.11 and 5.12 in eleven months. We considered that Ofcom's previous breach findings against the Licensee clearly set out Ofcom's position in order for the Licensee to understand its obligations under Rules 5.11 and 5.12. We were therefore particularly concerned about the Licensee's approach to complying with Rules 5.11 and 5.12 in this Programme.
150. As set out above, Ofcom has also provided Guidance to assist broadcasters in interpreting and applying these rules, and there are also multiple previous published Decisions and court judgments covering the interpretation and application of these rules to guide the Licensee in its compliance.
151. Ofcom therefore considered the current case to be a particularly serious and repeated failure of compliance.

*The degree of harm, whether actual or potential, caused by the contravention, including any increased cost incurred by consumers or other market participants*

152. As explained at paragraphs 14 to 30 and paragraphs 75 to 76 above, there are stricter requirements in respect of programmes that deal with matters of major political controversy and major matters of current public policy, reflecting the heightened importance of preserving due impartiality in relation to such matters. Breaches of those requirements by any broadcaster potentially cause harm both to the viewers who watched the programme and also to the democratic objectives which the due impartiality regime is designed to promote, by undermining them.
153. According to [Barb](#), *People's Forum: The Prime Minister* had an average viewership of 163,000 adults aged 18 and over. The Programme had an average share of viewing of 1.1% among adults aged 18 and over.<sup>46</sup> GB News has a relatively small audience.
154. GB News disagreed with the Sanction Preliminary View, that the Breach denied these viewers an appropriately wide range of significant viewpoints, as it considered that this conclusion was based on an assessment of the Programme on a standalone basis rather than as a programme which was intended to be part of a series. The Licensee said that the viewers were denied the Labour viewpoint because, for a range of reasons (set out in detail in paragraphs 66 to 71), a subsequent episode of the *People's Forum* featuring Sir Keir Starmer was not able to take place. The Licensee also considered that the Sanction Preliminary View was "dismissive of the fact that the Programme had a small audience". Although it acknowledged this would not be a "decisive factor", it said that "it does clearly reduce the severity of the harm".

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<sup>46</sup> Source: [Barb](#), 28-day consolidated (all viewing within 28 days of transmission, including catch-up and on-demand) (figures do not include YouTube or any other video-sharing platform and do not include radio listening). Average audience is calculated by adding together the audience for each individual minute of a programme or daypart and dividing it by the programme or daypart's total duration (excluding viewing during commercial break minutes). Programme share shows the viewing to the programme as a percentage of the total TV viewing audience in the slot that the programme was on.

155. Ofcom took the Licensee's representations into account. Ofcom considered the Programme as broadcast and the fact that viewers were not, in fact, able to watch a clearly linked and timely programme providing an appropriately wide range of significant viewpoints. Ofcom has already considered the circumstances which led to the Breach above. In this context, the Breach of Rules 5.11 and 5.12 of the Code had the potential to adversely affect those viewers who chose to watch the Programme and who were presented with a Programme about the Conservative Government's performance and policies in the context of the forthcoming UK General Election without a link to a clearly linked and timely programme which provided such viewpoints, denying them an appropriately wide range of significant viewpoints.
156. Ofcom considered the size of the audience. In this context, whilst a relevant factor, the extent of a channel's audience cannot solely dictate the gravity of a breach, not least because the due impartiality regime could easily be circumvented and undermined if smaller broadcasters were allowed an effective exemption from generally applied standards. As set out by the Court of Appeal in *R (Autonomous Non-Profit Organisation TV-Novosti) v Ofcom*, "the number of viewers affected by partial broadcasting is not the point, because Parliament has determined that such broadcasting shall be duly impartial".<sup>47</sup> In this case, Ofcom considered that the relatively small size of the audience was not a mitigating factor.
157. When considering the degree of harm, whether actual or potential, caused by the Breach in this case, Ofcom took into account in particular the significant potential impact the Programme was likely to have had on the audience, given that it provided the Prime Minister a mostly uncontested almost hour-long platform to promote his Government's policies and performance in the context of a forthcoming UK General Election. Ofcom also considered the harm indirectly caused to members of society generally by the provision of current affairs programming that lacks due impartiality.
158. In response to Ofcom's Sanction Preliminary View that the repeated nature of the Breach had the potential to aggravate the damage to viewers and undermine public confidence in the impartiality of, and trust in, broadcast current affairs, the Licensee repeated the arguments it set out at paragraphs 124 to 126. As set out at paragraphs 127 to 130 above, Ofcom considered these representations and considered that the *Esther and Phil* and *Martin Daubney* breaches were all breaches of the same heightened special impartiality requirements (i.e. Rules 5.11 and 5.12), and therefore this was a repeated breach.
159. We therefore maintained our view that the repeated nature of the Breach potentially aggravated the detriment to viewers and was likely to have had the effect of undermining public confidence in the due impartiality of, and therefore trust in, broadcast current affairs, which these rules are intended to safeguard.

*Any gain (financial or otherwise) made by the regulated body in breach (or any connected body) as a result of the contravention*

160. We have no evidence to suggest that the Licensee made any financial or other gain from this Breach of the Code. The Licensee said that it was a significant factor that it "made no gain from the Breach".

*Whether in all the circumstances appropriate steps had been taken by the Licensee to prevent the contraventions*

161. In response to the Sanction Preliminary View, the Licensee said it was aware of the need to provide alternative views and it had always intended to "provide an equivalent and counter-balancing edition of the Programme involving Sir Keir Starmer". It said it had taken "steps which it considered, reasonably and in good faith" would ensure the views of the Labour Party

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<sup>47</sup> *R (Autonomous Non-Profit Organisation TV-Novosti) v Ofcom* [2021] EWHC Civ 1534, paragraph 65.

would be provided in a clearly linked and timely programme, in order to comply with Rules 5.11 and 5.12, and that its editorial assessment at the time of the broadcast was that a second *People's Forum* with Sir Keir Starmer would take place. Finally, it also said that it intended to provide an adequate array of alternative views by ensuring that questions were put by a “carefully selected audience of undecided voters”, which would be (and were) challenging and present a range of views.

162. The Licensee again referred to its representations that nothing in Ofcom’s Guidance or past Decisions addresses a situation such as the present case.
163. We considered that the Licensee’s approach to compliance in this case had been inadequate to prevent this Breach of the due impartiality requirements in the Code.
164. The Licensee had previously been subject to two breach Decisions in relation to the same due impartiality rules within the past year. Accordingly, for the reasons set out in paragraphs 100 to 110, we considered that the Licensee ought to have been familiar with when these rules would apply and how to comply with them and ought to have taken appropriate steps following those previous breach Decisions to ensure that the Programme complied with these rules of the Code.
165. We noted that the broadcast content found to be in breach was live and unscripted. While we acknowledged that there can be challenges in ensuring live programming complies with Section Five of the Code, we considered that the Licensee ought to have had a sufficient understanding of the relevant rules and guidance to ensure due impartiality was preserved in relation to the major matter. The Licensee ought to have been aware of the risks associated with its approach to due impartiality in this case. Ofcom’s Section Five Guidance gives examples of several editorial techniques which a broadcaster might consider employing, where alternative views are not readily available, in order to preserve due impartiality.<sup>48</sup> This could, for example, include reflecting other significant viewpoints through questions posed by presenters. In its written representations on the Sanction Preliminary View the Licensee said that the role of the presenter was “limited” and “light touch” and that the editorial intention was “to create a direct connection between people and politicians going beyond what other interview format programmes achieve”. The Licensee had relied (and intended to rely) on unrehearsed questions from a live audience to the Prime Minister, with minimal intervention from the presenter, on a matter of major political controversy and major matter relating to current public policy, to ensure due impartiality was preserved within the Programme. It did not use any other editorial techniques to reflect an appropriately wide range of significant views and give them due weight in the Programme. In these circumstances, in Ofcom’s view, the Licensee should reasonably have anticipated that there was a very high risk that the Programme might not comply with Rules 5.11 and 5.12. Given the nature of the Programme, and in particular the participation of the Prime Minister, a politician who is highly experienced in answering questions on the policies and performance of his Government, and the Licensee’s stated aim that the Presenter’s intervention should be “light touch”, Ofcom considered that the Licensee could and should have taken additional steps to mitigate those risks. We noted that in the Breach Decision Ofcom therefore went on to consider whether an appropriately wide range of significant views was provided and given due weight in a clearly linked and timely programme. We were mindful of the fact that the Licensee argued in its original representations at the start of Ofcom’s investigation and in its representations on the Breach Preliminary View that the Programme was compliant “within itself” and because it was one of a series of “clearly linked and timely programmes”.

