

OFCOM BROADCAST AND ON DEMAND BULLETIN

Issue number 337
25 September 2017



Contents

Introduction	4
Broadcast Standards cases	
In Breach	
F1 London Live <i>Sky Sports F1, 12 Jul 17, 18:00 and 13 Jul 17, 11:00</i>	5
Doctor Funk <i>New Style Radio, 29 June 17, 17:08</i>	7
News bulletins <i>Mansfield 103.2, 13 June 2017 at 11:00 and 12:00</i>	9
Broadcast Licence Conditions cases	
In Breach	
Providing a service in accordance with 'Key Commitments' <i>Fever FM, 28 May to 4 June 2017</i>	11
Broadcast Fairness and Privacy cases	
Not Upheld	
Complaint by Dr Thea Pitman <i>Fatal Fog: Winter Road Rescue, Channel 5, 6 Mar 17</i>	13
Complaint by Mrs Mikaela Skinner on her own behalf and on behalf of her daughter (a minor) <i>Hunted, Channel 4, 29 Sept 16</i>	21
Tables of cases	
Investigations Not in Breach	37
Complaints assessed, not investigated	38
Complaints outside of remit	45
BBC First	46
Investigations List	47

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/ Resolved

F1 London Live

Sky Sports F1, 12 July 2017, 18:00 and 13 July 2017, 11:00

Introduction

F1 London Live is a programme covering a live Formula One event which featured Formula One teams, celebrities, and music acts. The live event was broadcast on 12 July 2017 and repeated on 13 July 2017. The licence for Sky Sports F1 is held by Sky UK Limited ("Sky" or "the Licensee").

We received a complaint about offensive language during the repeat broadcast of the event on 13 July 2017.

During both broadcasts of *F1 London Live*, the singer Ricky Wilson of the band The Kaiser Chiefs, addressed the audience between songs, saying:

"...what are they doing standing here when I've got a glass of fucking, sorry, flipping prosecco in my hand...".

Ofcom considered this raised issues under the following Code rule:

Rule 1.14: "The most offensive language must not be broadcast before the watershed..."

We therefore requested comments from the Licensee on how these programmes complied with this rule.

Response

Sky stated that it regretted the use of offensive language during its sports broadcast, particularly the repeat broadcast which it conceded should not have contained the unedited word.

12 July 2017, 18:00

Sky explained that the live programme was broadcast as part of a "world feed" produced by Formula One Management, to be used by any country providing live Formula One coverage. It added that in the last four years the use of any strong language during Formula One programmes was "extremely rare" and therefore it had "no expectation" that it would feature in this live broadcast.

The Licensee said the context in which the offensive language was used would have kept any potential offence to a minimum because: the word was used in "casual" rather than an "aggressive manner"; it lacked malicious intent; was not directed at a particular person; and the singer immediately apologised and corrected himself.

13 July 2017, 11:00

Sky explained that that all live Formula One events are reviewed in-house by its production team before a repeat broadcast. However, in this case, due to human error, the instance of offensive language was missed and “not muted as required” when being reviewed. The Licensee said that it had taken several steps to ensure the “unusual oversight” of failing to remove the use of offensive language was not repeated by: speaking to the member of the production team about the error; scheduling workshops and compliance training for all Sky Sports production teams; and ensuring the programme cannot be scheduled again.

Decision

Reflecting our duties under the Communications Act 2003⁴, 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 on television before the watershed. Ofcom's 2016 research on offensive language⁵ clearly indicates that the word “fuck” and variations of it are considered by audiences to be amongst the most offensive language.

12 July 2017, 18:00

The use of the word “fucking” was broadcast at approximately 20:26 before the watershed. This therefore was a clear breach of Rule 1.14.

However, Ofcom took into account that: the language took place in the context of a live event; the language was not used in an aggressive manner; and the singer immediately apologised and corrected himself.

In light of these actions, Ofcom's Decision is that the matter is resolved.

13 July 2017, 11:00

In this case the word “fucking” was broadcast at approximately 13:25 during a repeat broadcast of the event. This was clearly an example of the most offensive language being broadcast before the watershed in a pre-recorded programme. The Licensee explained this had been “missed” during review.

Our Decision is that this material was a clear breach of Rule 1.14.

F1 London Live, 12 July 2017: Resolved
F1 London Live, 13 July 2017: Breach of Rule 1.14

⁴ <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

⁵ https://www.ofcom.org.uk/_data/assets/pdf_file/0022/91624/OfcomOffensiveLanguage.pdf

In Breach

Doctor Funk

New Style Radio, 29 June 2017, 17:08

Introduction

New Style Radio is a community radio station broadcasting to Afro-Caribbean communities in northwest Birmingham. The licence for this service is held by Afro-Caribbean Millennium Centre (ACMC) Ltd ("ACMC" or "the Licensee").

Doctor Funk is a music programme, broadcast between 15:00 and 18:00 on weekday afternoons.

We received a complaint about the broadcast of 50 Cent's song, 'In Da Club'. The song contained four instances of the words "fuck" or "fucking", one use of "motherfucker", and nine instances of "nigger" or "niggers".

A version of the same song by Beyoncé, which contained no offensive language, was played immediately afterwards. After this song finished, the presenter said:

"I do have to apologise, that was the naughty version. It's all in the planning you see, when you don't plan it's terrible".

Ofcom considered the material raised potential issues under the following Code rule:

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

We therefore requested ACMC's comments on how this content complied with this rule.

Response

ACMC accepted the song should not have been played unedited at this time. It told Ofcom that the presenter had "inadvertently played the unedited version" of the song. It confirmed that the presenter had received training before this incident on the need "to prevent inappropriate material being played whilst children might be listening".

The Licensee explained that it has "instituted a programme of retraining all new presenters to ensure that there is no repetition" of this incident. ACMC explained it has "also written to all presenters reminding them of the need for all presenters to be familiar with the details of songs played".

ACMC said it did "not believe there is any contextual circumstances which justifies the broadcasting of this material at the time" it was played. It also gave Ofcom its assurance that it "will endeavour to ensure that there is no repetition of this infringement".

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 when children are particularly likely to be listening.

Ofcom's 2016 research on offensive language² clearly indicates that the words "fuck", "motherfucker" 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 radio³ 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 14 instances of the most offensive language were broadcast at 17:08 on a Thursday during term-time.

ACMC acknowledged that this song had been broadcast in error and told us it had taken steps to prevent a recurrence. However, the most offensive language was broadcast when children were particularly likely to be listening. Ofcom's Decision is that this material was in breach of Rule 1.14.

Breach of Rule 1.14

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

² 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

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

In Breach

News bulletins

Mansfield 103.2, 13 June 2017 at 11:00 and 12:00

Introduction

Mansfield 103.2 is a music and information station for 25 to 54 year olds in the Mansfield area in Nottinghamshire. The licence for Mansfield 103.2 is held by Mansfield & Ashfield Broadcasting Company Limited ("Mansfield" or "the Licensee").

Ofcom received a complaint that on several occasions in May, June and July 2017 Mansfield 103.2's "top of the hour" news bulletins were sponsored.

The following pre-recorded material was broadcast over a constant music bed, immediately before news bulletins:

Voiceover 1: *"Top of the Hour with Top Cat Furniture. Choose from over five acres of furniture at Top Cat. Better choice, better value. [Address and opening times]"*.

Voiceover 2: *"Your first and only choice for Mansfield news and sport"*.

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

Rule 10.3: "No commercial reference, or material that implies a commercial arrangement, is permitted in or around news bulletins or news desk presentations..."

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

Response

The Licensee said that there had never been any news sponsorship on Mansfield 103.2.

The Licensee added that the content of "the Top of The Hour tag" related to a furniture retailer known as Top Cat Wholesale and had no connection to any organisation with a direct interest in news. It said that the retailer's interest related only to combining the name of "Top Cat" to the "Top of the Hour" and not to the news that was about to be broadcast at that time. The Licensee said that, if this was "considered to be a commercial reference near to the news, it was never [its] intention to imply sponsorship or influence over [its] editorial content".

In response to Ofcom's Preliminary View, Mansfield said it was "now addressing the promotional tag's position to properly comply with Rule 10.3".

Decision

Reflecting our duties under the Communications Act 2003¹, Section Ten of the Code includes rules to protect listeners from unsuitable sponsorship of radio programmes.

Rule 10.3 prohibits any commercial reference, or material that implies a commercial arrangement, in or around news bulletins (subject to specific exceptions). This is to ensure that news bulletins are neither distorted for commercial purposes nor perceived by listeners to have been so distorted. Ofcom's guidance states that "...care must be taken with the positioning, in particular, of sponsorship credits, to avoid the impression that a news bulletin or the station's news output is sponsored".

In this instance, the Licensee had a commercial arrangement with Top Cat Furniture to associate the retailer's name with the "Top of the Hour". To fulfil this arrangement, Mansfield 103.2 broadcast a commercial reference (Voiceover 1) just before 11:00 and 12:00.

The Licensee confirmed that this commercial reference (in programming) was not related to any other editorial content. However, it was presented with the introduction to the news (Voiceover 2) and, in Ofcom's view, given their proximity to the news bulletins themselves, which were broadcast on the hour, listeners were likely to consider that the news bulletins were sponsored by Top Cat Furniture.

Our decision is that a commercial reference was broadcast around news bulletins, which implied Top Cat Furniture's sponsorship of them, in breach of Rule 10.3 of the Code.

Breaches of Rule 10.3

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

Broadcast Licence Conditions cases

In Breach

Providing a service in accordance with 'Key Commitments' *Fever FM, 28 May to 4 June 2017*

Introduction

Fever FM is a community radio station licensed to provide a local service for the South Asian communities of Leeds. The licence is held by Radio Asian Fever CIC ("RAFC" or "the Licensee").

Like other community radio stations, RAFC is required to deliver the 'Key Commitments' which form part of its licence¹. These set out how the station will serve its target community and include a description of the programme service.

Ofcom received a complaint that Fever FM was broadcasting Ramadan² programming only, and was therefore not delivering its Key Commitments to broadcast to all of the South Asian communities of Leeds.

We noted that the Key Commitments in Fever FM's licence explicitly permit the station to broadcast "some religious and cultural programming at times of religious significance and cultural celebration", but that another Key Commitment requires the service to broadcast a range of different types of music across each week.

