Ofcom

CAMERA.org

Question	Your response
Question 1: Do you agree with our overall approach to Section One?	Partially. The overall approach is sound but incomplete. In particular, the proposed approach does not adequately address the changing relationship between media, children and armed conflict in the online information environment. Expanded upon below.
Question 2: Do you have any comments on our approach to reflecting relevant protections for under-eighteens in the online environment?	Online media does not merely document armed conflict. The rapid dissemination of imagery can itself have strategic consequences. Images and accounts of civilian suffering, particularly involving children, may carry significant propaganda and political value for parties to armed conflict. Protections designed specifically for the online environment should recognise the possibility that media amplification may, as part of a propaganda strategy or information warfare, incentivise the exploitation and endangerment of children. As an illustrative example, the well documented strategy of Hamas in Gaza to use Human Shields in order to maximise civilian suffering is a deliberate part of the organisations war strategy, and one they consider to be extremely successful. The images of suffering, particularly of children, create outrage and hatred toward Israel, leading to Israel's isolation amongst the international community. The BBC therefore must be cognisant of the incentive created by their online content for more exploitation and harm, as a weapon of information warfare. Hamas' open use of the strategic dead child is the best example of this process at play, but this is by no means an issue only pertaining to the Gaza war. The nature of armed conflict has changed such that the online information environment must now be considered as part of the battlefield. The BBC must therefore recognise that disseminating conflict-related material can itself have strategic value, and its safeguarding responsibilities should reflect the potential effect of that dissemination on incentives to exploit or endanger children.

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Question 3: Do you have any comments on relevant factors we may wish to consider when developing our guidance to applying these rules?	When disseminating conflict related content involving children BBC journalists and editors should be considering: • The provenance of imagery involving children; who provided these images? Why? Is there a strategic benefit at play? • Whether a party to the conflict facilitated the material • Whether children may have been deliberately exposed to danger or exploited • Credible evidence of Human Shielding, child recruitment or obstruction/discouragement of evacuation where relevant • Whether necessary causal context has been omitted – for example where a known strategy of Human Shielding is in use • Whether amplification is of strategic value to a belligerent and would create an incentive to further harm
Question 4: Do you have any further comments on the proposed content of Section One?	
Question 5: Do you agree with Ofcom's overall approach to Section Two?	Broadly, however the section is incomplete. The proposed framework should give greater consideration to the foreseeable downstream effects of BBC Online content on communities within the UK, particularly in the context of conflict reporting. Expanded below.
Question 6: Do you have any comments on the proposed list of non-exhaustive contextual factors listed under the "meaning of context" in Section Two?	Ofcom's contextual factors should explicitly include the wider information environment into which content is published, and the foreseeable impact of that content on communities in the UK. Conflict reporting does not exist in isolation. Online material may be rapidly reproduced, extracted and amplified across social media, particularly during periods of heightened community tension. Materially misleading or inflammatory content, and the uncritical reproduction of prejudicial tropes, may therefore contribute to an exist-

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	ing hostile information environment affecting communities associated rightly or wrongly with parties to overseas conflicts. The principle should be applied consistently. Anti-Muslim tropes in reporting concerning Islamist organisations or Muslim-majority countries may contribute to hostility to British Muslims; Antisemitic tropes in reporting concerning Israel may contribute to hostility to British Jews. Ofcom should therefore consider: • Whether content reproduces or mirrors recognised racist, antisemitic, anti-Muslim or other prejudicial tropes. • Whether inflammatory allegations are clearly attributed and properly contextualised • The severity of an allegation and the strength/evidential status of the information supporting it. • Whether the content concerns a period of heightened community tension or documented increases in hate incidents. • Whether communities within Britain may foreseeably be associated with the actors or events being reported • The particular amplification potential of online/social content • Cumulative impact: whether repeated editorial framing across BBC output may create harms not apparent from examining one item in isolation. This is not an argument against robust or uncomfortable journalism, nor that reporting causing offence should be prohibited. The issue is whether the BBC has adequately considered the foreseeable downstream harm of materially misleading, inflammatory or irresponsibly contextualised content in the contemporary online environment.
Question 7: Do you have any further comments on the proposed content of Section Two?	