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<sup>48</sup> See paragraphs 1.60 and 1.37 of the Section Five Guidance. See footnote 20 for this Guidance.

166. We also took into consideration the statements provided by GB News which explained the steps that the Licensee had followed in the preparation for a further *People's Forum* programme and which, in its view, demonstrated that GB News had engaged with senior members of the Labour Party and Sir Keir Starmer's team to secure his participation in a future *People's Forum* programme, such as to ensure the Programme met the requirements of the Code. However, for the reasons set out in the Breach Decision, we did not consider that these discussions alone were sufficient to preserve due impartiality in the Programme as broadcast featuring the Prime Minister. Further, as Ofcom has made clear on numerous previous occasions<sup>49</sup> and in the Breach Decision, where a range of significant views is needed to preserve due impartiality, there is no obligation for any political parties or politicians to participate in any particular programme – it is up to the political parties to decide whether or not they wish to participate. There can be any number of reasons why individuals may choose not to participate in programmes and broadcasters need to anticipate those eventualities and, if necessary, find other ways to ensure due impartiality is preserved. We considered that the Licensee should have been aware that it was taking a very high compliance risk by proceeding with the Programme without certainty as to the way in which it would ensure compliance with the heightened special impartiality requirements.
167. It is the broadcaster's responsibility to comply with the Code. If a particular politician or party does not agree to participate in a particular programme, the broadcaster needs to find other ways to reflect alternative viewpoints within the programme or within a clearly linked and timely programme, and/or provide context as appropriate.<sup>50</sup> In this case, given the nature of the Programme, we considered that at the time of the broadcast the Licensee should reasonably have anticipated that there was a very high risk that the Programme itself might not comply with Rules 5.11 and 5.12 and we did not consider that it had taken sufficient steps to ensure an appropriately wide range of significant views would be broadcast, either within the Programme or in a clearly linked and timely programme.
168. We noted that the Licensee said in its representations that it was Ofcom's announcement that it was investigating the Programme that made the Labour Party take the decision to "put on hold" the discussions with the Licensee. On 14 May 2024, the Licensee asked Ofcom to suspend or terminate our investigation to "help its discussions with political parties to progress" and "mitigate the adverse consequences of the investigation". As explained in the Breach Decision, Ofcom disagreed with this line of argument. It was apparent to Ofcom both at the time of broadcast (and up to a week after the broadcast of the Programme and before announcement of Ofcom's investigation) that GB News had not taken any steps to comply with the heightened requirements of the special impartiality rules.
169. In its initial submissions and representations on Ofcom's Breach Preliminary View, the Licensee asked Ofcom for assurance that a "*People's Forum* programme featuring the Labour Party leader and using a similar format in appropriate context would not automatically be regarded as breaching the Code". When providing our Breach Preliminary View, Ofcom explained that it is a post-broadcast regulator and that discussions with political parties about participation in programming is a matter for the Licensee to decide. Further, in the Breach Decision we explained that Ofcom's role in this case was not to make a finding as to whether the format itself complied with the Code, but whether the specific content of the Programme as broadcast met the requirements of the Code.
170. We took into account the Licensee's representations that Ofcom's characterisation in the Sanction Preliminary View of this request as a demonstration of GB News' "*lack of understanding of Ofcom's role*" [italics added by the Licensee] was unfair and wrong. GB News

<sup>49</sup> [Crosstalk, RT, 11 July 2016](#), Broadcast and On Demand Bulletin Issue 319, 19 December 2016.

<sup>50</sup> e.g. as used in *Lee Anderson's Real World*, see paragraph 115.

stated that it can “never be a source of criticism for a regulated broadcaster to seek guidance from its regulator in this way”.

171. A broadcaster can, of course, ask for guidance from the regulator. In this case however, we were concerned that the nature of the question demonstrated that the Licensee did not appreciate that, with respect to Rules 5.11 and 5.12, it is not the *format* of the programme which matters but rather the *content* of a programme (and/or any clearly linked and timely programmes) and the broadcasting result, i.e. the information and viewpoints which are imparted to viewers and the weight which they are given. We were concerned that this question was received from a broadcaster whose focus is rolling news and current affairs covering (in its words) “politically contentious” issues – and featuring topics to which Rules 5.11 and 5.12 apply. We considered that a broadcaster with such a focus should have a good understanding of the heightened special impartiality requirements of the Code, particularly given its own compliance history and the steps it told Ofcom it had taken following its previous breaches to ensure compliance in this area of the Code. Similarly, we remained concerned that at the same time, in its initial representations to Ofcom immediately following the broadcast of the Programme, the Licensee argued that the Programme was compliant with Rules 5.11 and 5.12 in itself due to the challenges made to Rishi Sunak by the studio audience.
172. Overall, we did not consider that appropriate steps had been taken by the Licensee to prevent the contravention in this case. As set out above, we considered that this Breach represented a serious and repeated failure of compliance with the heightened special impartiality requirements of the Code.

*The extent to which the contravention occurred deliberately or recklessly, including the extent to which senior management knew, or ought to have known, that a contravention was occurring or would occur*

173. The Licensee considered that Ofcom’s conclusion that it has “serious and significant concerns” and that GB News “clearly ought to have understood these rules and anticipated that a contravention was highly likely to occur” was “unfair, unjustified and... not based in the facts”. It said that Ofcom opened its investigation without knowing the steps GB News had taken to secure the Labour Party’s involvement in a future episode of *People’s Forum*. Nor was it possible for GB News to know “that Ofcom would interpret the Code to require a formal agreement with the Labour Party as to a future programme (such formal agreements being rare if not non-existent in political broadcasting and no such requirement appearing in any Guidance or previous Decision, and it being positively inconsistent with the September 2008 *Location, Location, Location* Decision)”. Finally, GB News could not have expected that “Ofcom would itself act to impede GB News’ ability to deliver that future programme by public announcement of an investigation within days of the Programme’s broadcast”.
174. Ofcom had no evidence that the Breach was deliberate or reckless. However, for the reasons explained above, we considered that the Licensee’s approach to compliance in this instance had been inadequate and failed to prevent a breach of the heightened special impartiality requirements in the Code. We considered this represented a serious and – due to previous breaches of Rules 5.11 and 5.12 – repeated failure on the part of the Licensee to ensure due impartiality was preserved in relation to the matter of major political controversy and major matter of current public policy dealt with in the Programme.
175. Our previous Breach Decisions relating to GB News’ broadcasts of *Saturday Morning with Esther and Phil*<sup>51</sup> and *Martin Daubney*<sup>52</sup> set out in detail our approach to due impartiality

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<sup>51</sup> See footnote 43.

<sup>52</sup> See footnote 43.

