

OFCOM BROADCAST AND ON DEMAND BULLETIN

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Introduction

Under the Communications Act 2003 ("the Act"), Ofcom has a duty to set standards for broadcast content to secure the standards objectives¹. Ofcom also has a duty to ensure that On Demand Programme Services ("ODPS") comply with certain standards requirements set out in the Act².

Ofcom reflects these requirements in its codes and rules. The Broadcast and On Demand Bulletin reports on the outcome of Ofcom's investigations into alleged breaches of its codes and rules, as well as conditions with which broadcasters licensed by Ofcom are required to comply. The codes and rules include:

- a) [Ofcom's Broadcasting Code](#) ("the Code") for content broadcast on television and radio services licensed by Ofcom, and for content on the BBC's licence fee funded television, radio and on demand services.
- b) the [Code on the Scheduling of Television Advertising](#) ("COSTA"), containing rules on how much advertising and teleshopping may be scheduled on commercial television, how many breaks are allowed and when they may be taken.
- c) certain sections of the [BCAP Code: the UK Code of Broadcast Advertising](#), for which Ofcom retains regulatory responsibility for television and radio services. These include:
 - the prohibition on 'political' advertising;
 - 'participation TV' advertising, e.g. long-form advertising predicated on premium rate telephone services – notably chat (including 'adult' chat), 'psychic' readings and dedicated quiz TV (Call TV quiz services); and
 - gambling, dating and 'message board' material where these are broadcast as advertising³.
- d) other conditions with which Ofcom licensed services must comply, such as requirements to pay fees and submit information required for Ofcom to carry out its statutory duties. Further information can be found on Ofcom's website for [television](#) and [radio](#) licences.
- e) Ofcom's [Statutory Rules and Non-Binding Guidance for Providers of On-Demand Programme Services](#) for editorial content on ODPS (apart from BBC ODPS). Ofcom considers sanctions for advertising content on ODPS referred to it by the Advertising Standards Authority ("ASA"), the co-regulator of ODPS for advertising, or may do so as a concurrent regulator.

[Other codes and requirements](#) may also apply to broadcasters, depending on their circumstances. These include the requirements in the BBC Agreement, the Code on Television Access Services (which sets out how much subtitling, signing and audio description relevant licensees must provide), the Code on Electronic Programme Guides, the Code on Listed Events, and the Cross Promotion Code.

¹ The relevant legislation is set out in detail in Annex 1 of the Code.

² The relevant legislation can be found at Part 4A of the Act.

³ BCAP and ASA continue to regulate conventional teleshopping content and spot advertising for these types of services where it is permitted. Ofcom remains responsible for statutory sanctions in all advertising cases.

It is Ofcom's policy to describe fully television, radio and on demand content. Some of the language and descriptions used in Ofcom's Broadcast and On Demand Bulletin may therefore cause offence.

Broadcast Standards cases

In Breach

Drivetime

Gravity FM, 27 March 2017, 15:00

Introduction

Gravity FM is a community radio station that provides a service for people living in Grantham. The licence for the service is held by Gravity FM CIC ("GFM" or "the Licensee").

Drivetime is a late afternoon radio show that broadcasts on weekdays between 15:00 and 18:00. The programme features a mix of travel updates, interviews and music.

We received a complaint about the broadcast of DMX's song, "X Gon' Give It To Ya". The song contained eight instances of "fuck", "fucking" or "motherfucker", and seven instances of "nigger" or "niggers".

Ofcom considered the material raised issues under the following rule of the Code which states:

Rule 1.14: "The most offensive language must not be broadcast...when children are particularly likely to be listening".

Ofcom requested comments from the Licensee on how the above material complied with this Rule.

Response

The Licensee said it "understood this matter to be resolved" and referred to correspondence relating to a previous investigation by Ofcom¹.

Decision

Reflecting our duties under the Communications Act 2003², Section One of the Code requires that people under eighteen are protected from unsuitable material in programmes.

Rule 1.14 states that the most offensive language must not be broadcast when children are particularly likely to be listening.

¹ See the Decision concerning Gravity FM in Ofcom Broadcast and On Demand Bulletin 329, at: https://www.ofcom.org.uk/_data/assets/pdf_file/0017/102086/Issue-329-of-Ofcoms-Broadcast-and-On-Demand-Bulletin.pdf

² <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

Ofcom's 2016 research on offensive language³ clearly indicates that the words "fuck" and "nigger", and variations of them, are considered by audiences to be amongst the most offensive language.

The Code states that the phrase, "when children are particularly likely to be listening", refers to, "the school run and breakfast time, but might include other times". Ofcom's guidance on offensive language on radio⁴ notes that:

"For the purpose of determining when children are particularly likely to be listening, Ofcom will take account of all relevant information available to it. However, based on Ofcom's analysis of audience listening data, and previous Ofcom decisions, radio broadcasters should have particular regard to broadcast content...between 15:00 and 19:00 Monday to Friday during term-time...".

In this case 15 instances of "fuck", "fucking", "motherfucker", "nigger" or "niggers" were broadcast at 16:09 on a Friday afternoon.

Although GFM acknowledged that this song had been broadcast in error and the Licensee had taken steps to prevent recurrence, the most offensive language was broadcast when children were particularly likely to be listening.

This material was in breach of Rule 1.14.

Breach of Rule 1.14

³ On 30 September 2016, Ofcom published updated research in this area – *Attitudes to potentially offensive language and gestures on television and on radio* – which is available at: https://www.ofcom.org.uk/_data/assets/pdf_file/0022/91624/OfcomOffensiveLanguage.pdf

⁴ <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/offensive-language.pdf>

In Breach

Ramsay's Hotel Hell **Channel 4, 28 April 2017, 11.00**

Introduction

Ramsay's Hotel Hell is a series which featured celebrity chef Gordon Ramsay visiting failing hotels across the USA to try and rescue them.

Ofcom received 19 complaints about one episode which contained six uses of the word "fuck".

We considered the material raised issues warranting investigation under Rule 1.14 of the Code which states:

"The most offensive language must not be broadcast before the watershed...".

Ofcom provided Channel 4 with an opportunity to comment on its Preliminary View that the programme was in breach of Rule 1.14.

Response

Channel 4 said that the breach was caused by a "rare human error" in which the incorrect version of the programme was mistakenly put into the schedule. Once the error was noticed, Channel 4 promptly took the programme off the air and a standby programme was substituted. The Licensee said that the continuity announcer immediately apologised for the inappropriate language. Channel 4 assured Ofcom that it had instituted additional manual checks by its Programme Management Department and was reviewing its processes to ensure that an incident of this nature did not reoccur.

Decision

Reflecting our duties under the Communications Act 2003¹, Section One of the Code requires that people under eighteen are protected from unsuitable material in programmes.

Rule 1.14 states that the most offensive language must not be broadcast before the watershed. Ofcom research² on offensive language clearly states that the word "fuck" is considered by audiences to be among the most offensive language.

The six uses of the word "fuck" just after 11:00 were a clear example of the most offensive language being broadcast before the watershed.

¹ <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

² Attitudes to potentially offensive language and gestures on TV and radio, September 2016. See page 6 of the Quick Reference Guide:

https://www.ofcom.org.uk/_data/assets/pdf_file/0023/91625/OfcomQRG-AOC.pdf

See also the main report:

https://www.ofcom.org.uk/_data/assets/pdf_file/0022/91624/OfcomOffensiveLanguage.pdf

We took account of the action taken by the Licensee in correcting and apologising for the error, and the steps it has taken in regards to its internal process and procedures to ensure that an incident of this nature did not reoccur. Nonetheless, the broadcast of this material was a clear breach of Rule 1.14.

Breach of Rule 1.14

In Breach

Fuck That's Delicious ***Viceland, 26 February 2017, 13:00***

Introduction

Viceland is a lifestyle and reality channel available on satellite platforms. The licence for Viceland is held by Vice UK TV Limited ("Vice" or "the Licensee").

Fuck That's Delicious is a documentary series presented by the rapper and former chef, Action Bronson, examining food culture in the USA. This episode featured restaurants and food outlets in New York. The series was originally shown post watershed. When this daytime broadcast was shown, the programme title was pixelated as follows: "**** *That's Delicious*".

A complainant alerted Ofcom to repeated and frequent use of strong language in the programme, adding that despite attempts by the Licensee to mask some language with 'bleeping', it was still often possible to understand what was being said.

There was one instance in the programme when the following language was clearly audible without any masking:

"Fucking throw shrimp in anything and you like it".

The programme also included approximately 25 instances of masked offensive language being used by the presenter or other contributors.

For example, when describing his experiences of playing baseball the presenter described an airplane overhead as follows:

"...[bleeped] mesmerised...look at that big [muted] piece of metal flying through the sky!"

Later in the programme whilst sampling food with another contributor, the presenter said:

"You know when you can't get that [muted] piece you want...it makes it taste so [bleeped] crazy".

In addition, the opening title sequence of the programme graphic contained the word "Fuck" which was partially legible despite pixelation.

We considered that this material raised issues under the following Code rules:

- Rule 1.14: The most offensive language must not be broadcast before the watershed...or when content is likely to be accessed by children".
- Rule 1.16: "Offensive language must not be broadcast before the watershed unless it is justified by the context. In any event, frequent use of such language must be avoided before the watershed".

Ofcom requested comments from the Licensee on how the programme complied with these rules.

Response

Vice regretted there had been a complaint about the programme and said that it took its compliance obligations very seriously and had conducted a thorough investigation. As a new station (launched in September 2016) it said its "manual and technical compliance processes used in complying the channel were implemented relatively recently".

The Licensee said it had used a combination of both bleeping and muting to address the repeated use of potentially offensive language. It added that it was aware of Ofcom's September 2016 research¹, which states: "repeated bleeps in a Programme can draw attention to the underlying strong language, especially for children, by creating an audible sign-post and can, in this way, potentially amount to a breach of the Code".

The Licensee said that as a result of this incident it had considered the "effectiveness of the masking techniques [it had] employed, and whether bleeping or muting completely obscures the underlying word". It added that "one of the words ("fucking") does not appear to have been effectively muted and that this word may have been distinguishable to the viewer". Vice said "there was a human error and the member of the operations team who was editing the programme did not mute this word effectively".

Since the programme had been complied in October 2016, the Licensee said it had introduced a new "more robust" compliance process, which in its view would "prevent the issues that has arisen with the Programme from happening again".

Finally, Vice referred to the masking of the word "fuck" in the original programme title "Fuck That's Delicious" in the opening graphic sequence, by saying the "technical approach taken in obscuring that word could have been improved". It added that the pixelation tool used during editing would in future be adjusted to create "smaller pixels with a denser cluster" to minimise the risk of the word being distinguishable". The Licensee added that the audible instance of "fucking" had also been bleeped for future broadcast. It added that as an "additional safeguard" the series *Fuck That's Delicious* would no longer be scheduled "on weekends before 7pm".

Decision

Reflecting our duties under the Communications Act 2003², Section One of the Code requires that people under eighteen are protected from unsuitable material in programmes.

Rule 1.14

This rule states that the most offensive language must not be broadcast before the watershed on television.

The programme included one clear use of the word "fucking" which had not been masked.

¹ Attitudes to potentially offensive language and gestures on TV and radio, September 2016:
https://www.ofcom.org.uk/_data/assets/pdf_file/0022/91624/OfcomOffensiveLanguage.pdf

² <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

In addition, despite attempts by the Licensee to blur the word "fuck" in the opening titles of the programme, Ofcom took the view that this word was still reasonably legible.

Ofcom research on offensive language indicates that the word "fuck" and variations of it are considered by audiences to be among the most offensive language and should not be broadcast before the watershed.

Ofcom took into account the steps taken by Vice to mask the single instance of "fucking" for future broadcasts. Nonetheless, our Decision was that this was a clear breach of Rule 1.14.

Rule 1.16

This rule states that offensive language must not be broadcast before the watershed unless it is justified by the context. In any event, frequent use of such language must be avoided before the watershed.

