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# OFCOM BROADCAST AND ON DEMAND BULLETIN

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# Introduction

Under the Communications Act 2003 ("the Act"), Ofcom has a duty to set standards for broadcast content to secure the standards objectives[1]. Ofcom also has a duty to ensure that On Demand Programme Services ("ODPS") comply with certain standards requirements set out in the Act[2].

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 advertising[3].

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.**

# Note to Broadcasters

## Monitoring of diversity and equal opportunities in broadcasting

### Introduction

On 27 September 2018, Ofcom published its second Diversity and equal opportunities in television report.[1] It set out how the industry is performing on equality and diversity overall, both in terms of what it's doing well and what it could improve. The report contained our key recommendations on where the industry needs to do more. We also made clear that:

- We would take enforcement action against those licensees who failed to respond to our information request;
- We would assess the arrangements each licensee has in place to promote equal opportunities; and that
- We would continue to review our guidance in this area as part of the evaluation of the monitoring process.

This note is aimed primarily at television broadcasters and provides an update on the next round of information gathering. There is also an update on our diversity roadshow of stakeholder workshops that is relevant to both television and radio broadcasters.

### Monitoring of the television industry

Stage one information request

In week commencing 25 February 2019 we will be sending an initial information request to each licensee who told us last year that their employees totalled **50 or under**[2] and to any new licensees. You will only receive this information request if the number of your employees falls within this threshold[3] or you are a new licensee; broadcasters with **more than 50 employees** will not be involved at this stage (see below). The stage one information request will ask for information related to your number of employees and the number of days you are licensed to broadcast per year, to identify whether you are required to complete a full questionnaire at stage two (see below). This request will be sent to company secretaries by post and to licence contacts by email. The questionnaire will take the form of an online survey, which can be accessed via a link, included as part of the email sent to licence contacts.

You will have ten working days to complete the information request. If you fail to submit the requested information by the specified date, we may find you in breach of your licence.

[1] https://www.ofcom.org.uk/__data/assets/pdf_file/0021/121683/diversity-in-TV-2018-report.PDF

[2] We will also be sending the initial information request to each licensee who failed to respond to our information request last year as we do not hold any information to enable us to determine whether their employees total 50 or under. Any licensees that failed to respond to our information request last year were investigated for breach of the relevant licence condition.

[3] Or you failed to respond to our information request last year. See footnote 2 above for further detail.

Stage two information request

Licensees identified at stage one as meeting the relevant thresholds[4], along with licensees who told us last year that they have **over 50 employees**, will receive the stage two information request in the Spring. This will consist of a detailed questionnaire asking about your equal opportunities arrangements and your workforce, which will need to be completed and returned to Ofcom. The details of how and when to do this will be included with the questionnaire.

*How will the information be used?*

We will use the information to produce our third annual diversity and equal opportunities in television report in Autumn 2019.

Any broadcasters who have questions related to this note please contact diversityinbroadcasting@ofcom.org.uk

*Diversity workshops for broadcasters needing further guidance*

We made clear in our published report that we would run a diversity roadshow of stakeholder workshops that will encourage broadcasters to discuss the benefits of diversity, the purpose of the monitoring programme and how broadcasters can better promote equality of opportunity within their organisation. These workshops are taking place in March and invitations will be sent out to broadcasters who we have identified as requiring further guidance in this area.

For guidance and resources on how broadcasters can improve the diversity of their organisations please visit: https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/guidance/diversity

*Contact details*

Finally, we would like to remind you that it is your responsibility to ensure that your contact details held by Ofcom are accurate and up-to-date. Therefore, if this isn't the case, we ask that you email Broadcast.Licensing@ofcom.org.uk with your correct contact details.

[4] Have more than 20 employees and licensed to broadcast for more than 31 days per year.

# Broadcast Standards cases

## In Breach

### *Music video, Bagga and Shera*
### KTV, 4 July 2018, 22:56; 7 July 2018, 21:26; 9 July 2018, 14:30

**Introduction**

KTV is a television channel broadcasting to the Sikh community in the United Kingdom. The licence for KTV is held by Khalsa Television Limited ("KTV" or "the Licensee").

Ofcom received a complaint that the above content could glamorise or might be likely to encourage or incite crime or violence. The complaint said that the content featured two "suspected criminals" and their actions were "glorified".

The programme comprised a music video which included lyrics in Punjabi with some Gurmukhi and English script. We obtained an English translation of the Punjabi and Gurmukhi lyrics and text. We gave the Licensee an opportunity to comment on the accuracy of the translation. KTV did not raise any accuracy issues, and we therefore relied on this translation for the purposes of the investigation.

**Background**

As part of Ofcom's assessment of the music video, we took account of the following context:

In 1983, Sant Jarnail Singh Bhindranwale, a Sikh religious leader who was accused of leading a militant secessionist movement against India, in favour of an independent Sikh state (Khalistan), occupied and fortified the Sikh shrine Akal Takht (the Golden Temple complex) to avoid arrest.

In June 1984 the Indian Army carried out a military operation, "Operation Bluestar", to remove Sant Jarnail Singh Bhindranwale and his supporters from the temple. This was ordered by the then Indian Prime Minister Indira Gandhi, and planned by the Chief of the Indian Army, General Arun Vaidya. It led to many deaths, including that of Sant Jarnail Singh Bhindranwale[1].

In October 1984, Indian Prime Minister Indira Gandhi was assassinated by her two Sikh bodyguards in retaliation for Operation Bluestar. This led to anti-Sikh violence which resulted in the deaths of thousands of Sikhs in Delhi.

In 1986, Harjinder Singh Jinda ("Jinda") and Sukhdev Singh Sukha ("Sukha"), murdered General Vaidya in Pune, India. Jinda and Sukha were members of the Sikh militant organisation Khalistan Commando Force (KCF), which continues to be proscribed in India[2]. Following a trial they were executed in 1992.

[1] Ofcom understands that Sant Jarnail Singh Bhindranwale is revered by some Sikhs and considered a political martyr.

[2] https://mha.gov.in/related-links/banned-organizations

Ofcom is aware the Khalistan secessionist movement has gained more prominence in recent years, in particular among members of the Sikh diaspora in Canada and the UK, although some sections of the Sikh community also oppose its creation.[3] Support for this movement increased following the arrest of British Sikh activist Jagtar Singh Johal[4] in India for his alleged involvement in the murders of RSS[5] leaders Jagdish Gagneja, Ravinder Gosain[6] and Pastor Sultan Masih[7], and his alleged involvement in the funding of the secessionist movement Khalistan Liberation Force (KLF)[8]. This culminated with some members of the Sikh community in the UK holding a Khalistan rally on 12 August 2018 calling for a referendum in Punjab in 2020[9].

Ofcom also understands that tensions regarding the establishment of an independent Sikh state in Khalistan are still a live issue in India today. Earlier this year, 15 people including prominent Sikh activists Ramandeep Singh Bagga and Hardeep Singh Shera, were indicted by India's National Investigating Agency ("NIA"), for being part of a wider transnational conspiracy to carry out targeted killings in India[10]. All the individuals charged are linked to the KLF. Ofcom is aware that on 1 October 2018, the NIA formally initiated steps to ban the KLF in India[11].

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[3] http://www.atimes.com/article/anger-among-sikhs-britain-raises-heat-uk-india-ties/; https://crestresearch.ac.uk/projects/sikh-radicalisation-britain/ (page 31); http://www.britishsikhreport.org/wp-content/uploads/2017/03/British-Sikh-Report-2017-Online.pdf

[4] Jagtar Singh Johal, known as "Jaggi" is a UK national who has been arrested and held in India, charged with conspiracy to murder Ravinder Gosain, the leader of the RSS who was shot and killed in 2017. See: http://timesofindia.indiatimes.com/articleshow/64036046.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst https://timesofindia.indiatimes.com/india/murder-of-rss-leader-part-of-khalistani-plot/articleshow/64036046.cms. Jagtar Johal has claimed he was tortured in custody: https://www.independent.co.uk/news/world/asia/jagtar-singh-johal-british-man-allegedly-tortured-indian-police-threatened-burn-alive-punjab-a8390891.html

[5] Rashtriya Swayamsevak Sangh (RSS) is a militant Hindu organisation which has been banned on a number of occasions in India following outbreaks of communal and sectarian violence for which it was held responsible.

[6] https://www.reuters.com/article/us-india-religion-clash/sectarian-clashes-flare-up-in-indias-punjab-idUSDEL10478220070518

[7] https://www.tribuneindia.com/news/punjab/pastor-shot-dead-outside-ludhiana-church/437322.html

[8] Khalistan Liberation Force or KLF was founded in 1986. In 1995, the KLF was listed as one among four major militant groups in the Khalistan Movement advocating for the independence of the region of Khalistan from the Indian Federation. Over the years it has been reported that members of the KLF have been involved in terrorist activities and assassinations, particularly in Punjab.

[9] https://referendum2020.org/; https://www.huffingtonpost.co.uk/entry/british-sikh-activists-lead-call-for-a-homeland-in-india_uk_5bae543ee4b0b4d308d2a925; https://www.sikhpa.com/sikhs-for-justice-to-declare-punjab-independence-referendum-for-202/

[10] http://www.nia.gov.in/writereaddata/Portal/News/280_1_Pr.pdf

[11] https://timesofindia.indiatimes.com/india/nia-asks-home-ministry-to-ban-khalistan-outfit/articleshow/66021319.cms

## The music video

The music video started with a graphic paying *"tribute"* to Harminder Singh Mintoo[12], the former chief of the KLF who controversially died in police custody in 2018. Text on screen said that Harminder Singh Mintoo had *"made the world realise something, that the struggle for Khalistan is still alive".*

Footage of a masked man adjusting the mask on the face of another man was followed by footage of a machine gun firing, together with its sound. Footage of a close-up of a roaring tiger was then shown accompanied with sound of the roaring, followed by the masked man again and then images of Ramandeep Singh Bagga ("Bagga") and Hardeep Singh Shera ("Shera")[13], who are currently awaiting trial in India for the murder in 2017 of a number of Hindu RSS activists and leaders of the Dera Sacha Sauda[14] sect and other Christian and Hindu leaders[15]. Bagga and Shera were allegedly recruited in Europe to become members of the KLF[16]. This was followed by footage of a roaring lion and the masked man again.

The lyrics to the music track said:

> *"They pierce through enemies' heart like a bullet, Bagga and Shera keep roaring like a lion".*

This was followed by images of a male actor (Man A) approaching another male actor (Man B) to show him an image on his mobile phone, which we understood depicted protesters burning an effigy of Sant Jarnail Singh Bhindranwale. Man B was shown reacting with shock. Man A placed a hand on his shoulder.

Interspersed in this were archive images of Hardeep Singh Shera and Ramandeep Singh Bagga again as well as further footage, including:

- an image of Sant Jarnail Singh Bhindranwale holding a spear;
- a hooded prisoner being escorted by armed police; and,

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[12] Referred to on screen as *"Jathedar Harminder Singh Ji Nihang"*. "Jathedar" means chief or leader and "Nihang" in this context refers to a Sikh military order i.e. the Nihang. The title identifies Harminder Singh as a leader and a Nihang warrior. Harminder Singh Mintoo was accused of being involved in 10 terror-related cases and was arrested in 2014 by Punjab Police. In 2016, he escaped from Nabha prison along with other Sikh militants. He was re-arrested and died while in police custody in April 2018. The cause of his death was disputed with Sikh militants saying he had died as a result of police torture and the police maintaining that he had died of a heart attack (https://timesofindia.indiatimes.com/city/chandigarh/klf-chief-mintoo-dies-of-cardiac-arrest-in-patiala-jail/articleshow/63823242.cms)

[13] https://www.tribuneindia.com/news/punjab/shera-involved-in-7-killings-cops/495844.html; https://www.hindustantimes.com/punjab/targeted-killings-in-punjab-nia-files-common-chargesheet-in-two-cases/story-VEzUPiY8lwmJoklU25Ui2H.html

[14] https://www.derasachasauda.org/history/

[15] https://scroll.in/latest/879732/nia-says-khalistani-militants-involved-in-murders-of-punjab-shiv-sena-leaders-files-chargesheet

[16] https://indianexpress.com/article/india/targeted-killings-in-punjab-hardeep-met-mintoo-in-italy-three-years-ago-refused-to-join-klf-says-probe-team-khalistan-4931984/

- an image of Jagtar Singh Johal[17] manacled and being led from court by uniformed police in India.