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Question 8: Do you agree with Ofcom's overall approach to Section Three?	Broadly, the approach is sound. Particularly welcome is the recognition that the status or position of a person featured in material and the extent to which sufficient challenge is provided, are relevant contextual factors when assessing potentially harmful material. However, the proposed guidance should go further in recognising the relationship between the provision of an uncritical platform for authoritative figures, inflammatory or prejudicial allegations concerning identifiable groups or communities, and the risk of subsequent crime or disorder. Expanded below.
Question 9: Do you have any comments on our proposal to use guidance to help clarify how contextual factors relating to Rules 3.1, 3.2 and 3.3 might apply to online material? Are there any other areas in Section Three which you think it may be particularly helpful to supplement with guidance?	Ofcom recognises that there may be greater potential for material to encourage crime or disorder where an online item provides an uncritical platform for an authoritative figure to advocate criminal activity or disorder. The guidance should recognise a closely related risk: the provision of an uncritical platform for an authoritative figure to make extreme, inflammatory or prejudicial allegations concerning an identifiable national, ethnic or religious group. Explicit advocacy of criminal activity is not the only form of speech capable of contributing to an environment in which crime, disorder or violence becomes more likely. In assessing this risk, relevant contextual factors may include the status and perceived authority of the speaker; the severity and evidential basis of the allegation; the existence of heightened community tensions; the use of recognised hateful or prejudicial tropes; and the extent to which meaningful journalistic challenge is provided. Ofcom should provide further guidance on the meaning of "sufficient challenge". Where serious allegations or potentially hateful or derogatory characterisations are made, simply presenting an alternative perspective elsewhere may not provide sufficient context. Depending upon the circumstances, meaningful challenge may require clear attribution of contested allegations, correction of materially inaccurate factual premises, relevant factual context, or direct challenge to prejudicial generalisations.

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	This is particularly important in the online environment, where individual excerpts may be encountered and disseminated independently of the wider item in which they originally appeared.
Question 10: Do you have any further comments on the proposed content of Section Three?	
Question 11: Do you agree with Ofcom's overall approach to Section Four?	Broadly, however the concept of the "proper degree of responsibility" should include consideration of how representations of religious belief are likely to be understood by audiences who do not share those beliefs. Expanded below.
Question 12: Do you have any further comments on the proposed content of Section Four?	Ofcom should provide guidance concerning the representation and contextualisation of religious belief for audiences who may not share, or be familiar with, the religious worldview being described. Material need not be overtly abusive to create a misleading or derogatory impression of a religious community. Statements concerning religious belief may be technically accurate while, through selective contextualisation, presenting complex historical, cultural or national identities as simply irrational or doctrinal claims. This is particularly relevant where religious belief intersects with history, ethnicity, national identity or territorial attachment. For example, describing Jewish attachment to a place principally through the formulation that Jews "believe God promised them the land", without explaining the associated historical and cultural relationship, may be literally descriptive of one element of religious belief while conveying a materially distorted impression of the basis of that attachment to a predominantly secular audience. For example the two sentences: "Hebron is a biblical city, which Jewish people believe was promised to them by God" And

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	"Hebron is an ancient city which has been home to a Jewish community for thousands of years, and is of profound significance in Judaism, containing sites central to Jewish history and religious tradition" Are both technically accurate, while the first may convey a significantly more prejudicial impression to a secular British audience. The same principle should apply to the representation of all religions. Ofcom should therefore consider whether the BBC has provided sufficient context to enable audiences unfamiliar with a religious tradition to understand the belief or practice being described without inadvertently reducing it to caricature. Impartiality between worldviews sometimes requires translation. Literal accuracy is not necessarily sufficient where editorial choices determine which aspects of an unfamiliar worldview are presented to an audience.
Question 13: Do you agree with Ofcom's overall approach to Section Five?	Broadly, yes. However, the proposed approach does not yet adequately account for the permanent, cumulative and searchable nature of online news. In particular, further consideration should be given to how due accuracy and due impartiality are assessed across substantial bodies of reporting over time, and to what constitutes an adequate correction where inaccurate material remains permanently accessible online. These issues are expanded upon below.
Question 14: Do you agree with the proposal to replace "programme" with "online item" in these rules? If not, explain why.	Yes. The proposed terminology appropriately reflects the range of material published by the BBC online.
Question 15: Do you agree with Ofcom's proposed approach to preserving due impartiality across a series of editorially linked online items taken as a whole? If not, explain why.	The principle that due impartiality may be achieved across a series of editorially linked online items is welcome. However, the proposed approach requires greater clarity if it is to be meaningfully enforceable. If an individual item need not itself achieve due impartiality because balance may be provided elsewhere