We requested recordings of three days of Fever FM's output, covering Sunday 28, Monday 29 and Tuesday 30 May 2017, along with its programme schedule for the week commencing 28 May 2017.

After listening to the output and considering the programme schedule, we identified a potential issue with RAFC's delivery of the following Key Commitment:

- Music: The main types of music broadcast over the course of each week are: Bollywood, Lollywood, Indian and Pakistani folk (Punjabi), Bhangra, and Asian Fusion Music.

We noted that the only music broadcast between 28 May and 4 June 2017³ was religious devotional Nasheeds/Na'ats⁴.

¹ The Key Commitments are contained in an annex to RAFC's licence. They can be viewed in full at: <http://static.ofcom.org.uk/static/radiolicensing/Community/commitments/cr000031.pdf>

² Ramadan: Islamic holy month, which is observed by Muslims worldwide as a month of fasting.

³ Based on our monitoring of the output from 28-30 May, and the schedule provided by the Licensee for the rest of the period.

⁴ Nasheed/Na'ats: Poetry usually in praise of prophet Muhammad but can also be about other Islamic subjects.

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

"The Licensee shall provide the Licensed Service specified in the Annex for the licence period." (Section 106(2) of the Broadcasting Act 1990); and

"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" (Section 106(1) of the Broadcasting Act 1990).

We requested comments from RAFC on how it was complying with these conditions, with reference to the specific Key Commitment set out above.

Response

The Licensee stated that "during various religious dates, such as Christmas, Easter, Vaisakhi, Ramadhan and Diwali... it changes its normal music output to spiritual music tracks which relates to that particular religion". RAFC said that the fact that this is not included in its Key Commitments was an oversight, and that "under normal dates, Fever FM does deliver musical programs throughout the week".

Decision

Reflecting our duties to ensure a diverse range of local radio services, community licensees are required to provide the specified licensed service set out in their Key Commitments.

Between 28 May and 4 June 2017, Ofcom considered that RAFC was not meeting the Key Commitment relating to its music output which requires the Licensee to broadcast "Bollywood, Lollywood, Indian and Pakistani folk (Punjabi), Bhangra, and Asian Fusion Music" each week. Ofcom's view is therefore that RAFC breached Conditions 2(1) and 2(4) of its licence.

Breaches of Licence Conditions 2(1) and 2(4) in Part 2 of the Schedule to the community radio licence held by Radio Asian Fever CIC (licence number CR000031).

Fairness and Privacy cases

Not Upheld

Complaint by Dr Thea Pitman

Fatal Fog: Winter Road Rescue, Channel 5, 6 March 2017

Summary

Ofcom has not upheld Dr Thea Pitman's complaint of unwarranted infringement of privacy.

The programme was part of a series which documented the work of road side assistance and recovery crews. This episode showed the complainant receiving assistance after her car had skidded off the road into a ditch in icy conditions. Dr Pitman complained that her privacy was unwarrantably infringed in connection with the obtaining of material included in the programme and in the programme as broadcast.

Ofcom found that Dr Pitman did not have a legitimate expectation of privacy in the obtaining of the footage of her, or in its subsequent broadcast in the programme. We therefore considered that there was no unwarranted infringement of Dr Pitman's privacy in either the obtaining or the broadcast of the footage of her.

Programme summary

On 6 March 2017, Channel 5 broadcast an edition of *Winter Road Rescue*, a series which documented the work of road side assistance and recovery crews as they tackled a variety of road and traffic related problems caused by winter weather conditions. This episode was entitled: *Fatal Fog*.

The programme featured a story of a woman (the complainant, Dr Pitman) whose car had skidded off the road into a ditch in icy conditions. The incident, which the programme's narrator said occurred in "*Ilkley, west Yorkshire*", began with an RAC patrol, "Richard", calling Dr Pitman to say that he was on his way to her. Dr Pitman's voice could be heard in the brief conversation. Richard explained to camera that, for him, it was a priority to get to the customer quickly as she was a lone female stuck on the side of the road at night and in freezing conditions.

Richard was then shown arriving at the scene and greeting Dr Pitman, whose face was unobscured. The narrator referred to Dr Pitman by her first name "Thea" and footage of her car could be seen, though for most of the time the car registration plate was obscured.

Richard was shown working out how best to get Dr Pitman's car out of the ditch while Dr Pitman was shown talking to Richard and the camera crew about what had happened. Eventually, Richard was shown towing the car out of the ditch and this part of the programme concluded with Dr Pitman, referred to again as "Thea", driving away.

Dr Pitman was not referred to or shown again in the programme.

Summary of the complaint and the broadcaster's response

- a) Dr Pitman complained that her privacy was unwarrantably infringed in connection with the obtaining of material included in the programme because she "felt trapped" into agreeing to be filmed as the RAC patrol had arrived accompanied by a cameraman who "sprung on me with no warning" and asked if he could film her.
- b) Dr Pitman also complained that her privacy was unwarrantably infringed in the programme as broadcast in that footage of her was included in the programme without her consent.

Dr Pitman said that after the car was recovered, the cameraman said he needed me to sign a consent form, but that he did not have any with him. She said that he asked if he could call her to take her consent, so she gave him her number, thinking that this would allow her to say no later. Dr Pitman said that on 13 February 2017, the programme makers telephoned her and she said briefly but clearly that she did not consent to her participation being included in the programme. She said that she "left it at that, trusting the production company to exclude me from their documentary".

Dr Pitman said that in the programme she was identified by her first name and by location, and that her car registration plate was also shown. She also said that her face was not pixelated and her voice was not disguised. After the broadcast of the programme, Dr Pitman complained to Channel 5 which responded by telling her that she had given her written consent on the day of filming, 14 January 2017, and provided her with a copy of document. Dr Pitman said that her signature on the form had been "forged" and misspelt and that this was "not just malpractice – this is illegal".

The broadcaster's response

- a) Channel 5 said that it did not agree that Dr Pitman's privacy was unwarrantably infringed in connection with obtaining material included in the programme as broadcast.

The broadcaster said that while it was sorry that Dr Pitman had "felt trapped" into agreeing to be filmed, the fact was that she did agree to be filmed and that during an extended period while the RAC patrol was trying to safely extract her car. It said that Dr Pitman gave no indication to either the cameraman or the RAC patrol that she was in any way uncomfortable with the filming or wished for it to be stopped.

Channel 5 said that it understood that the programme's director was travelling with the RAC patrol when they arrived at the scene of Dr Pitman's accident. On arrival, the director had approached Dr Pitman and explained who he was and that he was filming a programme for Channel 5. It said that Dr Pitman had consented to the filming. The broadcaster said that while it understood that Dr Pitman "may have been surprised by the approach and uncomfortable, she gave no such indication to either the director or the RAC patrol man".

Channel 5 said that the extraction of Dr Pitman's car had taken some time (approximately 40 minutes), and that during that time Dr Pitman: had appeared happy to be filmed; gave no indication that she regretted agreeing to be filmed; did not ask that the filming be stopped; and, freely interacted with both the director and the RAC patrol while the filming took place.

Channel 5 also said that, during filming, Dr Pitman had responded to the director's questions on camera and that she had given an approximately four-minute filmed interview to the director while the RAC patrol was working.

Channel 5 said that, following Dr Pitman's car being recovered from the ditch, the director asked Dr Pitman if he could be "super annoying" and request that she get back into her car so that he could film footage of her behind the wheel. Dr Pitman agreed, got back into her car to be filmed and followed the director's instructions to look straight ahead. The broadcaster also said that after Dr Pitman had completed the RAC paperwork, "the RAC patrol man said that he was sure the director just wanted a shot of her driving off". Channel 5 said that again, there was no objection from Dr Pitman.

Channel 5 said that Dr Pitman had provided her consent to being filmed initially, continued to co-operate with the filming throughout, and gave no verbal or visible indication that she was uncomfortable or that she wanted filming to stop. It said that, in the circumstances, it did not agree that Dr Pitman's privacy was unwarrantably infringed in connection with obtaining material included in the programme as broadcast.

- b) Channel 5 said that it also did not agree that Dr Pitman's privacy had been unwarrantably infringed in the programme as broadcast. It said that as set out above at head a), Dr Pitman had clearly consented to being filmed for the purpose of the programme being made for Channel 5 and did not give any indication during filming that she was uncomfortable or regretted her initial agreement.

The broadcaster said that, in addition to obtaining verbal consent from contributors to programmes, it would normally expect the director to obtain a signed consent form from all contributors willing to provide written consent. Channel 5 said that on this occasion, because the "signed" consent form was provided by the director to the production company, both Channel 5 and the production company believed that Dr Pitman had signed the release form. It said that when Dr Pitman disputed this and pointed out the spelling error in her name, the production company spoke to the director. Channel 5 said that the director had apologised and said that he had filled in the release form himself. He said that he had been rushing to get release forms into the production company for the various stories that he had filmed and realised that he did not have Dr Pitman's written consent, and so had completed the form himself.

Channel 5 said that it wanted to apologise to Dr Pitman for suggesting in its response to her complaint made directly to the broadcaster after the programme was broadcast that she had signed the release form and for "...the inexcusable and inexplicable breach of protocol by the director in filling out the release form himself and filing it with the production company". It said, however, that there was nothing in Ofcom's Broadcasting Code ("the Code") or "in the law" that requires programme makers to obtain signed release forms from contributors. It said that it was best practice to obtain signed release forms evidencing consent, however, where it was clear, such as in this case, that a contributor has consented to the filming, the absence of a signed release form did not negate that consent. The broadcaster said that both it and the production company were entitled to, and did, rely upon the verbal consent and actions of Dr Pitman at the time of filming.

Channel 5 said that, as evidenced in the programme, the production company contacted a number of contributors to ask whether they would be willing to take part in a follow-up interview. It said that approximately a month after Dr Pitman's rescue, the production company had also contacted Dr Pitman to ask if she would be willing to take part in a follow-up interview. Channel 5 said that Dr Pitman "...indicated that she considered it was an imposition someone coming along to film when she was waiting for recovery, that she did not want to take part and then hung up". Channel 5 said that the production company had understood this to be a rejection of a follow-up interview and had therefore not pursued Dr Pitman further.

Channel 5 said that neither during that telephone conversation, nor subsequently, either to the programme makers or to Channel 5, did Dr Pitman make clear that she wished to withdraw her original consent. Nor did Dr Pitman indicate to Channel 5, the programme makers or Ofcom, that there had been any material change in circumstances that could have affected the validity of the original consent.