This was followed by footage of Man A handing over a hoodie to Man B. On the front of the hoodie, there was an inscription in Punjabi *"Khalistan Zindabad"* ("Long live Khalistan"), a logo with the inscription in English *"Straight Outta Khalistan",* and the image of two AK-47 rifles. An inscription in Gurmukhi script was also visible and read: *"Peace will come via the bullet"*. At the back of the hoodie, two tigers with two swords and an eagle were visible with the inscription *"Khalistan Zindabad"* underneath. An inscription in English was partially visible at the top of the back of the hoodie (and later in the video, fully visible), which read: *"We will spill our last drop of blood. And to the last man we will fight for Khalistan. Long live Khalistan".*

The two male actors were then shown riding on a motorbike with their faces partially covered. Each was wearing the same *"Straight Outta Khalistan"* hoodie. They stopped the motorbike in the street and one of the men pointed a finger at a bystander who was talking on a mobile phone near a car with a UK licence plate parked in the street. The images appeared to be located in modern day UK, based on, for example: the English language sign above the warehouse which was visible as the two men exited it, the licence plate of the car and the general appearance of the bins, road and railings they passed. Immediately after this, a well-known drawing depicting the assassination of General Vaidya by Harjinder Singh Jinda and Sukhdev Singh Sukha was shown[18]. In the image, Harjinder Singh Jinda and Sukhdev Singh were on a motorbike. One of the men was shown firing a gun at General Vaidya, who was on a mobile phone getting out of his car. The lyrics in this section included:

> *"Together they are like Jinda and Sukha. Enemies are always scared of them… They extract the sins of sinners from the coffins".*

Footage was then included of the two actors in a warehouse standing next to an open top four-wheel drive vehicle. As one of the men tilted the windscreen down a logo could be seen on the car's hood. This appeared to be an image of a popular Sikh symbol called the Khanda which, Ofcom understands, is recognised to be a Sikh military symbol. This was immediately followed by a caricature image of former Indian Prime Minister Indira Gandhi with flames superimposed over the image of the Red Fort in Delhi – a symbol of the Indian state. Indira Gandhi was depicted with blood dripping from her mouth with a caption in English and said: *"You drank the blood of innocents you evil woman".* The lyrics included the words:

> *"Scary games of Delhi[19] will not work now, Warriors will destroy your kingdom".*

[17] See footnote 4.

[18] General Vaidya was the Indian commanding officer who led the assault on the Golden Temple in 1984. Ofcom understands that the image depicting his assassination has been widely circulated: https://www.sikhfreedom.com/bhai-sukhdev-singh-sukha-bhai-harjinder-singh-jinda; http://www.panthic.org/articles/5157Bhai; http://khalsaforce.in/shaheed-bhai-harjinder-singh-jinda; http://punjab3000.blogspot.com/

[19] Ofcom understands that this refers to the anti-Sikh riots which took place in Delhi in 1984, also known as the "1984 Sikh Massacre" following the assassination of Prime Minister Indira Gandhi by her Sikh bodyguards. The riots led to widespread killings and attacks upon Sikhs in Delhi.

The masked men were shown driving the four wheel drive vehicle, which also had a UK number plate, out of the warehouse and into what appeared to be a UK street. One of the men was shown holding a shotgun, which he fired and gun shots were heard.

An image showing the photographs of five people who are suspected of having been murdered by members of the KLF in India[20] was shown with the following caption:

> *"23 April 2016 - Durga Prasad Shiv Sena[21] area head executed in Khanna.*
> *3 August 2016 - Jagdish Gagneja: The Punjab RSS chief who declared there were no Khalistani Jathebandia active in Punjab, following an earlier attack on RSS training grounds.*
> *14 January 2017 - Amit Sharma - Hindu Takht[22] leader assassinated in Ludhiana.*
> *24 February 2017 - Mandi Ahmedgarh Pind Jagere, two leading members of Sirsa cult[23] were shot dead.*
> *17 October 2017 - RSS leader Ravinder Gosaini gunned down outside his home".*

A poster for *"the Jathedars* [chiefs] *of Khalistan Liberation Force"* then appeared with the pictures of the five former leaders of the KLF, including Harminder Singh Mintoo, and the dates they were allegedly killed. On the top of the poster there was the following text:

> *"The Indian rulers and community traitors don't assume that the Khalistan Liberation Force has ended. The force will, till the last breath, have its share and the achievement of Khalistan and will continue the proceedings"*.

In addition to the content and lyrics described above, Ofcom identified brief flashes on at least seven occasions. When we slowed the content down, these appeared to be frames of on-screen text which had been inserted into the video. These were not visible when the video was played at normal speed. This included a frame of large text which said: *"it just waits for the sequel"* which appeared on three occasions.

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

Rule 3.1: Material likely to encourage or incite the commission of crime or to lead to disorder must not be included in television or radio services.

Rule 2.3: In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context…appropriate information should also be broadcast where it would assist in avoiding or minimising offence.

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[20] https://scroll.in/latest/879732/nia-says-khalistani-militants-involved-in-murders-of-punjab-shiv-sena-leaders-files-chargesheet

[21] https://www.encyclopedia.com/politics/legal-and-political-magazines/shiv-sena

[22] Ofcom understands the reference to be Sri Hindu Takht, a Hindu organisation based in Punjab, India, of which Amit Sharma was the leader: https://indianexpress.com/article/cities/chandigarh/hindu-organisation-leader-shot-dead-in-ludhiana-4474891/

[23] Ofcom understands Sirsa cult to be a dismissive term to describe the Sikh Dera Sacha Sauda sect: https://www.derasachasauda.org/about-dera-sacha-sauda/.

Rule 2.11: Broadcasters must not use techniques which exploit the possibility of conveying a message to viewers or listeners, or of otherwise influencing their minds without their being aware, or fully aware, of what has occurred.

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

**Response**

KTV explained that it was "a platform catering to the international Punjabi community with a message of unity and inclusivity". It said that "[i]n recognition of our responsibility to viewers, the Licensee has undertaken concerted efforts to ensure all content broadcast remains within the parameters of the Broadcasting Code" and that it "treats all compliance matters with the utmost importance and accordingly, we attempt to address any potential breach of the Broadcasting Codes with immediate action". The Licensee explained however that it "recently suffered on account of the departure of employees responsible for assessing and enforcing compliance".

The Licensee explained that "The Bagga Shera song performed by upcoming Punjabi music artist Nav Sandhu was released on 9 June 2018 to widespread acclaim and popularity in the Punjabi community". It said that "Following frequent requests from KTV viewers, the video associated with the song was sourced and licensed via the KTV India team for broadcast upon the channel. The song was accordingly provided with a cursory assessment based upon what was deemed as fictional and entertainment only content".

KTV argued that upon receiving the complaint from Ofcom, "the video was removed from the playlist and an internal investigation was conducted into the content". It said that "the subject matter was subsequently deemed inappropriate for audiences, the song was permanently removed from broadcast".

Finally, the Licensee said it was "always keen to strengthen our compliance with the Codes by implementing any recommendations Ofcom may suggest" and requested an urgent meeting with Ofcom "to discuss the status of, and improvements to our compliance systems".

On 8 October 2018, in response to questions from Ofcom, the Licensee explained that the music video was "a standalone music video with no connection or relevance" to the adjacent programmes. It said that "[a]s a general rule of thumb, music videos on KTV are utilised primarily as fillers serving to fill short gaps within the daily playlist" and that "the majority of tracks utilised are either three or four minutes in length. As a result, the tracks comfortably fit alongside adverts…".

The Licensee did not provide any comments on how the content complied with Rule 2.11 of the Code. On 19 November 2018, we sent a letter to the Licensee to inform it that we would therefore proceed with our Preliminary View in the absence of any representations from it on this aspect of the case.

On 5 December 2018, Ofcom sent its Preliminary View to KTV. The Licensee did not provide any representation on the Preliminary View. On 24 January 2019, we informed the Licensee that we would proceed to our Decision in the absence of any representations from it.

## Decision

Reflecting our duties under the Communications Act 2003[24], Section Three of the Code requires that material likely to encourage or incite the commission of crime or to lead to disorder must not be included in broadcasts. Section Two of the Code requires that generally accepted standards are applied to the content of television and radio services to provide adequate protection for members of the public from the inclusion of harmful and/or offensive material.

Ofcom has taken account of the audience's and broadcaster's right to freedom of expression set out in Article 10 of the European Convention on Human Rights ("ECHR"). Ofcom must seek an appropriate balance between ensuring members of the public are adequately protected and the right to freedom of expression and the right to freedom of thought and conscience.

Rule 3.1

We acknowledge that broadcasters should be able to, and can, make programmes on highly controversial subjects and on the alleged actions of groups or individuals, who have been charged with murder and/or terror related offences, and people linked to such groups. This is clearly in the public interest. We also accept the particular importance of political speech including speech advocating territorial secession.

However, in dealing with such topics, broadcasters must ensure they comply with the Code.

Rule 3.1 of the Code requires that:

> "Material likely to encourage or incite the commission of crime or lead to disorder must not be included in television or radio services".

When considering whether material is in breach of Rule 3.1, Ofcom is required to assess the *likelihood* of it encouraging or inciting the commission of crime or leading to disorder. In particular, the use of the word "likely" in Rule 3.1 means Ofcom is not required to identify any causal link between the content broadcast and any specific acts of disorder of criminal behaviour. Ofcom takes account of all the relevant circumstances, the nature of the content, its editorial context and its likely effects.

Content may contain a *direct* call to action – for example, an unambiguous, imperative statement calling viewers to take some form of potentially criminal or violent action. Material may also contain an *indirect* call to action if it includes statements and/or images that cumulatively amount to an implicit call to act.

In this case, the music video included dramatised scenes played by two male actors who appeared to be getting ready to carry out assassinations in the UK. These scenes were juxtaposed with images of real people who have been convicted or charged with having carried out murders for political reasons.

In the first sequence:

[24] http://www.legislation.gov.uk/ukpga/2003/21/section/319

- The first man (Man A) approached a second man (Man B) and showed him a video of protesters burning an effigy of Sant Jarnail Singh Bhindranwale, a man Ofcom understands is revered by many Sikhs and regarded as a Sikh martyr and icon. Man B reacted with shock. Man A placed a hand on his shoulder, which appeared to be a gesture of reassurance or encouragement.

- Man A gave Man B a hoodie which he put on and displayed to camera. There were a number of statements imprinted on the hoodie, including about the creation of Khalistan, which appeared to condone violent action:

  - *"Peace will come via the bullet"* (in Gurmukhi script in the video)
  - *"We will spill our last drop of blood. And to the last man we will fight for Khalistan. Long live Khalistan".* (in English text in the video)[25]

We considered that this sequence was likely to have been understood by viewers to mean that Man A had recruited Man B to join a group advocating the use of violence for the political aim of the creation of Khalistan.

We further considered that the images of a roaring tiger and lion and the lyrics of the song *"They pierce through enemies' heart like a bullet, Bagga and Shera keep roaring like a lion"* implicitly condoned the violent actions of the Sikh militants. Ofcom understands that in Sikh culture, lions are associated with majestic courage and even divinity or kingship. Men adopt the surname "Singh", meaning "lion".[26]

In the second sequence:

- The two actors were then shown riding a motorbike and wearing their Khalistan hoodies. The scene was interspersed with archive pictures of Harjinder Singh Jinda and Sukhdev Singh Sukha, General Vaidya's murderers. Both men were then shown on the motorbike and Man A was shown imitating firing a gun at a man standing next to a car on the street.

- This was immediately followed by a picture shown on screen depicting the assassination of General Vaidya as he was shot by two Sikh men riding a motorbike, mirroring the pose of the two actors in the preceding scene.

These images were accompanied by the lyrics *"Enemies are always scared of them… They extract the sins of sinners from the coffins".*

In our view, the juxtaposition of these two scenes sought to draw direct parallels between the two fictional characters in the music video and General Vaidya's assassination by Harjinder Singh Jinda and Sukhdev Singh Sukha, who were members of the KCF, a proscribed organisation in India. Ofcom is aware that they are considered martyrs by some members of the Sikh community and that the two images included in the video portraying them as heroic

[25] As noted in the introduction above the inscription in English was partially visible at this point and then fully visible shortly after.

[26] See also Dr Jasjit Singh: 'The Ideas, Content, Framing and Realities of 'Sikh Radicalism' in the UK' November 2017 https://crestresearch.ac.uk/download/3793 at page 39: "a commonly heard phrase used to describe powerful Punjabi Sikh males is 'Sher-Punjabi' or 'lions of the Punjab' with Punjabi males often encouraged to demonstrate their masculinity'".

figures who were comrades in arms until their death have become part of Sikh iconography. In our view, these images coupled with the musical lyrics of the video aimed to glorify their murdering of General Vaidya. By juxtaposing these images with the two fictional characters, with the lyrics: *"Together they are like Jinda and Sukha. Enemies are always scared of them…they extract the sins of sinners from the coffins"*, it was our view that the music video clearly sought to glorify and encourage the future actions of the two fictional characters towards the assassination of an unknown person in the UK, by portraying them as heroes like Jinda and Sukha. This was reinforced by the images of a roaring lion and tiger, a symbol of strength and courage in the Sikh religion.

In the last sequence:

- Man A was shown loading a shotgun and Man B then drove him in a vehicle on which a UK number plate was clearly visible. Man A fired a shotgun.

- This was followed immediately by the display on screen of a list of the names of people linked to Sikh and Hindu organisations who had allegedly been *"executed" "assassinated"* and *"gunned down"* in India by Sikh separatists linked to the KLF in 2016-2017.

- Pictures of all the leaders of the KLF who had allegedly been murdered, including Harminder Singh Mintoo, were then shown on screen.

These images were accompanied by a repeat of the lyrics *"Together they are like Jinda and Sukha. Enemies are always scared of them…They extract the sins of sinners from the coffins".*

In Ofcom's view, it would have been clear that the juxtaposition of the various elements of the video linked the KLF to the list of murdered people on screen. It further suggested that the shots fired by Man A would have a similar target, notably those who are members of Hindu and Sikh organisations or groups who would be considered to have a different political viewpoint to that of the KLF.