Consistent with the broadcaster's and audience's right to freedom of expression, there is no prohibition on mild or moderately offensive language being broadcast before the watershed, as long as it is justified by the context.

The programme included approximately 25 instances of bleeped or muted offensive language. We considered the number of masked words would have constituted "frequent use" in the context of Rule 1.16.

We took into account the Licensee's comments that an error by a member of the operations teams had resulted in one instance of "fucking" being distinguishable to the viewer. We also noted it had used a combination of masking techniques in an effort to reduce offence. However, recent Ofcom research³ states: "repeated bleeps in a programme can draw attention to the underlying strong language, especially for children, by creating an audible sign-post and can, in this way, potentially amount to a breach of the Code". Therefore, the numerous instances of muting may not have sufficiently reduced the offence nor addressed the programme's unsuitability for children.

We went on to consider whether the multiple and frequent uses of offensive language in this case were justified by the context.

We acknowledged that this was not a programme aimed at children or that would particularly appeal to them. However, the scheduling of the programme, at 13:00 on a Sunday meant that there could have been children in the audience, some of them watching without adult supervision.

We took into account the steps has taken to mask the word "fuck" in the original programme titles for future broadcasts. Nevertheless, our Decision is that this was also a clear breach of Rule 1.16.

Breaches of Rules 1.14 and 1.16

³ <https://www.ofcom.org.uk/about-ofcom/latest/media/media-releases/2016/attitudes-to-offensive-language>

In Breach

Sikh Channel News

Sikh Channel, 18 February 2017, 11:00

Introduction

The Sikh Channel is a faith and cultural television channel for the UK Sikh community, broadcasting in Punjabi and English. The licence for this service is held by The Sikh Channel Community Broadcasting Company Limited ("the Sikh Channel" or "the Licensee").

This edition of *Sikh Channel News* included a news report about a five year old boy who was attacked and killed by wild dogs in India. The material was translated from Punjabi to English by Ofcom.

Ofcom received a complaint that the news item, which was two minutes and 32 seconds in duration, included repeated footage of a dead child's naked body which was not suitable for broadcast.

The report began with footage, lasting three seconds, of a child's body shown from the waist up and wearing a t-shirt. Following an introduction by the news presenter, a montage of footage of people mourning the child's death was shown which included further footage of the child's body, this time naked from the waist down with a pair of shorts around the ankles. A bloodied leg wound was also visible. This footage was broadcast again later in the report. None of the clips were blurred.

Ofcom considered the programme raised potential issues under the following Code rules:

- Rule 1.3: "Children must be protected by appropriate scheduling from material that is unsuitable for them".
- Rule 2.3: "In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context...Such material may include, but is not limited to, offensive language, violence, sex, sexual violence, humiliation, distress, violation of human dignity, discriminatory treatment or language (for example on the grounds of age, disability, gender, race, religion, beliefs and sexual orientation). Appropriate information should also be broadcast where it would assist in avoiding or minimising offence".

Ofcom requested the Licensee's comments on how the news item complied with these rules.

Response

The Sikh Channel apologised for any offence or distress caused by the inclusion of the material. It explained that there had been many reports in India and in the international news about the prevalence of injuries and deaths caused by attacks by wild dog attacks in India. The Licensee said that owing to the public interest and the serious nature of this incident, the report was included in its daily news bulletin.

The Licensee said that the footage of the victim in the programme had only amounted to nine seconds in total and that the majority of the report had consisted of appeals from villagers to tackle the issue of wild dog attacks.

The Licensee explained that it only became aware of the images following correspondence from Ofcom. It said that, under normal circumstances, images of injuries or dead bodies would be blurred by the production company. In this case, however, the inclusion of the unblurred images of the child were included in error, and pre-transmission checks on the material were not conducted "thoroughly" so the images of the child were "regrettably missed".

The Licensee explained that as a result of this "error", it had employed a member of staff to monitor content daily and had put new procedures in place. The Licensee confirmed that, when necessary, graphic scenes would continue to be obscured and that, in addition, there would be a written warning shown during the opening credits and a verbal warning given prior to the broadcast of such content.

The Licensee considered that the inclusion of graphic footage was "typical" of Indian news broadcasters and broadcast daily. Sikh Channel News was "almost exclusively" watched by UK viewers composed of a "mature audience of Indian descent" who would have understood and accepted the "cultural" context of the material. While children must be protected from unsuitable content, the Licensee said it was unlikely that the broadcast was watched by any children and that the cultural nuances of the adult audience should be considered. However, the Licensee concluded that the inclusion of the image of the dead child, with the face unblurred, did not comply with generally accepted standards and should not have been broadcast before the watershed.

Decision

Reflecting our duties under the Communications Act 2003¹, Section One of the Code requires that people under eighteen are protected from unsuitable material in programmes. Section Two of the Code requires that "generally accepted standards" are applied so as to provide adequate protection for members of the public from the inclusion of harmful or offensive material.

Ofcom has taken account of the audience's and the broadcaster's right to freedom of expression set out in Article 10 of the European Convention on Human Rights. Ofcom must seek an appropriate balance between ensuring members of the public are adequately protected from material which may be considered offensive on one hand and the right to freedom of expression on the other.

Rule 1.3

Rule 1.3 states that children must be protected by appropriate scheduling from material that is unsuitable for them. Appropriate scheduling is judged by a number of factors including: the nature of the content; time of broadcast; and the likely audience.

Ofcom first considered whether this material was unsuitable for children.

¹<http://www.legislation.gov.uk/ukpga/2003/21/section/319>

The Licensee stated that the image of the child's body was limited to nine seconds in the news report. However, we disagreed. The footage of the child's body amounted to 17 seconds within the two minute and 30 second news report. The first image of the child's body shown from the waist up and wearing a t-shirt lasted three seconds. The second image of the dead child's partially clothed body and his leg wound was broadcast for seven seconds and then repeated. Ofcom considered that the footage of the child's body and the fatal wound, shown repeatedly, was prolonged and would have been distressing to viewers, particularly given the young age of the victim. In our view, therefore, these images would have been unsuitable for children.

Ofcom went on to consider whether this material was appropriately scheduled.

We recognised that the Sikh Channel is a television channel not aimed at children and given the nature of the channel the likely number of children in the audience overall would have been limited. Nonetheless,, this material was broadcast on a Saturday morning and so Ofcom had concerns that children could have been in the audience.

Ofcom's guidance on Section One of the Code² accepts that in the public interest, and in certain circumstances, news programmes may show stronger material pre-watershed than that of other programmes, as long as advance information is provided to viewers (and particularly parents and carers). However, in this case, no such advanced information about the distressing nature of the footage was provided to viewers (and particularly parents and carers) prior to the content being broadcast.

We acknowledged that there may have been a public interest in reporting on the prevalence of wild dog attacks in India, however, for the reasons above, the distressing images were stronger than expected in a pre-watershed programme. While we acknowledged the Licensee's submission that the unobscured footage was broadcast in error, and the steps taken subsequently to improve its compliance in future, Ofcom considered that the programme contained unsuitable images and was inappropriately scheduled.

Our Decision was that this was a breach of Rule 1.3.

Rule 2.3

Under Rule 2.3, broadcasters must ensure that potentially offensive material is justified by context. Context is assessed by reference to a range of factors including the editorial content of the programme, the service in which the material is broadcast, the time of broadcast and the likely expectation of the audience.

We first considered whether the footage included in the news item had the potential to cause offence.

As detailed above, the news report included unblurred footage of the body of a child who had been attacked and killed by wild dogs which would have been distressing to viewers. In our view, the impact of the footage was heightened as the close-up shots, taken shortly after the attack, were prolonged and shown repeatedly, and were shown with footage of people mourning. We therefore considered the material was capable of causing offence.

Ofcom then considered whether the broadcast of these images was justified by the context.

² https://www.ofcom.org.uk/_data/assets/pdf_file/0017/24704/section1.pdf

We acknowledged that the Sikh Channel is targeted at the UK Sikh community and at an adult audience. In line with freedom of expression, it is important for news programmes to choose how to report freely on events which they consider to be in the public interest. However, broadcasters must comply with the Code and, in particular, must take into account that viewers have different expectations before and after the watershed.

Ofcom acknowledged that adult viewers expect news broadcasters to report on challenging stories before the watershed and that the likely audience expectations of content included in the Sikh Channel new bulletins may differ to news items on mainstream channels. However, broadcasters do not have unlimited latitude. Further, the likely expectations of the audience for a UK licensed service are that the broadcaster applies generally accepted standards in a UK context. Therefore, broadcasters must comply with the Code and generally accepted standards. In our opinion the graphic and distressing footage of the child's body and injuries shown without blurring were likely to have exceeded the audience's expectations.

Ofcom was concerned that there was no warning or attempt to obscure the distressing footage. As a result, viewers had no advance information about the broadcast of this material. We took into account that the Licensee acknowledged that the unblurred footage of the child's body had been broadcast in error and that it had taken remedial steps ensure future compliance with the Code. Ofcom reminds broadcasters that under their Ofcom licences, the Licensee is ultimately responsible for the compliance of the content it broadcasts.

Ofcom's Decision is that the inclusion of the images of the child's body and injuries exceeded generally accepted standards and therefore, the programme was in breach of Rule 2.3 of the Code.

Breaches of Rules 1.3 and 2.3

In Breach

Shaun Tilley featuring 70s, 80s and 90s Heaven *Cheesy FM, 9 February 2017, 18:26*

Introduction

Cheesy FM is a local commercial radio station broadcasting via DAB in the North West of England. The licence for Cheesy FM is held by Cheesy FM Limited ("Cheesy FM Ltd" or "the Licensee").

Ofcom received a complaint about the broadcast of a music track, "Boom Boom Pow", by The Black Eyed Peas at approximately 18:25. It included eight instances of the word "shit" or "shittin".

We considered this raised potential issues under Rule 1.16 of the Code, which states:

"Offensive language must not be broadcast...when children are particularly likely to be listening...unless it is justified by the context...".

Ofcom requested comments from the Licensee on how the programme complied with this rule.

Response

Cheesy FM said it deeply regretted the accidental broadcast of the track. It explained that "the offensive version of the song was inadvertently loaded onto [its] playout system alongside the 'clean' version...". It said this version of the track had "never been played before this incident".

The Licensee said the track had been deleted from its system and that it had "conducted a thorough review of all music". Additionally, it said a strict double-check system had now been introduced to prevent similar repeats of the incident in future.

Decision

Reflecting our duties under the Communications Act 2003¹, Section One of the Code requires that people under eighteen are protected from unsuitable material in programmes.

Rule 1.16 states that offensive language must not be broadcast when children are particularly likely to be listening unless it is justified by the context.

In this case, variations of the word "shit" were used eight times in the track. Our research on offensive language on television and radio² indicates that audiences consider the use of the

¹ <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

² Attitudes to potentially offensive language and gestures on TV and radio, September 2016. See page 7 of the Quick Reference Guide:
https://www.ofcom.org.uk/_data/assets/pdf_file/0023/91625/OfcomQRG-AOC.pdf

word "shit" to be potentially unacceptable when children are particularly likely to be listening to the radio, particularly if it is repeated.

Ofcom's published Guidance on offensive language on radio³ states that the period "when children are particularly likely to be listening" includes the times "between...15:00 and 19:00 from Monday to Friday during term time". The track in this case was therefore broadcast at a time when children were particularly likely to be listening.

We then considered whether the language was justified by the context. Context is assessed by a range of factors including: editorial content; the degree of offence; the effect of the material on listeners who might come across it unawares; warnings; and likely audience expectations.

Cheesy FM is aimed at a family audience. The track was played immediately after the song "Supercalifragilisticexpialidocious" from the children's film *Mary Poppins*, which could have appealed to a younger audience.

We acknowledged Cheesy FM's submission that the offensive language was broadcast in error. We also took into account the steps the Licensee said it had taken to prevent similar incidents being repeated in future. However, our Decision was that the broadcast of this material was in breach of Rule 1.16 of the Code.