Channel 5 said that broadcasters had to be able to rely upon consents provided by contributors and that production companies and Channel 5, in reliance upon such consents, invest time and money in reviewing footage and incorporating footage into programmes. It said that there were occasions where contributors communicate that they are nervous about their participation, and, in such circumstances, Channel 5 endeavours to find out as much as it can about the change of heart to establish whether there has been a material change in the contributor's circumstances to the extent that the consent was invalidated or that for any other reason it would not be appropriate to proceed.

Channel 5 said that in this case, although Dr Pitman may have felt that she said "briefly but clearly that she did not consent to her participation being included in the programme", that was not the message received by the production company. It said that, even if this had been the case, in the absence of any information of a material change in Dr Pitman's circumstances, there was nothing to suggest that the original consent had been invalidated.

Channel 5 said that it regretted that Dr Pitman was unhappy that she was featured in the programme, and for the actions of the director in completing and filing the release form with the production company. However, it said that it did not consider that Dr Pitman's privacy was unwarrantably infringed in either the making or broadcast of the programme or that her inclusion in the broadcast amounted to a breach of the Code or the law.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View that Dr Pitman's complaint should not be upheld. The parties were given the opportunity to make representations on the Preliminary View and both parties did so. The representations received from both parties focused on whether or not Dr Pitman had provided her consent to be filmed for broadcast. Ofcom's Preliminary View was that Dr Pitman did not have a legitimate expectation of privacy in the obtaining of the footage of her, or in its subsequent broadcast. Therefore, it was not necessary for Ofcom to consider whether or not Dr Pitman had given her consent for the footage of her to be filmed and broadcast.

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.

In reaching this decision, Ofcom carefully considered all the relevant material. This included a recording of the programme as broadcast, the unedited footage filmed of the complainant, both parties' written submissions and supporting documentation. Ofcom also took careful account of the representations made by the parties in response to being given the opportunity to comment on Ofcom's Preliminary View on this complaint. However, as outlined above, we did not consider the points raised to be relevant to our decision. We therefore concluded that they did not affect the outcome of Ofcom's decision not to uphold the complaint.

In Ofcom's view, the individual's right to privacy has to be balanced against the competing right of the broadcaster to freedom of expression. Neither right as such has precedence over the other and where there is a conflict between the two, it is necessary to intensely focus on the comparative importance of the specific rights. Any justification for interfering with or restricting each right must be taken into account and any interference or restriction must be proportionate.

This is reflected in how Ofcom applies Rule 8.1 of the Code, which states that any infringement of privacy in programmes or in connection with obtaining material included in programmes must be warranted.

In addition to this Rule, Section Eight (Privacy) of the Code contains "practices to be followed" by broadcasters when dealing with individuals or organisations participating in, or otherwise directly affected by, programmes, or in the making of programmes. Following these practices will not necessarily avoid a breach of Rule 8.1 and failure to follow these practices will only constitute a breach where it results in an unwarranted infringement of privacy.

- a) Ofcom considered Dr Pitman's complaint that her privacy was unwarrantably infringed in connection with the obtaining of material included in the programme.

Practice 8.5 states:

"Any infringement of privacy in the making of a programme should be with the person's and/or organisation's consent or be otherwise warranted".

Practice 8.9 states:

“The means of obtaining material must be proportionate in all circumstances and in particular to the subject matter of the programme”.

In considering Dr Pitman's complaint that her privacy was unwarrantably infringed in connection with the obtaining of material included in the programme, Ofcom first assessed the extent to which she had a legitimate expectation of privacy with regard to the circumstances in which footage of her was filmed for inclusion in the programme. The Code's statement on the meaning of “legitimate expectation of privacy” makes clear that such an expectation:

“...will vary according to the place and nature of the information, activity or condition in question, the extent to which it is in the public domain (if at all) and whether the individual concerned is already in the public eye. There may be circumstances where people can reasonably expect privacy even in a public place...”.

Insofar as is relevant, the Guidance Notes¹ explain that “[p]rivacy is least likely to be infringed in a public place...However, there may be circumstances where people can reasonably expect a *degree* of privacy even in public place. The degree will always be dependent on the circumstances”.

We assessed the nature of the material obtained and included in the programme. Dr Pitman was filmed standing by the side of a public road while an RAC patrol pulled her car free out of a ditch (as detailed above in the “Programme summary”). She was filmed speaking with both the RAC patrol and being interviewed by the director about what had happened. It was clear to Ofcom having examined the unedited material as well as the material included in the programme that Dr Pitman was filmed openly and was aware that she was being filmed.

Given the above, we did not consider that Dr Pitman was filmed engaged in any conduct or action that could reasonably be regarded as particularly private or sensitive in nature. Nor did we consider that Dr Pitman was filmed in a particularly vulnerable state, for example, having sustained any injuries in the accident or visibly shaken and upset. Dr Pitman had not been injured and she appeared calm and engaged with both the RAC patrol and the director throughout the filming.

For these reasons, we therefore considered that Dr Pitman did not have a legitimate expectation of privacy with regards to the filming of the footage of her for inclusion in the programme.

Having come to the view that Dr Pitman did not have a legitimate expectation of privacy in relation to the filming of the footage of her, it was unnecessary for Ofcom to consider whether any infringement of Dr Pitman's privacy was warranted.

Therefore, Ofcom's decision is that there was no unwarranted infringement of Dr Pitman's privacy in connection with the obtaining of material included in the programme.

¹ https://www.ofcom.org.uk/_data/assets/pdf_file/0019/25624/section8.pdf

- b) Ofcom next considered Dr Pitman's complaint that her privacy was unwarrantably infringed in the programme as broadcast because footage of her was included in the programme without her consent.

Practice 8.4 states:

"Broadcasters should ensure that words, images or actions filmed or recorded in, or broadcast from, a public place, are not so private that prior consent is required before broadcast from the individual or organisation concerned, unless broadcasting without their consent is warranted".

Practice 8.6 states:

"If the broadcast of a programme would infringe the privacy of a person or organisation, consent should be obtained before the relevant material is broadcast, unless the infringement of privacy is warranted".

In considering Dr Pitman's complaint that her privacy was unwarrantably infringed in the programme as broadcast, Ofcom assessed the extent to which she had a legitimate expectation of privacy in relation to the broadcast of the footage of her in the programme. As stated above, the test applied by Ofcom as to whether a legitimate expectation of privacy arises is objective, fact sensitive and must always be considered in light of the circumstances in which the individual finds him or herself.

Unobscured footage of Dr Pitman and audio of her undisguised voice was included in the programme. Also, she was also referred to by her first name "Thea" and footage of her car's registration number plate was shown. We therefore considered that Dr Pitman was identifiable in the programme as broadcast.

As set out in detail above in the "Programme summary" section, Dr Pitman was shown standing by the side of a public road while her car was pulled free from a ditch. Footage of her speaking with the RAC patrol and being interviewed by director about what had happened and the weather conditions was also included.

As above in head a), we did not consider that footage was included in the programme of Dr Pitman engaged in any conduct or action that could reasonably be regarded as particularly private or sensitive in nature. Nor did we consider that footage was included of Dr Pitman in a particularly vulnerable state, for example, having sustained any injuries in the accident or visibly shaken and upset. Dr Pitman had not been injured and she appeared calm and engaged with both the RAC patrol and the director throughout the filming

For these reasons, again, we considered that Dr Pitman did not have a legitimate expectation of privacy with regards to footage included of her in the programme.

Having come to the view that Dr Pitman did not have a legitimate expectation of privacy in relation to the footage included of her in the programme, it was unnecessary for Ofcom to consider whether any infringement of Dr Pitman's privacy was warranted. We note that the parties dispute whether consent was provided for footage of Dr Pitman to be included in the programme. We also note that Channel 5 said it wanted to apologise to Dr Pitman for "...the inexcusable and inexplicable breach of protocol by the director in

filling out the release form himself and filing it with the production company". However, in light of our view that Dr Pitman did not have a legitimate expectation of privacy in relation to the footage included of her in the programme, it was not necessary to consider whether or not Dr Pitman had given her consent for the footage to be included.

Therefore, Ofcom's decision is that there was no unwarranted infringement of Dr Pitman's privacy in the programme as broadcast.

Ofcom has not upheld Dr Pitman's complaint of unwarranted infringement of privacy in connection with the obtaining of material included in the programme and in the programme as broadcast.

Not Upheld

Complaint by Mrs Mikaela Skinner on her own behalf and on behalf of her daughter (a minor)

Hunted, Channel 4, 29 September 2016

Summary

Ofcom has not upheld Mrs Mikaela Skinner's complaint, made on her own behalf and on behalf of her daughter, of unwarranted infringement of privacy in the programme as broadcast.

The programme was part of a reality series in which members of the public became "fugitives" on the run, aiming to evade capture by an expert team of "Hunters" to win a share of £100,000. Mrs Skinner, who was one of the fugitives, complained that her and her daughter's privacy was unwarrantably infringed in the programme as broadcast because unnecessary and "totally intrusive" footage of her talking about her daughter was included in the programme without her consent.

Ofcom found that:

- Mrs Skinner had a legitimate expectation of privacy with regards to the broadcast of the comments in the programme. However, we considered it was very limited, and that she had also consented to the inclusion of the comments in the broadcast programme. In these circumstances, we were satisfied that any infringement of Mrs Skinner's privacy was warranted.
- Mrs Skinner's daughter had a legitimate expectation of privacy in the programme as broadcast. However, it was limited, given that the information broadcast about her was disclosed by her mother who had given consent to those comments being included in the programme. In the particular circumstances of this case, we considered that Mrs Skinner's daughter's expectation of privacy was outweighed by the broadcaster's right to freedom of expression in broadcasting Mrs Skinner's comments. Therefore, we were satisfied that any infringement of Mrs Skinner's daughter's privacy in the programme was warranted.

Programme summary

On 29 September 2016, Channel 4 broadcast the second episode of the second series of its reality programme *Hunted*, in which 10 members of the public became "fugitives" on the run, aiming to evade capture by the "Hunters" to win a share of £100,000.