Archive footage, graphics of, and lyrics about, people accused and/or convicted of murder and/or terror related acts were also included in the video which we considered sought to glorify the violent actions referred to in the video. For example:

- The video and lyrics heavily focused on Hardeep Singh Shera and Ramandeep Singh Bagga. They were also referred in the lyrics up to four times as being *"like Jinda and Sukha".* As set out above Jinda and Sukha were members of a proscribed terrorist group and responsible for terror related murders, including the murder of General Vaidya. The lyrics further referred to Shera and Bagga and *"enemies"* who were *"always scared of them"* and said that they *"extract the sins of sinners from the coffins",* which we understand to be a Punjabi colloquialism for murder. While we acknowledged that Hardeep Singh Shera and Ramandeep Singh Bagga are currently awaiting trial and have not been convicted of any offences, by comparing them to members of a proscribed terrorist organisation, we considered the video condoned the acts of murder of which they are accused.

- Text on screen at the beginning of the video described the video as a *"tribute"* to Harminder Singh Mintoo, the former head of the KLF, whom Sikh activists allege was tortured and died while in police custody. At the end of the video, a poster was shown of

the five former heads of the KLF, including that of Harminder Singh Mintoo. Although not a proscribed organisation in the UK or India, members of the KLF are reported to have been involved in terrorist activities and murders[27]. The wording at the top of the poster said that the KLF would *"till the last breath, have its share and the achievement of Khalistan and will continue the proceedings"*. We consider that this poster condoned the continuation of a violent struggle for a separate Sikh state.

- An image of former Indian Prime Minister Indira Gandhi, who was killed by her Sikh bodyguards in the violent events following 1984, was shown with the song lyrics *"Warriors will destroy your kingdom",* along with images of flames superimposed over the image of the Red Fort in Delhi – a symbol of the Indian state. We considered that this emphasised the video's narrative of advocating violent action against the Indian state.

- An image of Jagtar Singh Johal[28] manacled and being led from court by uniformed police in India was also included. We acknowledge that Jagtar Singh Johal has not been convicted of any crimes, but it is our understanding that he is accused of various terrorism offences in India.

We considered the cumulative effect of:

- the dramatised fictional narrative showing a man being recruited by another man in the UK to join a group using violent means to further its political aims, i.e. the creation of an independent state of Khalistan;

- the several positive visual references to the murders of people who had been instrumental in 1984 Operation Bluestar, including: an image depicting the murder of General Vaidya; a bloodied image of former Indian Prime Minister; and, several pictures of Jinda and Sukha, who murdered General Vaidya;

- the lyrics glorifying and condoning violence committed by individuals who were either convicted or charged with murder and/or terrorist acts; and,

- the list of names and pictures of members and leaders of Sikh and Hindu's organisations who had recently been murdered allegedly by members of the KLF.

We are aware that in addition to committing murders against people disagreeing with the creation of Khalistan, members of the KLF have also been charged with murdering people whose views or conduct they find offensive: members of the Dera Sacha Sauda sect[29] and a Christian pastor[30]. This indiscriminate targeting by members of the KLF of people who did not subscribe to the KLF's ideology and beliefs suggests that the incitement to commit violent actions related towards a wider range of people, and not only those who disagree with KLF's political views.

[27] https://www.trackingterrorism.org/group/khalistan-liberation-force-klf

[28] See footnote 4

[29] See footnote 6.

[30] See footnote 7.

We were of the view that the cumulative effect of all the elements above created an indirect call to action for Sikhs living in the UK to commit violence, up to and including murder, against members of Hindu and Sikh organisations who would be considered to have opposing views to the KLF and/or who did not support the creation of an independent Khalistan state.

Recent footage of people who have been formally charged with committing acts of terror and murders was also included, i.e. Ramandeep Singh Bagga; Hardeep Singh Shera; and, Jagtar Singh Johal, who were shown hooded and manacled while being taken to court, which in our view added to the overall emotive appeal of the video's message. The association of these men with images of a roaring lion and tiger, symbolising strength, courage and Sikh identity, suggested that it was positive for militants to take violent action against political opponents. We considered that this compounded the indirect call for action.

We next considered the likelihood of the music video indirectly encouraging or inciting the commission of crime or leading to disorder. We also carefully considered the context in which the music video was broadcast. Ofcom has published Guidance[31] which makes clear that, under Rule 3.1, we consider a range of contextual factors which could increase or decrease the likelihood of content inciting or encouraging crime or disorder. For example, the likelihood could be reduced if sufficient challenge or context is provided.

We are mindful of a 2017 report examining Sikh radicalism in the UK[32] which concluded that:

> "In terms of its impact on the British state and British public, it has been demonstrated that Sikhs in Britain do not pose a security threat as there is no conflict with 'the West'. In terms of integration, the main threat of violence is from the exploitation of inter-community and/or intra-community tensions and any resulting vigilantism".[33]

We recognise that the report did not identify any recent incidents of violence involving Sikh people in Britain supporting the establishment of a Sikh state, Khalistan, against people opposing this. However, the music video overall glorified and celebrated murder carried out in pursuit of an independent Khalistan state – for example, the video referred to the murders of leaders of the RSS.

Ofcom understands that the rise in Sikh nationalism and activism around calls for an independent Sikh state have rejuvenated a Sikh secessionist movement, largely driven by young Sikh people living in the diaspora particularly the UK, Canada and the US.[34] Ofcom is also aware of a hardening of attitudes among some young Sikh people in the diaspora

[31] https://www.ofcom.org.uk/__data/assets/pdf_file/0021/24258/section_3_2016.pdf

[32] Dr Jasjit Singh: 'The Ideas, Content, Framing and Realities of 'Sikh Radicalism' in the UK' November 2017 https://crestresearch.ac.uk/download/3793

[33] Ibid at pages 59-60.

[34] https://www.huffingtonpost.co.uk/entry/british-sikh-activists-lead-call-for-a-homeland-in-india_uk_5bae543ee4b0b4d308d2a925; The 2017 British Sikh Report showed that 42% of participants considered that Punjab should have been an independent nation during the partition of 1947 and just under 40% had a positive view or very positive of a political and economic case for an independent Khalistan: http://www.britishsikhreport.org/wp-content/uploads/2017/03/British-Sikh-Report-2017-Online.pdf

towards the Indian state, with hundreds of Sikh places of worship (Gurdwaras) banning the visit of any Indian government representative[35]. In addition, the 2020 referendum[36] campaign that calls for a vote to be held that year on the question of Khalistan has further polarised opinion among the Sikh community.[37]

Ofcom has published Guidance[38] which accompanies Section Three of the Code. This makes clear that, under Rule 3.1, we take into account a range of contextual factors which could increase or decrease the likelihood of content inciting or encouraging crime or disorder. For example, the likelihood could be reduced if sufficient challenge or context is provided.

The music video was broadcast as a standalone piece of content which the Licensee told us had "no connection or relevance" to the adjacent programmes. Ofcom acknowledged the importance attached to freedom of expression in the broadcasting environment. Music videos are an artistic and creative medium which can and do sometimes contain challenging content. However, we took into account that there was no warning or information given before, during or after the broadcast of the music video to set it in context, nor was there any challenge to, or criticism or explanation of, the violent behaviour that the music video condoned. This would have, in our view, increased the likelihood of the material being taken as an indirect call to action.

We have also considered the video's likely impact on audiences. The song *"Bagga, Shera"* is produced by the record label Revolution Records and sung by Nav Sandhu. The Licensee acknowledged that the song and the artist are popular and acclaimed in the Punjabi community and was frequently requested by KTV viewers. We considered therefore that the music video was likely to appeal in particular to a younger and potentially more impressionable audience among the Sikh community in the UK. We considered that Sikh viewers may have viewed the song as bravado common in this form of musical genre. However, the very specific links to a militant terrorist organisation such as the KLF and the targeted killings with which they have been linked, coupled with the images of General Vaidya's assassination, added to an impression that the video encouraged emulation of the actions and condoned violent retribution against those that the KLF views as its opponents.

We recognise that the concept of martyrdom is a theme common to many religions, including Sikhism, and that some Sikh people may pay special respect to and honour as martyrs people who have carried out criminal acts, including murder, in the name of Sikhism in the distant past. In this case, however, the video referred to much more recent criminal acts allegedly committed by members of a Sikh militant organisation to further the aim of an independent Khalistan, a very current and controversial issue[39]. We considered therefore that viewers among the Sikh community in the UK were more likely to interpret the message of the video in a literal way.

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[35] https://www.hindustantimes.com/world-news/sikh-body-plans-to-ban-indian-officials-from-uk-gurdwaras/story-nIPsIzdELrJPK4DpaFbT4L.html

[36] See footnote 9.

[37] https://www.tribuneindia.com/news/punjab/uk-allows-platform-for-khalistan-call-to-arms/636159.html

[38] https://www.ofcom.org.uk/__data/assets/pdf_file/0021/24258/section_3_2016.pdf

[39] https://www.tribuneindia.com/news/punjab/hundreds-turn-out-to-support-and-counter-pro-khalistan-rally-in-uk/636253.html

Ofcom acknowledged that following an internal investigation, the Licensee accepted that the material was not appropriate for its audience. Ofcom also took into account the Licensee's statement that the ethos of the channel is that it is "a platform catering to the international Punjabi community with a message of unity and inclusivity". However, in our view it was clear that the aim of this music video was to increase tension, both within the Sikh community, and between the Sikh community and others, which therefore increased the likelihood of the material being taken as an indirect call to commit violent action, up to and including murder.

We also took into account that, after being made aware of the complaint by Ofcom, the Licensee removed the video from its playlist and said it would not broadcast it again. The video had been broadcast three times and KTV did not identify the content as inappropriate when it assessed it in what it described as a "cursory" way prior to its broadcast. KTV explained that it recently suffered from the departure of employees who were responsible for compliance. However, under its Ofcom licence, the Licensee is required to have adequate compliance procedures in place to ensure that it meets its obligations under the Code.

For all the reasons above, we considered this content broadcast was likely to indirectly encourage or incite the commission of crime or lead to disorder. Our Decision was that therefore is that Rule 3.1 was breached. Given that this case involved an incitement to viewers in the UK to commit violent acts up to and including murder, we consider it to be extremely serious.

Rule 2.3

Rule 2.3 of the Code states that:

> "In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context…appropriate information should also be broadcast where it would assist in avoiding or minimising offence".

We acknowledge that, at times, offence can be caused not just by the actual content of a programme but by the very fact that people with extreme and very controversial views are given airtime. The Code does not prohibit the broadcast of material including people or groups whose views and actions have the potential to cause offence. To do so would, in our view, be a disproportionate restriction of the broadcaster's right to freedom of expression and the audience's right to receive information. Rule 2.3 places no restrictions on the subjects covered by broadcasters, or the manner in which such subjects are treated, as long as potentially offensive content is justified by the context.

Ofcom first considered whether the material in the music video had the potential to cause offence.

As already discussed under Rule 3.1, this music video condoned, glamorised and justified violent acts and murders and in our view, the material amounted to an indirect call to action to commit violence, up to and including murder. As such, we considered that the content clearly had the potential to be extremely offensive. In this case, the video referred to recent criminal acts allegedly committed by members of a Sikh militant organisation to further the aim of an independent Khalistan, a very current and controversial issue among the Sikh

community in India and among the Sikh diaspora in the UK[40], which in our view compounded the offence that was likely to have been caused.

We therefore went on to consider whether the broadcast of the video was justified by the context.

Context is assessed by reference to a range of factors including: the editorial content of the programme, the service on which the material was broadcast, the time of broadcast, what other programmes are scheduled before and after, the degree of harm or offence likely to be caused, likely audience expectations, warnings given to viewers, and the effect on viewers who may come across the material unawares.

We recognise that KTV is a television channel delivering content focusing on Sikh-related issues to a primarily Sikh audience. However, material which was potentially highly offensive was broadcast without warning on three occasions as a standalone music video between unrelated programmes. There was no challenge, criticism or wider context which could have minimised the potential offence. Importantly, this video was not a scheduled programme so viewers had no advance knowledge that it was going to be shown, and viewers were therefore likely to have come across it unawares. Given this, and taking account of the strength of the material, in our view, the channel's audience was unlikely to have expected to view content of this type broadcast without sufficient context on a channel such as KTV which describes itself as "a platform catering to the international Punjabi community with a message of unity and inclusivity".

The music video was broadcast three times including during the afternoon and late in the evening (at 21:26 and 22:56). While audiences may expect more challenging material later in the evening we did not consider the potentially very high levels of offence would have been mitigated by the scheduling of the two broadcasts of the video at these later times.

As in the case of Rule 3.1, we took account of the steps the Licensee said it had taken since Ofcom had made it aware of the video. However given the very strong nature of the material, we considered for all the reasons above, that there was insufficient context to justify the broadcast of this potentially highly offensive material. Our Decision is therefore that Rule 2.3 was breached.

Rule 2.11

Rule 2.11 of the Code requires that:

> "Broadcasters must not use techniques which exploit the possibility of conveying a message to viewers or listeners, or of otherwise influencing their minds without their being aware, or fully aware, of what has occurred".

This relates in particular to subliminal content. Our guidance on Rule 2.11 of the Code explains that "An image (however brief) that can be seen by viewers is not subliminal".