Breach of Rule 1.16

See also the main report:

https://www.ofcom.org.uk/_data/assets/pdf_file/0022/91624/OfcomOffensiveLanguage.pdf

³ Ofcom Guidance on offensive language on radio:

https://www.ofcom.org.uk/_data/assets/pdf_file/0014/40541/offensive-language.pdf

In Breach

Martin Lowes

Capital FM North East, 27 March 2017, 17:30

Introduction

Capital FM North East is a regional radio station and part of the Capital radio network. The licence for Capital FM North East is held by Global Radio Limited ("the Licensee").

Martin Lowes broadcasts 'contemporary hit music' between 16:00 and 19:00 on weekdays, and between 12:00 and 16:00 on Saturdays.

Ofcom received a complaint that between 17:30 and 18:00 the programme featured a discussion about sex in public places that was inappropriate for the time of day.

The presenter asked listeners if they had seen CCTV footage released from behind a nightclub, describing it as a "*hotspot for people...to seal the deal*". He added that he was "*all for risky business...the more risky the better*". He told how he and his partner had "*sealed the deal*" in a public spa. He then encouraged listeners to call or text and tell him the places they thought looked like "*a good spot*" and "*the most extravagant place you and your other half got down to business*".

Between music tracks, the presenter asked for more contributions from listeners:

- "[tell me] *the strangest or most extravagant place that you have sealed the deal*";
- "*I want to join the mile-high club...maybe you've actually done it there...let us know how you got on*"; and
- "*Where's the weirdest place that you have 'sealed the deal'?*".

In total, contributions from ten different listeners were aired, in which they told of the places they had "sealed the deal". For example:

"The local rugby pitch and we did it over the try lines and my boyfriend then could tell his mates that he had scored".

Before moving on from the topic, the presenter spoke to a caller who said he was part of "*the mile-high club*" and had used a blanket for "*other intentions*" than sleep.

The discussion lasted in total nearly five minutes across the 30-minute segment.

We considered this raised potential issues under the following rule of the Code:

Rule 1.3: "Children must also be protected by appropriate scheduling from material that is unsuitable for them..."

Ofcom requested comments from the Licensee on how the programme complied with this rule.

Response

The Licensee said that the material was broadcast between 17:30 and 18:00 and it was aware of Ofcom's research that this is a time when children were particularly likely to be listening. It said the presenter had avoided explicit language and description. It added that there was no direct reference to sex and that each bit of material was relatively brief and mild in content, and unlikely to have been understood by younger children. However, it acknowledged that the subject matter, and the repeated euphemisms may not have been suitable for some age groups.

The Licensee said that senior management had identified the content shortly after broadcast and fully briefed the presenter on the need for extreme care when dealing with such material. In addition, the entire programming team had since received refresher training on the Code.

Decision

Reflecting our duties under the Communications Act 2003¹, Section One of the Code requires that people under eighteen are protected from unsuitable material in programmes.

Ofcom has taken account of the audience's and broadcaster's right to freedom of expression set out in Article 10 of the European Convention on Human Rights.

Rule 1.3 states that children must be protected by appropriate scheduling from material that is unsuitable for them. Appropriate scheduling is judged by a number of factors including: the nature of the content; the time of broadcast; and likely audience expectations.

Ofcom first considered whether the material in this case was unsuitable for children.

The presenter actively encouraged listeners to call in and share their personal experiences of having sex in public places, which several then did, providing detail of what had happened.

The content rested heavily on euphemisms, which we accepted would have made it less likely that some younger children would have understood the discussion. However, in our view, the overall tone and cumulative effect of the language used would have increased the possibility that children in the audience would have understood the theme. We also considered that older children were likely to have understood the sexualised nature of the discussion.

We did not consider this was an appropriate topic of discussion for younger listeners and in our view, it was unsuitable for children.

Ofcom next considered whether this material was appropriately scheduled.

The item was broadcast between 17:30 and 18:00 during term time, when children were particularly likely to be listening, with no prior warning for listeners about what was going to be discussed.

¹<http://www.legislation.gov.uk/ukpga/2003/21/section/319>

In our view, parents and carers were unlikely to have expected this type of discussion broadcast at this time.

Ofcom therefore considered that the material was inappropriately scheduled and breached Rule 1.3.

Breach of Rule 1.3

In Breach

Sam Rocks Rugby

Sam FM (Bristol), 26 February 2017, 12:00

Introduction

Sam FM (Bristol) is a local commercial station providing a music and news service for the over-35s in and around Bristol. The licence for Sam FM (Bristol) is held by Celador Radio Ltd ("Celador" or "the Licensee").

Sam Rocks Rugby intersperses local live rugby coverage with rock music and is sponsored by the car dealership, City Motors.

Ofcom received a complaint that comments concerning the Renault Twizy, made by match commentators, comprised "a 30-minute advert during the first half of the game". Their conversation included the following:

Presenter: *"It was also noted, James, that you didn't require a lift in the City Motors' Twizy, which we've been driving around in this week".*

Commentator: *"No. I don't know whether I'd fit in the front seat, never mind the back seat! Is it a good drive?"*

Presenter: *"It is very exciting".*

Commentator: *"Is it electric?"*

Presenter: *"It is fully electric, 100% electric. No emissions, it's all green. You don't even need any tax. And I should draw to the attention of our listeners that I drove it around and survived, so... and that says more about my driving than it does about the car, I think!"*

Commentator: *"Top speed?"*

Presenter: *"Top speed? 50 miles an hour".*

Commentator: *"That's all you need, isn't it?"*

Presenter: *"Absolutely, I was going down The Portbury Hundred towards Portishead with some pace, a little, last week or so... As it comes back to the action just in front of us here!"*

We considered this raised potential issues under the following Code rule:

Rule 10.1 "Programming that is subject to, or associated with, a commercial arrangement must be appropriately signalled, so as to ensure that the commercial arrangement is transparent to listeners".

Ofcom requested comments from the Licensee on how the above material complied with this rule.

Response

Celador provided details of two commercial arrangements Sam FM (Bristol) had in place with City Motors, which concerned:

- the car dealership's sponsorship of *Sam Rocks Rugby*, from 26 February 2017; and
- the broadcast of a regular pre-recorded trail of City Motors' forthcoming sponsorship of *Sam Rocks Rugby*, which ran from 19 to 25 February 2017. This included the on-air promotion of the car dealership's Renault Twizy, used by the presenter in his daily search for prizes, for a competition run on the station's website.

The Licensee considered it had clearly signalled that *Sam Rocks Rugby* was sponsored by City Motors at the beginning and end of each show segment, but added that, "with this type of live sports broadcast the level of sponsorship clarity is, at some points, dependent on when a listener tunes in". It considered this was, "in this instance...exaggerated by the action on the pitch, which [broke] up the conversation between the [commentators]".

Celador said "a guest commentator filled a gap in the on-field action by starting a conversation [about] a car that had been supplied by the sponsor earlier in the week for an on-air promotion". It considered "the guest's questioning unintentionally [led] the presenter to further detail the sponsor's product which, on this occasion, was a lapse in editorial judgment under the pressure of a live broadcast by the presenter".

The Licensee clarified that "the conversation was not intended to be promotional for the sponsor and was not part of any commercial arrangement with City Motors". It added that it had "immediately made changes to the production of the show to ensure clearer signalling of the show sponsorship [was] present at more regular intervals" and noted that "further training sessions on the broadcasting code [would] be run with all presenters and producers".

In response to Ofcom's Preliminary View, Celador apologised for its lapse in editorial judgement and confirmed that it had "taken steps to ensure that this isolated mistake is not repeated".

Decision

Reflecting our duties under the Communications Act 2003¹, Section Ten of the Code requires the transparency of commercial communications on radio as a means to secure consumer protection.

The Code does not prohibit radio broadcasters discussing and promoting products and services in programming. However, Rule 10.1 of the Code requires that programming subject to, or associated with, a commercial arrangement must be appropriately signalled, so as to ensure the commercial arrangement is transparent to listeners.

¹ <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

Ofcom's guidance to Rule 10.1 clarifies the meaning of programming "associated with" a commercial arrangement as "broadcast material that is related to that arrangement but the content of which has not necessarily formed part of it".

In this instance, there were two commercial arrangements in place between the Licensee and City Motors that resulted in the discussion between the presenter and the guest commentator about the Renault Twizy. The discussion was closely associated with these commercial arrangements and would not have been broadcast in their absence. As no reference was made during this conversation to any commercial arrangement with City Motors, some listeners may have been unaware that the broadcast material had resulted from them.

Programming associated with a commercial arrangement was not appropriately signalled, in breach of Rule 10.1.

We took into account Celador's decision to signal more regularly City Motors' sponsorship of *Sam Rocks Rugby*. However, broadcasters should note that, where specific content is associated with a commercial arrangement, as in this case, signalling should occur in or around that material.

Breach of Rule 10.1

In Breach

Jail Chittian

Akaal Channel, 14 November 2016, 21:04

Health Show

Akaal Channel, 14 November 2016, 21:38

Introduction

Akaal Channel is a general entertainment channel broadcast in English and Punjabi, serving the Sikh Community in the UK and Europe. The licence for the service is held by Akaal Channel Limited ("ACL" or "the Licensee").

During routine monitoring Ofcom identified the following programmes, which featured a mix of English and Punjabi.

Jail Chittian

This programme, broadcast in Punjabi, was the third part of a series focusing on the Life of Randhir Singh, who spent 16 years in prison for his role in the Ghadar Mutiny¹. 'Jail Chittian' (in English, 'Letters from Prison') is the title of one of his numerous books. Near the end of the programme, the following message (in English) was scrolled in a banner, towards the bottom of the screen:

"Jail Chittian is available in Punjabi, Hindi or English. Please contact Bhai Sahgib Randhir Singh Trust UK Web: [web address] Email: [email address] Tel: [number] Ebooks are also available via our website or from iBooks, Amazon Kindle or Kobo. Audiobooks are available via soundcloud.com".

We requested information from the Licensee about any commercial arrangements associated with the references to the book, 'Jail Chittian'. Based on the information provided, Ofcom considered that the material raised issues under the following Code rules:

- Rule 9.4 "Products, services and trade marks must not be promoted in programming".
- Rule 9.5 "No undue prominence may be given in programming to a product, service or trade mark. Undue prominence may result from:
- the presence of, or reference to, a product, service or trade mark in programming where there is no editorial justification; or
 - the manner in which a product, service or trade mark appears or is referred to in programming".

Ofcom requested comments from the Licensee on how the programme complied with these rules.

¹ The Ghadar Mutiny was a plan by Indian nationalists to start an uprising against the British Indian Army (in February 1915) and bring about the end of British Rule in India.

Health Show

This programme was broadcast mainly in English, with some Punjabi. The presenter, Manjit Kaur, asked, "how...we jumpstart our body" and advocated that her "patients" use her "nutritional support", which included various "pinniya"².

During the programme, the presenter made the following references to her business and products:

"Let's get you jump-started in my show tonight. So, my clinic number is [phone number]. Clinic – the email ID is [email address]. Pinniya – so many formulas have been made, nothing what people might have seen many years ago, in some other shows, on other channels. With Akaal Channel I have launched such a wonderful range of pinniya, right from blood pressure to blood sugar, and cholesterol and brain food, and bowel support pinniya, and detox pinniya, liver flush winter warmer pinniya, road runner pinniya, and we also launched the gall stone pinniya, in which we give you the specific things to help break up the gall stones, with herbs – obviously, some things you need to have, like a masala, to balance the whole condition. Winter warming pinniya – great because they make you feel warm, you want to get up and go, you see that sizzling thing. I have a one to one and half pinniya and every third day I need to have another one, just to get that warming feeling – not having tea or coffee, but having other choices for drinks, we'll discuss today. Obviously, you know, the road runner pinniya are amazing. They are for truckers, they are for drivers, the people who are doing night shift, the people who are doing night work, the people who are cabbie drivers at night, or they are very good for people who just have such a sluggish system that the moment they have breakfast, by ten o'clock they feel tired, their blood sugar levels have dropped, by the moment they have had lunch, and a jacket potato and bread, they are nodding off at the work table. So, you know, the road runner pinniya, they're to get you going, but not suitable for blood pressure patients. See the scroll at the bottom. Detox pinniya offer is not available anymore, so maybe some other time, but definitely it was on offer for the most of desired pinniya for the period of September-October".