The Hunters, who had backgrounds in police, military and intelligence services, operated from "HQ" to coordinate the capture of the fugitives, using a range of surveillance and tracking techniques. They were assisted on the ground by field teams who carried out the capture of the fugitives. The Hunters visited the fugitives' homes to retrieve their electronic devices (such as mobile phones, laptops and tablets), and question their friends and family. The Hunters also launched a public appeal for information on the location of the fugitives, and offered money for information that led to their capture.

In the first episode, the ten fugitives, including "Mikaela" (the complainant) and her partner "Hamish", were introduced and began their journey on the run. Mikaela and Hamish evaded capture in this episode and therefore continued to be featured in the following episode.

In the second episode, the Hunters continued to try and track Mikaela and Hamish. In doing so, they discussed their social media profiles, and tried to establish how the two knew each other.

Hamish explained in a pre-recorded interview that he and Mikaela's relationship had started when they were at university together. Mikaela said:

"People are asking, will we rekindle it [the relationship]? Hamish will definitely try!"

Hamish responded to the possibility of renewing his relationship with Mikaela:

"Absolutely not! Well, you have to say that, she's there. But as soon as I get her in a ditch, she's mine".

Mikaela responded: *"Such a dickhead, Hamish!"*

One of the Hunters commented:

"Mikaela, she's also had a colourful life, four kids".

Further interview footage was shown, with Mikaela saying:

"I knew I wanted four children because I thought that...it looked fun! The last one's a lovechild. I went to a jazz festival and met a tall, dark, handsome stranger...Everyone was salsa-ing, so we salsaed off into the moonlight".

Hamish and Mikaela were shown visiting Mikaela's old school. Mikaela wished to make use of the school's "network" of contacts, and trusted the school not to tell the Hunters where they were.

The Hunters announced that they planned to release information about the fugitives to media outlets, and ask the public to assist in their search for cash rewards.

A psychologist was shown building a profile of Mikaela and Hamish. She said:

"Their business activities that I can see seem to be about image, whether it's her dresses or his fine foods or his property investments services. It's all about image. She's obviously a real extrovert and has a lot of social skills. She's very good at talking to people. The attention seeking propensity will come to the fore – she won't be able to keep that hidden for very long".

Hamish and Mikaela travelled to Mikaela's former teacher's brother's house. Finding no one at home, they went to a pub.

Footage was shown of a man who worked at the pub calling the Hunters after seeing their appeal for information, and told them Mikaela and Hamish's location, and that they were

staying the night. Unaware of the telephone call, Hamish and Mikaela continued to drink in the pub.

The next morning the Hunters planned Hamish and Mikaela's capture. Hamish and Mikaela were shown sitting at a table outside the pub when the Hunters pulled into the car park. The pair were captured.

As they were being driven away in the Hunters' van, Mikaela and Hamish were shown sitting smiling at one another. They said the following in a voiceover:

Mikaela: *"You can't just sit in a tent squirreling around. What's the point? Each day of your life, you need to enjoy it, so I don't think it's any mistake to enjoy life".*

Hamish: *"Just a simple case of us making too much noise. It's the champagne lifestyle that's led to our downfall. We deserve to be caught at this stage".*

The episode ended and Mikaela and Hamish were not featured in the remainder of the series.

Summary of the complaint and the broadcaster's response

The complaint

Mrs Skinner complained that her and her daughter's privacy was unwarrantably infringed in the programme as broadcast because unnecessary and "totally intrusive" footage of her talking about her daughter was included in the programme without her consent.

By way of background, she said that she had been "pushed" to talk about her children and had asked during the interview that her comments about her daughter, who was 15 years old at the time the complaint was submitted, not be included in the programme. She said that her daughter had since received comments at school about being "a mistake" and "unwanted" and had suffered "huge distress and emotional nightmares" in response to the inclusion of the footage. She also said that "My family was ONLY to be involved if they helped me on the run".

The broadcaster's response

Background

Channel 4 said that the *Hunted* contributors had agreed to the Hunters replicating the powers of the State to investigate their personal lives and locate them. The broadcaster explained that this process involved a clear intrusion of the contributors' personal lives. It said that the agreements which the contributors accepted and signed, including the contributor release form and the 'Hunted Contributor Guide', made this intrusion into their privacy expressly clear. Channel 4 said that, for example, the 'Hunted Contributor Guide' stated: "For the social experiment to be as authentic as possible, you will have to sign a comprehensive release form to allow us to **significantly invade your privacy** during the period of the hunt [emphasis added by Channel 4]". Channel 4 provided Ofcom with a copy of the 'Hunted Contributor Guide' signed by Mrs Skinner.

Response to the complaint

Channel 4 said that the sequence Mrs Skinner had complained about was drawn almost entirely from Mrs Skinner's "back-story master interview" which was recorded on 14 April 2016. It said that the reference to her daughter as a "love child" was taken from Mrs Skinner's casting interview. Copies and transcripts of the recordings were provided to Ofcom of both these interviews. Channel 4 also provided Ofcom with a release form for footage filmed during the casting and audition process, signed by the complainant on 20 February 2016 and a 'Contributor Agreement', signed by the complainant on 14 April 2016. Channel 4 said that the release forms should be considered in conjunction with the 'Hunted Contributor Guide' which was provided to each of the contributors, and also signed by the complainant.

Channel 4 said that as demonstrated in the unedited footage and transcripts from both interviews, Mrs Skinner "...willingly recounted the story regarding her daughter and the nature of her relationship with her daughter's father". Channel 4 said that "This subject matter was voluntarily discussed by the complainant". The broadcaster highlighted two particular instances from Mrs Skinner's audition interview as examples. The complainant stated:

"The last one's a love child. I don't recommend it okay. Don't have a love child with a salsa dancer because they can be quite painful".

And,

"And then the salsa dancer was a bit of a mad fling, so I've got a little 14-year-old who's just gorgeous. I've united colours of Benetton. One of them blue eyes, one brown and green eyes and brown and brown. So, a right selection".

Channel 4 said that the complainant then returned to speak about her daughter and the nature of her relationship with her daughter's father in her main back story interview. The broadcaster set out the relevant four-minute section in full, in which it said that the complainant had gone into "considerable detail" on this subject.

Channel 4 said that it was clear from the audition and back-story interviews that Mrs Skinner had freely volunteered the story regarding her daughter and the nature of her relationship with her daughter's father. It said that: "The Complainant was clearly not forced or coerced into telling the story or 'pushed' to talk about it as she claims". Further, the broadcaster said that it was clear from these interviews that no request was made for the story to be excluded from the programme. It said that the only request that Mrs Skinner made in relation to her daughter was not to mention the name of her daughter's father, which it said the programme makers respected and adhered to.

Channel 4 said that all contributors participating in Hunted were required to sign a contributor agreement and guide which detailed, in full, the potential intrusion into their personal lives and sought "comprehensive consent" in this regard. The broadcaster said that information shared with the programme makers during the filming of a back-story interview would not be considered sensitive information unless the contributor expressly indicated that this was the case to the programme makers. It said that at no stage did Mrs Skinner indicate that information regarding her daughter was sensitive information.

The broadcaster also said that all contributors attended a contract discussion with the programme makers to discuss the details of the contract and provide an opportunity to ask any questions or raise any concerns. It said that the complainant and her partner in the programme, Hamish, had attended this meeting on 13 April 2016 and that they had raised no concerns in respect of reference to or involvement of the complainant's daughter in the programme.

The broadcaster explained that prior to filming, all contributors were provided with an opportunity to disclose any individuals or areas of their life that are "off-limits". It said that these restrictions covered people or areas that could not be investigated by the hunters and must not be included in the programme. Channel 4 said that the complainant's "off-limits list" did not reference her daughter or the story regarding her daughter's conception.

Channel 4 said that, furthermore, the complainant took steps to secure her daughter's involvement in the series, including: requesting a contract for her daughter's father to sign agreeing that their daughter could be filmed and included in the programme; and, providing active assistance in securing access to her daughter for the purposes of filming, including notifying her daughter's school (copies of relevant correspondence between the complainant and the programme makers was provided to Ofcom). Channel 4 pointed to the fact that the complainant's daughter and her father had signed a release form. It also said that a back-story sequence was filmed with the complainant and her daughter walking around Mrs Skinner's property's grounds, talking about the complainant's participation in the series and her going on the run. The sequence was not included in the series as broadcast but the broadcaster said: "...the filming itself demonstrates the extent to which the Complainant willingly involved her daughter in the series and how her daughter...consented to such participation".

Channel 4 also said that all contributors to *Hunted* were offered the opportunity to discuss what would be included in each episode of the programme as a courtesy and in order to ensure they were prepared and understood the context of their contributions to the relevant programmes. It said that, despite the story regarding her daughter not constituting "sensitive information", the programme makers attempted to contact Mrs Skinner in order to explain the content of each episode (copies of relevant correspondence between the complainant and the programme makers was provided to Ofcom). However, Channel 4 said that: "The Complainant expressed a variety of grievances to [the programme makers], including threats to litigate for the proportion of what she believed was her share of the prize money". Channel 4 said that Mrs Skinner was not willing to engage with the programme makers about her contribution to the series. It said that therefore the programme makers were prevented, by the complainant, of the opportunity to discuss the content of the programmes with her prior to broadcast.

Channel 4 said that the complainant sent to the programme makers numerous emails after she was caught by the Hunters, and none of these initial emails included any complaint regarding the involvement of her daughter or restrictions as to what could be included in the programmes. The first correspondence received from Mrs Skinner that alluded to any complaint involving her daughter was in emails sent to the programme makers on 30 September 2016, which was the day after the broadcast of the second of the two programmes featuring the complainant.

Channel 4 said that in conclusion: the complainant freely volunteered the information complained of included in the programme to the programme makers both in her audition

and her back-story interviews; the complainant was not coerced to talk about her daughter and her relationship with her daughter's father; the complainant did not, in either the filming of the audition or back story interview, request that the programme makers not use the information in the series. Channel 4 said that nothing in the programme constituted an unwarranted infringement of either Mrs Skinner's or her daughter's privacy.

Supplementary material

Following the receipt of the above response from Channel 4, Ofcom requested further information from the broadcaster regarding what steps, if any, it had taken to ensure there was no unwarranted infringement of Mrs Skinner's daughter's privacy in the programme as broadcast.

In response, Channel 4 said that it and the programme makers take the welfare and privacy of people under sixteen extremely seriously. It said that it fully acknowledged that under sixteens do not lose their rights to privacy because, for example, of the fame or notoriety of their parents or because of events in their schools.