Having carefully considered the content of the video, Ofcom identified brief flashes on at least seven occasions. We slowed the video down and found frames of on-screen text which had been inserted and which were not visible when the video was played at normal speed.

[40] See footnote 3.

We were particularly concerned by large text stating: *"It just waits for the sequel"* which had been inserted three times as follows:

- once over the motorbike used in the staged murders;
- once over the image of Harminder Singh Mintoo; and,
- once over the image of the seats of the four-wheel drive car.

In our view, this message could be understood as emphasising the suggestion that further murders should be committed. The Licensee did not explain how and why the text had been inserted into the video. We considered that the text in question exploited the possibility of conveying a message to viewers, or of otherwise influencing their minds without their being aware, or fully aware, of what has occurred. In light of the other issues in this case, Ofcom was extremely concerned that this content appeared to be seeking to influence viewers in this way.

Our Decision was therefore that Rule 2.11 was breached.

**Breaches of Rules 3.1, 2.3 and 2.11**

In addition to this case, Ofcom has recorded breaches against Khalsa Television Limited in four other Decisions included in this Bulletin (see pages 23, 29, 40 and 99). Ofcom considers that the breaches, taken overall, represent a very serious compliance failure on the part of the Licensee. We are therefore putting the Licensee on notice that we will consider the breaches for the imposition of a statutory sanction.

# In Breach

## Good Morning KTV
## *KTV, 20 February 2018, 09:00*

### Introduction

KTV is a television channel broadcasting to the Sikh community in the United Kingdom. The licence for the service is held by Khalsa Television Ltd ("KTV" or "the Licensee").

Ofcom received a complaint, which in summary said that this episode of *Good Morning KTV* included material that showed "negativity regarding the relationship between the UK and Indian governments and increased discussions on the unfair treatment of Sikhs" and expressed concern that "the intensity and regularity of the debate could result in viewers forming extremist views".

*Good Morning KTV* is a daily two-hour magazine-style breakfast show broadcast in Punjabi which includes a range of items within each programme. This episode included a children's cartoon, a round-up of stories about the Sikh community, an interview with a studio guest, a studio phone-in segment and an Indian documentary called "Final Assault".

The documentary put forward the view that in the 1980s Prime Minister Indira Gandhi's[1] government implemented a strategy to deny the Punjab state its due water resource and supply, and that this was used as a means of suppressing the rights of the Sikh-majority population of Punjab.

The documentary consisted of interviews with a range of people who commented on the Punjab water issue. Within the narrative around state-sponsored oppression of the Punjab population, there was a sequence in which specific incidents of violence and sexual violence against Punjabi women in 1984 were recounted and reconstructed.

As the documentary transitioned from an exploration of water resource issues to a testimony of violence, the narrator recounted an incident in which a six-year-old girl witnessed the killing of 12 members of her family by a mob. There was brief footage shown of the girl in her adult years as the narrator continued to describe the trauma of her childhood experience.

The narrator went on to describe how Sikh women suffered *"unimaginable abuse".* Through a reconstruction, a scene began in which a man was shown wielding a stick. Another man was shown pulling a screaming woman out of a house and dragging her along the ground. A shot followed which showed a group of naked women sitting on the ground, surrounded by men and looking visibly terrified. Detail of the women's stripped bodies was pixilated, though the impression that the women were all naked was clear and unambiguous. The woman who was dragged out of the house had her hair pulled by the man and was thrown to the ground along with the other women.

The narrator described how *"every Sikh women of this area, young and old, was forcefully paraded naked at this intersection"*.

[1] Indira Gandhi was Prime Minister of India and served her third term between 1980 and 1984 (the year she was assassinated by two of her Sikh bodyguards).

There was footage of one of the victims talking to an interviewer as she recounted being only *"23 years old"* at the time of the incident.

The narrator continued to describe how the women were *"gang raped all night long".* This was accompanied by reconstructed images of a man pulling the hair of a woman and ripping her shirt. The narrator also described how *"their breasts were burnt with cigarettes. Their clothes were burnt. The rapists hoped that the women would commit suicide because of the humiliation"*.

This sequence in the documentary was notably more unsettling than the material immediately before it, which was primarily about water resources and matters of state policy.

The documentary segment had been preceded half an hour earlier by "The Frog Prince" which was a fairy tale cartoon aimed at young children, shown within the same *Good Morning KTV* programme.

We considered the material raised potential issues under the following Code rules:

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

Rule 1.11: "Violence, its after-effects and descriptions of violence, whether verbal or physical, must be appropriately limited in programmes broadcast before the watershed…and must be justified by the context".

Rule 2.3: "In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context…Appropriate information should also be broadcast where it would assist in avoiding or minimising offence".

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

## Response

The Licensee did not respond to Ofcom's request for comments. Ofcom sent its Preliminary View on this matter to the Licensee on 5 December 2018, in addition to three other Ofcom's Preliminary Views relating to three separate broadcasts also under investigation[2]. The Licensee did not respond within the deadline. On 24 January 2019, we informed the Licensee that we would therefore proceed to reach a Decision in the absence of any representations.

## Decision

Reflecting our duties under the Communications Act 2003[3], Section One of the Code requires that people under eighteen are protected from unsuitable material in programmes. Section Two of the Code requires that generally accepted standards are applied to the content of

[2] See Decisions in relation to the three other broadcasts on pages 8, 29 and 40.

[3] http://www.legislation.gov.uk/ukpga/2003/21/section/319

television services to provide adequate protection for members of the public from the inclusion of offensive and harmful material in programmes.

Ofcom takes account of the audience's and the broadcaster's right to freedom of expression set out in Article 10 of the European Convention on Human Rights. Ofcom acknowledges the importance attached to freedom of expression, which encompasses the right to hold opinions and to receive and impart information and ideas without undue interference by public authority. The Code does not prohibit representations of violence, as long as these are appropriately limited and editorially justified, and that any content that is unsuitable for children is appropriately scheduled.

Rule 1.3

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

Ofcom first considered whether this broadcast material was unsuitable for children. The programme included a depiction of sexual violence, in which a group of women were shown to be the victims of abuse, and it was explained in the narration that they were also the victims of gang rape. Specifically, the programme contained images of:

- A man dragging a woman across the ground violently.
- A group of women looking frightened as they sat naked (although the image was partly obscured), surrounded by men wielding sticks.
- A woman being dragged across the ground and thrown next to the group of women by the man.
- The man ripping the shirt of the woman with force, revealing her bare back. There was a close-up of the torn shirt and the woman's skin.

In our view, the images and graphic description of acts of sexual violence were clearly unsuitable for children.

We took into account Ofcom's 2014 research on Audience Attitudes towards Violent Content on Television[4] ("the Violence Research") which found that there was a general consensus among respondents that children should not be exposed to sexual violence on television before the watershed, under any circumstances. The research found that this is the sort of material parents find most disturbing. They considered it to be particularly harmful for children and younger teenagers because it sends ambiguous and negative messages about acceptable sexual behaviour, at a time when young people's attitudes are still being formed.

Although we acknowledged that the rape of the Sikh women was not depicted visually, we considered that older children and teenagers were likely to have understood that these women had been the victims of sexual violence, including gang rape, as the accompanying commentary made this very clear. The narrator described how the women were *"gang raped all night long"* and also how *"their breasts were burnt with cigarettes. Their clothes were burnt".* He also commented that *"the rapists hoped that the women would commit suicide because of the humiliation".*

[4] https://www.ofcom.org.uk/__data/assets/pdf_file/0024/54933/violence_on_tv_report.pdf

We then considered whether this material was appropriately scheduled. In terms of the nature of the content, as set out above, the programme included dramatic reconstructions of forceful violent acts against women, with graphic descriptions of sexual violence they experienced. This was included in a serious documentary which focused on the Punjab water issue, and as such, viewers were unlikely to have expected to encounter such distressing material.

We also took into account that the programme was broadcast at 09:00 on a Tuesday during school term time. In our view, although it was unlikely there would be high number of children watching, it was still at a time when parents and carers were likely to have expected that any children not at school, e.g. children of a pre-school age, could watch suitable content.

This was particularly the case given that the documentary segment in the programme was preceded by the broadcast of a dubbed Punjabi language version of fairy-tale animation *The Frog Prince*. After this had been broadcast, the presenter of the programme clearly acknowledged that children would be watching the programme:

Presenter: *"Welcome back. Children, we hope you enjoyed our cartoon. If you did then tell your parents to call us and let us know. We are hoping to introduce a children's segment in our evening broadcast as well. You may find Punjabi cartoons in the evening too. Next, we are aiming at older adults and younger adults".*

We acknowledged that the presenter did make a general reference after the children's cartoon to a change in the nature of the programming (*"Next we are aiming at older adults and younger adults").* However, we also took into account that there was no explicit warning on what viewers could expect in terms of violent content in the documentary that followed the cartoon. In our view, parents and carers were unlikely to have expected this type of disturbing, violent content to be broadcast at this time.

Our Decision is that this unsuitable material for children was not appropriately scheduled and breached Rule 1.3.

Rule 1.11

Rule 1.11 requires that violence must be appropriately limited in programmes broadcast before the watershed and must also be justified by the context. Context is assessed by reference to a range of factors including the editorial content of the programme, the service in which the material is broadcast, the time of broadcast, the likely expectation of the audience and the extent to which the nature of the content has been brought to the attention of the audience in advance.

We first assessed whether the level and nature of the violence was appropriately limited. As set out above under Rule 1.3, the programme contained images of:

- A man dragging a woman across the ground violently.
- A group of women looking frightened as they sat naked (although the image was partly obscured), surrounded by men wielding sticks.
- A woman being dragged across the ground and thrown next to the group of women by the man.

- The man ripping the shirt of the woman with force, revealing her bare back. There was a close-up of the torn shirt and the woman's skin.

In our view the following elements added cumulatively to the impact of the depiction of sexual violence broadcast before the watershed:

- During the scene in which women were being dragged and shown huddled together stripped naked, a voice-over commentary described how *"every Sikh woman of this area, young and old, was forcefully paraded naked at this intersection".*
- The commentary said that *"they were gang raped all night long"* and added *"their breasts were burnt with cigarettes. Their clothes were burnt. The rapists hoped that the women would commit suicide because of the humiliation".*
- The build-up to this reconstruction of gang rape generated a sustained atmosphere of terror and threat. While visual detail of the rape of the women was not shown, sexual violence was both firmly established and strongly implied. The impact of the violence was further heightened by the pixilated shots of naked women huddled on the ground, the close-up shot of a woman's shirt being ripped by the man, shots of the victims' expressions of pain, the use of unsettling music and the length of the account of the rapes (1 minute, 10 seconds).

The Violence Research indicated several other factors which can affect viewers when watching violence in programmes. These factors might include "greater concern when it features in dramatic reconstructions of real-life crime". Audiences were found to be less accepting of pre-watershed violence when more vulnerable people were shown to be the victim of violence, especially when portrayed as part of a real-life incident.

For the reasons set out above, we considered that the violence was not appropriately limited in this programme. We next considered whether the violence was justified by the context.

While the documentary focused on the main issues around a perceived conspiracy to deny Punjab its natural resources as well as a wider crackdown against Sikhs in the events leading up to 1984, we considered that its treatment of this particular incident of sexual violence before the watershed was graphic and disturbing, as set out above.

We also took into account that this material was broadcast on a channel that was largely aimed at the Sikh community and that it seeks to reflect its audience's specific religious and cultural values across its programming.

We acknowledged that the documentary had different episodes and that some viewers of this channel may have had prior knowledge of its themes. However, *Good Morning KTV* typically shows a variety of content, including children's cartoons. In our view, the likely audience for this programme would have expected informative and entertaining magazine-style content without the violence that was broadcast in this instalment.

As set out above under Rule 1.3, there was an indication from the presenter after the children's cartoon to a change in the nature of the programming. However, in our view, there was insufficient warning to alert viewers to the graphic, disturbing violence that followed.

In light of the above our Decision is that the violence was not appropriately limited or justified by the context, in breach of Rule 1.11.

Rule 2.3

Rule 2.3 of the Code requires that broadcasters must ensure that material which may cause offence is justified by the context. As set out above, context is assessed by reference to a range of factors including the editorial content of the programme, the service in which the material is broadcast, the time of broadcast, the likely expectation of the audience and the extent to which the nature of the content has been brought to the attention of the audience in advance.

In the Violence Research, it was found that of all the types of violent content, sexual violence caused the greatest level of controversy and offence amongst viewers. It was a category of content that caused both personal and parental discomfort. In Ofcom's view the broadcast of these visual and verbal references to sexual violence, as set out above, was clearly capable of causing offence amongst adult viewers.

We therefore considered whether this offensive material was justified by the context. As set out above, the documentary was a factual programme designed to inform viewers about the contemporary history and politics around Punjab and its perceived oppression by Indian state authorities, specifically through the control of its water resources. The depictions of violence and sexual violence sat uneasily in this context and, in our view, were likely to have challenged the expectations of the audience for this programme.

We also took into account that this material was broadcast on a channel that is largely aimed at the Sikh community and that it seeks to reflect its audience's specific religious and cultural values across its programming.

The documentary was broadcast early in the day's schedule between 09:45 and 10:15 on a Tuesday, at a time when viewers of all channels are less likely to expect to encounter more challenging content. Further, as set out above under Rules 1.3 and 1.11, it was not preceded by a clear warning about the nature of the content that followed. In our view, the nature and strength of the portrayal of violence was likely to have exceeded audience expectations for a programme broadcast at this time on this channel.