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	within a series, it must be possible to establish whether that balance has in fact been provided. Ofcom should therefore provide guidance on what constitutes an "editorially linked" series, an "appropriate period", and "due weight". The definition of "editorially linked" should not be drawn so narrowly that systematic imbalance across repeated BBC coverage of the same major subject falls outside regulatory scrutiny merely because individual items have not been formally designated as belonging to a series. Audiences experience BBC Online output cumulatively. The regulatory framework should recognise that cumulative patterns of selection, omission, sourcing and representation can affect due impartiality even where individual items may appear compliant when considered in isolation. If cumulative output may be relied upon to establish due impartiality, cumulative output must equally be capable of establishing a failure of due impartiality.
Question 16: Are there any areas in Section 5 which you think it may be particularly helpful to supplement with guidance?	Yes. Supplementary guidance would be particularly helpful in the following areas: **Rule 5.2 – Corrections and the permanent digital record** Online material differs fundamentally from broadcast material because it may remain searchable, accessible and shareable indefinitely. Guidance should therefore clarify what constitutes an adequate correction where materially inaccurate reporting remains available online. Relevant considerations should include the seriousness of the original error, the prominence and clarity of the correction, subsequent evidence, the continuing accessibility of the original material and the likelihood that audiences encountering it subsequently may continue to be misled. Where subsequent evidence comprehensively undermines the factual basis of an item, Ofcom should consider whether correction or annotation will always be sufficient, or whether there may be circumstances in

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	which material should be substantially revised or withdrawn. **Rules 5.5–5.7 – Cumulative impartiality** Guidance should explain how due impartiality across multiple online items can be assessed in practice. Relevant considerations should include the number and prominence of items, audience reach, the range and treatment of sources, the representation of significant perspectives, and patterns of material inclusion or omission over an appropriate period. Assessment should not be limited to whether isolated items contain explicit statements from opposing parties. Persistent patterns across coverage may themselves produce a materially partial representation of a subject. **Rule 5.7 – Due weight and appropriate timeframes** Further guidance should define the factors used to determine "due weight" and an "appropriate timeframe". Without such guidance, it is difficult either to establish whether due impartiality has been achieved across BBC output or for Ofcom to assess complaints alleging systematic imbalance. **Rule 5.8 – Personal interests** Guidance should clarify the types of personal interest capable of calling due impartiality into question, including where relevant political campaigning, advocacy, organisational affiliations, family connections, previous employment or other significant relationships to the subject being reported. **Rule 5.12 – Significant views** Guidance should clarify how the BBC should identify an "appropriately wide range of significant views" and determine the weight afforded to them. Particular consideration should be given to the distinction between authority and neutrality. Governments, international organisations, NGOs, academics, campaign organisations and other institutional sources may possess expertise or authority while also having relevant interests, positions or involvement in the subject concerned.

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	Their inclusion may be entirely appropriate, but institutional status should not in itself remove the need for attribution, scrutiny or appropriate contextualisation. This is particularly important where experts or organisations claim neutrality whilst having a track record of partisan views.
Question 17: Do you have any further comments on the proposed content of Section Five?	The extension of Ofcom regulation to BBC Online presents an opportunity to address a form of partiality which can be difficult to identify through item-by-item assessment alone: cumulative editorial imbalance. Online journalism creates a permanent and searchable body of reporting through which audiences may encounter hundreds of individually produced items concerning the same major controversy. Editorial choices which appear insignificant in isolation may, when repeated consistently, create substantial patterns of omission, emphasis, sourcing or representation. Ofcom should therefore ensure that its approach allows both individual items and relevant bodies of BBC output to be examined where the substance of a complaint concerns an alleged systematic pattern. Due impartiality should not become less enforceable simply because the relevant evidence exists across fifty articles rather than within one.
Question 18: Do you agree with Ofcom's overall approach to Section Six?	
Question 19: Are there any areas in Section Six which you think it may be particularly helpful to supplement with guidance?	
Question 20: Do you have any further comments on the proposed content of Section Six?	