The broadcaster said that it did not consider that the comments made by Mrs Skinner about her own daughter amounted to contain sensitive and private information in the circumstances. It said that, in any case, it considered that informed consent was nevertheless properly obtained for its inclusion.

Channel 4 said that no indication was given that the information in question was sensitive or private, whether by Mrs Skinner or her daughter. It said that:

"The frank, positive and light-hearted manner in which Mrs Skinner provided the information about her and her children during her interviews suggested that this was information that was widely known and not of a private, sensitive, controversial or otherwise harmful nature".

In addition to the disclosure filmed, Channel 4 said that, Mrs Skinner relayed the particular comments on a number of occasions to various members of production. It said that:

"This information was shared sufficiently frequently, frankly and positively for Shine to reasonably assume that such information was in the public domain".

Channel 4 said that it was notable that Mrs Skinner had made limited reference in her complaint to the information itself being "private" or "sensitive" and had not commented on how widely known the information was. The broadcaster said, instead, Mrs Skinner largely referred to the information being "irrelevant" or "unnecessary". It said that Mrs Skinner's focus therefore appeared to be on the manner in which she perceives the information was obtained by the programme makers (which the broadcaster said was incorrect and was properly obtained as it stated it had already made clear) and alleged impact on her daughter. Channel 4 said that it inferred that the reason for this was because the information was widely known and not truly of a private or sensitive nature.

Channel 4 said that, while it appreciated that it had a duty in respect of minors and cannot solely rely on parental consent, it considered that Mrs Skinner - as her daughter's mother - was well-equipped and well able in this instance to give the programme makers at least some indication of whether information provided by her and filmed might be sensitive to her

or to her children. The broadcaster said that, indeed, she did so about other information she was concerned about, as it had referred to in its formal response above, such as her request that the programme makers remove any reference to the name of her daughter's father, which they duly did. Channel 4 said that it was made abundantly clear to contributors throughout the programme making process that the programme would involve a significant intrusion into their private lives, for which their consent (and consent of certain individuals known to them) was required in order to take part. It said that it was also made clear that they could engage with the programme makers prior to broadcast to identify whether information which the programme makers did not consider to be private and/or sensitive might nevertheless be so due perhaps to particular circumstances of which the programme makers were unaware. It said that it was open to Mrs Skinner, her daughter and her daughter's father to contact the programme makers at any time to make them aware of any particular information that they were concerned about.

Channel 4 said that, in any event, it was satisfied that informed consent for this and all other information in the programme was properly obtained from Mrs Skinner and her daughter.

The release form signed by Mrs Skinner's daughter and her father states:

"I understand that the information may be included in the Programme (including photographs or videos of me available on my social media accounts) although, to the extent it contains sensitive information about me, I shall be provided with an opportunity to discuss any concerns prior to the inclusion of such sensitive information in the Programme".

Channel 4 said that this release form was intended to cover information which the Hunters discover during the course of the programme, unknown to the contributors themselves at the time. It said that this was why the clause made explicit reference to material on social media accounts, which Hunters may obtain access to during the course of their investigations. Channel 4 said that the release form was not intended to cover information which the contributors volunteer about themselves during their filmed interviews with the programme makers, as Mrs Skinner did in this instance. It said that, as mentioned in its formal response above, material disclosed during such interviews would not be considered sensitive unless this was expressly indicated to the programme makers.

Channel 4 reiterated that the programme makers did, in any event, attempt to contact Mrs Skinner to explain the contents of each episode in advance of broadcast, but she was not willing to engage. The broadcaster said that had she engaged, the programme makers would have mentioned the inclusion of this information (even though Channel 4 did not consider it to be sensitive) and sought her and her daughter's comments on the material. It said that Mrs Skinner did not wish to engage with the programme makers and it did not consider it necessary or appropriate to additionally contact Mrs Skinner's daughter or her daughter's father directly. Channel 4 said that it considered that it would have been "wholly inappropriate" for it to contact Mrs Skinner's daughter directly about the matter given her age and her mother's refusal to engage with the programme makers. The broadcaster said that while it did not accept the material was sensitive for the reasons set out above, it also considered that:

"...as the parent with parental responsibility and primary care for...[Mrs Skinner's daughter], it was her mother who would have to give parental consent and accordingly it

would not have been appropriate to attempt to seek consent from her father on her behalf, or as a conduit to...[Mrs Skinner's daughter] directly".

It said that it was important to note that Mrs Skinner's daughter's father had made no complaint about the programme.

Channel 4 said that given the following factors, it considered that it was acceptable to include the information in question, regardless of any further contact with Mrs Skinner or her daughter, or her daughter's father:

- the extensive consent and consultation process that had already been undertaken;
- the fact that the information was provided in a positive and open manner during a filmed interview;
- the fact that Mrs Skinner's daughter was signed up as a willing potential participant in the programme; and,
- Mrs Skinner's daughter was not named in the programme (and did not appear anywhere in the programme or series).

With regards to whether any potential infringement of Mrs Skinner's daughter's privacy was warranted, Channel 4 reiterated that the comments were made by Mrs Skinner's daughter's own mother in an open, voluntary, positive manner. It said that Mrs Skinner also repeated these comments to various members of production team on a number of occasions, which further led the programme makers to believe that this was information that was in the public domain. It said that there was no indication by Mrs Skinner, her daughter or her daughter's father that it would have been inappropriate to include this information, or that it was of a private or sensitive nature.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View that Mrs Skinner's complaint, made on her own behalf, and on behalf of her daughter, should not be upheld. The parties were given the opportunity to make representations on the Preliminary View and both parties made representations which are summarised below (as relevant to the complaint).

Mrs Skinner's representations

Mrs Skinner stated that:

- She had never consented to the inclusion of the comments about her daughter in the programme and that she had specifically asked the programme makers not to include anything connected with her daughter's father, which she considered included her daughter's conception.
- She disagreed with Ofcom's view that the broadcaster's right to freedom of expression outweighed her daughter's privacy in the circumstances. She said that the comment about her daughter was "...totally irrelevant in the context of the programme".
- The interviewer pushed contributors, and was "skilled at weeding out information".

- She was not provided with an opportunity to disclose individuals or areas of her life which were “off-limits” and she considered that “...a reasonable person would conclude the conception of my daughter was off-limits”.
- No footage was filmed of her daughter at her school. Mrs Skinner said that “There was going to be NO involvement of...[Mrs Skinner's daughter] as she was going into school and NO filming was allowed”.
- Contributors were not offered the opportunity to discuss what was included in each episode and she was not contacted prior to the programme being broadcast. Mrs Skinner said that at a meeting held after she and her partner were caught, the programme makers told her that “...I would have to wait to see what was in the episodes in September when they were aired”.
- She had not repeated the comments about her daughter to other members of the production team.

Channel 4's representations

Channel 4 stated that:

- Mrs Skinner did not request that comments regarding her daughter's conception or her daughter's father be excluded from the programme and she re-counted this story “freely and willingly”. The broadcaster said that as part of disclosures regarding areas to be considered “off-limits”, Mrs Skinner had asked that her daughter's father not be named and this request was honoured.
- It considered that all material included was relevant to the programme and that “...any back-story material serves to provide the viewer with a greater insight as to the background and character of primary contributors”.
- As demonstrated by the transcript and footage of the master interview, Mrs Skinner was not pushed into disclosing any information and the story regarding her daughter's conception was “...shared freely and willingly in a light-hearted manner”.
- The programme makers obtained full and informed consent from all contributors, including in respect of potential invasions of privacy, via the ‘Contributor Agreement’, the ‘Hunted Contributor Guide’ and a number of practical discussions to ensure they were respectful of sensitive areas of a contributor's life. The broadcaster said that all contributors were provided with an opportunity to disclose any information, individuals or locations that were “off-limits”, and that this was an ongoing process. In relation to Mrs Skinner, it said that this had included a request not to name her daughter's father and that her rental property not be investigated. It said that detailed information from contributors' “off-limit lists” had not been retained after completion of production, given the personal and sensitive nature of the information.
- With regards to the filming of Mrs Skinner's daughter, Channel 4 said that this had taken place at Mrs Skinner's home and not her daughter's school as stated in Ofcom's Preliminary View. The broadcaster said that Mrs Skinner's reference above, to the fact filming at her daughter's school was not permitted, was an example of information Mrs

Skinner communicated to the programme makers as part of the "off-limits" process and "...would imply an acceptance that this discussion actually took place".

- It maintained that Mrs Skinner had recounted the story relating to the conception of her daughter on a number of occasions to various people during the production process.

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.

In reaching this decision, Ofcom carefully considered all the relevant material. This included a recording of the programme as broadcast, the unedited footage filmed of the complainant, both parties' written submissions and supporting documentation. Ofcom also took careful account of the representations made by the parties in response to being given the opportunity to comment on Ofcom's Preliminary View on this complaint. After careful consideration of the parties' representations, we considered the points raised in our reasoning and concluded that they did not materially affect the outcome of Ofcom's decision not to uphold the complaint.

In Ofcom's view, the individual's right to privacy has to be balanced against the competing right of the broadcaster to freedom of expression. Neither right as such has precedence over the other and where there is a conflict between the two, it is necessary to intensely focus on the comparative importance of the specific rights. Any justification for interfering with or restricting each right must be taken into account and any interference or restriction must be proportionate.

This is reflected in how Ofcom applies Rule 8.1 of the Code, which states that any infringement of privacy in programmes or in connection with obtaining material included in programmes must be warranted.

In addition to this Rule, Section Eight (Privacy) of the Code contains "practices to be followed" by broadcasters when dealing with individuals or organisations participating in, or otherwise directly affected by, programmes, or in the making of programmes. Following these practices will not necessarily avoid a breach of Rule 8.1 and failure to follow these practices will only constitute a breach where it results in an unwarranted infringement of privacy.

Practice 8.6 states:

"If the broadcast of a programme would infringe the privacy of a person or organisation, consent should be obtained before the relevant material is broadcast, unless the infringement of privacy is warranted".

Mrs Skinner

In considering whether or not Mrs Skinner's privacy was unwarrantably infringed in the programme as broadcast, Ofcom assessed the extent to which she had a legitimate expectation of privacy in relation to the particular comments made by her and included in the programme. The Code's statement on the meaning of "legitimate expectation of privacy" makes clear that such an expectation:

"...will vary according to the place and nature of the information, activity or condition in question, the extent to which it is in the public domain (if at all) and whether the individual concerned is already in the public eye. There may be circumstances where people can reasonably expect privacy even in a public place..."