For the reasons set out above, our Decision is that the broadcast of violence in this case was not justified by the context, in breach of Rule 2.3.

**Breaches of Rules 1.3, 1.11 and 2.3**

In addition to this case, Ofcom has recorded breaches against Khalsa Television Limited in four other Decisions included in this Bulletin (see pages 8, 29, 40 and 99). Ofcom considers that the breaches, taken overall, represent a very serious compliance failure on the part of the Licensee. We are therefore putting the Licensee on notice that we will consider the breaches for the imposition of a statutory sanction.

# In Breach

## Acupressure Show
## *KTV, 12 March 2018, 21:30*

### Introduction

KTV is a television channel broadcasting to the Sikh community in the United Kingdom. The licence for KTV is held by Khalsa Television Limited ("KTV" or "the Licensee").

The *Acupressure Show* is a programme in which viewers are invited to call in to discuss *"any problems or diseases"*. It is hosted by a presenter and his guest, an acupressure practitioner (Mr Shinderpal).

Throughout most of the broadcast, a banner (in English) was shown near the bottom of the screen, which said: *"TO TAKE PART IN THIS SHOW PLEASE CALL*: [studio telephone number]*"*.

Ofcom received a complaint that the programme promoted the guest's business and contained potentially harmful medical advice. As the programme was broadcast mainly in Punjabi, Ofcom commissioned an English translation of the material and gave the Licensee an opportunity to comment on the accuracy of the translation. The Licensee did not comment on the accuracy of the translation and Ofcom relied on it for the purposes of this investigation.

At the start of the programme the presenter and guest discussed the origins of acupressure and its modern-day applications:

Presenter: *"…We forget about our health… So, a person like you is sitting here to take care of our community. Nowadays, in the 21st century, medicines are becoming very common. Whatever problem a person might have, they are asked to take medicines. But in this show, your prescribed drugs would not be used because you can improve your health with your brain and technique. And that way is a very old way, quite difficult to understand. To make that easier, Mr Shinderpal would help with all his heart to make you feel better with this technique. This method is being used since ancient time by the scholars. This technique is also being used in villages and it is called Acupressure…"*.

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Presenter: *"So, Mr Shinderpal, do you think the big drug companies have suppressed these old techniques?"*

Guest: *"When you take a medicine, there are lots of side-effects. Rather than treating the existing problem, it gives rise to three other problems. They have a lot of side effects. And acupressure does not have any side effects. It is always beneficial… whatever happens, it will be beneficial for you. There is no side effect"*.

Presenter: *"Really"*.

Guest: *"Yes"*.

Presenter: *"Okay! Mr Shinderpal, we would like to tell our audience that we are in KTV studio and you can call us at* [studio telephone number]*, you can ask about any problems or diseases. You can tell us if you have any problems, if you think they can be treated with acupressure. You can tell us your problem and Mr. Shinderpal will explain it to you properly and tell you how it can be treated. One more thing: you* [referring to the guest] *should tell the audience about the elderly brothers and sisters who work and if their nerves get strained or they get a cramp. Can it be treated with acupressure?"*

Guest: *"Yes, it is 100% possible. If a person has back pain or they have a slipped disc, there is every chance. Especially for back pain - it is an amazing treatment. I don't even remember how many people's back pain I have treated with acupressure. There are a lot of people who have benefited. They had even got to the stage of needing an operation due to back pain, but then they were able to avoid the operation. They got relief from back pain, and sciatica was also relieved. A lot of people benefited from it. And many problems can be solved with it. Those who do not get any relief from medicines should try it"*.

The presenter and guest invited viewers to call the studio telephone number with their questions. 17 viewers called the studio for advice, or to comment, on various medical conditions. For example:

Caller 2: *"…I had so much pain and so many problems that I gave up all hope of getting better. But after meeting the doctor… I had treatment from him for the third time… I am feeling way better. So, I would like to thank the doctor"*.

Presenter: *"I would like to know whether you feel that you took a lot of medicines but with this ancient technique… with the old technique…"*

Caller 2: *"that is what I am trying to say. It has been 35 years since my accident. I tried to treat it everywhere. I used to listen to his programme before, but I never cared about it. But now, after having treatment, I realised that it has helped my body a lot. Before that I didn't notice. I used to think that it was just another thing about* [pressure] *points. I realised that the doctor has so much experience and he treats a person from the core. I think it was beneficial for me. And I hope that I can have more treatment from him and other people should try it too…".*

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Presenter: *"Hello! What is your name?"*

Caller 3: *"Yes, I am calling from Birmingham. I would like to thank Brother Shinderpal. I had a back problem, and because of him it is relieved. I am still taking treatment from him and the way he does acupressure is great! It is better than taking medicines"*.

Presenter: *"I am saying that you have stopped taking medicines, but you can send us sweets in the studio because Mr Shinderpal has stopped your medicines"*.

Caller 3: *"Yes, yes why not? Sweets are nothing, I am so relieved. I have been to a lot of places, but the doctors asked me to have an operation. But I had relief after*

*taking treatment from him. I do not even have to take thyroid medicine now. Yes? His treatment is better than taking medicines"*.

Guest: *"Thank you".*

Caller 3: *"Yes, everyone should take treatment from him rather than taking medicine"*.

Presenter: *"Thank you very much for your call"*.

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Presenter: *"Your name and where you're calling from*?*"*

Caller 4: *"I'm calling from Leicester. I wish Shinderpal Singh and you, sat sri akal*[1]*"*.

Presenter: *"What would you like to ask?"*

Caller 4: *"I want to ask when he's having a surgery in Leicester?"*

Presenter: *"Okay. Tell him, Shinderpal"*.

Guest: *"You should take my mobile number and I'll tell you later when I do my sessions in Leicester, Southall and Birmingham"*.

Presenter: *"You see, it's because his days are not fixed. They keep changing, as people demand his treatment. He will tell you the day. You can hang up* – [cut off]*"*.

Guest: *"You can get my mobile number from the studio. We can talk about it later and I clarify where it takes place. We can't tell you on-air where my surgery takes place"*.

Presenter: *"Yes. But you will get the information. The show ends at eight o'clock, but you can get an answer even before then. Let's go to the next caller. Sat sri akal"*.

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Caller 5: *"I would like to ask about my son, he is seven and a half. He has a cough for the last two and half months. It is not going. He has a dry cough"*.

Guest: *"Okay"*.

Caller 5: *"He coughs a lot while sleeping. He has taken a lot of medicines"*.

Guest: *"Okay, Please hang up, I will explain it to you. As she said, the kid has a coughing problem. Take a glass of milk, put a half teaspoon of turmeric in it and a pinch of salt. Give it to the child to drink. His cough will go away"*.

Presenter: *"Is it an assured solution?"*

Guest: *"Absolutely. I've used it personally"*.

[1] A common Sikh greeting, meaning "Almighty is the Truth".

Presenter: *"Used it personally! Sister, have you written it down? How much milk should be taken?"*

Guest: *"Take a glass or half a glass"*.

Presenter: *"How much turmeric has to be added?"*

Guest: *"Half a spoon"*.

Presenter: *"Teaspoon?"*

Guest: *"Yes, a teaspoon"*.

Presenter: *"Exactly, I was thinking that a tablespoon would be too much for a child"*.

Guest: *"No, no, just a teaspoon and a little bit of salt. Mix it well and give it to the child for a few days, and the child will get well soon"*.

Presenter: *"One more point is that, whether you are using acupressure points or acupuncture needles, you should always consult your GP. It is important to do things according to the procedure. Now we will be talking to Mr Shinderpal about some other issues. We have a lot of calls but first we will be discussing some important issues. Mr Shinderpal, does the acupressure depend on the degree of the problem? If someone has a bigger problem, how much treatment do they have to take?"*

Guest: *"It depends on your problem. If it is a prolonged and major problem, it takes a long time. If the problem is minor, it gets treated in one or two sittings"*.

Presenter: *"Okay".*

Guest: *"Yes, a maximum of 4-5 treatments if the problem is minor. If the problem is major, then it takes a longer time. If there is pain in the whole body, then it takes a longer time. They start to get benefits from one or two treatments, just like the caller, brother* [name]*, told us"*.

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Caller 6: *"I would like to ask him about the acupressure point for back pain"*.

Guest: *"When did the back pain start*?*"*

Caller 6: *"It started six months ago. It is a prolonged pain. I am already taking physiotherapy for that, is there acupressure treatment available for this?"*

Guest: *"Yes, absolutely. There is an amazing acupressure treatment available for back pain. It depends, and you should meet an acupressure specialist for this. I cannot recommend anything without seeing you. I don't know whether the pain is in the upper back or lower back or if it is in the lower layer. When you go to the specialist, they will properly diagnose it and treat you, and it is very beneficial"*.

Caller 6: *"Okay! I'll take your number from the studio and talk to you when you are in Southall"*.

Guest: *"Yes"*.

Presenter: *"Sure,* [callers name]*, you can take the number after the show. In fact, you can hang up the call now and ask for his number from the studio. Also, he will pick up the call after the show ends at eight o'clock. You can discuss your problem in detail. And he will let you know when in the near future he is coming to Southall area. There you can talk about the treatment you want to take. But, doctor, it is true that there is suffering. When we take these calls, we get to know that many people in our community are suffering"*.

Guest: *"Yes"*.

Presenter: *"In the UK community what kind of problems do most people suffer from?"*

Guest: *"Back pain is the most common"*.

Presenter: *"Back pain?"*

Guest: *"Yes, almost 80% of the people suffer from back pain, sciatica pain, slipped disc, pains related to the back. Then migraine. As we know, migraine cannot be treated with medicines. And if you go to the NHS website, if you see the migraine page, it is clearly stated that there is 'no cure with medicine'. There is no cure with medicine. They just give tablets to stop its symptoms and relieve it. But acupressure clearly cures migraine. You have to take three four treatments regularly, and it totally cures the problem. Then there is frozen shoulder. This one is common in women. Their shoulder gets frozen and they can't raise it. It can happen to anyone. It doesn't go up. So, it gets cured very easily. If we talk medically, a doctor keeps giving them painkillers. They usually do an operation after that, and then a person cannot work for a year after that. They don't heal and they are in pain for a longer time"*.

Presenter: *"Mr Shinderpal, this is a trend. It is a trend for doctors. These medicines are a trend, so we will prescribe them. Let us move on to the next call. Greetings! Hello?"*

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Caller 9: *"I want to ask the doctor about a problem; I get so much noise in my ears"*.

Guest: *"Do you have blood pressure?"*

Caller 9: *"No, no. No blood pressure. The noise is too much in my ears"*.

Guest: *"It's a problem of tinnitus. If you press the spot where your ear sign is on your hands, you can apply pressure points, and also here on the ear* [*shows where*]*. It's better if you go to someone trained. It's hard for us to explain it to patients. We explain it five or six times, but they still don't quite grasp the method. I would go to a trained specialist, as it takes time to heal from tinnitus"*.

Caller 9: [unclear comment].

Guest: *"You are better off getting treatment from an acupressure specialist. Once you get trained in it, you can do it daily yourself. It can get better this way"*.

****

Presenter: *"What would you like to ask?"*

Caller 11: *"... I have constipation problems"*.

Guest: *"Okay, if you put your phone down, I'll explain. As she says, she has constipation issues. The first thing to know is why we are having constipation, to diagnose it. It's all about the patient not being able to digest food. So, you check out the patient and the reason why, but in terms of pressure points, you press your gums* [demonstrates]. *You keep it pressed for seven minutes"*.

Presenter: *"Seven minutes"*.

Guest: *"Yes, you hold it for seven minutes. If this pressure point works, that's fine, otherwise go and see an acupressure specialist"*.

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Caller 12: *"My name is* [name] *and I am calling from London"*.

Presenter: *"Yes, what do you want to ask and what kind of problem are you having?"*

Caller 12: *"My mother's backbone has been fractured and the doctors are saying there is a gap. Can you please tell me any cure for this?"*

Caller 12: *"What are the pressure points for this problem?"*

Guest: *"You can press this with an inner downward motion like this, with both hands. I will put them either side of this channel in an upward motion"*.

Caller 12: *"Okay"*.

Guest: *"So it will benefit her because I think she is old"*.

Presenter: *"What is your mother's age?"*

Caller 12: *"She is 71 years old"*.

Guest: *"So yes, she is old"*.

Presenter: *"Yes. If you need any other information you can take his number later and call him when he comes to Southall, and you can make an appointment accordingly. So, Mr Shinderpal, does age affect the pressure points?"*

Guest: *"Yes, youngsters recover faster whereas the elderly take more time"*.

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Caller 13: *"I would like to ask about an operation I had for a hernia. But I have got a hernia again. I would like to ask you about it"*.

Guest: *"You should ask your doctor because acupressure can help before the operation. If it is major, then you should directly consult your doctor"*.

Caller 13: *"Okay, thank you so much"*.

Presenter: *"Thank you so much. Mr Shinderpal, are these cases rare?"*

Guest: *"We get a lot of patients like this. If they come in the early stages then hernia can be cured. But if it becomes major then they have operate on it"*.