- under Rules 5.11 and 5.12. Senior management of the Licensee should therefore have been in no doubt about the compliance risks arising from its programming in relation to these rules.
176. Further, Ofcom’s approach on this area of the Code is not new. These are well-established rules and, as set out above, there is a significant body of precedent of our Decisions on Rules 5.11 and 5.12, and court judgments of which the Licensee should have been aware.
  177. For the reasons set out at paragraphs 103 to 107, it is not correct to say that the Breach Decision concluded that GB News was required to have a formal agreement with the Labour Party.
  178. As set out in paragraph 106, there are a number of ways in which a licensee can achieve due impartiality, for example, either within a programme or within a clearly linked and timely programme. In the Breach Decision we highlighted that, while the Code does not define ‘clearly linked and timely programmes’, previous Ofcom Decisions and court judgments make clear that the reference to ‘clearly linked and timely’ programmes should be read as capturing programmes that are editorially and specifically linked.<sup>53</sup> This is because without an explicit editorial link viewers may not be aware of the other programmes which the broadcaster is relying on to preserve due impartiality. We would expect such a link to include a reference to the fact that the linked programme deals with the same matters as the programme in question. The reference to “timely” indicates that programmes should be broadcast at sufficiently close intervals and at broadly similar times.<sup>54</sup>
  179. We disagreed that the Breach Decision was “inconsistent with the September 2008 *Location, Location, Location* Decision”, for the reasons set out at paragraph 110 above. Ofcom’s position on clearly and editorially linked programmes was therefore readily available to the Licensee ahead of the broadcast and the Licensee should have known that clearly linked and timely programmes should be made clear to the audience on air. However, the Licensee chose to broadcast *The People’s Forum: The Prime Minister* without taking any further steps in its broadcast content to comply with the heightened special impartiality requirements. Ofcom considered that, in this case, there were no clear editorial linkages made in the Programme to any other scheduled content which might have, or did in fact, contain alternative significant views to those expressed in the Programme in relation to Conservative Party policies and performance. As was clear from the Programme as broadcast, the Licensee only “hoped” that the Labour Party would participate in a future programme. We took into account that, as the Licensee was not able to secure agreement for Sir Keir Starmer to participate in another *People’s Forum* programme, it could have broadcast another timely, linked programme – as it said it had considered “as a contingency”<sup>55</sup> – to ensure due impartiality was preserved on the major matter in this case. However, it did not do so.
  180. For the reasons set out at paragraph 102, we did not consider that the fact that Ofcom had opened and then publicised the opening of its investigation a week after the broadcast of the Programme was a mitigating factor in assessing the extent to which senior management knew, or ought to have known, that a contravention was occurring or would occur. Following the broadcast of the Programme, Ofcom had reasonable grounds to open its investigation and was required to publish the fact of the opening of the investigation pursuant to the Procedures. This is the regulatory framework within which the Licensee operates.

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<sup>53</sup> See e.g., *R (on the application of Autonomous Non-Profit Organisation TV-Novosti) v Ofcom* [2020] EWHC 689 (Admin), [First Election Debate, ITV1 \(Plaid Cymru\)](#), [First Election Debate, ITV1 \(Scottish National Party\)](#), [Channel 4 News Climate Debate](#) (see footnote 39), and *World at One*, BBC Radio 4 (see footnote 38).

<sup>54</sup> See e.g. *Channel 4 News Climate Debate* (footnote 39). See also Rule 5.6 of the Code.

<sup>55</sup> See paragraph 61.

181. We considered that this represented a particularly serious compliance failure – the Licensee had failed to understand the Code’s heightened requirements under the special impartiality rules in relation to: both presenting a wide range of significant views on a matter of major political controversy and major matter of current public policy and giving those significant views due weight; and ensuring that due impartiality is preserved through clearly linked and timely programmes. This was of great concern to Ofcom.
182. Given the Programme featured the Prime Minister talking at length about matters of very high public and political concern at the time of the broadcast, in the context of a forthcoming UK General Election, the extensive precedent regarding Rules 5.11 and 5.12, including previous Decisions made against the Licensee, court judgments and our clear precedents on clearly linked and timely programmes (see above), we considered this compliance failure was extremely concerning, and raised significant doubt about the Licensee’s understanding of, and ability to comply with, Rules 5.11 and 5.12.
183. In these circumstances, we considered that the Licensee’s decision to broadcast this live Programme, without certainty as to the way in which it would ensure a wide range of significant views were given due weight, either within the Programme itself, or in clearly linked and timely programmes, represented a deeply concerning approach to its compliance with the Code in this case. While we do not have sufficient evidence that this particular instance amounted to a reckless approach to compliance, we have serious and significant concerns about the Licensee’s approach to compliance in this area and consider that, in these circumstances, the Licensee clearly ought to have understood these rules and anticipated that a contravention was highly likely to occur.

*Whether the contravention in question continued or timely and effective steps were taken to end it, once the regulated body became aware of it*

184. The Breach occurred in a single broadcast which by its nature was not ongoing. The Licensee did not appear to be aware of the issues concerning the Programme that Ofcom found in breach until Ofcom wrote to the Licensee to inform it that Ofcom was opening its investigation.
185. In response to the Breach Preliminary View the Licensee highlighted that it had engaged with the Labour Party and “was actively confirming the Labour Party’s position to broadcast the further episode of the Programme so as to provide a linked and timely series of programmes”. The Licensee said that Ofcom should take into account the “considerable steps that GB News has taken to invest in and enhance its compliance framework”. These include “a huge ongoing programme of training and guidance”, that the “induction process for every new member of staff includes a detailed briefing on compliance” and that GB News had recently hired a new Legal & Compliance Director “to provide our journalists, presenters and production teams with the very best, hands-on legal and compliance support”.
186. It also requested that Ofcom acknowledge that it had not been found to have committed any further breaches of Rules 5.11 and 5.12 and that Ofcom had not opened any investigations in relation to their election coverage in its assessment of this factor.
187. We noted the steps the Licensee said it had taken to improve compliance. However, we did not consider that these represented a mitigating factor in this case. Licensees should always have compliance measures in place to ensure compliance with the Code, including staff induction training and guidance. In this case we did not consider that the Licensee had taken any measures beyond those it should have had in place already in order to ensure compliance with the Code. We considered that, particularly given the fact this is a rolling news and current affairs channel, which focuses on issues relating to matters of major political controversy and major matters relating to current public policy, and that it had been broadcasting for over two

years at the time of the Programme, the Licensee should already have had such compliance support in place.

188. Ofcom noted that the Licensee has not been found to have committed any further breaches of Rules 5.11 and 5.12 and that Ofcom has not opened any investigations in relation to its election coverage.

Any steps taken for remedying the consequences of the contravention

189. The Licensee said the Sanction Preliminary View “takes an overly simplistic and binary view of the proposed programme with Sir Keir Starmer” and emphasised that it “invested considerable time and effort” to ensure the Programme would go ahead.
190. The Licensee pointed out that it continued its efforts to provide a programme featuring Sir Keir Starmer, including by asking Ofcom to “provide guidance as to whether such a programme should go ahead”, and that the investigation be suspended to allow a further effort to persuade the Labour Party to participate.
191. As noted above, a broadcaster can, of course, ask for guidance from the regulator. However, in this case, for the reasons set out in paragraphs 171 to 172 above – we were concerned that the nature of this request for guidance represented a misunderstanding of Rules 5.11 and 5.12 of the Code. We also noted that the request to suspend the investigation came on 14 May 2024 – over two months after the Programme had been broadcast. We were not made aware of any other attempts to broadcast a clearly linked and timely programme (whether featuring Sir Keir Starmer, or an alternative) in the interim period. In this respect, we noted that in its oral representations GB News said that it “had a contingency” in place in case Sir Keir Starmer did not participate in the *People’s Forum*. Such a programme was never broadcast.
192. We recognised that the Licensee told us it intended to broadcast a further programme featuring Sir Keir Starmer which it said would ensure that the heightened special impartiality requirements set out in Rules 5.11 and 5.12 would be met. We have considered the steps taken with respect to this Programme in paragraphs 161 to 172 above. As set out above, this Programme did not materialise, nor was it clearly editorially linked in *People’s Forum: The Prime Minister*.

Whether the regulated body in breach has a history of contraventions (repeated contraventions may lead to significantly increased penalties)

193. The Licensee has a history of contraventions of Section Five of the Code, which should have alerted it to the need to ensure its approach to compliance was adequate in relation to due impartiality. Of most direct relevance to this case:
- 1) On 28 September 2023, the Licensee was found in breach of Rules 5.11 and 5.12 in relation to the programme *Saturday Morning with Esther and Phil* broadcast on 11 March 2023.<sup>56</sup> The programme featured two sitting Conservative MPs, Esther McVey and Philip Davies, interviewing the Chancellor of the Exchequer, Jeremy Hunt, about the Government’s approach to economic and fiscal policies in the context of the forthcoming Spring Budget which was due to be announced on 15 March 2023. Ofcom considered that the programme dealt with a matter of major political controversy and current public policy and did not include an appropriately wide range of significant views.
  - 2) On 23 October 2023, the Licensee was found in breach of Rules 5.11 and 5.12 in relation to an episode of *Martin Daubney (standing in for Laurence Fox)* broadcast on 16 June

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<sup>56</sup> See footnote 43.

2023.<sup>57</sup> The programme dealt with the topic of immigration and asylum policy, in particular in the context of the controversy over small boats crossing the English Channel. The presenter, Martin Daubney, gave his own views on this topic and interviewed the leader of the Reform Party, Richard Tice. Ofcom found that Mr Tice presented his position on a matter of major political controversy and a major matter of current public policy with insufficient challenge, and the limited alternative views presented were dismissed. The programme therefore did not include and give due weight to an appropriately wide range of significant views, as required by the Code.