"Sprouting the dhal through the sprouters I sell are amazing. If you've never sprouted a dhal, you've not had a high protein dhal that will never give you gas ... the sprouted dhal is so great and having a sprouter is the best...garden you can have in your kitchen, 365 days of the year – rain, shine, snow, that kitchen, garden kitchen, is so active, the growing, all the little lentils, pulses and seeds in your sprouter. I've only got four sprouters for this year left on a special price, call me on [phone number] to purchase these sprouters. We'll not be purchasing the next shipment 'til next year".

"Liver detox, I've told you, is so important: liver detox pinniya laddu, liver support pinniya laddu, they're at £18 a kg – amazing products and...you don't have to [pop] pills and capsules. These are the most beautiful extracts that I've put in there to support in the whole combination of my pinniya. Again, pinniya can be purchased on [phone number]. We've put the disclaimer but people are still confused – where do we get the pinniya, we

² Pinniya are a type of Punjabi snack/sweet, traditionally eaten in winter.

don't know how to go online? But pinniya can be purchased over that number, [phone number]".

"We are so beautifully blessed that we can be at the Gurdwara seven days a week and connect with our community, and get ourselves away from depression. Get yourself...get that feel good factor. I do antidepressant products, I do sleep products, I do relaxing drops that make you relax, that, even the first dilemma at work, you will feel chilled, and my own anti-stress extracts are wonderful. Take the chill, take the ESR, take the ESA, take the night charge, take the day charge, it really gives you that buzz".

"With minutes and seconds running down into the show, I'm in the last quarter minute of the show. I hope that somehow today I have instilled some good information to you – something about the pinniya – order them on [phone number], email [email address], telephone lines open from 8AM to 8PM only Monday to Saturday. Clinics based in Iver, in Birmingham, in Hull, in Bradford, in Glasgow, Edinburgh – that will be during the hotter seasons, now, in Spring, but still going to Birmingham. Stay tuned, into my next show, but this evening say, "Let's jump start our body back into a happy medium", and don't...drag back to a low start, because once you do, very hard to come back, to climb that ladder back again – you'll slip ten times...".

The following message was scrolled throughout the programme in a banner, which was placed near the bottom of the screen.

"DISCLAIMER; THE HEALTH SHOW IS ADVICE ONLY OF LIFESTYLE & EXERCISE. The food support health tips on the shows are advice only & this DOES NOT REPLACE the doctors prescribed medication you are on. Email [email address]; Appointment booking line [phone number]; (MON to SAT, lines open from 8AM to 8PM)".

We requested information from the Licensee about any commercial arrangements associated with the references to Manjit Kaur's products and services. Based on the information provided, Ofcom considered that the material raised issues under the following Code rules:

- Rule 9.4 "Products, services and trade marks must not be promoted in programming".
- Rule 9.5 "No undue prominence may be given in programming to a product, service or trade mark. Undue prominence may result from:
- the presence of, or reference to, a product, service or trade mark in programming where there is no editorial justification; or
 - the manner in which a product, service or trade mark appears or is referred to in programming".

Ofcom requested comments from the Licensee on how the programme complied with these rules.

Response

Jail Chittian

The Licensee said that Randhir Singh was a well-known author within the Sikh community and that the book, 'Jail Chittian', was programme-related material. ACL therefore considered the book had neither been given undue prominence nor been promoted in the programme. It added that the information about the book, which was scrolled towards the end of the programme, was intended "to allow the audience that wanted to know more to find it".

Health Show

The Licensee said the series was intended to have a conversational style concerning options available to those in the audience "seeking to take personal responsibility for their health and wellbeing using traditional solutions". ACL added that, "in developing a more relaxed presenting style the presenter used examples as points of reference from her own experience".

The Licensee said the programme was made in house and it had "agreed that the presenter appear relaxed and to be chatting with the audience, to convey the conversational style". ACL added that "the presenter [was] new to hosting a programme by [herself] and had prepared notes to assist, to keep the dialogue following rather than reading from an autocue". The Licensee therefore argued that the "inclusion of the references to the presenter's work outside of television was there by way of establishing [her] authority and credibility on the subject". It added that, "on reflection...mistakes were made" and that the presenter had focused on types of pinniya she had developed, rather than being more general about its uses. ACL considered "the use of personal experiences and stories by the presenter [had] spilt over to referencing her own products and services", which did not comply with Rules 9.4 and 9.5 of the Code. The Licensee assured Ofcom that the programme would not be broadcast again in its current form.

Decision

Reflecting our duties under the Communications Act 2003³, Section Nine of the Code limits the extent to which commercial references can feature within television programming. This ensures there is a distinction between advertising and programming, and prevents broadcasters exceeding the limits on the amount of time they are permitted to use for advertising.

Section Nine does not proscribe all references to products and services in programmes. However, it does require all such references to be justified by the editorial requirements of a programme and not to be promotional or unduly prominent.

Jail Chittian

To ensure that there is a distinction between programming and advertising, Rule 9.4 of the Code prohibits the promotion of products within programmes. There is a limited exception to this rule which allows broadcasters to promote, as part of programming, 'programme-related material'.

³ <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

The Licensee claimed that the book, 'Jail Chittian' – as promoted in a message scrolled in a banner towards the end of the programme – was programme-related material.

The Code makes clear that in order for a product or service to qualify as programme-related material it must be both directly derived from a programme and specifically intended to allow viewers to benefit fully from, or interact with, that programme. *Jail Chittian* focused on the life of Randhir Singh, who was the author of the similarly-titled book, which had clearly inspired the programme's content. However, the book was first published in the last century and was not therefore directly derived from the programme. It was not therefore programme-related material.

Although there may have been an editorial purpose for the programme to identify the book that it was based on, or inspired by, this did not justify the scrolled reference stating the languages in which the book was available and identifying specific retailers from which it could be purchased. The book, 'Jail Chittian', was a product promoted in the programme, in breach of Rule 9.4 of the Code.

Rule 9.5 states that no undue prominence may be given in programming to a product, service or trade mark, noting that undue prominence may result from a reference to a product, service or trade mark where there is no editorial justification, or from the manner in which a product, service or trade mark is referred to.

As noted above, referencing the link between *Jail Chittian* and the book of the same name may have been editorially justified. Further, as Randhir Singh is the author and subject of the programme, a brief reference to Bhai Sahgib Randhir Singh Trust UK may have been similarly justified, as it is an organisation set up "to propagate Bhai Sahibs thoughts, philosophy and gurnat literature written by him throughout the world"⁴. However, references to this organisation, its contact details and the list of other retailers from which the book could be purchased served only to promote the book, 'Jail Chittian', for which there was no editorial purpose. The scrolled references in the programme to the book, 'Jail Chittian', and the retailers from which it was available were given undue prominence, in breach of Rule 9.5 of the Code.

Health Show

The Licensee acknowledged that "the presenter had focused on types of pinniya she had developed, rather than being more general about its uses" and her "personal experiences...[had] spilt over to referencing her own products and services". As a result, the programme did not comply with Rules 9.4 and 9.5. Ofcom agreed. The presenter's own clinic and products were promoted throughout the programme.

Further, although the presenter did discuss general health issues, which ACL suggested was the purpose of the programme, her emphasis was clearly on her own products and services. Not only did she directly promote these, as cited above, but she also enthused about her products. Ofcom considered that such references to the presenter's products appeared to serve no editorial purpose other than to support their promotion.

⁴ See: <http://www.bsrstrust.org/about/>

We took into account ACL's assurance that the programme would not be broadcast again in its current form. Nevertheless, the presenter's products were promoted and given undue prominence during the programme, in breach of Rules 9.4 and 9.5 of the Code.

Breaches of Rules 9.4 and 9.5: *Jail Chittian and Health Show*

In Breach

Tour Down Under Bike, 21 January 2017, 15:00

Introduction

Bike is a specialist sport television channel broadcasting in the UK. The licence for the service is held by Bike Media UK Limited ("the Licensee").

Tour Down Under featured coverage of Stage 5 of the Santos Tour Down Under cycling race held in Adelaide, South Australia. Ofcom received a complaint that segments within this programme were promotional for destinations in South Australia.

On five occasions the coverage was interrupted by a pre-recorded segment, each about a local tourist attraction, with the programme's presenter providing the accompanying voiceover. The segments lasted approximately 30 seconds and were titled on-screen as "McLaren Vale Cellar Doors", "Eyre Peninsula Sea Adventures", "The Star of Greece", "Kangaroo Island" and "South Australia Seafood".

McLaren Vale Cellar Doors

125 wineries, including 75 cellar doors¹, in the McLaren Vale area are represented by The McLaren Vale Grape, Wine and Tourism Association. This industry body also represents restaurants and tourism in the area. This segment featured various images of the vineyards in the McLaren Vale along with two close-up shots of red wine being swirled or poured into a glass. The accompanying voiceover said:

"Now just one hour's drive from Adelaide, McLaren Vale on the Fleurieu Peninsula is a popular wine region with more than 70 cellar doors. You can cycle along the Shiraz Trail Bike path or you can journey along the Coast to Vines Trail that takes you through world-class vineyards. Or you can just enjoy a long lunch at the famous McMurtry Mile Wine Strip where food and art are nestled together in perfect harmony".

Eyre Peninsula sea adventures

The segment contained images of tourists participating in activities available on the Eyre Peninsula (e.g. scuba diving, snorkelling). The accompanying voiceover contained the following:

"West of Adelaide is the Eyre Peninsula, perched on the Southern Ocean. There's a mountain of ocean experiences to be had. The more adventurous can take a day trip to see the endangered and protected great white shark in the flesh. Port Lincoln is globally recognised for its blue fin tuna. Here you can feed them by hand or jump in the water with them and watch a feeding frenzy. Another special experience is swimming with sealions in their natural environment at Seal Cove. These gentle inquisitive creatures are unparalleled in the underwater world. But if you want to keep your feet firmly on dry land, then from May to October, just a hundred metres offshore you can see southern

¹ Cellar doors are areas of wineries where point of sale purchases occur.

white whales mating, calving and nursing from the clifftops at the Great Australian Bight”.

The Star of Greece

The segment comprised close-up images of the seafood dishes on offer at The Star of Greece restaurant and some exterior shots. The accompanying voiceover said:

“Sit by the turquoise open waters and experience Mediterranean cuisine like never before at The Star of Greece. It was named after a ship wrecked in a fierce storm in 1883 just offshore. This idyllic location is the perfect place to experience seafood plucked from the local seas and then presented to you with flair and, of course, a splash of the region’s award-winning wine. It’s a great place to go, believe me”.

Kangaroo Island

Similar to the above, the segment featured various images of Kangaroo Island and included some of the wildlife visitors may find. The accompanying voiceover contained the following:

“Situated 112 kilometres southwest of Adelaide and just 15 kilometres from the mainland is Kangaroo Island. It’s Australia’s third largest island and is known as a zoo without fences. It is one of the state’s most popular tourist destinations with picture-perfect open spaces to venture and explore. It has an ocean teeming with fish, beaches with friendly sealions all year round. And for a rare experience, see the birds of prey in action. Learn more about owls, falcons and wedge-tailed eagles as they soar just metres overhead”.

Directly after the segment, the presenter continued:

“But I tell you what, Kangaroo Island is a magical place to go. Koalas roam freely there, by the hundreds actually”.

South Australia seafood

This segment comprised several images of seafood dishes (including some previously shown in The Star of Greece segment). The voiceover was as follows:

“South Australia is framed by 3800 kilometres of coastline. It’s unspoilt waters, Mediterranean climate mixed with salt wetlands, it’s widely regarded as the country’s seafood capital. Eyre Peninsula on the state’s west coast is home to less than 4 percent of SA’s population but produces 60 percent of its seafood. The Seafood Trail will lead you on a journey from Whyalla to Streaky Bay where you can experience aquaculture unlike anywhere else – this looks good enough to eat, boys – and enjoy a tantalising smorgasbord of world class seafood”.