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Presenter: *"Okay, Mr Shinderpal, we are getting a lot of calls and you have been getting great feedback. Since you started doing this, what is the worst case you have seen, where a person was suffering, and the person was cured using acupressure?"*

Guest: *"There was a person named* [name]. *He had back problems and he had had a stroke. The doctors declared him disabled. They said they would have to have an operation and he would be disabled and would not be able to do any work. That person was completely cured, though it took some time. He took a lot of treatments. He even took treatment twice a week. But later he became completely 100% fit".*

Presenter: *"Okay"*.

Guest: *"Yes, he became completely fit. There are a lot of stroke patients. I have seen many stroke patients in London. The patients were completely cured and got back to their work"*.

Presenter: *"That is great"*.

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Presenter: *"…Thank you so much for taking out the time, Mr. Shinderpal. Our Punjabi community can find solutions for their health without the use of medicine…".*

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

Rule 2.1 "Generally accepted standards must be applied to the contents of television…services so as to provide adequate protection for members of the public from the inclusion in such services of harmful…material".

Ofcom also requested information from the Licensee about any commercial arrangements associated with the references in the programme to the guest's private business, an acupressure

clinic. Based on the information provided, we considered that the above material also raised potential issues under the following Code rules:

Rule 9.4 "Products, services and trademarks must not be promoted in programming".

Rule 9.5 "No undue prominence may be given in programming to a product, service or trade mark. Undue prominence may result from:

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

We therefore sought comments from the Licensee on how the programme complied with these rules.

## Response

The Licensee did not respond to Ofcom's request for comments. In the absence of representations from the Licensee, on 4 September 2018 Ofcom sent it its Preliminary View in relation to these matters and provided the Licensee with 10 working days in which to respond. The Licensee did not provide any representations within the deadline, but informed Ofcom that it was experiencing staffing issues as the reason that it had not responded. KTV asked Ofcom to re-send its Preliminary View and provided an assurance that it would respond within the newly agreed deadline. On 18 September Ofcom sent its Preliminary View to the Licensee. The Licensee again did not respond within the deadline. The Preliminary View was re-sent to the Licensee on 5 December 2018, accompanying three other Ofcom's Preliminary Views regarding three separate broadcasts also under investigation[2]. KTV again did not respond within the deadline. On 24 January 2019, we informed the Licensee that we would therefore proceed to reach a Decision on these matters in the absence of any representations.

## Decision

Reflecting our duties under the Communications Act 2003[3], Section Two of the Code requires that generally accepted standards are applied to the content of television services so as to provide adequate protection for members of the public from the inclusion of harmful and/or offensive material. In addition, Section Nine of the Code requires that there is a distinction between advertising and editorial content.

Rule 2.1

Rule 2.1 requires broadcasters to provide audiences with adequate protection from harmful material.

Ofcom has taken account of the audience's and the broadcaster's right to freedom of

[2] See Decisions in relation to the three other broadcasts on pages 8, 23 and 40.

[3] http://www.legislation.gov.uk/ukpga/2003/21/section/319

expression, as set out in Article 10 of the European Convention on Human Rights. Ofcom must seek an appropriate balance between ensuring members of the public are adequately protected from material that may be harmful and the right to freedom of expression. The broadcaster's right to freedom of expression allows it to discuss, within programmes, the perceived benefits of alternative and complementary medicine. Programmes may also provide lifestyle and health advice. However, to comply with the Code, broadcasters must ensure that they provide adequate protection to their audiences if programmes contain potentially harmful material. It is for the Licensee to decide how it ensures that the material it broadcasts provides adequate protection for its viewers from potential harm.

Ofcom acknowledges that acupressure is an established form of complementary or alternative medicine that is widely practised. Our role is not to judge the merits of different systems of medicine, but to ensure that viewers are protected from potential harm in programmes.

In considering the potential for harm, Ofcom takes into account a number of factors, such as: the severity of the situation; whether the material was targeted at a particularly vulnerable audience; and whether the claims were made by a speaker who is portrayed as having authority. We also take into account factors such as the absence of a range of information or views, and advice based on limited information[4].

In the *Acupressure Show*, the presenter and guest discussed a number of medical conditions (e.g. constipation, tinnitus, sciatica, joint pain, migraines, stroke, fracture, hernia) and their various symptoms. In relation to a number of these conditions, the presenter and guest dismissed, without challenge, the effectiveness of some conventional medical treatment.
In other cases, the presenter either acknowledged that there were benefits in conventional treatment, but implied that acupressure was more effective, or simply referred to acupressure as a cure for particular ailments. For example,

> *"As we know, migraine cannot be treated with medicines. And if you go to the NHS website, if you see the migraine page, it is clearly stated that there is 'no cure with medicine'. There is no cure with medicine. They just give tablets to stop its symptoms and relieve it. But acupressure clearly cures migraine. You have to take three four treatments regularly, and it totally cures the problem".*

The guest also appeared to diagnose conditions based on a brief discussion of symptoms, without physical examination or full knowledge of an individual's medical history. He then went on to give advice and recommend treatment based on his diagnosis. For example, in relation to one individual calling about her 71-year-old mother with a with a fractured spine, the presenter stated *"…You can press this with an inner downward motion like this* [demonstrates using his hands]*, with both hands. I will put them either side of this channel in an upward motion"*.

In reaching our Decision in this case, we took into account that the guest claimed to be able to treat a number of illnesses and conditions and directly addressed viewers who were unwell, and therefore potentially vulnerable. Viewers were encouraged to use the treatment advised by the guest, make appointments to see him or another acupressure specialist. We also took into

[4] Ofcom has since published research Health and wealth claims in programming: audience attitudes to potential harm, setting out audience views on the potential harm arising from programmes involving health or wealth claims (see https://www.ofcom.org.uk/__data/assets/pdf_file/0016/104650/Healthclaims-report.pdf) and guidance based on that research at: https://www.ofcom.org.uk/__data/assets/pdf_file/0023/104657/Section-2-Guidance-Notes.pdf).

account testimonials from two callers that had previously suffered from severe back pain (who claimed to have been successfully treated by the guest); the callers and presenter's use of the term 'doctor' when referring to the guest; and that there was no challenge to any of his claims. Ofcom was also concerned that in only two instances out of 17 calls did the presenter or guest advise viewers to seek advice from their GP before using the acupressure techniques suggested (Presenter: *"One more point is that, whether you are using acupressure points or acupuncture needles, you should always consult your GP"* and Guest: *"You should ask your doctor because acupressure can help before the operation. If it is major, then you should directly consult your doctor"*). In other calls, the programme appeared to directly encourage viewers to follow the guest's advice without first consulting their own GP or seeking appropriate independent medical advice.

Our Decision is therefore that generally accepted standards had not been applied to the content of the programme so as to provide adequate protection for viewers, in breach of Rule 2.1 of the Code.

Rule 9.4

Rule 9.4 requires that products, services and trademarks are not promoted in programming. Ofcom's Guidance[5] on this rule explains that, "where a reference to a product or service features in a programme…the extent to which a reference will be considered promotional will be judged by the context in which it appears…".

In this case, the presenter and guest discussed medical conditions raised by viewers who had called the studio telephone number. Although viewers were encouraged to call the studio for advice, the guest and the presenter also repeatedly referenced the guest's own business. There did not appear to be any editorial reason for the references to the guest's business. Numerous references were also made by the guest and callers to the guest's success rate in treating various conditions. The guest not only discussed various medical conditions raised by callers but regularly solicited business in his capacity as a qualified acupressure practitioner, by encouraging viewers to use the contact him after the programme had aired (*"You should take my mobile number and I'll tell you later when I do my sessions in Leicester, Southall and Birmingham"*). In Ofcom's view, such messages appeared to serve no purpose other than to promote the presenter's private business. Ofcom's Decision is therefore that the references to the guest's business were in breach of Rule 9.4 of the Code.

Rule 9.5

Rule 9.5 requires that references to products, services or trademarks in programming must not be unduly prominent. Undue prominence may result from such references where there is no editorial justification or from the manner in which they are referred to. Ofcom's published guidance[6] relating to undue prominence makes clear that "whether a product, service or trade mark appears in a programme…there must be editorial justification for its inclusion. The level of prominence given to a product, service or trade mark will be judged against the editorial context in which the reference appears".

Throughout most of *Acupressure Show* numerous references were made to the guest's profession, his success rate in treating various conditions and his business. Viewers were

[5] http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section9.pdf

[6] See footnote 4.

regularly advised to call the studio number for private consultations. However, they were also invited by the guest to contact him for private appointments outside the programme. Ofcom considered that the guest's services, provided by him in the course of his own business, were given prominence that did not appear to be justified on editorial grounds.

Our Decision is therefore that the references to the presenter's services were unduly prominent, in breach of Rule 9.5 of the Code.

**Breaches of Rules 2.1, 9.4 and 9.5**

In addition to this case, Ofcom has recorded breaches against Khalsa Television Limited in four other Decisions included in this Bulletin (see pages 8, 23, 40 and 99). Ofcom considers that the breaches, taken overall, represent a very serious compliance failure on the part of the Licensee. We are therefore putting the Licensee on notice that we will consider the breaches for the imposition of a statutory sanction.

# In Breach

## Homeopathic Clinic
## *KTV, 8 June 2018, 16:00*

### Introduction

KTV is a television channel broadcasting to the Sikh community in the United Kingdom. The licence for KTV is held by Khalsa Television Limited ("KTV" or "the Licensee").

*Homeopathic Clinic* invited viewers to call in for advice on medical conditions. It was hosted by a presenter and his guest, a homeopathist (Mr Gorania).

Ofcom received a complaint that the programme promoted the guest's homeopathic business. As the programme was broadcast mainly in Punjabi, Ofcom commissioned an English translation of the material and gave the Licensee an opportunity to comment on the accuracy of the translation. The Licensee did not comment on the accuracy of the translation and Ofcom relied on it for the purposes of this investigation.

The guest was presented as a practitioner with over 40 years' experience *"practising homeopathic medicine"*:

Guest: *"It's nearly forty-four years altogether. I started in India, where I worked for twelve years. Over here, I've been doing it for twenty-two years in the U.K. – I had many branches, Glasgow, Manchester, Leeds, Leicester, London, Luton –I used to go everywhere. Now, I'm semi-retired so I do it in Birmingham at KTV's place. The head office is in Milton Keynes. Over there people in the south or from anywhere can consult seven days a week. For the Midlands and Birmingham, I'm here every Wednesday afternoon. You can call after the programme and take down my details. You can take it now as well. We'll open the lines in a short while for questions. We'll start to look at people's problems. We'll listen to them, as these days few people want to listen"*.

****

Several calls from viewers were taken during the programme:

Caller 2: *"Hello. I wanted to ask Dr. Gorania about asthma"*.

Guest: *"Who has the asthma, sister?"*

Caller 2: *"I have it"*.

Guest: *"Sister, can I ask your age?"*

Caller 2: *"Forty-four"*.

Guest: *"Where do you live?"*

Caller 2: *"In Aston"*.

Guest: *"Aston, Birmingham* [noting it down]. *How long have you had asthma?"*

Caller 2: *"I have a diabetic problem"*.

Guest: *"Diabetes and with it, bronchial asthma. Respiratory problems; and do you work at all?"*

Caller 2: *"I'm a housewife"*.

Guest: *"How long have you had diabetes?"*

Caller 2: *"Twenty years"*.

Guest: *"Do you take metformin, insulin?"*

Caller 2: *"I take a metformin injection"*.

Guest: *"So, you take the injection and you'll have to control it* [caller says something unclear] *It's hard for you to control. So, as our sister said, it's a chronic illness amongst Asian and there are complications which can happen. It's important to control it. We do have treatment for it within homeopathy. After seven o' clock you can call back and talk in more detail. I'm here every Wednesday afternoon on Khalsa TV"*.

Caller 2: *"I also have hair growing on my face"*.

Guest: *"Oh, you also have unwanted hair. Are your periods alright?"*

Caller 2: *"Every month"*.

Guest: *"It's regular. Your hormone levels are increased. That's why the hair comes out. There was a woman from Walsall who had the same problem and we treated her. I'm quite good in this area. It happens with polycystic ovaries, hair grows out. Can I ask your name?"*

Caller 2: [caller gives her name].

Guest: *"*[Name] *sister.* [name]*, we treat you as a whole. You have diabetes, unwanted hair, asthma. There are three or four problems. We will have to have more extensive discussion to get to the bottom of the problem. You can bring your doctor's medication and any blood reports, blood sugar levels for three months. Then we can treat you"*.

Caller 2: *"Where are you based?"*

Guest: *"You can meet me here at Spon Lane, West Birmingham at the TV station. You can phone me as well"*.

Caller 2: *"Do you have a surgery in Birmingham?"*

Guest: *"I have a surgery. You can call back. Either at seven or at anytime afterwards"*.

Presenter: *"The doctor is here between seven and eight, so you can speak to him then. As he says, you can phone for an appointment to meet him here. You have given your problems, but you can bring your information, all your diabetic history, your asthma and unwanted hair. Any treatment you've taken. You'll discuss everything then. On-air, do try and keep it simple and concise. Afterwards, between seven and eight, the Doctor will take your call on the same number if you give him your name and the problem you already raised?"*

****

Caller 3: *"Thank you. I'm calling from London. For three years, I've been feeling a lack of energy in my legs and if I eat late, I get very unwell for a couple of weeks. It's been happening for three years".*

Guest: *"Three years"*.