- 3) On 18 December 2023, the Licensee was found in breach of Rules 5.4 and 5.5 of the Code in relation to the programme *The Live Desk* broadcast on 7 July 2023.<sup>58</sup> The programme promoted a GB News-branded campaign called “Don’t Kill Cash”, which included a petition which called on the Government to “introduce legislation to protect the status of cash as legal tender and as a widely accepted means of payment in the UK until at least 2050”. This campaign was launched on 3 July 2023 and was promoted across GB News programming throughout July and August 2023.<sup>59</sup> Ofcom found that by promoting the GB News-branded campaign, the views and opinions of GB News Ltd (the person providing the service) on the matter of whether to mandate the acceptance of cash were expressed, in breach of Rule 5.4. We also found that the programme failed to preserve due impartiality in its coverage of this matter.
194. On 18 March 2024 (after *People’s Forum: The Prime Minister* was broadcast), the Licensee was found in breach of Rules 5.1 and 5.3 in relation to five programmes broadcast in May and June 2023.<sup>60</sup> The programmes featured Conservative MPs presenting programmes. In these specific cases, politicians acted as a newsreader, news interviewer or news reporter in sequences which constituted news for the purposes of Section Five of the Code, without exceptional justification, and news was therefore not presented with due impartiality.<sup>61</sup>
195. The Licensee also has a history of contraventions in relation to Section Two of the Code:
- 1) On 6 March 2023, the Licensee was found in breach of Rule 2.2 in relation to the programme *Mark Steyn* broadcast on 21 April 2022.<sup>62</sup> In the programme, the presenter Mark Steyn used official data from the UK Health Security Agency (UKHSA) to draw conclusions about COVID-19 vaccinations. Ofcom found that viewers were materially misled by Mark Steyn’s claims that official UKHSA data provided definitive evidence that the third COVID-19 booster vaccine caused higher infection, hospitalisation and death rates. We concluded that this factual programme may have resulted in viewers making

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<sup>57</sup> See footnote 43.

<sup>58</sup> [The Live Desk, GB News, 7 July 2023](#), Broadcast and On Demand Bulletin Issue 488, 18 December 2023.

<sup>59</sup> At the time of the Sanction Preliminary View, Ofcom had opened five investigations into other GB News programmes relating to this campaign, which have since been discontinued.

<sup>60</sup> [Politicians acting as newsreaders, news interviewers or news reporters](#), Broadcast and On Demand Bulletin Issue 494, 18 March 2024.

<sup>61</sup> We note that on 14 June 2024 the Licensee applied to the Administrative Court for permission to judicially review two of these Decisions (concerning editions of *Jacob Rees-Mogg’s State of the Nation*, broadcast on 9 May 2023 and 13 June 2023). Mr Justice Chamberlain granted permission on 18 September 2024, and Ofcom is defending the claim.

<sup>62</sup> [Mark Steyn, GB News, 21 April 2022](#), Broadcast and On Demand Bulletin Issue 469, 6 March 2023.

important decisions about their health, and it was therefore potentially harmful and materially misleading, in breach of Rule 2.2 of the Code.

- 2) On 9 May 2023, the Licensee was found in breach of Rule 2.1 in relation to the programme *Mark Steyn* broadcast on 4 and 5 October 2022.<sup>63</sup> The programme included an interview between presenter Mark Steyn and a guest, Dr Naomi Wolf, who made serious claims about the COVID-19 vaccine, including that its rollout amounted to a pre-meditated crime – “mass murder” – and was comparable to the actions of “doctors in pre-Nazi Germany”. Ofcom found that comments made by Naomi Wolf had the potential to impact on viewers’ decisions about their health and were therefore potentially harmful. We concluded that the programme did not provide adequate protection to viewers from the potentially harmful content, in breach of Rule 2.1 of the Code. As this Breach followed a recent breach of Rule 2.2 (set out above), Ofcom held a compliance meeting with the Licensee to discuss its compliance approach in light of these two breaches.
  - 3) On 4 March 2024 (after *People’s Forum: The Prime Minister* was broadcast), the Licensee was found in breach of Rule 2.3 in relation to the programme *Dan Wootton Tonight* broadcast on 26 September 2023.<sup>64</sup> Ofcom found that the programme, presented by Dan Wootton and featuring Laurence Fox, contained misogynistic comments about a female political journalist which were potentially highly offensive and were not sufficiently challenged or otherwise contextualised. Following the breach, Ofcom required GB News to provide further detailed information about its compliance practices in this area for Ofcom’s consideration and requested that it attended a meeting to discuss this<sup>65</sup>.
196. The Licensee accepted it had “made some mistakes from a compliance perspective” and had been found in contravention of Rules 5.11 and 5.12 in the *Esther and Phil* and *Martin Daubney* Decisions. It considered that these cases were “materially different in context and content to the Programme in issues” and maintained that its “record should be viewed in its correct context”.
  197. As noted at paragraphs 127 to 130 above, Ofcom considered that while the particular circumstances of the *Esther and Phil* and *Martin Daubney* breaches differed in some respects to the *People’s Forum* breach, being in relation to different programmes and having different presenters, we considered that they were all breaches of the same special impartiality requirements (i.e. Rules 5.11 and 5.12). They all concerned failures (for whatever reason) to preserve due impartiality either within a programme or within a clearly linked and timely programme in relation to a matter of major political controversy or major matter relating to current public policy, and in relation to the failure to provide alternative views on those matters such as to preserve due impartiality. These previous breaches were therefore highly relevant factors in our consideration.
  198. The Licensee referred to the five Breach Decisions relating to Rules 5.1 and 5.3 of the Code, two of which it has challenged by way of judicial review. It said that should Ofcom place significance on these Decisions, and the court then upholds this judicial review claim in full or in part, “it may well be necessary for Ofcom to revisit its decision”. For the avoidance of

<sup>63</sup> [Mark Steyn, GB News, 4 October 2022; 5 October 2022](#), Broadcast and On Demand Bulletin Issue 473, 9 May 2023.

<sup>64</sup> [Dan Wootton Tonight, GB News, 26 September 2023](#), Broadcast and On Demand Bulletin Issue 493, 4 March 2024.

<sup>65</sup> This meeting has not yet taken place due to an ongoing investigation against the Licensee.

doubt, Ofcom has not relied on these five Decisions in order to reach its Sanction Decision in this case.<sup>66</sup>

199. GB News said that *The Live Desk* case was an “entirely different issue” which led to a breach of Code Rules 5.4 and 5.5. It considers that the “context of that issue is wholly distinct from the context of the Programme and the issues arising concerning Rules 5.11 and 5.12”.
200. In relation to other GB News Decisions set out above, GB News accepted that “certain topics of controversy were discussed by presenters or contributors strayed outside the bounds of freedom of speech and into terms regulated by the Code”. It highlighted the fact that none of the presenters remain on GB News, but noted that “none of these incidents bear any similarity to that of the Programme”.
201. In its oral representations GB News said that the fact it had been found compliant on a number of occasions in the past year should have been “a factor in its favour, not a factor against”. It highlighted that “there have been 12 past breaches over three years and nine ‘no breach’ Decisions”.
202. Ofcom took into account the Licensee’s representations as to its history of contraventions. We agreed that *The Live Desk*, and the breaches in relation Rules 2.1. 2.2 and 2.3, concerned separate rules to those under consideration in *The People’s Forum*. However, they remain part of the Licensee’s compliance record.
203. In response to the Sanction Preliminary View, the Licensee again highlighted its “extensive compliance efforts”. We have taken these into account in paragraph 187.