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Question 21: Do you have any comments on Ofcom's proposed application of the Fairness Code set out under Sections 7 and 8 of the Broadcasting Code, in relation to BBC online material?	The proposed application requires further guidance in two areas particularly relevant to modern conflict reporting: **material contextual omission, and the provenance and use of testimony obtained within coercive information environments.** **Material context and substantive fairness** The application of Practice 7.9, requiring reasonable care to ensure that material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation, is particularly welcome. There is an important distinction between providing a procedural right of reply and providing substantive fairness. An affected organisation may be offered an opportunity to respond, while the wider report nevertheless omits independently verifiable material facts necessary for audiences fairly to understand its actions or position. For example, reporting may extensively describe the effects of security measures on a civilian population while omitting material historical or contemporary security circumstances explaining why those measures were introduced or remain in place. A brief response from the authority concerned does not relieve the BBC of its own editorial responsibility to provide relevant factual context. We therefore recommend that Ofcom make clear that the presence of a right of reply does not in itself establish fairness. Practice 7.9 should require consideration of material contextual facts known or reasonably available to the BBC, irrespective of whether the affected individual or organisation has raised those facts in its response. **Conflict reporting and coercive information environments** There should be specific guidance concerning the application of Sections Seven and Eight to material obtained from territories in which journalists and civilian contributors cannot necessarily operate freely. The contemporary information environment has fundamentally changed the relationship between warfare and journalism. Images, testimony and civilian suffering can themselves acquire strategic value, while belligerents, armed groups and authoritarian authorities may seek to

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	control access to information, journalists and potential contributors. In such environments, the provenance of testimony is material. The BBC should consider what is known about how contributors were identified and selected; who facilitated journalists' access to them; whether an interested party was involved in that process; whether contributors were reasonably free to criticise all relevant actors or disclose relevant information; and whether there are reasonable grounds to believe that contributors may have been selected, briefed, coached or otherwise influenced. This does not mean that testimony obtained from coercive environments should be excluded. It means that it should not automatically be presented as equivalent to testimony obtained under conditions of journalistic freedom. Where the BBC cannot establish the independence of a contributor or the circumstances in which testimony was obtained, that limitation may itself constitute material context which should be communicated to audiences. The issue is particularly significant where testimony is used to establish contested facts. A civilian's failure to report the presence or activity of an armed actor, for example, cannot necessarily be treated as evidence of its absence where that civilian may not be free to disclose such information. The same principle applies wherever political or armed actors exercise coercive control over the information environment. **Contributor welfare, coercion and the information battlefield** Practices concerning informed consent and contributor welfare should also recognise that the publication of civilian testimony may itself interact with the conduct of a conflict. Where a belligerent can obtain strategic or propaganda value from the selection, positioning, coercion or exploitation of civilians and their suffering for international media consumption, news organisations should consider whether their reporting practices risk reinforcing the incentive for such exploitation.

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	This is especially relevant where military activity takes place within or alongside civilian populations or civilian infrastructure. The public interest may plainly justify reporting the resulting civilian suffering, but Ofcom should provide guidance requiring consideration of the conditions under which that material was produced and whether its acquisition or dissemination risks facilitating or incentivising the exploitation of civilians as part of an information strategy. **Children and vulnerable contributors** The proposed protections for children and vulnerable people require particular consideration in conflict reporting. Images and testimony from injured, bereaved or terrified children may provide legitimate evidence of the consequences of war. However, children experiencing acute trauma cannot necessarily understand the purpose, global dissemination, political significance or permanent consequences of their participation in highly contested conflict reporting. Parental consent should not automatically resolve that difficulty where the parent is operating within the same coercive environment, or where the BBC cannot establish the provenance or circumstances in which the material was obtained. Ofcom should therefore provide specific guidance concerning identifiable children in conflict material, including material obtained from third parties. Relevant considerations should include who filmed the child; who facilitated access; whether meaningful consent was possible; whether identification is necessary; whether the child is being asked to provide testimony beyond their capacity to assess; and whether publication risks contributing to the exploitation of that child's suffering by a party to the conflict, or incentivises further harm to this child or other children as part of a political media strategy. **Third-party material and provenance** Finally, these principles must apply meaningfully to material obtained from agencies, freelancers, local journalists, NGOs, social media and other third parties.