Ofcom requested information from the Licensee to establish whether any commercial arrangements were in place relating to these segments. Based on the information provided, we considered that the five programme segments raised potential issues under Rule 9.5 of the Code.

Rule 9.5

"No undue prominence may be given in programming to a product, service or trademark.

Undue prominence may result from:

- the presence of, or reference to, a product, service or trade mark in programming where there is no editorial justification; or
- the manner in which a product, service or trade mark appears or is referred to in programming".

Additionally, Ofcom considered the segments featuring McLaren Vale Cellar Doors and The Star of Greece raised potential issues under Rule 9.4 of the Code.

Rule 9.4

"Products, services and trade marks must not be promoted in programming".

Ofcom requested comments from the Licensee on how the programme complied with these rules.

Response

The Licensee said that given the nature of live sport and coverage on other channels, it believed it had done nothing wrong. It submitted that it would have been unrealistic to expect someone from the channel to be present during an edit at the event and that it did not have the time or the facilities to edit the programme at the Italian playout centre where it was received.

However, the Licensee said that as a responsible broadcaster, it took steps to remove the programme in its original form from the schedule and review its procedures to prevent a recurrence. It also discussed the issue with the programme distributor to underline the severity of the matter.

The Licensee emphasised that it did not enter into an agreement in relation to any of the products and services referenced in the programme and, as such, had no commercial interest in the content.

Decision

Reflecting our duties under the Communications Act 2003², Section Nine of the Code limits the extent to which commercial references can feature within editorial content. The rules in this Section help ensure there is a distinction between advertising and programming. They also prevent broadcasters from using editorial airtime for advertising purposes.

Rule 9.5

Rule 9.5 states that no undue prominence may be given in programming to a product, service or trade mark, noting that undue prominence may result from a reference to a

² <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

product, service or trade mark where there is no editorial justification, or from the manner in which a product, service or trade mark is referred to.

Ofcom's published guidance³ on Rule 9.5 states: "Whether a product, service or trade mark appears in a programme for solely editorial reasons...or as a result of a commercial arrangement between the broadcaster or producer and a third party funder...there must be editorial justification for its inclusion. The level of prominence given to a product, service or trade mark will be judged against the editorial context in which the reference appears".

Ofcom accepts that there may be editorial justification for references to the local area in sport coverage, particularly to fill lulls in sporting action. However, in this case, five different pre-recorded video sequences about a range of specific tourist attractions and features of South Australia were deliberately scheduled to interrupt race coverage at various stages in the programme. The purpose of these segments appeared to be to inform viewers of the attractiveness of the area as a tourist destination, rather than to provide a backdrop to the cycling race. Ofcom did not consider there was sufficient editorial justification for the insertion of this pre-packaged material. The content was therefore in breach of Rule 9.5 of the Code.

Rule 9.4

Rule 9.4 states that products, services and trade marks must not be promoted in programming. Ofcom's Guidance⁴ on this rule explains: "where a reference to a product or service features in a programme for purely editorial reasons, the extent to which a reference will be considered promotional will be judged by the context in which it appears".

The segments regarding McLaren Vale Cellar Doors and The Star of Greece referenced specific commercial entities and featured imagery and language that promoted these entities and endorsed the purchase of the associated products. For example, we considered that phrases such as "*food and art are nestled together in perfect harmony*", "*idyllic location*" and "*it's a great place to go, believe me*" when combined with panoramic images of vineyards and close-up shots of seafood dishes, served to promote the products and services offered by these entities. We therefore concluded that these two programme segments breached Rule 9.4 of the Code.

Ofcom acknowledged the steps taken by the Licensee to remove the programme from its schedule and to review its compliance procedures. We also noted the Licensee's submission regarding the practical difficulties in editing the original programme. However, as an Ofcom licensee, Bike Media Limited UK should have adequate procedures in place to ensure that all Bike's broadcast content complies with the Code.

Breaches of Rules 9.4 and 9.5

³ <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section9.pdf>

⁴ see footnote 3

In Breach

Provision of information

Channel i, 1 February 2017, 09:30

Introduction

Channel i is a news and general entertainment channel aimed at the Bangladeshi community in the UK and Europe. The licence for Channel i is held by Prime Bangla Limited ("Prime Bangla" or "the Licensee").

Ofcom requested information from the Licensee to determine whether a news report referring to a local business was subject to any commercial arrangement.

The Licensee did not provide the information requested within the deadlines set by Ofcom.

Ofcom considered that this raised potential issues under Condition 12(1) of Prime Bangla's licence, which states that the Licensee:

"...shall furnish to Ofcom in such manner and at such times as Ofcom may reasonably require such documents, accounts, returns, estimates, reports, notices or other information as Ofcom may require for the purpose of exercising the functions assigned to it by or under the 1990 Act, the 1996 Act, or the Communications Act".

Ofcom therefore asked the Licensee for its formal comments on its compliance with this licence conditions.

Response

In responding to Ofcom's notification of launching an investigation into Licence Condition 12(1), the Licensee referred to a period of ill health over the "last couple of months" and stated that Ofcom's e-mail had been overlooked.

The Licensee also stated the news item was intended for business news and broadcast in the main news bulletin in error. However, Prime Bangla did not provide the information Ofcom requested to determine whether the report was subject to any commercial arrangement.

The Licensee did not respond further to Ofcom's request for formal comments.

Decision

Broadcasting licensees are required to comply with any request by Ofcom to provide information where necessary to enable Ofcom to exercise its functions. For Television Licensable Content Service (TLCS) licences, this is reflected in Licence Condition 12(1). Guidance notes for TLCS licensees also state, "The licensee must supply to Ofcom by the deadline provided, any information that we may require for carrying out our duties".

In this case, the Licensee did not provide the information requested within the deadlines set by Ofcom. Ofcom's Decision is therefore that there was a breach of Licence Condition 12(1).

We are putting Prime Bangla on notice that, should similar compliance issues arise in the future, Ofcom will consider taking further regulatory action.

Breach of TLCS Licence Condition 12(1)

In Breach

Providing a service in accordance with 'Format' *Isles FM, 19 January 2017 to present*

Introduction

Isles FM is a commercial radio station licensed to provide a service for the Western Isles of Scotland. It is a community oriented, broad music and information station, which has some regular Gaelic language programming. The licence is held by Western Isles Community Radio Limited ("WICR" or "the Licensee").

Ofcom discovered from the Licensee's website that the service had not been broadcasting since January 2017 due to a technical transmission failure. The Licensee was therefore not delivering a service in accordance with its published Format¹.

Ofcom considered that this raised potential issues under Conditions 2(1) and 2(4) in Part 2 of the Schedule to the licence. These state, respectively:

- "The Licensee shall provide the Licensed Service specified in the Annex for the licence period and shall secure that the Licensed Service serves so much of the licensed area as is for the time being reasonably practicable".
- "The Licensee shall ensure that the Licensed Service accords with the proposals set out in the Annex so as to maintain the character of the Licensed Service throughout the licence period".

We requested comments from the Licensee on how it was complying with these licence conditions.

Response

Comments supplied by a third party contractor, on behalf of the Licensee, explained that on 19 January 2017 an issue with the electrical supply caused "catastrophic damage to [the Licensee's] transmission plant", with the "impact being Total Service Outage". It stated that the service was still down at that time and it was continuing its investigation to try to resolve the issue.

In a later response, the third party contractor informed Ofcom that an interim solution had been implemented and that service had been restored from 16 April 2017 (but to a smaller coverage area due to the reduced transmission power used) with local programming re-commencing on 18 April 2017. It added that work was ongoing to implement a permanent solution, which they looked to complete in the next two to three months.

Decision

Provision by a licensee of its licensed service on the frequency assigned to it is the fundamental purpose for which a commercial radio licence is granted. Ofcom has a range of

¹ <http://www.ofcom.org.uk/static/radiolicensing/analogue/formats/al100768.doc>

duties in relation to radio broadcasting, including securing a range and diversity of local radio services which are calculated to appeal to a variety of tastes and interests, and the optimal use of the radio spectrum. This is reflected in the licence conditions requiring the provision of the specified licensed service. Where a service is not being provided in accordance with the licence, choice for listeners is likely to be reduced. In the case of a service being off air, the listener is clearly not served at all.

In this case, WICR failed to provide the service from 19 January 2017 to 16 April 2017. In addition, since coming back on air on 16 April 2017, the Licensee is only providing a service to part of the service area.

Breaches of Licence Conditions 2(1) and 2(4) in Part 2 of the Schedule to the commercial radio licence held by Western Isles Community Radio Limited (licence number AL100768).

Fairness and Privacy cases

Upheld

Complaint by Mr John Shedden

Party Political Broadcast by the Scottish National Party, BBC1 Scotland, 12 October 2016

Summary

Ofcom has upheld Mr Shedden's complaint of unjust or unfair treatment.

BBC1 Scotland broadcast a *Party Political Broadcast by the Scottish National Party* ("SNP") which included footage of Mr Shedden and his farm.

Ofcom found that Mr Shedden was not informed about the true nature and purpose of the programme and that the footage of him included in the programme portrayed him unfairly. Therefore, we considered that Mr Shedden had been treated unjustly or unfairly in the programme as broadcast.

Programme summary

On 12 October 2016, BBC1 Scotland broadcast a *Party Political Broadcast by the SNP*. During the broadcast, brief footage of Mr Shedden's farm was shown, including images of Mr Shedden sitting on a straw bale with a colleague. This footage was shown as part of a montage of images of other people, as the narrator said:

"[Footage of Mr Shedden's farm] Here come the heroes, the everyday miracle workers. Whose heads never bow, whose feet keep on walking, making a difference, week after week. Here are the builders, the fixers and [footage of Mr Shedden's farm] growers and the ones who inspire, take risks and create. Here comes the future, full of hope and ambition, always rushing to start living, the ones who can never stand still or sit still either. Here are the forward thinkers who make our tomorrows, the ones who see differently, the ones who drive progress. Here are the undecided, the ones who debate what can be and how we can get there. And here's the believers for who the question isn't if, but when [footage of Mr Shedden and his colleague]. Who are they, these people? These carers and doers, innovators and dreamers, and yes the occasional stumblers. They are the people of Scotland who push Scotland forward, who make Scotland stronger. We've all come such a long way together and together we can go even further [Text on-screen: "SNP: Stronger for Scotland"]".

Summary of the complaint and broadcaster's response

Mr Shedden complained that he was treated unjustly or unfairly in the programme as broadcast because he was not told the true nature and purpose of the programme in which he contributed. Mr Shedden explained that he was neither a supporter of the SNP, nor did he want to be associated with the party's political broadcast. He added that he would not have contributed to the programme had it been made clear to him from the outset that the footage would be used for this purpose.

Mr Shedden said that he was told by the programme makers that footage of him and his farm would be included in a Public Information Film for the Scottish Government to portray a "slice of life" in Scotland. He said that he had been informed that the purpose of the programme was not to persuade viewers to vote for one party or another. However, despite this, footage of him and his farm appeared in a Party Political Broadcast for the SNP.

The BBC said in response, which incorporated statements from the SNP and the programme makers, that the content of party political and party election broadcasts is primarily the responsibility of the parties (i.e. the SNP) themselves, subject to compliance with the relevant editorial standards. The standards are set out in guidelines issued to qualifying political parties by the Broadcasters' Liaison Group ("BLG")¹. The broadcaster added that these Party Election Production Guidelines were re-issued to the parties in July 2016, when the details of the autumn broadcast allocations were being communicated. It said that the issue of consent given by people appearing in such broadcasts is provided for in the section headed "Third Party Rights" which states:

"No identifiable individual should be featured prominently in a broadcast without that person's consent, which should generally be recorded in writing, and copies of release forms should be made available to the broadcaster on request".

The BBC said that from the information provided by the SNP and the programme makers, this provision was not properly followed in Mr Shedden's case.