Caller 3: *"Yes, I was fine. Then I had this fever and started to have pain in my neck and then lots of weakness in my legs"*.

Guest: *"Have you had your B12 and vitamin D checked?"*

Caller 3: *"Yes, I did, and I had a vitamin D deficiency. I took some fish oil, but it made no difference"*.

Guest: *"Do you worry a lot?"*

Caller 3: *"Yes, I do"*.

Guest: *"Right, because anxiety can cause weakness. How old are you?"*

Caller 3: *"I'm forty-two. I also have problems with my periods. They happen a lot"*.

Guest: *"How does it happen? Is it regular or not?"*

Caller 3: *"I get it every two weeks; it's been like this for the last six months"*.

Guest: *"You have dysfunctional uterine bleeding. You have a hormonal problem, it's the pre-menopause time as well. It happens to our Asian ladies. You'll have to be looked at as a whole. Why you have weakness, why you worry, your family background, relationships, family and the link with anxiety – which is a common problem. We have counselling, cognitive behaviour therapy, and medication. You can become normal again, God willing"*.

Caller 3: *"I hope so. Can I feel alright again?"*

Guest: *"Oh. Don't worry, you're like my daughter. If you feel better, I'd feel happy about it. Your blessings will come too. By telling a doctor, you can get a diagnosis, treatment and then healing"*.

Caller 3: *"Can I get your private number?"*

Guest: *"You can call me back on this number. Seven days a week, anytime"*.

Presenter: *"You can call from seven to eight, when the doctor is here. You can get any information from reception as well at any time. As you know, we are live between six to seven. Any calls you make should be kept short and simple. Give us your age, your problem, how long you've had it. You must give your name and then later call between seven to eight. If you give your name and problem, it will already be logged.* [Call interrupts presenter] *Sat sri akal*[1]*"*.

****

Presenter: *"What would you like to ask the doctor?"*

Caller 4: *"I'd like to ask the doctor about this heavy feeling on my right side"*.

Guest: *"In the hands or in the feet? Where is it?"*

Presenter: *"Right side"*.

Guest: *"Abdomen or back?"*

Caller 4: *"Not in the back. It's in the stomach"*.

Guest: *"Do you have constipation?"*

Caller 4: *"I take a tablet for that"*.

Guest: *"What's your age?"*

Caller 4: [describes his tablet name instead]

Guest: *"That's a good gastric tablet but it provides only temporary relief. If you want permanent relief, you'll have to get to the bottom of why you have constipation. It's a symptom and you have to know what the ailment might be. You may take pain killers, you may not drink enough water. I'll have to know the full story, so we can find out. Constipation around the colon causes pain, gastric issues can cause acidity and stomach pain. You may have anxiety, you may have an infection, it could be anything. We'll have to find out, so we can give you proper treatment. You won't need this medication and you could live a happier, healthy life. How old are you?"*

Caller 4: *"I'm seventy-three"*.

Guest: *"A fair age. Have you had diabetes?"*

[1] A common Sikh greeting, meaning "Almighty is the Truth".

Caller 4: *"No, I don't have sugar-related illness"*.

Guest: *"Alright. You have a gastro-intestinal problem. You can get our details and speak to me. I would need to sit with you for half an hour to an hour"*.

Caller 4: *"I had cancer. It was fully treated. I also had urine problems. They gave me a daily tablet*. [names tablet]*"*.

Guest: *"I see, you had urinary problems. There could be a prostate enlargement, hypotrophy in this age. Other issues like bladder or gastric, colon or stomach problems happen. A proper doctor will have to look. Alternative medicine wise, we'll have to know the basis and then try to treat"*.

Caller 4: *"When are you visiting next?"*

Guest: *"Well, I'm around"*.

Presenter: *"You can call back later between seven to eight, and you can discuss it all and arrange an appointment with the doctor"*.

****

Caller 5: *"Where is your surgery?"*

Guest: *"It's in Milton Keynes. The head office"*.

Caller 5: *"I see. Your number?"*

Presenter: *"You can call between seven and eight o' clock or you can call reception now and find out more information about the doctor"*.

****

Caller 6: *"My name is* [name] *and my grand-daughter is thirteen years old. She is overweight and at school, but currently she has period problems. Three months will pass, and she'll only have a period after this long. She has a bacterial infection. Why is this happening*?*"*

Guest: *"One would have to find out the underlying cause. It could be hormonal or an infection. She is going through puberty and is overweight. It could be polycystic ovaries. We can't talk about it too openly, it's a sensitive issue. In private you can call and ask us about your grand-daughter. The listener should find it pleasant too and we can also find out what exactly the problem is"*.

Caller 6: *"Are you able to cure this?"*

Guest: *"Yeah, yeah, definitely. There's a first-class cure. We have daughters come in like this and go out cured"*.

Caller 6: *"She's quite young, she's only a girl. So, if there's a cure-"*

Presenter: *"There is a cure. As the doctor said, call in between seven or eight. You may have further questions. Listen to the programme, and then you can call on the same number in private right here. As you said, she's a young girl and the doctor can give you more information.* [To the doctor] *When you take homeopathic medicine, do you have to be careful of what food you eat, such as refraining from certain types of foods or not drinking tea*?*"*

Guest: *"Not really. Just ten minutes before and after, you can't eat but otherwise you can enjoy a normal life. You can enjoy food. The main problem is we have a young girl going through puberty. Each individual is different, you see. Why did this girl's weight grow? Is she mentally in trouble?"*

Presenter: *"You never know, she might be being bullied at school"*.

Guest: *"It might be bullying, yes. So, she wouldn't even be able to tell people at home. She may be comfort eating. The hormonal issue will then arise and then we're talking about gynaecological issues relating to hormones. During the menopause and puberty, hormones change very fast in women. The cure is then dependent on the situation"*.

Presenter: *"Doctor, as you said, there's no restriction on diet. It's only fifteen minutes around the time of taking the medication. Is there a fixed time to take the medicine, such as after meals?"*

Guest: *"Either time, before or after dinner but with fifteen minutes gap"*.

****

Guest: *"…Ask your daughter to call me directly. She can speak in English too"*.

Caller 7: *"Where do I call directly?"*

Presenter: *"You can call between seven and eight and speak to the doctor about your problems. The doctor can give you more detail openly"*.

Guest: *"That's better, if she speaks directly. You have to ask her and then things get confused. We don't have the time needed. Privately, our sisters, mothers and daughters can call anytime seven days a week. That's how I will know the issue. It's easier to know what the feeling is, whether there are cramps, and then one can talk privately"*.

Presenter: *"We always want to share our problems with others, but other people shouldn't necessarily know all the details. Just give us your name, age, where you're calling from and you can speak to the doctor between seven to eight. I will ask the question on your behalf here. You can talk to the doctor by calling the same number between seven to eight on [studio number]. She talked about her daughter. There wasn't anything said about previous work history, maybe she experienced some pain from standing around at work"*.

****

Guest: *"Yes, please go ahead. Who has the problem? Sat sri akal, sister. Your age?"*

Caller 8: *"I have a child who is barely four or five years old. A son. His cough won't go away, it's been five or six months"*.

Guest: *"Has the doctor given an inhaler or cough syrup?"*

Caller 8: *"Yes, he's given medication"*.

Guest: *"Was it a tablet or an inhaler?"*

Caller 8: *"He's in Sweden"*.

Guest: *"It comes from the lungs, so the phlegm is what causing the cough – as a defence mechanism. It could be asthma, it could be allergy, we'd have to find out more. You can give our number to him in Sweden. His parents can talk to us, so we'll be able to find out what's needed"*.

Caller 8: *"If he needs medication, are you able to give him medicine on Wednesday if he comes in?"*

Guest: *"Absolutely, we can do that"*.

Presenter: *"As we said, six to seven on KTV is when you can watch the homeopathic show. Between seven and eight, the doctor will be here, and you can call on the same number and speak with the doctor. The number is* [studio number]. *We will beg leave; just to say when you call and speak to the doctor off-air, you can also talk about problems that we can discuss next week on the show"*.

****

Guest: *"…There are different things, so it's only when patients come and see us that we can know the root cause. The GP only has ten minutes to ascertain problems, which is never enough. They can sometimes prescribe antibiotics. When antibiotics are given for the B complex in our stomach, the bacteria, the normal healthy bacteria are also killed. This can cause further problems. If you take too many antibiotics you can get an ulcer too…".*

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

Rule 2.1 "Generally accepted standards must be applied to the contents of television…services so as to provide adequate protection for members of the public from the inclusion in such services of harmful…material".

Ofcom also requested information from the Licensee about any commercial arrangements associated with the references in the programme to the guest's private business, a homeopathic clinic. Based on the information provided, we considered that the programme also raised potential issues under the following Code rules:

Rule 9.4 "Products, services and trade marks must not be promoted in

programming".

Rule 9.5 "No undue prominence may be given in programming to a product, service or trade mark. Undue prominence may result from:

- the presence of, or reference to, a product, service or trade mark in programming where there is no editorial justification; or

- the manner in which a product, service or trade mark appears or is referred to in programming".

We therefore sought comments from the Licensee on how the programme complied with these rules.

## Response

The Licensee did not respond to Ofcom's request for comments. In the absence of representations from the Licensee, on 4 September 2018 Ofcom sent it its Preliminary View in relation to these matters and provided the Licensee with 10 working days in which to respond. The Licensee did not provide any representations within the deadline, but informed Ofcom that it was experiencing staffing issues as the reason that it had not responded. KTV asked Ofcom to re-send its Preliminary View and provided an assurance that it would respond within the newly agreed deadline. On 18 September Ofcom sent its Preliminary View to the Licensee. The Licensee again did not respond within the deadline. The Preliminary View was re-sent to the Licensee on 5 December 2018, accompanying three other Ofcom's Preliminary Views regarding three separate broadcasts also under investigation[2]. KTV again did not respond within the deadline. On 24 January 2019, we informed the Licensee that we would therefore proceed to reach a Decision on these matters in the absence of any representations.

## Decision

Reflecting our duties under the Communications Act 2003[3], Section Two of the Code requires that generally accepted standards are applied to the content of television services so as to provide adequate protection for members of the public from the inclusion of harmful and/or offensive material. In addition, Section Nine of the Code requires that there is a distinction between advertising and editorial content.

Rule 2.1

Rule 2.1 requires broadcasters to provide audiences with adequate protection from harmful material.

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

[2] See Decisions in relation to the three other broadcasts on pages 8, 23 and 29.

[3] http://www.legislation.gov.uk/ukpga/2003/21/section/319

The broadcaster's right to freedom of expression allows it to discuss, within programmes, the perceived benefits of alternative and complementary medicine. Programmes may also provide lifestyle and health advice. However, to comply with the Code, broadcasters must ensure that they provide adequate protection to their audiences if programmes contain potentially harmful material. It is for the Licensee to decide how it ensures that the material it broadcasts provides adequate protection for its viewers from potential harm.

Ofcom acknowledges that homeopathy is an established form of complementary or alternative medicine that is widely practised. Our role is not to judge the merits of different systems of medicine, but to ensure that viewers are protected from potential harm in programmes.

In considering the potential for harm, Ofcom takes into account a number of factors, such as: the severity of the situation; whether material is targeted at a particularly vulnerable audience; and whether claims are made by a speaker who is portrayed as having authority. We also take into account factors such as the absence of a range of information or views, and advice based on limited information[4].

In this case, the guest claimed to be able to treat several serious illnesses and conditions, including diabetes and asthma. He directly addressed viewers who were unwell, and therefore potentially vulnerable, and encouraged them to make appointments to see him. We took into account the guest was repeatedly referred to as a 'doctor' and that there was no challenge to any of his claims.

Throughout the programme, the presenter and guest discussed a number of medical conditions (e.g. diabetes and asthma) and various associated symptoms. In relation to a number of these conditions, the guest dismissed, without challenge, the effectiveness of some conventional licensed medicines that are generally prescribed.

In only two cases, did the guest acknowledge that there were benefits in conventional medicine and treatment: *"There could be a prostate enlargement, hypotrophy in this age. Other issues like bladder or gastric, colon or stomach problems happen. A proper doctor will have to look"* and *"…so it could be a number of causes. Direct, face-to-face is more important. And diagnosis. X-ray or a doctor's scan. MRI scan. CT scan. There are many things to find out inside. Only then can you treat it"*.

The guest also appeared to diagnose conditions based on a brief discussion of symptoms, without physical examination or full knowledge of an individual's medical history. He then went on to give advice and recommend treatment based on his diagnosis. For example, in relation to one caller with diabetes and asthma *"So, as our sister said, it's a chronic illness amongst Asian and there are complications which can happen. It's important to control it. We do have treatment for it within homeopathy"*.

In relation to a teenage girl with irregular menstrual bleeding and *"a bacterial infection"*, the guest claimed to be able to 'cure' the young woman's conditions.

[4] Ofcom has since published research Health and wealth claims in programming: audience attitudes to potential harm, setting out audience views on the potential harm arising from programmes involving health or wealth claims (see https://www.ofcom.org.uk/__data/assets/pdf_file/0016/104650/Healthclaims-report.pdf) and guidance based on that research at: https://www.ofcom.org.uk/__data/assets/pdf_file/0023/104657/Section-2-Guidance-Notes.pdf).