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	This is particularly important where the BBC lacks independent access to the territory concerned. Reliance on locally obtained material may be unavoidable, but publication by the BBC gives that material the credibility and global reach of the BBC platform. The BBC should therefore remain responsible for taking reasonable steps to understand the provenance of material it publishes and for informing audiences of material limitations on its ability to establish independence, consent or the circumstances in which testimony was obtained. The fact that testimony or imagery depicts genuine suffering does not establish that its production, selection or dissemination was free from coercion or manipulation. In modern conflict reporting, who is permitted to speak, who selects them, what they are permitted to say, and under what conditions their testimony reaches the BBC can be as material to fairness as the testimony itself. Ofcom's guidance should reflect this changed information environment.
Question 22: Do you have any comments on the proposal to align the proposed Procedures for investigating breaches of content standards in BBC online material with the equivalent procedures for breaches of the Broadcasting Code?	Several adaptations to the broadcasting Code procedures are necessary to reflect the particular characteristics of online journalism. First, the preservation of the evidential record should be mandatory. Paragraph 8.3 provides that Ofcom *may* require the BBC to provide the relevant online material and details of material changes made since first publication. Unlike a broadcast, however, online material can be altered repeatedly after publication and during the complaints process. The BBC should therefore be required to preserve and, where a complaint proceeds to Ofcom, provide the complete material publication and amendment history, including the content complained of as it appeared at the relevant time. Second, the recognition in paragraphs 3.2 and 5.4 that systemic problems may justify earlier intervention is welcome. Ofcom should make explicit that a potentially substantive issue may arise from an evidenced pattern across multiple items of BBC output, even where an indi-

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	vidual item considered in isolation might appear insufficiently serious to warrant investigation. This is particularly important in assessing due accuracy and due impartiality, where cumulative editorial practices can materially affect audiences' understanding. Third, the procedures should provide greater procedural equality between the BBC and complainants. Under paragraph 11.4, the BBC and relevant third parties may respond to Ofcom's Preliminary View, whereas complainants are not generally treated as third parties from whom representations will be sought. Where the BBC introduces materially new factual evidence, contextual claims or arguments during an investigation, the complainant should have an opportunity to respond before Ofcom reaches its final decision. Subject to these points, procedural alignment makes sense. However, equivalence with broadcasting should not mean simply transplanting procedures designed for fixed broadcast output onto a medium in which content is mutable, complaints may concern patterns across large bodies of material, and the evidential record can change after publication.
Question 23: Do you have any comments on our proposed interpretation of when BBC online material is “first posted”?	Ofcom should make clear that materiality may arise cumulatively. A series of amendments which might individually appear minor may, taken together, materially alter the meaning, accuracy or balance of an article. Ofcom should also distinguish between the date relevant to the complaint deadline and the version of the material relevant to the substantive complaint. Subsequent correction or amendment should not prevent Ofcom considering whether material breached the Code as originally published, particularly where the original version was available to a substantial audience. This reinforces the importance of retaining a complete amendment history, including timestamps and the substance of material changes, so that both complainants and Ofcom can establish what audiences were presented with at the relevant time.

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Question 24: Do you have any comments on the proposal to align the proposed Procedures for investigating breaches of the Fairness Code in relation to BBC online material with the equivalent procedures for breaches of the Fairness Code under sections 7 and 8 of the Broadcasting Code?	the procedures must account for the mutable nature of online publication. Ofcom should preserve and consider the version of the material complained of as it appeared at the relevant time, together with any subsequent material amendments. A subsequent amendment or correction should not extinguish a fairness complaint concerning material that had already been published and consumed by an audience. More broadly, procedural alignment should preserve meaningful opportunities for affected parties to make representations and respond to materially new evidence or arguments before a final decision is reached.
Question 25: Do you have any comments on the proposal to apply the same sanctions procedures to breaches of the Code as breaches of the Broadcasting Code by amending the existing sanctions procedures?	
Question 26: Do you have any comments on the proposed amendments to the types of sanctions which may be available to Ofcom following a breach by the BBC of content standards, or the Fairness Code in relation to BBC online material?	Ofcom's proposed ability to direct the BBC to remove and not republish material, and to require the publication of a correction, statement of findings and/or link to Ofcom's breach decision in a form and location specified by Ofcom is particularly welcome. The prominence of corrective action is particularly important in the online context. Where inaccurate or otherwise non-compliant material has been prominently published and widely disseminated, a correction which is substantially less prominent than the original material may provide an inadequate remedy. Also welcome is the recognition that repeated breaches and the BBC's recent compliance history may be relevant to the imposition of sanctions. Effective regulation should be capable of distinguishing an isolated editorial failure from repeated failures to comply with the Code.
Question 27: Do you have any comments on our impact assessment, rights assessment, or equality impact	

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assessment? Please provide any information or evidence in support of your views.	
Question 28: Do you agree that the proposed Code and procedures are likely to have positive effects on opportunities to use Welsh and treating Welsh no less favourably than English? If you disagree, please explain why, including how you consider they could be revised to have positive effects or more positive effects, or no adverse effects or fewer adverse effects on opportunities to use Welsh and treating Welsh no less favourably than English.	