The SNP said in its statement to the BBC that the programme makers had been commissioned by the party to produce Party Political Broadcasts and Party Election Broadcasts for over a decade and that it had always found them to be a "highly professional and reliable company". The SNP said the first it became aware that there was any informed consent issue was on 1 November 2016, when an inquiry was received from a journalist. On investigating the position with the programme makers, the SNP released a statement that "The film production company accepts it made an error and we understand that they will, rightly, be apologising to Mr Shedden. We will seek to amend the film immediately in light of this". The SNP arranged with the programme makers, the BBC, and others for the film to be immediately removed from circulation, both broadcast and non-broadcast. The original was re-edited to exclude both Mr Shedden and his farm.

In their statement to the BBC, the programme makers said that all actors, children and extras featured in the broadcast had been informed that the purpose of the project was an SNP broadcast, and all other contributors had signed release forms clearly stating the purpose of the film. However, there was no release form signed by Mr Shedden. The programme makers had commissioned a freelance location manager to find a farm for one of the 'set-ups', the intention being that only footage of his farm would be used. The programme makers said that Mr Shedden was present on the day of filming and that although the original plan had been only to include images of a tractor going over the hill and the tractor lifting a hay bale, "creative input on the day resulted in the version originally broadcast with Mr Shedden actually appearing in the film". The programme makers accepted that this incident should not have happened and that informed consent was not obtained by them from Mr Shedden. An apology was made to Mr Shedden and the film was withdrawn and then re-edited to exclude both Mr Shedden and his farm.

¹ A body consisting of representatives of the main broadcasters on which the Electoral Commission sits as an observer.

The BBC confirmed that the SNP had contacted it on 1 November 2016 with a view to having the broadcast removed from the BBC's iPlayer. It said that the broadcast was removed on 2 November 2016 and added that the programme would not be retransmitted in a form which included footage of Mr Shedden or his farm.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View on this case that the complaint should be upheld. Both the complainant and the broadcaster were given the opportunity to make representations on the Preliminary View, but neither chose to do so.

In addition, given the broadcaster's comments about the SNP and the programme makers, we also gave them the opportunity to comment on the Preliminary View². The SNP did not submit any representations.

The programme makers made the following representations:

The programme makers said that this was an unfortunate situation which resulted from a number of unintended circumstances. It said that the SNP and BBC acted in good faith based on the information "we all believed to be correct".

The programme makers said that the purpose of the film was to show a "slice of life" featuring a cross section of people from various walks of life showing how Scotland was working well together". It said that Mr Shedden was contacted by a freelance location finder who wrongly referred to the project as an information programme for the Scottish Government, rather than for the SNP. The programme makers said that the location finder had been briefed that "this broadcast was not the usual brand of political broadcast and would be showing how, as a Nation, Scotland had come a long way together and, that the film would show people from various walks of life who together represented the heroes who had made it happen". The programme makers said that it was accepted that the wording of the location manager's "door drop" was misleading but that in defence of the location manager, he had been briefed that the film would not be discussing election or referendum issues.

The programme makers added that it was never its intention to feature Mr Shedden in the film, but on the day, he offered to sit in. It said that it had assumed Mr Shedden was aware of the nature of the broadcast.

On receipt of Mr Shedden's complaint, the programme makers said the programme was immediately re-edited for broadcast and Mr Shedden's scene was removed from all other online and internal SNP material.

The programme makers said that it had apologised to Mr Shedden. It added that its procedures had now been tightened so that all documentation relating to any future broadcasts would be produced internally or approved by the programme makers and as a matter of course, the broadcaster would receive all permissions, contracts and licenses when material was submitted.

² This is in line with Ofcom's published procedures, under which individuals who may be directly affected by the outcome of an Ofcom investigation may be invited to make representations.

The programme makers reiterated its apology and said that it was never anyone's intention to mislead anyone involved in the making of the film. It said that the blame for this incident "lies with us".

Following receipt of the programme maker's representations, we also identified the location manager as a "relevant third party". The location manager was then given an opportunity to make representations on the Preliminary View and programme makers' representations but chose not to do so.

The broadcaster and complainant were then given an opportunity to comment on the programme maker's representations and neither chose to do so.

Decision

Ofcom's statutory duties include the application, in the case of all television and radio services, of standards which provide adequate protection to members of the public and all other persons from unjust or unfair treatment and unwarranted infringement of privacy in, or in connection with the obtaining of material included in, programmes in such services.

In carrying out its duties, Ofcom has regard to the need to secure that the application of these standards is in the manner that best guarantees an appropriate level of freedom of expression. Ofcom is also obliged to have regard, in all cases, to the principles under which regulatory activities should be transparent, accountable, proportionate and consistent and targeted only at cases in which action is needed.

When considering complaints of unjust or unfair treatment, Ofcom has regard to whether the broadcaster's actions ensured that the programme as broadcast avoided unjust or unfair treatment of individuals and organisations, as set out in Rule 7.1 of Ofcom's Broadcasting Code ("the Code").

Practice 7.3 of the Code sets out that people who are invited to contribute to a programme should normally, at an appropriate stage, be given sufficient information including: the programme's nature and purpose; what kind of contribution they are expected to make; the areas of questioning and, wherever possible, the nature of other likely contributions; and, any changes to the programme that might affect their decision to contribute. Taking these measures is likely to result in any consent that is given being 'informed' consent. Practice 7.9 of the Code states that before broadcasting a factual programme, broadcasters should take reasonable care to satisfy themselves that material facts have not been presented, disregarded or omitted in a way that is unfair to the individual or organisation.

We carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast, and both parties' written submissions. We also took account of the representations made by the programme makers on the Preliminary View. However, we concluded that no further points raised by the programme makers materially affected the outcome of upholding this complaint.

The broadcaster did not dispute that Mr Shedden had not been informed about the nature and purpose of the programme and that it had not obtained his informed consent. We therefore went on to consider whether, by footage of Mr Shedden being included in the broadcast without his consent, he was portrayed in a manner that resulted in unfairness to him.

Mr Shedden and his farm were shown in a Party Political Broadcast for the SNP. We considered that, consequently, viewers may have reasonably understood that Mr Shedden was a supporter of the SNP, or at least, that he was prepared to be associated with the party. Mr Shedden said that he did not support the SNP, and that he would not have contributed to the programme had it been made clear to him from the outset that the footage would be used in the party's political broadcast. Therefore, it was our view that the inclusion of this footage in the SNP's political broadcast, may have resulted in Mr Shedden and his political views, being unfairly represented. We considered that the inclusion of the footage of Mr Shedden in a Party Political Broadcast, for a party which he did not support, without his informed consent, resulted in material facts (i.e. his political views) being presented in the broadcast in a manner that resulted in unfairness to him.

Ofcom has therefore upheld Mr Shedden's complaint of unjust or unfair treatment in the programme as broadcast.

Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 30 May and 11 June 2017 and decided that the broadcaster or service provider did not breach Ofcom's codes, rules, licence conditions or other regulatory requirements.

Investigations conducted under the Procedures for investigating breaches of content standards for television and radio

Programme	Broadcaster	Transmission date	Categories
Newsnight	BBC 2	22 March 2017	Under 18s in programmes
Breakfast	Jack 2 (Oxford)	17 March 2017	Race discrimination
Geet	Star Utsav	9 March 2017	Flashing images

For more information about how Ofcom conducts investigations about content standards on television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

Complaints assessed, not investigated

Here are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 30 May and 11 June 2017 because they did not raise issues warranting investigation.

Complaints assessed under the Procedures for investigating breaches of content standards for television and radio

For more information about how Ofcom assesses complaints about content standards on television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Weekend Warmup with Will Mac	102.8 Chorley FM	03/06/2017	Offensive language	1
10 Hottest Tracks Right Now	4Music	01/06/2017	Sexual material	1
Gogglebox	4Seven	29/05/2017	Elections/Referendums	1
Gogglebox	4seven	03/07/2017	Elections/Referendums	1
News	Absolute Radio	26/05/2017	Disability discrimination/offence	1
Pete Donaldson	Absolute Radio	09/05/2017	Other	1
Programming	All4	29/05/2017	Materially misleading	1
The Bassman	Capital FM (Birmingham)	06/06/2017	Sexual material	1
The Vodafone Big Top 40	Capital FM / Heart Radio	28/05/2017	Other	10
24 Hours in Police Custody	Channel 4	05/06/2017	Race discrimination/offence	1
Apocalypto	Channel 4	05/06/2017	Generally accepted standards	1
Channel 4 News	Channel 4	24/05/2017	Elections/Referendums	5
Channel 4 News	Channel 4	24/05/2017	Generally accepted standards	27
Channel 4 News	Channel 4	29/05/2017	Elections/Referendums	1
Channel 4 News	Channel 4	30/05/2017	Elections/Referendums	1
Channel 4 News	Channel 4	31/05/2017	Elections/Referendums	1
Channel 4 News	Channel 4	02/06/2017	Elections/Referendums	1
Channel 4 News	Channel 4	07/06/2017	Elections/Referendums	2
Channel 4 News / The Jihadis Next Door	Channel 4	06/06/2016	Generally accepted standards	1
First Dates	Channel 4	30/05/2017	Sexual orientation discrimination/offence	1
Gogglebox	Channel 4	02/06/2017	Elections/Referendums	8