*The extent to which the regulated body in breach has cooperated with our investigation.*

204. GB News said it has been cooperative throughout this investigation and “open, straightforward and proactive” in its dealings with Ofcom. It said it has provided “full and timely responses” and replied “promptly and factually to every request for information”, even given Ofcom’s tight deadlines. The Licensee states that this “should not merely be considered as the absence of an aggravating factor but as a positively mitigating aspect”.
205. In the Sanction Preliminary View we stated that the Licensee was less cooperative in the provision of information we requested in relation to All Perspectives Ltd (which owns GB News and is a “connected person” for the purposes of the calculation of GB News’ qualifying revenue). This information was only provided following extended correspondence with the Licensee.<sup>67</sup> The Licensee also disputed this characterisation of that correspondence – it considered Ofcom’s comments suggested that it was “evasive or seeking to avoid information”. It said that after Ofcom had clarified what this information was needed for, it provided its financial information and was “in no sense being uncooperative”.
206. The Licensee repeated its concern that Ofcom considered that its requests of 14 May and 17 May 2024 to suspend the investigation and postpone publication of the Breach Decision were unjustified attempts to delay the conclusion and publication of the investigation. Rather, the Licensee stated that these requests were to enable the Licensee to continue discussions with the Labour Party and do not “evidence a lack of cooperation”.
207. We took the Licensee’s representations into account. We agreed that the Licensee’s requests outlined above should not be considered to be an aggravating factor in this assessment. In Ofcom’s view, the Licensee has generally been cooperative in its engagement with the investigation. We noted that it provided full representations in response to Ofcom’s formal

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<sup>66</sup> They are listed above at paragraph 194 simply as part of the administrative record of the Licensee’s compliance history to date.

<sup>67</sup> Correspondence between Ofcom and the Licensee 23 May 2024 – 5 June 2024.

requests relating to the material broadcast and written and oral representations in response to the Sanction Preliminary View. Overall, Ofcom took the view that the Licensee's cooperation had generally been adequate in this investigation.

## Precedents

208. In accordance with the Penalty Guidelines, in coming to this Decision, Ofcom has had regard to relevant precedents set by previous cases. Each case is decided on its own facts. In reaching our Decision in this instance Ofcom has considered these previous cases and, to the extent we consider them relevant, we have taken them into account.
209. In its response to the Sanction Preliminary View, the Licensee said there was a "lack of consideration of the message that would be sent by imposing a fine of £[REDACTED] in light of the size of previous fines". The Licensee noted that the proposed fine would be the third highest fine imposed by Ofcom and the present case "cannot on any sensible view be considered comparable" to the two larger fines of £200,000 imposed on *Club TV Ltd* in relation to breaches of the Code relating to the broadcast of hate speech, and *RT* for repeatedly demonstrating a lack of due impartiality in relation to Sergei and Yulia Skripal, in coverage which was favourable to the interests of its ultimate funder, the Russian State. The Licensee acknowledged that the Sanction Procedures do not provide that there is to be a direct correlation between the seriousness of the Breach and the size of the financial penalty, but asserted that there is some correlation – as seriousness is a factor to be taken into account when determining the size of the financial penalty. It states that "as a matter of reality imposing the third highest fine Ofcom has issued will send the message that the Breach was comparable to the very worst breaches", which it argues is not correct. It states that this would be a "confusing and unhelpful message for consumers and the market".
210. Ofcom considered a number of previous Decisions in which financial penalties had been imposed for breaches of due impartiality requirements in the Code.<sup>68</sup> Some of these Decisions are now over five years old and were decided before the Penalty Guidelines<sup>69</sup> which came into force on 14 September 2017. Ofcom also had regard to a number of other Decisions in which financial penalties had been imposed for particularly serious breaches of the Code, not relating to breaches of due impartiality requirements.<sup>70</sup> These financial penalties were imposed since December 2015, after Ofcom's Penalty Guidelines were updated to place greater emphasis on deterrence. Ofcom also considered other Decisions in which it had found breaches of due impartiality rules but had decided that the consideration of a statutory sanction was not warranted. Ofcom considered the relevance of these past precedents to the circumstances of the current case and, where relevant, took them into account in reaching a Decision on the level of penalty which would be proportionate in the circumstances.
211. Ofcom considered that the previous Decisions pre-dating 2017 and in which Ofcom had imposed financial penalties for breaches of due impartiality requirements in the Code were of some relevance, as the nature of those breaches was, to some extent, similar to the nature of the breaches at issue in this Decision. For example, a number of these previous cases (*Islam Channel* (31 July 2007), *Aden Live* (8 May 2012) and *Al Mustakillah* (4 January 2013)) also dealt with a failure to preserve due impartiality in relation to matters of major political controversy

<sup>68</sup> These are summarised in a Table 1 at the end of this Decision. Footnotes to the table provide hyperlinks to these Decisions.

<sup>69</sup> The version of the Ofcom's Penalty Guidelines that came into force on 14 September 2017. See footnote 8 for these Guidelines. This version of the Penalty Guidelines replaced the previous version which had come into force on 3 December 2015. Updated Section Five Guidance has been published since the broadcast of the Programme and applies to programmes broadcast from 24 April 2024 onwards.

<sup>70</sup> These are summarised in a Table 2 at the end of this Decision. Footnotes to the table provide hyperlinks to these Decisions.

and major matters relating to current public policy. We also noted that there were similarities with the present case in that in all of these previous cases, Ofcom had also identified that the breaches had resulted from inadequate approaches to compliance.

212. In response to the Licensee's representations above, we noted that the fine proposed in the Sanction Preliminary View would not be the "third highest fine" imposed by Ofcom. Ofcom has imposed more than 10 other higher fines for breaches of the Code, prior to the current Penalty Guidelines, which place greater emphasis on deterrence.<sup>71</sup> Further, it is important to note that it is not possible to directly compare financial penalties imposed on other licensees, since Ofcom decides each case on its facts and takes into account a range of factors in determining a financial penalty, including the qualifying revenue of the licensee in question.
213. In response to the Sanction Preliminary View, the Licensee stated that there was "insufficient acknowledgement of the lack of relevance of the cited precedent cases in which a financial penalty was imposed". It said that in almost all of the precedent sanction cases relating to due impartiality there was a "clear use of the broadcast by the broadcaster or presenter to further and prioritise the political views of the broadcaster or presenter themselves", or to "favour the interests of the ultimate owners or funders of the broadcaster in question", which it stated was not the case here.
214. We noted that there were a number of differences in the circumstances of the cases pre-dating 2017. As noted above, they had not been decided under Ofcom's current Penalty Guidelines, which place greater emphasis on deterrence. In particular, all these previous cases concerned a failure on the part of the licensee to ensure compliance with Rule 5.4 concerning preservation of due impartiality on the part of the person providing the service (*Aden Live* (8 May 2012), *Al Mustakillah* (4 January 2013), *DM Digital* (5 July 2013)), or concerned a failure to preserve due impartiality during an election period (*Islam Channel* (31 July 2007), *Talksport* (8 December 2008), *Al Mustakillah* (4 January 2013)), which were breaches we considered to be particularly serious. The present case does not involve a breach of Rule 5.4, or a broadcast during an election period. Nevertheless, as set out in the Breach Decision, we considered that the Licensee's failure to ensure that this hour-long Programme adhered to the heightened due impartiality standards applying to major matters provided the Prime Minister with a mostly uncontested platform to promote the policies and performance of his Government in a period preceding a UK General Election.
215. The Licensee also stated that there was "no explanation of why GB News' financial position justifies a fine of £[REDACTED] in light of the previous Decision to only fine TalkSport £75,000". GB News highlighted that this was a relatively recent case, for breaches of Rule 5.11 and 5.12 across multiple programmes, in which the broadcaster was considered to have access to considerable outside revenue (as it was owned by NewsCorp), yet Ofcom imposed a fine of £75,000 £[REDACTED].
216. The more recent Decisions *RT* (26 July 2019), *Talk Radio* (17 February 2020), *NTV Mir Baltic* (17 February 2020) and *CGTN* (8 March 2021) in which Ofcom has imposed a financial penalty for breaches of due impartiality requirements are also of some relevance, as they are similar in nature to the current case. These cases dealt with a failure to preserve due impartiality in relation to matters of major political controversy and major matters relating to current public policy; and in the case of *RT* (26 July 2019), *Talk Radio* (17 February 2020) and *CGTN* (8 March 2021) repeated breaches of these rules. These more recent Decisions are also of some

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<sup>71</sup> The highest fine Ofcom has imposed for a breach of the Code is a fine of £3,000,000 for a repeated breach of Rule 2.11 by [LWT \(Holdings\) Limited](#). All fines issued prior to 2017 are available on our website.

relevance because they were decided under the Penalty Guidelines that came into force on 14 September 2017, which place greater emphasis on deterrence.