In considering whether Mrs Skinner had a legitimate expectation of privacy, we considered the nature of the comments included in the programme. As set out in the "Programme summary" section above, footage of Mrs Skinner discussing her daughter and her relationship with her daughter's father was included in the programme. Mrs Skinner stated:

"I knew I wanted four children because I thought that...it looked fun! The last one's a lovechild. I went to a jazz festival and met a tall, dark, handsome stranger...Everyone was salsa-ing, so we salsaed off into the moonlight".

It was our view that such information, i.e. that pertaining to personal relationships and the circumstances in which a child was conceived, could reasonably be regarded as being personal and sensitive to the people involved and therefore could attract an expectation of privacy.

However, the question of whether Mrs Skinner had a legitimate expectation of privacy in this information must be assessed by reference to the particular circumstances in which the comments were made. In this regard, we took account of the following aspects of Mrs Skinner's conduct:

- Although Mrs Skinner considered that she had been "pushed" to talk about her children, based on our assessment of the unedited interview footage, we considered she had made the comments freely, in a light-hearted manner. We also noted that she had made them on more than one occasion while being interviewed on camera for the programme.
- Mrs Skinner had signed a release form for footage filmed during the casting and audition process and a 'Contributor Agreement'. She was also provided with the 'Hunted Contributor Guide'. In Ofcom's view these documents made it clear to contributors that taking part in the series would mean a potential intrusion into their privacy and that of their family and friends'. For example, the 'Hunted Contributor Guide' stated: "For the social experiment to be as authentic as possible, you will have to sign a comprehensive release form to allow us to **significantly invade your privacy** during the period of the hunt [emphasis added by Ofcom]". We also considered that these documents made it clear to contributors that footage filmed of them may be included in the programme.
- Mrs Skinner said that she had requested that her comments about her daughter not be included in the programme. However, having viewed the unedited footage of the interviews, there was no footage of any request made in either of these interviews for the story to be excluded from the programme. The only request that Mrs Skinner made

in relation to her daughter (in the footage provided to Ofcom) was not to mention the name of her daughter's father, and this was adhered to.

- The broadcaster has explained that there were other opportunities during the production process for participants such as Mrs Skinner to raise concerns about matters they regarded as sensitive. For example, we understood that contributors attended a contract discussion with the programme makers to discuss the details of the contract and provide an opportunity to ask any questions or raise any concerns. The broadcaster said that Mrs Skinner and her partner in the programme, Hamish, had attended this meeting but had raised no concerns in respect of reference to or involvement of Mrs Skinner's daughter in the programme. The broadcaster also explained that prior to filming, all contributors were provided with an opportunity to disclose any individuals or areas of their life that were "off-limits", and that these restrictions covered people or areas that could not be investigated by the hunters and must not be included in the programme. We understood from the broadcaster that the complainant's "off-limits list" did not refer to her daughter or the story about her daughter's conception. However, we also acknowledged Mrs Skinner's contention that she was not provided with this opportunity and that she considered that "...a reasonable person would conclude the conception of my daughter was off-limits".

In all the circumstances, we considered that it was reasonable to infer that Mrs Skinner was aware at the time of participating in the interviews that her comments may be broadcast and that she did not regard them as being particularly personal or sensitive. Therefore, we considered that to the extent that Mrs Skinner had a legitimate expectation of privacy with regard to the broadcast of the comments in the programme, it was very limited.

Mrs Skinner had signed a release form for footage filmed during the casting and audition process and a 'Contributor Agreement' and was also provided with the 'Hunted Contributor Guide'. In Ofcom's view, we considered that Mrs Skinner would have been aware from these documents that the programme entailed a significant invasion of her privacy and that her interview footage might be included in the broadcast programme. We were satisfied that she gave informed consent to this, prior to broadcast.

In relation to whether Mrs Skinner withdrew her consent, we took into account that:

- On 20 May 2016, Mrs Skinner wrote to the programme makers calling the series a "scam" and stated:

"I am extremely uncomfortable about how I will be represented and although I signed paperwork, I am requesting an opportunity to speak to a representative at Channel 4. I need to highlight and make clear to the broadcaster my concerns and the inaccuracies".
- On 22 June 2016, Mrs Skinner was provided with a contact at Channel 4 and on 12 August 2016, Mrs Skinner was contacted again and asked if she had been able to speak with the contact provided.
- On 16 August 2016, Mrs Skinner wrote to Channel 4 outlining her concerns about the making of the programme and stated:

"I would like every second of footage of me removed from the programme. I lost the chance of winning £100,000 because of the sham production company...".

- On 27 August 2016, Mrs Skinner responded by email to the programme makers email of 12 August 2016 saying that she had not had a response from Channel 4 and that "I do not want any footage of my home, family or myself in your programme".
- On 31 August 2016, Channel 4 responded to Mrs Skinner's various concerns about the making of the programme and told her:

"You and all the other fugitives signed a contributor agreement that included an irrevocable assignment of all rights in respect of your contribution. You were given a comprehensive briefing as to what was involved and additional explanatory paperwork such as the contributor guide and rules. We are comfortable that you gave your full and informed consent to be involved in the Programme and that we are entitled to include your contribution to the programme in full".

- On 12 September 2016, Mrs Skinner wrote back to Channel 4 reiterating her concerns about the series and stated "I remain firm in asking you to remove any footage of me from your programme".
- On 16 September 2016, Channel 4 responded that its position had not changed.

The first correspondence received from Mrs Skinner that alluded to any complaint involving her daughter, was in emails sent to the programme makers on 30 September 2016, which was the day after the broadcast of the second of two programmes featuring the complainant.

Ofcom understood from Channel 4 that all contributors to *Hunted* were offered the opportunity to discuss what would be included in each episode of the programme as a courtesy and in order to ensure they were prepared and understood the context of their contributions to the relevant programmes. Mrs Skinner disputed being offered this opportunity. From the correspondence provided to Ofcom by Channel 4, we noted, however, that the programme makers had attempted to contact Mrs Skinner in order to offer her this opportunity. In an email dated 9 September 2016, the programme makers wrote to Mrs Skinner and asked if she had been contacted regarding her concerns raised on 20 May 2016 (as above) and stated:

"We're in the process of calling all of the fugitives to talk them through the content of the scenes they appear in. Is there a good time to talk this through with you?"

Following this, on 16 September 2016, the programme makers sent Mrs Skinner an email providing various documents she had requested. Ofcom is not aware of any response received by the programme makers from Mrs Skinner regarding their request to talk through the content of programme (only emails to Channel 4, as above, requesting to have her contribution removed from the series). The next evidence of contact between Mrs Skinner and the programme makers appeared to be in the form of emails from Mrs Skinner to the programme makers dated 30 September 2016 (the day after the broadcast of the second episode of the programme, in which Mrs Skinner and her partner in the programme, Hamish, were captured). In these emails, Mrs Skinner raised a number of grievances to the

programme makers, including concerns about her daughter being referred to in the programme and her contention that the competition had not been conducted fairly.

It therefore appeared that Mrs Skinner had not been willing to engage with the programme makers about her contribution following the programme makers offer to discuss her contribution made on 9 September 2016 and prior to the broadcast of the programmes featuring the complainant broadcast on 22 and 29 September 2016. Further, we considered that it was not clear from the correspondence, prior to broadcast, that Mrs Skinner was seeking to withdraw her consent because of privacy concerns.

In any event, we considered that in all the circumstances, including Mrs Skinner's very limited expectation of privacy, the broadcast of the comments was warranted as part of Mrs Skinner's "back-story" to give viewers an insight into her background and character. The comments were from a story that Mrs Skinner had voluntarily recounted, in circumstances where Mrs Skinner was aware that she was being filmed and that the footage of the interview might be included in the broadcast programme and for which she had signed a release form. Her purported withdrawal of consent only occurred after she had been caught by the hunters and she did not clearly identify any privacy concerns prior to broadcast in her correspondence with the broadcaster.

Given the above, we considered that to the extent that Mrs Skinner had a legitimate expectation of privacy with regards to the broadcast of the comments in the programme, it was very limited and that she had consented to the inclusion of the material in the broadcast programme. We were also satisfied that any infringement of Mrs Skinner's privacy was warranted.

Therefore, Ofcom's decision is that there was no unwarranted infringement of Mrs Skinner's privacy in the programme as broadcast.

Mrs Skinner's daughter

We next considered whether Mrs Skinner's daughter's privacy was unwarrantably infringed in the programme as broadcast.

Again, we had regard to Practice 8.6, as well as Practices 8.20 and 8.21.

Practice 8.20 states:

"Broadcasters should pay particular attention to the privacy of people under sixteen. They do not lose their rights to privacy because, for example, of the fame or notoriety of their parents or because of events in their schools".

Practice 8.21 states:

"Where a programme features an individual under sixteen or a vulnerable person in a way that infringes privacy, consent must be obtained from:

- a parent, guardian or other person of eighteen or over in loco parentis; and
- wherever possible, the individual concerned;

unless the subject matter is trivial or uncontroversial and the participation minor, or it is warranted to proceed without consent”.

In considering whether or not Mrs Skinner's daughter's privacy was unwarrantably infringed in the programme as broadcast, Ofcom assessed the extent to which she had a legitimate expectation of privacy in relation to the particular comments made by her mother about her which were included in the programme. As stated above, the test applied by Ofcom as to whether a legitimate expectation of privacy arises is objective, fact sensitive and must always be judged in light of the circumstances in which the individual finds him or herself.

In our view, the comments about parentage and the circumstances in which a child was conceived could reasonably be regarded as being personal and sensitive to the child involved and therefore could attract an expectation of privacy.

We considered that the circumstances of Mrs Skinner's daughter were different to those of her mother in determining whether she had a legitimate expectation of privacy in relation to the information about her that was broadcast. Although she was not shown in the programme, nor was she named, we considered that she would likely have been identifiable as the “*love child*” to those who knew her and her mother. Also, Mrs Skinner's daughter was not party to the disclosure nor was there evidence to indicate that she was made aware that the information would form part of the broadcast programme. Therefore, we considered that Mrs Skinner's daughter had a legitimate expectation of privacy in relation to the comments made by her mother which related to her.