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Gogglebox	Channel 4	02/06/2017	Nudity	1
Hollyoaks	Channel 4	01/06/2017	Generally accepted standards	2
ISIS: The Origins of Violence	Channel 4	17/05/2017	Crime and disorder	1
ISIS: The Origins of Violence	Channel 4	17/05/2017	Religious/Beliefs discrimination/offence	6
May v Corbyn Live: the Battle for Number 10	Channel 4	29/05/2017	Disability discrimination/offence	1
May v Corbyn Live: the Battle for Number 10	Channel 4	29/05/2017	Elections/Referendums	77
Party Election Broadcast by the Conservative Party	Channel 4	30/05/2017	Elections/Referendums	3
SNP Party Election Broadcast	Channel 4	26/05/2017	Elections/Referendums	1
The Handmaid's Tale	Channel 4	28/05/2017	Generally accepted standards	1
The Handmaid's Tale	Channel 4	28/05/2017	Violence	1
The Handmaid's Tale	Channel 4	04/06/2017	Advertising minutage	1
The Last Leg	Channel 4	26/05/2017	Elections/Referendums	1
The Last Leg	Channel 4	02/06/2017	Elections/Referendums	7
The Simpsons	Channel 4	01/06/2017	Race discrimination/offence	1
The Trial: a Murder in the Family	Channel 4	25/05/2017	Materially misleading	1
Trump, The Doctor and the Vaccine Scandal	Channel 4	08/05/2017	Due impartiality/bias	2
May v Corbyn Live: the Battle for Number 10	Channel 4 / Sky News	29/05/2017	Elections/Referendums	10
The Last Leg	Channel 4 + 1	26/05/2016	Generally accepted standards	1
5 News at 5	Channel 5	30/05/2017	Elections/Referendums	1
Big Brother (trailer)	Channel 5	30/05/2017	Elections/Referendums	1
Big Brother	Channel 5	05/06/2017	Religious/Beliefs discrimination/offence	1
Five News	Channel 5	29/05/2017	Elections/Referendums	1
Inside the Gang: Girl Gangstas	Channel 5	22/05/2017	Dangerous behaviour	1
Inside the Gang: Girl Gangstas	Channel 5	22/05/2017	Race discrimination/offence	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Inside the Gang: Girl Gangstas	Channel 5	22/05/2017	Scheduling	1
Inside the Gang: Street Wars	Channel 5	15/05/2017	Generally accepted standards	5
News	Channel 5	04/06/2017	Other	1
Secrets of Great British Castles	Channel 5	08/06/2017	Violence	1
The Wright Stuff	Channel 5	29/05/2017	Elections/Referendums	3
The Wright Stuff	Channel 5	31/05/2017	Elections/Referendums	3
The Wright Stuff	Channel 5	01/06/2017	Elections/Referendums	1
The Wright stuff	Channel 5	05/06/2017	Elections/Referendums	4
The Wright Stuff	Channel 5	07/06/2017	Elections/Referendums	5
The Wright Stuff	Channel 5	08/06/2017	Elections/Referendums	2
Party Election Broadcast by the Green Party	Channel 5+1	31/05/2017	Elections/Referendums	1
Charity appeal	CHSTV / Bangla TV / ATN Bangla UK / Channel i / NTV	29/05/2017	Charity appeals	1
Anne-Marie Minhall	Classic FM	05/06/2017	Elections/Referendums	1
John Suchet	Classic FM	26/05/2017	Elections/Referendums	1
CNN News	CNN	23/05/2017	Crime and disorder	1
CNN News	CNN	04/06/2017	Due accuracy	1
Russell Howard	Comedy Central	04/06/2017	Elections/Referendums	1
World Families (trailer)	Community Channel	21/05/2017	Offensive language	1
Dacia's sponsorship of Primetime on Dave	Dave	25/05/2017	Sponsorship credits	1
Live: MMA World Title Fight	Dave	12/05/2017	Materially misleading	1
Hollyoaks	E4	31/05/2017	Generally accepted standards	4
Hannity	Fox News	17/05/2017	Due impartiality/bias	1
Ask A Question	Hidayat TV	10/05/2017	Materially misleading	1
Ask A Question	Hidayat TV	17/05/2017	Materially misleading	1
Burning Bright	Horror Channel	31/05/2017	Generally accepted standards	1
Bigheads	ITV	28/05/2017	Drugs, smoking, solvents or alcohol	2
Britain's Got Talent	ITV	03/05/2017	Other	1
Britain's Got Talent	ITV	27/05/2017	Generally accepted standards	27
Britain's Got Talent	ITV	27/05/2017	Sexual material	1
Britain's Got Talent	ITV	29/05/2017	Elections/Referendums	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Britain's Got Talent	ITV	29/05/2017	Generally accepted standards	1
Britain's Got Talent	ITV	29/05/2017	Nudity	2
Britain's Got Talent	ITV	30/05/2017	Offensive language	1
Britain's Got Talent	ITV	30/05/2017	Other	1
Britain's Got Talent	ITV	31/05/2017	Gender discrimination/offence	2
Britain's Got Talent	ITV	31/05/2017	Generally accepted standards	4
Britain's Got Talent	ITV	31/05/2017	Nudity	13
Britain's Got Talent	ITV	01/06/2017	Nudity	656
Britain's Got Talent	ITV	01/06/2017	Race discrimination/offence	2
Britain's Got Talent	ITV	02/06/2017	Nudity	14
Britain's Got Talent	ITV	02/06/2017	Other	1
Britain's Got Talent	ITV	03/06/2017	Generally accepted standards	1
Britain's Got Talent	ITV	03/06/2017	Nudity	5
Britain's Got Talent	ITV	03/06/2017	Voting	1
Continuity announcement	ITV	29/05/2017	Generally accepted standards	1
Coronation Street	ITV	15/05/2017	Offensive language	1
Coronation Street	ITV	24/05/2017	Offensive language	1
Coronation Street	ITV	29/05/2017	Suicide and self harm	1
Coronation Street	ITV	01/06/2017	Race discrimination/offence	1
Emmerdale	ITV	25/05/2017	Sexual material	1
Emmerdale	ITV	01/06/2017	Materially misleading	1
Gala Bingo's sponsorship of The Chase	ITV	29/05/2017	Sponsorship credits	1
Good Morning Britain	ITV	22/05/2017	Elections/Referendums	1
Good Morning Britain	ITV	23/05/2017	Generally accepted standards	27
Good Morning Britain	ITV	24/05/2017	Generally accepted standards	1
Good Morning Britain	ITV	04/06/2017	Harm	1
Good Morning Britain	ITV	05/06/2017	Elections/Referendums	15
Good Morning Britain	ITV	05/06/2017	Other	1
Good Morning Britain	ITV	05/06/2017	Religious/Beliefs discrimination/offence	1
Good Morning Britain	ITV	06/06/2017	Elections/Referendums	7
Good Morning Britain	ITV	07/06/2017	Elections/Referendums	3
Good Morning Britain	ITV	08/06/2017	Elections/Referendums	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
It'll Be Alright on the Night	ITV	08/06/2017	Generally accepted standards	1
ITV News	ITV	22/05/2017	Other	1
ITV News	ITV	23/05/2017	Generally accepted standards	1
ITV News	ITV	24/05/2017	Generally accepted standards	3
ITV News	ITV	30/05/2017	Elections/Referendums	1
ITV News	ITV	30/05/2017	Other	1
ITV News	ITV	03/06/2017	Elections/Referendums	1
ITV News at Ten	ITV	07/06/2017	Elections/Referendums	1
ITV News Election 2017 (trailer)	ITV	27/05/2017	Elections/Referendums	1
ITV Soap Awards 2017	ITV	06/06/2017	Offensive language	1
Lethal Weapon	ITV	26/05/2017	Generally accepted standards	1
Loose Women	ITV	06/06/2017	Race discrimination/offence	1
Love Island (trailer)	ITV	03/06/2017	Sexual material	1
Peston on Sunday	ITV	04/06/2017	Elections/Referendums	3
Programming	ITV	04/06/2017	Other	1
Spa Wars (trailer)	ITV	03/06/2017	Nudity	1
The ITV Leaders' Debate	ITV	18/05/2017	Gender discrimination/offence	1
The Jeremy Kyle Show	ITV	29/05/2017	Generally accepted standards	1
The Real Full Monty (trailer)	ITV	03/06/2017	Nudity	2
This Morning	ITV	18/05/2017	Generally accepted standards	1
This Morning	ITV	18/05/2017	Materially misleading	1
This Morning	ITV	24/05/2017	Generally accepted standards	2
This Morning	ITV	24/05/2017	Under 18s in programmes	1
This Morning	ITV	02/06/2017	Generally accepted standards	1
This Morning	ITV	05/06/2017	Generally accepted standards	1
This Morning	ITV	07/06/2017	Drugs, smoking, solvents or alcohol	1
Tonight	ITV	06/06/2017	Elections/Referendums	2
ITV News	ITV Wales	08/06/2017	Elections/Referendums	1
Britain's Got More Talent	ITV2	27/05/2017	Animal welfare	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Britain's Got More Talent	ITV2	27/05/2017	Generally accepted standards	1
Britain's Got More Talent	ITV2	29/05/2017	Nudity	2
Britain's Got More Talent	ITV2	31/05/2017	Generally accepted standards	1
Britain's Got More Talent	ITV2	03/06/2017	Generally accepted standards	1
Coronation Street	ITV2	01/06/2017	Scheduling	1
Family Guy	ITV2	26/05/2017	Generally accepted standards	1
Love Island	ITV2	06/06/2017	Harm	1
Love Island (trailer)	ITV2	29/05/2017	Sexual material	1
Endeavour	ITV3	08/06/2017	Elections/Referendums	1
Midsomer Murders	ITV3	04/06/2017	Generally accepted standards	1
Better Late Than Never	ITV4	24/05/2017	Animal welfare	1
Embarrassing Bodies	Kanal 11	25/05/2017	Gender discrimination/offence	1
Embarrassing Bodies	Kanal 11	29/05/2017	Gender discrimination/offence	1
Embarrassing Bodies	Kanal 11	30/05/2017	Gender discrimination/offence	1
Våra Pinsamma Kroppar	Kanal 11	05/06/2017	Gender discrimination/offence	1
Botched	Kanal 5	03/04/2017	Gender discrimination/offence	1
Mythbusters	Kanal 9	08/05/2017	Gender discrimination/offence	1
Programming	Kiss	27/05/2016	Sexual material	1
Iain Dale	LBC 97.3 FM	03/06/2017	Elections/Referendums	1
Ian Collins	LBC 97.3 FM	24/05/2017	Race discrimination/offence	1
James O'Brien	LBC 97.3 FM	10/05/2017	Elections/Referendums	1
James O'Brien	LBC 97.3 FM	29/05/2017	Elections/Referendums	2
James O'Brien	LBC 97.3 FM	05/06/2017	Elections/Referendums	1
Millennial Election Debate	LBC 97.3 FM	03/06/2017	Elections/Referendums	2
Nick Ferrari	LBC 97.3 FM	01/06/2017	Generally accepted standards	1
Nick Ferrari	LBC 97.3 FM	06/06/2017	Elections/Referendums	1
Steve Allen	LBC 97.3 FM	27/05/2017	Gender discrimination/offence	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Sunday Afternoon with Emma	Magic 105.4	04/06/2017	Generally accepted standards	1
Programming	Magic FM	19/05/2017	Offensive language	1
Inspirational Breakfast	Premier Christian Radio	30/05/2017	Elections/Referendums	1
Radio XL	Radio XL	09/05/2017	Generally accepted standards	1
The Wavelength	Reprezent FM	26/05/2017	Dangerous behaviour	1
Criminal Minds	Sky Living	12/05/2017	Scheduling	1
May v Corbyn Live: the Battle for Number 10	Sky News	29/05/2017	Elections/Referendums	11
Press Preview	Sky News	05/06/2017	Elections/Referendums	1
Press Preview	Sky News	06/06/2017	Elections/Referendums	1
Primodos: The Secret Drug	Sky News	08/06/2017	Generally accepted standards	1
Sky News	Sky News	22/05/2017	Generally accepted standards	1
Sky News	Sky News	23/05/2017	Generally accepted standards	5
Sky News	Sky News	24/05/2017	Generally accepted standards	4
Sky News	Sky News	24/05/2017	Other	1
Sky News	Sky News	29/05/2017	Elections/Referendums	3
Sky News	Sky News	30/05/2017	Elections/Referendums	2
Sky News	Sky News	01/06/2017	Due impartiality/bias	1
Sky News	Sky News	02/06/2017	Due impartiality/bias	1
Sky News	Sky News	03/06/2017	Due accuracy	1
Sky News	Sky News	03/06/2017	Privacy	1
Sky News	Sky News	04/06/2017	Elections/Referendums	6
Sky News	Sky News	04/06/2017	Generally accepted standards	1
Sky News	Sky News	04/06/2017	Religious/Beliefs discrimination/offence	1
Sky News	Sky News	05/06/2017	Generally accepted standards	1
Sky News	Sky News	05/06/2017	Harm	2
Sky News	Sky News	06/06/2017	Dangerous behaviour	1
Sky News	Sky News	06/06/2017	Elections/Referendums	3
Sky News	Sky News	07/06/2017	Elections/Referendums	2
Sky News	Sky News	08/06/2017	Elections/Referendums	1
Sky News at 10	Sky News	28/05/2017	Elections/Referendums	1
Sky News at 10	Sky News	29/05/2017	Generally accepted standards	1
Sunrise	Sky News	05/06/2017	Elections/Referendums	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Sunrise	Sky News	08/06/2017	Elections/Referendums	1
The Press Preview	Sky News	07/06/2017	Elections/Referendums	1
Live Scottish Cup Final	Sky Sports 1	27/05/2017	Other	1
Sky Sports News	Sky Sports News	01/06/2017	Privacy	1
The Simpsons	Sky1	31/05/2017	Generally accepted standards	1
Alan Brazil Sports Breakfast	Talksport	23/05/2017	Generally accepted standards	1
The Sports Bar	Talksport	22/05/2017	Generally accepted standards	1
Life Below Zero	Travel Channel	04/05/2017	Generally accepted standards	1
American Pie	TV6 Sweden	28/05/2017	Gender discrimination/offence	1
Programming	Various	20/05/2017	Materially misleading	1

Complaints assessed under the Procedures for investigating breaches of content standards on BBC broadcasting services and BBC ODPS.