217. We took into account that, while the current case involved a single programme, the *RT* sanction Decision concerned the broadcast of seven programmes over a six-week period, the *CGTN* sanction Decision concerned five programmes, four of which were broadcast over a three-week period, and the *Talk Radio* sanction Decision related to three episodes of the same programme broadcast within a six-month period.
218. We also took into account that, while the *NTV Mir Baltic* case did not involve a repeated breach of Rules 5.11 and 5.12, the breach in question, which occurred in a single programme, was the sixth time it had breached the due impartiality rules in a period of less than four years. In the present case, at the time of broadcast, GB News had been found in breach of the due impartiality rules in four programmes broadcast in the period 11 March 2023 to 12 February 2024 (just over eleven months) (see paragraph 193 for details of the three previous breaches).
219. Similarly, the recent Decisions *Channel 44* (15 April 2019), *Peace TV* (5 May 2020) *Peace TV Urdu* (5 May 2020) in which Ofcom has imposed a financial penalty for breaches concerning different issues, not due impartiality breaches, are also of some relevance because they demonstrate Ofcom's approach to setting financial penalties for particularly serious breaches of the Code. These previous cases concerned breaches of Section Three of the Code involving hate speech or, in one instance, involved the broadcast of material likely to encourage or incite the commission of crime or lead to disorder. Ofcom considered these to be particularly serious breaches of the Code given their potential to cause serious harm to audiences and therefore they are generally more serious than breaches of due impartiality rules.
220. In its representations the Licensee stated that specific analysis of Ofcom's Decision not to impose a sanction in the *World at One* Decision was not included in Ofcom's Sanction Preliminary View. We have set out our reasons at paragraph 75 to 122 above as to why we consider that this case is sufficiently serious so as to warrant the imposition of a statutory sanction, which includes consideration of the *World at One* case at paragraphs 111 to 115.
221. Ofcom also had regard to the fact that, other than the *RT*, *Talk Radio*, *NTV Mir Baltic* and *CGTN* cases, in all other recent cases in which Ofcom found breaches of due impartiality requirements, including of Rules 5.1, 5.11 and 5.12 (including *World at One*), Ofcom did not consider it to be warranted to consider imposing a statutory sanction in the circumstances of those cases. To the extent that the nature of the content and the concerns that were at issue in those cases were of a similar nature to the Breach in this case, Ofcom took into account that each case turns on its specific facts and, as set out in the Penalty Guidelines, Ofcom may depart from these precedents where appropriate.
222. Ofcom considered that the nature of the Breach in this case was particularly egregious – it gave the then Prime Minister, the most important politician in the country, a mostly uncontested, almost hour long platform to set out his views about the Government's policies and performance, without the broadcast of an appropriately wide range of significant views, given due weight, in the period before a UK General Election.
223. The Programme itself highlighted the electoral context – a UK General Election, which affects the whole of the UK. The Prime Minister was able to set out some future policies that his Government planned to implement if re-elected. Neither the audience nor the Presenter challenged or otherwise referred to significant alternative views on these. The Prime Minister criticised aspects of the Labour Party's policies and performance. While politicians are of course able to do this in programmes, licensees must ensure that due impartiality is preserved – that is a fundamental aspect of the statutory regime. Neither the Labour Party's views or

positions on those issues, nor any other significant views on those issues, were included in the Programme or given due weight.

224. We noted that the purpose of the due impartiality rules is to safeguard democratic debate on matters of public concern and for a “level playing field for competing views and opinions, so that those views and opinions are expressed, heard, answered and debated.” Those subjected to the particularly potent and pervasive influence of broadcast media should be left in a position to make their own minds up on matters of important public interest, having been exposed to a plurality of views. We noted that the UK General Election is one of the most important democratic processes in the UK, which is of particularly high public interest and affects the lives of millions of UK citizens. It is a cornerstone of our democracy. The partial *People’s Forum: the Prime Minister* Programme was broadcast in this context of a UK General Election year. We therefore considered that the Breach was particularly likely to have damaging consequences for the democratic and societal objectives which the due impartiality regime is designed to promote, at a significant point in the UK’s political debate.

#### **The size and turnover of the regulated body when considering the deterrent effect of any penalty**

225. As set out in our Penalty Guidelines, the central objective of imposing a penalty is deterrence. The amount of any penalty must be sufficient to ensure that it will act as an effective incentive to ensure compliance, having regard to the seriousness of the infringement. Ofcom will impose a penalty which is appropriate and proportionate and which will act as a deterrent, taking into account the size and turnover of the Licensee.
226. Ofcom took into account the nature, seriousness and impact of this Breach – as a result of which the Prime Minister set out his views on the policies and performance of his Government, mostly uncontested, in an almost hour-long programme broadcast in the context of an upcoming UK General Election – and the fact that this was a serious failure of compliance, which the Licensee has consistently refused to accept. Ofcom considered in particular the need to deter the Licensee from engaging in similar conduct in the future. Ofcom also considered the need to deter all licensed broadcasters from engaging in such conduct and the importance of maintaining audience trust in the application of due impartiality in regulated broadcast services. In addition, Ofcom considered the need for the level of penalty to be sufficiently high – taking into account all the relevant factors and the nature of the Breach – to incentivise the Licensee, at an organisational level, to ensure it takes an appropriate approach to compliance in this area more carefully in the future.
227. In reaching its Decision on the imposition and level of a sanction, Ofcom has taken account of the Licensee’s qualifying revenue for the last accounting period. The Licensee accepted that its qualifying revenue for its last accounting period was £[REDACTED].
228. The Licensee considered it was not in a position to provide an informed response with regards to Ofcom’s approach to the proposed financial penalty because it argued that Ofcom appeared not to have based this on “any methodology”. It considered that the proposed penalty of £[REDACTED] to be “neither justified nor justifiable” and a disproportionate interference with GB News’ Article 10 rights.
229. As set out in detail above, and as required by the Penalty Guidelines, Ofcom considered all the circumstances in the round in order to determine the appropriate and proportionate amount of any penalty. Ofcom also had regard to all the factors listed above, including all those included in the Penalty Guidelines at paragraph 1.12. We considered the relevant precedents, the Licensee’s representations and the size and turnover of GB News.
230. We also recognise that the penalty must be proportionate, taking into account the Licensee’s rights under Article 10 of the Convention. If any financial penalty was to be so high that its effect would be to close the service down, then it might be a disproportionate interference

with the Licensee's and the audience's right to freedom of expression and exceed the purposes of imposing a penalty. Ofcom therefore took these factors into account and carefully considered them in reaching its Decision on the proportionality of the financial penalty.

231. For all the reasons set out above, Ofcom's Decision is that it is proportionate to impose a financial penalty on the Licensee of **£100,000**.

### Revocation of the Licence

232. Section 238 of the Act provides Ofcom with the power to revoke a TLCS licence where a licensee is failing to comply with a condition of such a licence or a direction of its licence and the failure, if not remedied, is such as to justify revocation of the licence.
233. In considering whether to propose the revocation of a licence, Ofcom must have regard to the broadcaster's and the audience's rights under the Article 10 of the Convention. We noted that GB News service seeks to provide viewers with topics and areas of discussion that "challenge media conventions"<sup>72</sup> and revoking the Licence would mean it would no longer be able to be broadcast.
234. Revocation of a licence is the ultimate enforcement action available to Ofcom. A decision to revoke a licence must only be taken by Ofcom if it is satisfied that it is a proportionate response to the Licensee's failure to comply with its licence conditions. A relevant factor for Ofcom to consider in this regard is whether any sanction short of revocation could ensure that the Licensee would, in future, comply with the Code.
235. Taking account of all relevant factors, it is Ofcom's Decision that, while this Breach of Rules 5.11 and 5.12 was a serious and repeated failure of compliance, in circumstances where the other sanctions discussed above are sufficient to act as a deterrent against future breaches, revocation would be disproportionate.