However, we considered that certain aspects of Mrs Skinner's conduct during the filming of the programme (which we refer to above) were relevant to assessing the nature of her daughter's expectation of privacy in this regard. Specifically:

- the information about her daughter was freely disclosed by Mrs Skinner while on camera, in a light-hearted manner and on more than one occasion;
- there was no evidence from the unedited footage of Mrs Skinner's interview that she asked for the information not to be broadcast; and,
- Mrs Skinner did not include the information in her “off-limits list” prior to filming (although, as above, we acknowledged Mrs Skinner's contention that she was not provided with this opportunity).

We noted Mrs Skinner's contention that “...a reasonable person would conclude the conception of my daughter was off-limits”. However, having assessed the evidence of Mrs Skinner's conduct in the round, we considered it reasonable to infer that the parentage of Mrs Skinner's daughter was not a carefully guarded family secret. We took the view too that it was likely that Mrs Skinner's daughter would have been aware of the light-hearted view that Mrs Skinner took of the information and took account of her willingness to be filmed alongside her mother during the production process (although the footage was not included in the broadcast programme). Therefore, in these particular circumstances, we considered that the daughter's expectation of privacy in relation to the comments made by her mother was limited.

Mrs Skinner had signed a release form for the footage filmed during the casting and audition process, which included the comments about her daughter. In addition, she had taken steps

to secure that her daughter's father and her daughter also signed release forms in relation to the inclusion of information about her daughter in the broadcast programme.

We understood that Mrs Skinner had subsequently purported to withdraw her consent to the inclusion of "any footage of my home, family or myself in your programme" but, as set out above, did not clearly identify privacy concerns in relation to her daughter prior to broadcast. Also, her daughter's father had not raised any concerns about his daughter's involvement in the programme. In these circumstances, we considered that it was reasonable for the broadcaster to consider it had taken sufficient action to secure consent in relation to any infringement of privacy of Mrs Skinner's daughter in the programme as broadcast.

In any event, even in the absence of consent, the right of Mrs Skinner's daughter to privacy has to be balanced against the broadcaster's competing right of freedom of expression. We noted Mrs Skinner's objection that the comment relating to her daughter was "...totally irrelevant in the context of the programme". However, we considered that in deciding what background material to broadcast about Mrs Skinner, in order to appeal to viewers and to entertain, the broadcaster was exercising its freedom of expression. In doing so, it opted to include an extract from a story that Mrs Skinner had voluntarily recounted regarding her daughter and how she had met her daughter's father, in circumstances where Mrs Skinner had taken steps to secure her daughter's involvement in the series, including: requesting a contract for her daughter's father to sign agreeing that their daughter could be filmed and included in the programme; and, providing active assistance in securing access to her daughter for the purposes of filming. We also took into account that the correspondence between the programme makers, Channel 4 and Mrs Skinner, sent after Mrs Skinner was 'caught' and before the programme was broadcast, did not reference any complaint regarding the involvement of her daughter or specific concerns about the comments she had made about her.

We concluded that the broadcaster's right to broadcast Mrs Skinner's comments outweighed her daughter's limited expectation of privacy. Therefore, to the extent that the broadcast infringed her legitimate expectation of privacy, we considered that it was warranted.

Ofcom's decision is therefore that there was no unwarranted infringement of Mrs Skinner's daughter's privacy in the programme as broadcast.

Ofcom has not upheld Mrs Skinner's complaint, made on her own behalf and on behalf of her daughter, of unwarranted infringement of privacy in the programme as broadcast.

Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 4 and 17 September 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
Cross Promotion for BT Sport 4K	BT Sport 2	25/06/2017	Advertising Content
Tomorrow's World	CBS Reality	19/03/2017	Generally accepted standards
Tomorrow's World	CBS Reality	19/03/2017	Promotion of products/services
Nigel Farage	LBC 97.3 FM	20/07/2017	Materially Misleading
James O'Brien	LBC 97.3 FM	28/06/2017	Due impartiality/bias
Wes Stakes	Rathergood Radio	02/08/2017	Offensive Language
Tom Watson interview	Sikh Channel	18/05/2017	Elections/Referendums

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 4 and 17 September 2017 because they did not raise issues warranting investigation.

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

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Naked Attraction	4Seven	n/a	Generally accepted standards	1
Made of Honor	5Star	26/08/2017	Race discrimination/offence	1
The Sunday Forum	At The Races	27/08/2017	Generally accepted standards	1
A Very British Road Trip with John Thompson and Simon Day	Blaze	03/09/2017	Race discrimination/offence	1
Scottish Football	BT Sport 1	09/08/2017	Undue prominence	1
Scottish Football	BT Sport 1	11/08/2017	Generally accepted standards	1
Capital Breakfast with Rob Ellis	Capital FM Manchester	07/09/2017	Generally accepted standards	1
Mike and Kelly	CFM Radio	19/08/2017	Generally accepted standards	1
Sky Original Productions (trailer)	Challenge	22/08/2017	Violence	1
Tin Star (trailer)	Challenge	04/09/2017	Violence	1
24 Hours in A&E	Channel 4	30/08/2017	Generally accepted standards	1
Advertisement	Channel 4	08/09/2017	Competitions	1
Back (trailer)	Channel 4	13/09/2017	Offensive language	1
Celebrity Island with Bear Grylls	Channel 4	05/09/2017	Animal welfare	35
Celebrity Island with Bear Grylls	Channel 4	12/09/2017	Animal welfare	1
Celebs Go Dating (trailer)	Channel 4	29/08/2017	Scheduling	2
Celebs Go Dating (trailer) and Celebrity Island with Bear Grylls (trailer)	Channel 4	29/08/2017	Scheduling	1
Channel 4 News	Channel 4	02/09/2017	Race discrimination/offence	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Channel 4 News	Channel 4	04/09/2017	Generally accepted standards	1
Channel 4 News	Channel 4	14/09/2017	Generally accepted standards	1
Educating Greater Manchester	Channel 4	31/08/2017	Generally accepted standards	3
Hollyoaks	Channel 4	01/09/2017	Generally accepted standards	1
Lego Masters	Channel 4	31/08/2017	Promotion of products/services	1
Naked Attraction	Channel 4	01/09/2017	Generally accepted standards	5
Naked Attraction	Channel 4	08/09/2017	Generally accepted standards	2
Sunday Brunch	Channel 4	03/09/2017	Generally accepted standards	1
Sunday Brunch	Channel 4	10/09/2017	Generally accepted standards	1
Taxi of Mum and Dad	Channel 4	17/08/2017	Dangerous behaviour	1
The Great British Bake Off	Channel 4	12/09/2017	Sexual material	1
The Great British Bake Off: An Extra Slice	Channel 4	07/09/2017	Offensive language	1
The State	Channel 4	20/08/2017	Religious/Beliefs discrimination/offence	1
Volcano	Channel 4	13/08/2017	Violence	1
5 News Tonight	Channel 5	11/09/2017	Due impartiality/bias	1
Benefits: Britain's Most Shameless Mum	Channel 5	22/08/2017	Harm	1
Can't Pay? We'll Take It Away!	Channel 5	09/09/2017	Privacy	1
Can't Pay? We'll Take it Away!	Channel 5	30/08/2017	Offensive language	1
Can't Pay? We'll Take It Away!	Channel 5	06/09/2017	Privacy	3
Celebrity Big Brother	Channel 5	06/08/2017	Generally accepted standards	1
Milkshake	Channel 5	14/09/2017	Generally accepted standards	1
My Secret Sex Fantasy	Channel 5	07/09/2017	Generally accepted standards	1
The Murder of Tia Sharp (trailer)	Channel 5	04/09/2017	Scheduling	1
The Wright Stuff	Channel 5	05/09/2017	Religious/Beliefs discrimination/offence	2