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Newsnight	BBC 2	10/01/2017	Due impartiality/bias	5
Newsnight	BBC 2	02/06/2017	Elections/Referendums	1

For more information about how Ofcom assesses complaints about content standards on BBC broadcasting services and BBC ODPS, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0002/100100/Procedures-for-investigating-breaches-of-content-standards-on-BBC-broadcasting-services-and-BBC-on-demand-programme-services.pdf

Complaints assessed under the General Procedures for investigating breaches of broadcast licences

Licensee	Licensed service	Categories
St Matthews Community Solution Centre Limited	EAVA FM	Provision of licensed service
Meridian FM Radio	Meridian FM	Key Commitments
The University of Northampton Enterprises Limited	NNBC	Key Commitments

For more information about how Ofcom assesses complaints about broadcast licences, go to:
https://www.ofcom.org.uk/_data/assets/pdf_file/0019/31942/general-procedures.pdf

Complaints outside of remit

Here are alphabetical lists of complaints received by Ofcom that fell outside of our remit. This is because Ofcom is not responsible for regulating the issue complained about. For example, the complaints were about the content of television, radio or on demand adverts or an on demand service does not fall within the scope of regulation.

For more information about what Ofcom's rules cover, go to: <https://www.ofcom.org.uk/tv-radio-and-on-demand/how-to-report-a-complaint/what-does-ofcom-cover>

Complaints about television or radio programmes

Programme	Service	Transmission Date	Categories	Number of complaints
Advertisement	4Seven	04/06/2017	Advertising content	1
Advertisement	5USA	06/06/2017	Advertising content	1
UEFA League Final: Ajax vs Manchester United	BT Sport	24/05/2017	Outside of remit	1
Programming	BT Sport 1	Various	Other	1
Advertisement	Channel 4	31/05/2017	Advertising content	1
Advertisement	Comedy Central +1	28/05/2017	Advertising content	1
ITV News	Facebook	04/06/2017	Outside of remit	1
Advertisement	Fox	31/05/2017	Advertising content	1
Campmeeting	Inspiration TV	02/06/2017	Other	1
Advertisement	ITV	30/05/2017	Advertising content	1
Advertisement	ITV	30/05/2017	Advertising content	1
Advertisement	ITV	30/05/2017	Advertising content	1
Advertisement	ITV	30/05/2017	Advertising content	1
Advertisement	ITV	31/05/2017	Advertising content	1
Advertisement	ITV	01/06/2017	Advertising/editorial distinction	1
Advertisement	ITV	02/06/2017	Advertising content	1
Masterpiece	ITV	25/05/2017	Outside of remit	1
Advertisement	ITV3	06/06/2017	Advertising content	2
Advertisement	ITVBe	08/06/2017	Advertising content	2
Katie Hopkins	LBC 97.3 FM	Various	Outside of remit	1
Advertisement	Quest	04/06/2017	Advertising content	1
R-Mornings	Revelation	06/05/2017	Outside of remit: Outside of remit	1
Sky News	Sky News	05/06/2017	Outside of remit	1
Advertisement	Sky1	04/06/2017	Advertising content	1
Advertisement	Talksport	02/06/2017	Advertising content	1
Advertisement	Various	02/06/2017	Advertising content	1

For more information about how Ofcom assesses complaints about television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

Complaints about on demand services

Programme	Service name	Accessed date	Categories	Number of complaints
Advertisement	All 4	03/06/2017	Advertising content	1
Advertisement	YouTube	Various	Advertising content	1

For more information about how Ofcom assesses complaints about on demand services, go to: https://www.ofcom.org.uk/_data/assets/pdf_file/0033/74499/procedures-investigating-breaches.pdf

Complaints about the BBC, not assessed

A new BBC Royal Charter and Agreement was published in December 2016, which made Ofcom the new independent regulator of the BBC.

Here are alphabetical lists of complaints about the BBC that Ofcom was unable to assess. This is because Ofcom can normally only consider complaints about BBC programmes where the complainant has already complained to the BBC and the BBC has reached its final decision. The complaints in this table had been made to Ofcom before completing the BBC's complaints process.

Complaints about BBC television, radio or on demand programmes

Programme	Service	Transmission or Accessed Date	Categories	Number of Complaints
Programming	All BBC Services	05/06/2017	Elections/Referendums	1
BBC	BBC	29/05/2017	Elections/Referendums	1
BBC Election Debate 2017	BBC 1	31/05/2017	Elections/Referendums	52
BBC News	BBC 1	03/06/2016	Elections/Referendums	1
BBC News	BBC 1	16/05/2017	Elections/Referendums	1
BBC News	BBC 1	26/05/2017	Elections/Referendums	1
BBC News	BBC 1	26/05/2017	Other	1
BBC News	BBC 1	29/05/2017	Elections/Referendums	1
BBC News	BBC 1	30/05/2017	Elections/Referendums	2
BBC News	BBC 1	02/06/2017	Elections/Referendums	4
BBC News	BBC 1	03/06/2017	Elections/Referendums	1
BBC News	BBC 1	04/06/2017	Elections/Referendums	1
BBC News	BBC 1	04/06/2017	Generally accepted standards	1
BBC News	BBC 1	06/06/2017	Elections/Referendums	3
BBC News	BBC 1	07/06/2017	Elections/Referendums	2
BBC News / Question Time	BBC 1	11/05/2017	Elections/Referendums	1
BBC Programming	BBC 1	02/06/2017	Elections/Referendums	1
Breakfast	BBC 1	01/06/2017	Elections/Referendums	1
Breakfast	BBC 1	04/06/2017	Crime and disorder	1
Breakfast	BBC 1	04/06/2017	Harm	1
Breakfast	BBC 1	05/06/2017	Harm	1
Breakfast	BBC 1	06/06/2017	Elections/Referendums	2
Broken	BBC 1	06/06/2017	Generally accepted standards	4
Doctor in The House	BBC 1	15/05/2017	Materially misleading	1
EastEnders	BBC 1	29/05/2017	Suicide and self harm	1
EastEnders	BBC 1	30/05/2017	Product placement	1
Kat and Alfie: Redwater	BBC 1	25/05/2017	Other	1

Programme	Service	Transmission or Accessed Date	Categories	Number of Complaints
One Love Manchester Concert	BBC 1	04/06/2017	Nudity	2
Question Time: Leaders Special	BBC 1	02/06/2017	Elections/Referendums	10
Rip off Britain: Food	BBC 1	01/06/2017	Materially misleading	1
The Andrew Neil Interviews	BBC 1	26/05/2017	Elections/Referendums	6
BBC News	BBC 1 / BBC News Channel	04/06/2017	Race discrimination/offence	4
Reporting Scotland	BBC 1 Scotland	10/05/2017	Elections/Referendums	6
Scottish Leaders' Debate	BBC 1 Scotland	21/05/2017	Elections/Referendums	1
South Today	BBC 1 South	08/06/2017	Violence	1
BBC Wales Leaders' Debate	BBC 1 Wales	30/05/2017	Elections/Referendums	1
Daily Politics	BBC 2	05/06/2017	Elections/Referendums	26
Daily Politics	BBC 2	06/06/2017	Elections/Referendums	1
Daily Politics	BBC 2	07/06/2017	Elections/Referendums	1
Fall of an American Icon	BBC 2	05/06/2016	Race discrimination/offence	1
Newsnight	BBC 2	06/06/2017	Elections/Referendums	1
Newsnight	BBC 2	07/06/2017	Elections/Referendums	1
The Daily Politics	BBC 2	05/06/2017	Elections/Referendums	1
The Truth Behind the Third Tower	BBC 2	26/10/2008	Materially misleading	1
Victoria Derbyshire	BBC 2	06/06/2017	Dangerous behaviour	1
BBC Election coverage	BBC Channels	various	Elections/Referendums	1
BBC News	BBC Channels	16/03/2017	Elections/Referendums	1
BBC News	BBC Channels	29/05/2017	Crime and disorder	1
BBC News	BBC Channels	29/05/2017	Elections/Referendums	1
BBC News	BBC Channels	30/05/2017	Elections/Referendums	3
Election 2017 coverage	BBC Channels	26/05/2017	Elections/Referendums	1
Newsnight, Womans hour, PM	BBC iPlayer	01/02/2017	Elections/Referendums	1
The Andrew Neil Interviews	BBC iPlayer	01/06/2017	Elections/Referendums	1
BBC News	BBC News	07/06/2017	Elections/Referendums	3
BBC News	BBC News	30/05/2017	Elections/Referendums	1
The Papers	BBC News	25/05/2017	Generally accepted standards	1
BBC News	BBC News / BBC 1	30/05/2017	Elections/Referendums	1
BBC News	BBC News, BBC Radio 2	30/05/2017	Elections/Referendums	1
Newsbeat	BBC Radio 1	05/06/2017	Elections/Referendums	1
Jeremy Vine	BBC Radio 2	06/06/2017	Elections/Referendums	3
Jeremy Vine	BBC Radio 2	07/06/2017	Elections/Referendums	1
Alex Horne Presents the Horne Section	BBC Radio 4	25/05/2017	Offensive language	1

Programme	Service	Transmission or Accessed Date	Categories	Number of Complaints
Alex Horne Presents the Horne Section	BBC Radio 4	01/06/2017	Sexual material	1
BBC News	BBC Radio 4	04/06/2017	Crime and disorder	1
BBC News	BBC Radio 4	04/06/2017	Elections/Referendums	1
Today	BBC Radio 4	06/06/2017	Elections/Referendums	5
Today	BBC Radio 4	07/06/2017	Elections/Referendums	1
Woman's Hour	BBC Radio 4	30/05/2017	Elections/Referendums	5
Woman's Hour	BBC Radio 4	01/06/2017	Elections/Referendums	1
World at One	BBC Radio 4	01/06/2017	Elections/Referendums	1
Wake Up To Money	BBC Radio 5 Live	07/06/2017	Elections/Referendums	1
Radcliffe and Maconie	BBC Radio 6 Music	30/05/2017	Elections/Referendums	1
All Programming	BBC Services	05/06/2017	Elections/Referendums	1
BBC News, News programmes	BBC TV, Radio	31/05/2017	Elections/Referendums	1
Programming	BBC1, BBC News channel, BBC2 Daily Politics & Newsnight	01/06/2017	Elections/Referendums	1

For more information about how Ofcom deals with BBC television, radio and on demand complaints, go to: <https://www.ofcom.org.uk/tv-radio-and-on-demand/how-to-report-a-complaint/how-ofcom-deals-with-bbc-complaints>

Investigations List

If Ofcom considers that a broadcaster or service provider may have breached its codes, rules, licence condition or other regulatory requirements, it will start an investigation.

It is important to note that an investigation by Ofcom does not necessarily mean the broadcaster or service provider has done anything wrong. Not all investigations result in breaches of the codes, rules, licence conditions or other regulatory requirements being recorded.

Here are alphabetical lists of new investigations launched between 30 May and 11 June 2017.

Investigations launched under the Procedures for investigating breaches of content standards for television and radio

Programme	Service	Transmission date
Bangla TV News	Bangla TV	29 April 2017
Tomorrow's World	CBS Reality	19 March 2017
Amader Khobor	Channel i	1 February 2017
Programming	Holiday and Cruise Channel	26 March 2017
Seed of Chucky (trailer)	Horror Channel	13 May 2017
Continuity announcement	MTV	23 May 2017
Recorded Repeat Show	Radio Dawn	16 May 2017
Lunch with Hughie Parr	Ribble FM 106.7	22 May 2017
Advertising minutage	TLC (Slovenia)	26 February 2017
Advertising minutage	Travel Channel (Slovenia)	Various

For more information about how Ofcom assesses complaints and conducts investigations about content standards on television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

Investigations launched under the Procedures for the consideration and adjudication of Fairness and Privacy complaints

Programme	Service	Accessed date
How the Police Missed the Grindr Killer	BBC3 iPlayer	16 February 2017

For more information about how Ofcom considers and adjudicates upon Fairness and Privacy complaints about television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0031/57388/fairness-privacy-complaints.pdf

Investigations launched under the General Procedures for investigating breaches of broadcast licences

Licensee	Licensed Service
Saint FM Maldon Essex	St Peters Studio and Community Radio Limited

For more information about how Ofcom assesses complaints and conducts investigations about broadcast licences, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0019/31942/general-procedures.pdf