### Decision

236. In order to achieve Ofcom's central objective of deterrence, we have carefully considered the nature and level of statutory sanction that should be imposed. In doing so, we have taken account of the particular seriousness of the Breach and the fact that it was repeated, the Licensee's representations, the Licensee's qualifying revenue, size and turnover and relevant precedent cases. We have also had regard to our legal duties, as set out in detail above including the need to ensure that any sanction we impose is proportionate, consistent and targeted only at cases where action is needed.
237. Having regard to all the factors set out above, Ofcom's Decision is that it is appropriate to impose a statutory sanction in this case and it is proportionate (i) to impose a financial penalty of **£100,000** (payable to HM Paymaster General) and (ii) to direct the Licensee to broadcast a statement of Ofcom's findings in a form and on a date to be determined by Ofcom.
238. In Ofcom's view, this sanction is appropriate and proportionate in the circumstances of this case and should send a clear message of deterrence, both to the Licensee and also to other broadcasters, against any future breaches of a similar nature.
239. For the reasons set out above, we consider that this Decision meets the requirements of Article 10(2) of the European Convention of Human Rights, as being prescribed by law, in the pursuit of a legitimate aim and, in particular, that the imposition of this sanction is necessary and proportionate in these circumstances.

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<sup>72</sup> See the [GB News Editorial Charter](#) in which GB News states about its service: "We do not shy away from controversial issues" and "We approach stories differently and challenge media conventions".

240. In considering the proportionality of our Decision and whether it is justifiable to impose a statutory sanction in this case, we have had regard to all of the factors set out above and, in particular, to Ofcom's duty to uphold standards protecting audiences from harm and the importance of maintaining audience trust and public confidence in the UK broadcasting regime and the impartiality of broadcast current affairs. The due impartiality rules in particular guard against the risk that democratic debate would become distorted if partial programming was permitted to be broadcast on licensed services.

**Ofcom**

**28 October 2024**

Table 1: Previous sanctions relating to breaches of due impartiality requirements

Sanction Decision	Rules of the Code	Sanction	Nature of the Sanction
<b>31 July 2007, Islam Channel Ltd</b> <sup>73</sup>	Rules 5.5, 5.12, 6.6, 6.8, 6.9 (and Licence Condition 11)	£30,000 financial penalty	During the election period of the local elections in 2006, a number of episodes of two current affairs series were presented, at times, by candidates who were standing in the local elections. Some of these programmes also failed to treat matters of political and industrial controversy and major matters relating to current public policy with due impartiality. These breaches were very serious given: their sustained and repeated nature; the fact that the breaches occurred during an election period in programmes whose presenters were themselves candidates in those elections; and the relevant rules breached are designed to help secure the integrity of the democratic process and the public's trust in that integrity. The breaches in this case were a direct result of management and compliance failures and took place despite considerable guidance and training given by Ofcom to the licensee.
<b>8 December 2008, Talksport Ltd</b> <sup>74</sup>	Rule 6.1	£20,000 financial penalty; direction to broadcast a statement of Ofcom's findings	This case concerned the broadcast of The James Whale Show during which Mr Whale made a number of comments criticising the Labour candidate for the 2008 London Mayoral Elections and directly and repeatedly encouraging listeners to vote for the Conservative candidate. Alternative views about the London mayoral candidacy and the Labour candidate's record were not represented. The contravention had the potential to cause considerable harm to the democratic process. The breach was particularly serious because it involved an experienced presenter who used his programme in a deliberate and conscious way to promote one particular candidate; the programme was broadcast in the election period close to the polling day with a greater potential to influence the voting intentions of listeners; it was the second time within eight months that the station had seriously breached the Code's due impartiality requirements; and the Licensee could, and should, have taken more action to ensure more robust compliance.

<sup>73</sup> [Sanction Decision](#), Islam Channel Ltd.<sup>74</sup> [Sanction Decision](#), Talksport Ltd.

<b>8 May 2012, Dama (Liverpool) Limited (Aden Live)</b> <sup>75</sup>	Rule 2.4, 5.4, 5.11 and 5.12	£10,000 financial penalty; direction to broadcast a statement of Ofcom's findings	Regarding the breaches of the due impartiality rules, the content and views expressed in the broadcasts were almost entirely in support of the Southern Movement and the independence of South Yemen, and critical of the Government of Yemen. In addition, the views and opinions of the Licensee on the contemporaneous political situation in Yemen, including the policies and actions of the Government of Yemen (a matter of major political controversy and a major matter relating to current public policy) were expressed in the output of the channel, in breach of Rule 5.4. The breaches were serious because: the licensee and its senior management sought to use the channel as a platform to present their own views; and they occurred in programmes broadcast at various times on the channel, not just in an isolated programme or series of programmes. The breaches indicated poor compliance management by the Licensee and also a clear disregard for the due impartiality requirements, which the Licensee had previously and explicitly confirmed to Ofcom that it was aware of and would comply with.
<b>4 January 2013, Al Mustakillah Television Limited</b> <sup>76</sup>	Rules 5.4, 5.5, 5.11, 5.12 and 6.1	£25,000 financial penalty	This case concerned two programmes in which the sole director of the Licensee directly promoted the interests and policies of the Popular Petition for Freedom, Justice and Development in Tunisia, a political manifesto written by him. The programmes were broadcast in the run up to and immediately after the 2012 Tunisian General Election. The breaches of the relevant rules during the election period of a general election were serious, and particularly so given the comments were numerous and contained in two lengthy programmes. The director of the licensee clearly used his position to influence the editorial content of the service. Viewers were provided with a one-sided view of matters, and major matters, of political controversy and the viewpoints of, for example, other Tunisian political parties or their supporters were not presented. The content and views therefore had the potential to influence the voting intentions of viewers and thus was potentially harmful to the integrity of the democratic process. The breaches, taken together, underlined the Licensee's failure to understand and ensure

<sup>75</sup> [Sanction 75\(12\)](#), Dama (Liverpool) Ltd.

<sup>76</sup> [Sanction 79\(12\)](#), Al Mustakillah Television Ltd.

			compliance and that its compliance arrangements were systemically ineffective.
<b>5 July 2013, DM Digital Television Limited</b> <sup>77</sup>	Rules 5.4 and 5.5	£20,000 financial penalty; direction to broadcast a statement of Ofcom's findings.	The two programmes included coverage of a conference, held in the UK, of the Pakistan Overseas Alliance Forum. In relation to Rule 5.4, the programmes included footage of the then Chief Executive and Chairman of DM Digital Television Ltd expressing his views on matters of political and industrial controversy and matters relating to current public policy. With respect to Rule 5.5, the first programme included statements that were highly critical of the MQM (at the time the governing political party in the Pakistani province of Sindh). The second programme included highly critical statements about NATO and the US Government's policies and actions towards Afghanistan and Pakistan. The breaches were serious because they showed that the due impartiality of the service had been compromised by the views of the licence holder. The breaches were repeated (and in the case of Rule 5.5, occurred in a sustained manner over the course of two three hour programmes). Further, the breaches highlighted the Licensee's wholly insufficient compliance arrangements and clear lack of understanding about the due impartiality requirements.
<b>26 July 2019, ANO TV Novosti (RT)</b> <sup>78</sup>	Rules 5.1, 5.11 and 5.12	£200,000 financial penalty and direction to broadcast a statement of Ofcom's findings	These cases related to seven news and current affairs programmes broadcast on the news channel RT in the wake of the poisoning of Sergei and Yulia Skripal on 4 March 2018. The programmes were concerned with the following issues: the poisoning of Sergei and Yulia Skripal in Salisbury on 4 March 2018, the armed conflict in Syria and the Ukrainian Government's position on Nazism and its treatment of Roma Gypsies. The seven breaches occurred within a six-week period between 17 March 2018 and 26 April 2018. Ofcom found that each of the seven programmes failed to maintain due impartiality and had breached Rule 5.1 and/or Rules 5.11 and 5.12. Ofcom considered the seven breaches, individually and taken together, to be a serious failure of compliance.
<b>17 February 2020, Talksport Ltd (Talk Radio)</b> <sup>79</sup>	Rules 5.11 and 5.12	£75,000 financial penalty and direction to broadcast a	These cases related to three episodes of the George Galloway programme which dealt with the following issues, the poisoning of Yulia and Sergei Skripal in Salisbury on 4 March 2018 and

<sup>77</sup> [Sanction 77\(12\)](#), DM Digital Television Ltd.

<sup>78</sup> [Sanction \(117\)19](#), Autonomous Non-Profit Organisation (ANO) TV Novosti.