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
The Wright Stuff	Channel 5	07/09/2017	Generally accepted standards	1
The Wright Stuff	Channel 5	08/09/2017	Sexual material	1
Bad Robots	Comedy Central	17/08/2017	Generally accepted standards	1
Micky Flanagan: Back in the Game	Comedy Central	10/09/2017	Disability discrimination/offence	1
Taskmaster	Dave	05/09/2017	Disability discrimination/offence	1
Which's sponsorship of Weekends on Dave	Dave	27/08/2017	Sponsorship credits	1
Mazaq Raat	Dunya TV	03/09/2017	Advertising placement	1
Coach Trip: Road to Zante	E4	07/09/2017	Race discrimination/offence	1
First Dates	E4	06/09/2017	Violence	1
Naked Attraction	E4	02/09/2017	Generally accepted standards	1
NCIS	FOX	04/09/2017	Advertising minutage	1
Gem 106 Morning Show	Gem 106	22/08/2017	Gender discrimination/offence	1
Gavin and Stacey	Gold	13/08/2017	Offensive language	1
Two Fat Ladies	Good Food	21/08/2017	Sexual orientation discrimination/offence	1
Programming	Heart FM Cambridgeshire	29/08/2017	Generally accepted standards	1
Ask A Question	Hidayat TV	02/08/2017	Religious/Beliefs discrimination/offence	1
Alone: Lost and Found	History	23/08/2017	Animal welfare	2
Escape to the Country	Home	27/08/2017	Gender discrimination/offence	1
Star Trek	Horror Channel	03/09/2017	Advertising minutage	1
100 Year Old Driving School	ITV	12/09/2017	Dangerous behaviour	1
Benidorm	ITV	04/08/2017	Disability discrimination/offence	1
Cold Feet	ITV	08/09/2017	Generally accepted standards	1
Coronation Street	ITV	11/04/2017	Disability discrimination/offence	1
Coronation Street	ITV	18/08/2017	Scheduling	1
Coronation Street	ITV	23/08/2017	Generally accepted standards	1
Coronation Street	ITV	03/09/2017	Dangerous behaviour	2
Coronation Street	ITV	10/09/2017	Generally accepted standards	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
EasyJet - Inside the Cockpit	ITV	21/08/2017	Gender discrimination/offence	2
Emmerdale	ITV	20/08/2017	Materially misleading	1
Emmerdale	ITV	31/08/2017	Crime and disorder	1
Emmerdale	ITV	08/09/2017	Generally accepted standards	1
Good Morning Britain	ITV	04/09/2017	Generally accepted standards	17
Good Morning Britain	ITV	05/09/2017	Due impartiality/bias	449
Good Morning Britain	ITV	05/09/2017	Sexual orientation discrimination/offence	672
Good Morning Britain	ITV	06/09/2017	Generally accepted standards	1
Good Morning Britain	ITV	06/09/2017	Religious/Beliefs discrimination/offence	1
Good Morning Britain	ITV	07/09/2017	Religious/Beliefs discrimination/offence	1
International Football Live	ITV	04/09/2017	Harm	3
ITV News	ITV	07/09/2017	Privacy	1
ITV News	ITV	11/09/2017	Due impartiality/bias	1
ITV News	ITV	11/09/2017	Generally accepted standards	1
ITV News	ITV	13/09/2017	Generally accepted standards	1
K9	ITV	27/08/2017	Violence	1
Liar	ITV	11/09/2017	Other	6
Saturday Morning with James Martin	ITV	09/09/2017	Advertising/editorial distinction	1
Save Money: Lose Weight	ITV	05/09/2017	Materially misleading	6
The Chase	ITV	02/09/2017	Competitions	2
The Jeremy Kyle Show	ITV	06/09/2017	Generally accepted standards	1
The Jeremy Kyle Show	ITV	06/09/2017	Offensive language	1
The Jeremy Kyle Show	ITV	11/09/2017	Scheduling	1
The X Factor	ITV	02/09/2017	Generally accepted standards	2
The X Factor	ITV	02/09/2017	Offensive language	1
The X Factor	ITV	02/09/2017	Race discrimination/offence	4
The X Factor	ITV	03/09/2017	Nudity	1
The X Factor	ITV	03/09/2017	Offensive language	1
The X Factor	ITV	09/09/2017	Competitions	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
The X Factor	ITV	09/09/2017	Transgender discrimination/offence	2
This Morning	ITV	14/08/2017	Generally accepted standards	1
This Morning	ITV	07/09/2017	Offensive language	1
Tonight: How Safe is a Sun Tan?	ITV	17/08/2017	Materially misleading	1
ITV Border News	ITV Border	18/08/2017	Due impartiality/bias	1
ITV News London	ITV London	07/09/2017	Crime and disorder	1
Family Guy	ITV2	08/09/2017	Generally accepted standards	1
You've Been Framed	ITV2	06/09/2017	Generally accepted standards	1
You've Been Framed	ITV2	06/09/2017	Transgender discrimination/offence	1
Totally Bonkers World Records	ITV2+1	04/09/2017	Sexual material	1
Cycling: La Vuelta a Espana (trailer)	ITV3	17/08/2017	Violence	1
Yummy Mummies	ITVBe	16/08/2017	Generally accepted standards	16
Botched	Kanal 11	28/08/2017	Gender discrimination/offence	1
Botched by Nature	Kanal 11	21/08/2017	Nudity	1
Botched by Nature	Kanal 11	29/08/2017	Gender discrimination/offence	1
Clive Bull	LBC 97.3 FM	29/08/2017	Offensive language	1
James O'Brien	LBC 97.3 FM	08/09/2017	Sexual material	1
The Princess and the Gangster	London Live	06/09/2017	Offensive language	1
Ex On The Beach	MTV	22/08/2017	Offensive language	1
Nissan Juke's sponsorship	n/a	30/07/2017	Sponsorship credits	1
Supercasino	n/a	29/08/2017	Participation TV - Gambling	1
Programming	New Style Radio 98.7 FM	28/06/2017	Offensive language	1
Competition	Nick Jr	04/09/2017	Competitions	1
Psychic Today	Psychic Today	21/07/2017	Participation TV - Misleadingness	1
Q Radio	Q Radio	14/08/2017	Competitions	1
Q Radio Breakfast Show	Q Radio	06/09/2017	Race discrimination/offence	1
Q Radio Morning Show	Q Radio Eniskillen	28/07/2017	Commercial communications on radio	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Wildlife SOS	Quest Red	01/09/2017	Animal welfare	1
Chris Moyles	Radio X	11/09/2017	Generally accepted standards	1
RT News	RT	09/09/2017	Due impartiality/bias	1
Press Preview	Sky News	31/07/2017	Generally accepted standards	1
Press Preview	Sky News	31/08/2017	Due impartiality/bias	1
Sky News	Sky News	06/08/2017	Promotion of products/services	1
Sky News	Sky News	22/08/2017	Race discrimination/offence	1
Sky News	Sky News	24/08/2017	Due impartiality/bias	1
Sky News	Sky News	31/08/2017	Due accuracy	1
Sky News	Sky News	05/09/2017	Due accuracy	1
Sky News	Sky News	06/09/2017	Due impartiality/bias	2
Sky News Tonight	Sky News	07/09/2017	Generally accepted standards	28
Sky Sports News	Sky News	03/09/2017	Offensive language	1
Sunrise	Sky News	17/08/2017	Due impartiality/bias	1
Tin Star (trailer)	Sky Sports	26/08/2017	Violence	1
Ted's Notebook	Sky Sports F1	03/09/2017	Generally accepted standards	1
Tin Star (trailer)	Sky Sports News	26/08/2017	Violence	1
Continuity announcement	Sky1	17/08/2017	Offensive language	1
Kaun Banega Crorepati	Sony Entertainment Television	04/09/2017	Advertising minutage	1
Blood Drive (trailer)	Syfy	18/08/2017	Violence	1
The Late Night Alternative with Iain Lee	Talk Radio	22/08/2017	Disability discrimination/offence	1
Alan Brazil Sports Breakfast	Talksport	06/09/2017	Generally accepted standards	1
Joey Barton (trailer)	TalkSport	15/08/2017	Generally accepted standards	1
The Two Mikes Extra Time	Talksport	02/09/2017	Generally accepted standards	1
Stepford Wives	TCM	27/07/2017	Sexual material	1
Unga Mammor	TV3	01/09/2017	Animal welfare	1
Skönhetsfällan Danmark	TV3 Sweden	10/06/2017	Gender discrimination/offence	1
Forbidden History	Yesterday	16/08/2017	Scheduling	1

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

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
BBC News	BBC News	07/08/2017	Promotion of products/services	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
7 Waves Community Radio	Wirral Radio	Other
Radio Essex Limited	Radio Essex (Southend)	Format
B.R.F.M. Bridge Radio Limited	BRFM 95.6 FM (Sheerness, Isle of Sheppey)	Other

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

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

Programme	Service	Transmission Date	Categories	Number of complaints
Advertisement	5USA	09/09/2017	Advertising content	1
Advertisement	Channel 4	04/09/2017	Advertising content	1
Advertisement	Channel 4	05/09/2017	Advertising content	1
Celebrity Island with Bear Grylls	Channel 4	05/09/2017	Outside of remit	1
Advertisement	Channel 4+1	06/09/2017	Advertising content	1
Advertisement	ITV	31/08/2017	Advertising content	1
Advertisement	ITV	02/09/2017	Advertising content	1
Advertisement	ITV	03/09/2017	Advertising content	1
Advertisement	ITV	06/09/2017	Advertising content	1
Advertisement	ITV	09/09/2017	Advertising content	1
Advertisement	ITV	13/09/2017	Advertising content	1
Love Island	ITV	01/01/2017	Outside of remit	1
Safe House	ITV	07/09/2017	Outside of remit	1
The X Factor	ITV	02/09/2017	Outside of remit	1
Advertisement	ITV4	31/08/2017	Advertising content	1
Advertisement	Jazz FM	08/09/2017	Advertising content	1
Programming	n/a	12/09/2017	Outside of remit	1
Advertisement	Sky News	25/08/2017	Advertising content	1
Davina's Hour (pre-tx)	Watch	11/09/2017	Outside of remit	1
Advertisement	5USA	09/09/2017	Advertising content	1
Advertisement	Channel 4	04/09/2017	Advertising content	1

BBC First

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

Under the BBC Agreement, 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 'BBC First' approach).

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	BBC	n/a	Due accuracy	1
Programming	BBC	n/a	Materially misleading	1
Programming	BBC	n/a	Outside of remit	1
BBC Breakfast	BBC 1	01/09/2017	Due impartiality/bias	1
Breakfast	BBC 1	01/09/2017	Materially misleading	1
Countryfile	BBC 1	09/07/2017	Due impartiality/bias	1
Deadliest Place to Deal	BBC 1	24/08/2017	Generally accepted standards	1
EastEnders	BBC 1	31/08/2017	Generally accepted standards	1
EastEnders	BBC 1	07/09/2017	Disability discrimination/offence	1
EastEnders	BBC 1	08/09/2017	Materially misleading	1
Last Night of the Proms	BBC 1	09/09/2017	Due impartiality/bias	1
The One Show	BBC 1	05/09/2017	Due impartiality/bias	1
Dangerous Borders: A Journey Across India and Pakistan	BBC 2	14/08/2017	Due impartiality/bias	1
Newsnight	BBC 2	29/08/2017	Generally accepted standards	1
No More Boys And Girls	BBC 2	23/08/2017	Gender discrimination/offence	1
BBC News	BBC News Channel	06/09/2017	Due impartiality/bias	1
BBC News	BBC News Channel	10/09/2017	Generally accepted standards	1
An Inside Out Special	BBC News HD	09/08/2017	Race discrimination/offence	1
Sportsound	BBC Radio Ulster	04/09/2017	Generally accepted standards	1
The Zoo	CBBC	30/08/2017	Offensive language	1
My Life: I am Leo	CBBC iPlayer	n/a	Scheduling	1

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 4 and 17 September 2017.

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

Programme	Service	Transmission date
F-Stop: Lady Margaret	Notts TV	20/08/2017
Named and Shamed: Greatest Celeb Scandals	Channel 5	22/07/2017
The American President	Sony Movie Channel	18/08/2017

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	Transmission date
Police Interceptors	Spike	1 September 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
Northern Media Group Ltd	Q 97.2 FM

The Light Academy Ltd	Believe TV
Global Passion TV Ltd	Global Passion TV
Prime Bangla Limited	Channel i
Global Tamil Vision Ltd	Global Tamil Vision
Pakistan Television Corporation Limited	PTV Global
Notts TV Limited	Notts TV
Sportsmax Ltd	Ceen
Khalsa Television Limited	KTV
Cambridge Presents Limited	That's Cambridge
That's Oxford Limited	That's Oxford
That's Solent Limited	That's Solent
YourTV Preston Limited	YourTV Blackpool & Preston
YourTV Manchester Limited	YourTV Manchester

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