<sup>79</sup> [Sanction \(124\)19](#), Talksport Ltd.

		statement of Ofcom's findings	allegations of anti-Semitism in the Labour Party. We found each programme failed to maintain due impartiality.
<b>17 February 2020, Baltic Media Alliance Limited (NTV Mir Baltic)</b> <sup>80</sup>	Rules 5.1, 5.11 and 5.12	£20,000 financial penalty and direction to broadcast a statement of Ofcom's findings.	Baltic Media Alliance Limited broadcast a news programme, <i>Today</i> , which included a discussion about the poisoning of Sergei and Yulia Skripal in Salisbury on 4 March 2018 and which failed to maintain due impartiality. This was the sixth time that the Licensee had breached the due impartiality rules since November 2014.
<b>8 March 2021, Star China Media Limited ("SCML") (CGTN)</b> <sup>81</sup>	Rules 5.1, 5.11 and 5.12	£125,000 financial penalty. (Separately, before this sanction was imposed, the Licensee had ceased to broadcast and, as a result, had its licence revoked).	These cases related to a failure to maintain due impartiality in five news programmes resulting in breaches of Rules 5.1, Rules 5.11 and 5.12 in each programme. The programmes were broadcast between 11 August and 21 November 2019 on CGTN. Each was on protests which were ongoing in Hong Kong during this period. These protests were initially in response to the Hong Kong Government's Extradition Law Amendment Bill that would have allowed criminal suspects in Hong Kong to be sent to mainland China for trial. The first four breaches occurred in a period of just over three weeks, with the fifth breach occurring eleven and a half weeks later. Ofcom considered the five breaches, taken together, to be a serious and repeated failure of compliance.

<sup>80</sup> [Sanction \(126\)19](#), Baltic Media Alliance Ltd.

<sup>81</sup> [Sanction 138 \(20\)](#), Star China Media Ltd.

Table 2: Previous sanctions relating to breaches of other rules in the Code

Sanction Decision	Breaches of Rules of the Code	Sanction	Nature of Sanction
<b>11 November 2016, Club TV Limited (Peace TV Urdu)</b> <sup>82</sup>	Rules 2.1 and 2.3	£65,000 financial penalty; direction to broadcast a statement of Ofcom's findings	The programmes contained numerous examples of overwhelmingly negative and stereotypical references to Jewish people, which could be interpreted as spreading anti-Semitism and were a form of hate speech. The broadcast of anti-Semitic hate speech in pre-recorded content in two separate programmes broadcast on consecutive days indicated a failure by the licensee to have sufficiently robust compliance procedures.
<b>19 December 2018, Radio Ikhlas Limited</b> <sup>83</sup>	Rules 2.3, 3.2 and 3.3	£10,000 financial penalty; direction to broadcast a statement of Ofcom's findings	The Licensee broadcast a two-hour phone-in programme discussing the on-going crisis surrounding the treatment of the Rohingya Muslim community in Myanmar. The presenter of a live phone-in programme, who was a local imam, had discussed the beliefs of the Ahmadiyya community in offensive and pejorative terms. Ofcom found that the material constituted hate speech which was intended to spread, incite, promote or justify hatred against Ahmadi people on religious grounds.
<b>15 April 2019, City News Network (SMC) Pvt Ltd (Channel 44)</b> <sup>84</sup>	Rules 2.3, 3.2 and 3.3.	£75,000 financial penalty; direction to broadcast a statement of Ofcom's findings.	The Licensee broadcast two episodes of <i>Point of View</i> , a current affairs discussion programme made in Pakistan and broadcast in the UK on Channel 44. A guest who was featured in both episodes made repeated, serious and unsubstantiated allegations about members of the Ahmadiyya community. Ofcom found that these programmes contained uncontextualised hate speech

<sup>82</sup> [Sanction 103\(16\)](#), Club TV Ltd.<sup>83</sup> [Sanction 110\(18\)](#), Radio Ikhlas Ltd.<sup>84</sup> [Sanction \(111\)19](#), City News Network (SMC) Pvt Ltd.

<b>5 May 2020, Lord Production Inc Ltd (Peace TV)<sup>85</sup></b>	Rules 2.3, 3.2 and 3.3	£100,000 financial penalty <sup>86</sup>	The Licensee broadcast one episode of <i>Strengthening your Family</i> on Peace TV. This episode, which was titled <i>Valley of the Homosexuals</i> , focussed on the issue of homosexuality and Islam. Ofcom found the programme contained uncontextualised hate speech and amounted to abusive and derogatory treatment of homosexual people.
<b>5 May 2020, Club TV Limited (Peace TV Urdu)<sup>87</sup></b>	Rules 2.3, 3.1, 3.2 and 3.3.	£200,000 financial penalty <sup>88</sup>	The Licensee broadcast an episode of the series <i>Kitaab-ut-Tawheed</i> on Peace TV Urdu. This episode focused on the Islamic punishment of magicians (and those who practise magic). Ofcom found this programme contained material which amounted to an indirect call to action for members of the audience to kill those who practice magic and that is contained uncontextualised hate speech.
<b>22 December 2020, Worldview Media Network Limited (Republic Bharat)<sup>89</sup></b>	Rules 2.3, 3.2 and 3.3.	£200,000 financial penalty	The Licensee broadcast Poochta Hai Bharat, a daily current affairs discussion programme in Hindi presented by the journalist Arnab Goswami. Ofcom found this programme contained uncontextualised hate speech and that this content was potentially highly offensive.
<b>11 March 2022, The Pakistan Muslim Centre (Sheffield) Limited<sup>90</sup></b>	Rules 3.1 and 2.3	£2,000 financial penalty	Link FM 96.7 twice broadcast a Nasheed titled "Jundullah" (meaning "soldiers of Allah" in Arabic). We found that the Nasheed contained material likely to encourage or incite the commission of crime or lead to disorder.
<b>23 August 2022, Up and Coming TV Limited<sup>91</sup></b>	3.2, 3.3 and 2.3	£40,000 financial penalty; and conditionally on the Licensee holding its licence and resuming broadcasting: direction to not	Up and Coming TV broadcast two consecutive editions of Nadim Malik Live, a current affairs discussion programme. Ofcom found that

<sup>85</sup> [Sanction \(127\)19](#), Lord Production Inc Ltd.

<sup>86</sup> On 18 November 2019, the Licensee surrendered its licence and it is no longer broadcasting in the UK. Ofcom has the power to impose a penalty relating to breaches of the Code during the period which the licensee held a broadcast licence, even though it has surrendered its licence and is no longer broadcasting.

<sup>87</sup> [Sanction 128\(19\)](#), Club TV Ltd.

<sup>88</sup> The Licensee is no longer broadcasting, see footnote 87.

<sup>89</sup> [Sanction 137\(20\)](#), Worldview Media Network Ltd.

<sup>90</sup> [Sanction 147\(21\)](#), The Pakistan Muslim Centre (Sheffield) Ltd.

<sup>91</sup> [Sanction 152\(22\)](#), Up and Coming TV Ltd.

		repeat the programme; and direction to broadcast a statement of Ofcom's findings	statements in both these programmes amounted to anti-Ahmadi hate speech, and derogatory and abusive treatment of Ahmadi people, and statements in the programme of 5 May 2020 amounted to antisemitic hate speech, and derogatory and abusive treatment of Jewish people, which was not sufficiently justified by the context.
<b>25 April 2023, Ahlebait TV Networks<sup>92</sup></b>	3.2, 3.3 and 2.3.	£10,000 financial penalty; direction to broadcast a statement of Ofcom's findings	An episode of <i>20th Hour</i> , a weekly live programme, discussed current affairs from an Islamic perspective. Ofcom found the programme included references to a derogatory stereotype to justify the expulsion of Jewish people from various societies and countries throughout history and also placed exclusive blame for this persecution on Jewish people themselves. Ofcom found that this programme contained uncontextualised hate speech
<b>26 September 2023, Islam Channel Limited</b>	3.2 and 2.3	£40,000 financial penalty; direction to not repeat the programme; and direction to broadcast a statement of Ofcom's findings	Islam Channel broadcast <i>The Andinia Plan</i> , a one-hour documentary examining a conspiracy theory which originated in a neo-Nazi publication. This theory, known as the "Andinia Plan", alleges there is a plan to establish a Jewish state in Patagonia, the southern region of South America governed by Argentina and Chile. Ofcom found that this programme amounted to hate speech against Jewish people. We also found that this antisemitic content was highly offensive and not justified by the context. Ofcom considered that the breach was both serious and repeated.

<sup>92</sup> [Sanction 156\(22\)](#), Ahlebait TV Networks.