In only two instances out of eight calls did the guest advise viewers to seek advice from their GP before taking the homeopathic remedies suggested. Ofcom was concerned that the programme appeared to directly encourage viewers to follow the guest's advice without first consulting their own GP or seeking appropriate independent medical advice.

Our Decision is therefore that generally accepted standards had not been applied to the KTVs content so as to provide adequate protection for viewers, in breach of Rule 2.1 of the Code.

Rule 9.4

Rule 9.4 requires that products, services and trademarks are not promoted in programming. Ofcom's Guidance[5] on this rule explains that, "where a reference to a product or service features in a programme…the extent to which a reference will be considered promotional will be judged by the context in which it appears…".

In this case, the presenter and guest discussed medical conditions raised by viewers who had called the studio telephone number. The presenter and guest repeated the studio telephone number throughout the programme. However, the guest also repeatedly referenced his own business throughout the programme (*"…For the Midlands and Birmingham, I'm here every Wednesday afternoon. You can call after the programme and take down my details…"*), for which there did not appear to be an editorial reason. The guest not only discussed various medical conditions raised by callers but regularly solicited business in his capacity as a homeopath, by encouraging viewers to contact him after the programme had aired (*"You can call back later between seven to eight, and you can discuss it all and arrange an appointment with the doctor"*). In Ofcom's view, such messages appeared to serve no purpose other than to promote the guest's private business. Ofcom's Decision is therefore that the references to the guest's business were in breach of Rule 9.4 of the Code

Rule 9.5

Rule 9.5 requires that references to products, services or trade marks in programming must not be unduly prominent. Undue prominence may result from such references where there is no editorial justification or from the manner in which they are referred to. Ofcom's published guidance[6] relating to undue prominence makes clear that "whether a product, service or trade mark appears in a programme…there must be editorial justification for its inclusion. The level of prominence given to a product, service or trade mark will be judged against the editorial context in which the reference appears".

Throughout most of *Homeopathic Clinic* numerous references were made to the guest's profession and his business. Viewers were invited by the presenter and guest to contact the guest off air, for private appointments outside the programme. Ofcom considered that the guest's services, provided by him in the course of his own business, were given prominence that did not appear to be justified on editorial grounds.

[5] http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section9.pdf

[6] See footnote 5.

Our Decision is therefore that the references to the guest's services were unduly prominent, in breach of Rule 9.5 of the Code.

**Breaches of Rules 2.1, 9.4 and 9.5**

In addition to this case, Ofcom has recorded breaches against Khalsa Television Limited in four other Decisions included in this Bulletin (see pages 8, 23, 29 and 99). Ofcom considers that the breaches, taken overall, represent a very serious compliance failure on the part of the Licensee. We are therefore putting the Licensee on notice that we will consider the breaches for the imposition of a statutory sanction.

# In Breach

## James Whale featuring Ash
## *Talk Radio, 30 July 2018, 19:30*

### Introduction

The *James Whale Show* is an early evening weekday topical discussion show, presented by James Whale and co-presenter Asher Gould, and broadcast on the speech-based commercial radio station Talk Radio. The licence for this service is held by Talksport Limited ("Talksport" or "the Licensee").

Ofcom received 38 complaints about an interview with author and journalist Nichi Hodgson, in which she was asked to comment on remarks by author Jilly Cooper that the #MeToo Campaign[1] had changed the way men and women interact[2].

The complainants expressed concern that Ms Hodgson, who revealed on-air during the interview that she had been sexually assaulted, was treated dismissively and insensitively by James Whale and his co-presenter and "victim blamed"[3] her for the assault.

Ofcom reviewed the programme including the 20 minute interview with Ms Hodgson which started at 20:10. James Whale asked Ms Hodgson about Jilly Cooper's assertion that men had become *"frightened to flirt with ladies since the #MeToo campaign"*. Ms Hodgson dismissed this view and said that #MeToo meant that people were now beginning to have *"a serious consideration of what consent might look like".* She said it was important to consider the number of people reporting sexual harassment or rape on *"a routine basis"* many of which went unreported to the police. Ms Hodgson quoted statistics from the Office of National Statistics (ONS)[4] to illustrate *"the level of endemic sexual violence that still exists in this country"*. She continued that a *"trivial conversation of whether someone can pluck up the courage to go up to someone and say they are pretty was not really the issue"* and was *"a very clever way of moving the focus".*

The discussion between James Whale (JW), Asher Gould (AG) and Nichi Hodgson (NH) continued and at 20:15 James Whale returned to Jilly Cooper's remarks, quoting her comment that: *"it was very worrying that men could no longer wolf whistle a woman any more"*. The following exchange took place:

[1] #MeToo is a movement to support women who have been victims of sexual violence. The campaign came to greater public attention following allegations of sexual misconduct by film producer Harvey Weinstein.

[2] https://www.dailymail.co.uk/news/article-6004471/Author-Jilly-Cooper-81-claims-MeToo-era-means-men-women-no-longer-flirt.html

[3] Victim blaming is when the victim of a crime, an accident or abusive treatment is held wholly or partially responsible for the crimes committed against them.

[4] Ms Hodgson said that according to ONS data 85,000 women and 12,000 men were sexually assaulted or raped every year.

JW: *"Now men are frightened by the way they behave towards women. I've watched it".*

NH: *"Absolute rubbish. In the 70s it was completely par for the course to be touched on the bum by your boss, to be assaulted at work. I myself have been sexually assaulted by a boss I worked for. In January when I was leaving …"*

JW: [interrupts] *"…Well I hope you reported the person…"*

NH: *"No, listen to me, just listen to me…In January when I was leaving a party at an event I was working at I was orally raped in a taxi by a man in London and I reported that to the police but because I didn't know his name they couldn't find out who he was…"*

JW: [interrupts] "*…Did you get the number of the cab?"*

NH: *"…No because I was drunk in a taxi, why would I get the number of the cab?"*

JW: *"Well all I'm saying is how are they going to find…it would be very difficult for them to then find a taxi in the middle of London with no idea who…"*

AG: *"Well with cameras and everything it wouldn't be that hard…if you know where you left…"*

JW: *"…well then why didn't you…?"*

NH: *"…So here's an important detail – something I didn't know until it happened to me – lots of women and men wouldn't know is that CCTV is routinely deleted after 30 days right…now if you knew that you would be able to…"*

JW: [interrupts] *"…not always…"*

NH: *"….well, in the majority of cases, routine CCTV outside clubs and in taxis is deleted after that time period unless there is a specific reason to keep it on record…"*

JW: [interrupts] *"…ok, listen, well let's just…"*

NH: *"…let me finish my sentence – that's an important thing to get out to the listeners because most people wouldn't know that…if they were assaulted they wouldn't know how to go about reporting it to the police. And the fact that we have had the #MeToo campaign means we can have a much better conversation about how we can keep ourselves safe, what our rights are under the law and all the rest of it…".*

Ms Hodgson and James Whale then discussed figures for the number of *"rapes a year"* and Ms Hodgson quoted the number of 85,000 which she said was from the ONS. Mr Whale disputed this figure and the exchange continued:

NH: *"So, what you're saying is the Office of National Statistics is talking rubbish. You're saying that the police…"*

JW: [JW talks over NH] *"…Actually, you make a very good point there, Nichi".*

NH: *"…You're saying that the doctors, the doctors who deal with the women who are traumatised by what has happened to them are…"*

JW: [interrupts] *"No. You're changing the whole thing now. No, no, no. Listen. You're changing, you are changing the whole thing now. No…you are changing…"*

NH: *"…There are plenty of people in this country who have got a very good picture about the accurate record of sexual assault in this country. And what you're trying to do is deny the fact that there's an endemic problem…"*

JW: *"I am not denying anything".*

NH: *"… that does exist. And that it's a good thing that men are finally waking up and thinking: am I a good guy? Am I doing the right thing? Does this person really want to go to bed with me? That is a good thing for society".*

JW: *"Yeah. You're very patronising do you know that? Very patronising…and quite frankly…"*

NH: *"No. I am very passionate".*

JW: *"No, no. Quite frankly I find this…"*

NH: *"You get to say whatever you like and I am telling you from academic research from legal research the statistics that you don't have access to and that your listeners need to hear".*

JW: *"Really? You're not telling us anything. You're just telling us what you've heard and there is no proof".*

NH: *"No, I'm telling you…James, I'm an author and a journalist on the record...".*

JW: *"It doesn't really matter what you are, you're talking as a woman aren't you? And maybe this gulf between men and women…"*

NH: *"No. I am talking as a human that has been assaulted and you are daring to say to me "you're talking as a woman" and that is the opinion we have a problem with because that is demoting in and of itself…"*

JW: *"…Good. Have you finished?"*

NH: *"…there is nothing of less value about my opinion…"*

JW: *"…Have you finished?"*

NH: *"So, you don't want to listen to the people in this country that have been sexually assaulted?"*

JW: *"I'm listening to you rant at me that's what I'm listening to at the moment and I would like to ask you some questions to find out whether we can get anywhere in this conversation. Now, what about the fact that the law that at the moment stands where a man accused of rape is named, but the person who accuses him is not? Do you think if we were to change that, we would have a fairer legislation? More cases would probably be caught and probably more prosecuted?"*

NH: *"I don't think that anyone should be named. That's my personal view".*

James Whale and Ms Hodgson then discussed whether those accused of sexual assault should be named by police; the discussion continued:

JW: *"Right well I think that if someone has been, like you, has been assaulted by someone then everything should be done to identify the person who done it and they should be brought to court. If you go to the police and say this has happened to me and they say we can't do anything about it then you should have stayed there, you should have carried on…"*

AG: *"Yeah, there must have been CCTV…"*

NH: *"Ok but listen about the situation right – if you have a partner – like I do – and this happens at the end of a work night out right, you then have an issue of having to reveal it to you partner – that was easy for me because I am in a loving relationship with someone who supports me – but then put up with the idea that you might have two years of a court trial hanging over you in which you testify and the person is still not brought to justice…that is a huge thing".*

JW: *"Well, without you shouting at me...".*

NH: *"...I am not shouting at you James".*

JW: *"Well I haven't said anything yet…let me just say this – are you not concerned that perhaps unless you did go further with this then this brute could actually do this to other women?…"*

AG: *"Probably will, and probably will…"*

NH: *"James I went as far as I could. I reported it and the police couldn't do anymore".*

AG: *"Why couldn't they though? I don't understand why they couldn't do more".*

NH: *"Because they can't find out who it is because the CCTV was destroyed".*

AG: *"After 30 days? What about the next day and the 30 days before. They've got 30 days, they go to the place, they don't destroy the evidence…"*

JW: *"Can I ask a couple of questions? You got into a cab with this bloke…to go home after…"*

NH: *"No, no. I'll explain the situation. I was at a party. I left the party by myself. I was drunk. That's fine I'll fully admit that but that's no reason for anyone to come and assault me".*

JW: *"Of course not".*

NH: *"I gave the cab driver my address home and the guy jumped into the cab. Right. I didn't ask him to come in. He jumped in of his own accord. I presumed he was getting himself a lift somewhere and he would get out wherever at which point he sexually assaulted me. The cab driver…stopped the cab and when he saw what was happening got the guy out of the cab and then he got me home safely".*

JW: *"…And…"*

NH: *"We can't find who that guy is".*

JW: *"Well maybe a taxi driver listening today may remember that and may come forward*".

NH: *"I would love that if he did because he was an honourable man and he deserves lots of thanks for helping me out in that situation. Hence another reason why I don't hate all men…there are lots of great men in this world doing great things".*

JW: *"Don't you think the whole point all of this and the whole point made by Jilly Cooper is saying is that men have become frightened to interact with woman until they are told they can?"*

NH: *"I would say so they should because the only thing you want from someone you approach is enthusiastic consent. The whole reason we have this is because for centuries women were not allowed to express their sexual desire so what they had to do was play coy and the men had to pursue and then eventually the women relinquished. We are not living in that era anymore".*

JW: *"Maybe we need to go more the way the Scandinavian countries do where the women pursue the men".*

NH: *"Well why can't we have it both ways? We are moving towards that and that is a good thing but my point is if young men are stopping twice to think about will this upset someone if I do it this way, is it respectful, it can only be a good thing...".*

JW: *"Alright. Thank you very much Nichi. We are sorry for your trouble and if anyone rings us we will get in touch and let you know".*

NH: *"Thank you".*

We considered that this material raised potential issues under Rule 2.3 of the Code:

Rule 2.3: "In applying generally accepted standards, broadcasters must ensure that material which may cause offence is justified by the context…Appropriate information should also be broadcast where it would assist in avoiding or minimising offence"

We asked the Licensee for its comments on how the material complied with this rule.

**Response**

The Licensee acknowledged that "regrettably, there were heated flashpoints during the interview when unfortunate exchanges occurred". The Licensee highlighted three specific "flashpoints" during the interview, reflecting the nature of the concerns expressed by the complainants.

Firstly, James Whale's comments to Ms Hodgson that she was *"very patronising do you know that? Very patronising…".* The Licensee said that "as harsh as this may sound in isolation" James Whale's response was "merely…a reaction to Hodgson's opinion…which he personally found to be patronising to men". It said that, in response to this Ms Hodgson replied "confidently" and switched the debate back to the statistics. However, the Licensee added that following this comment the level of debate did "descend thereafter".

The Licensee then highlighted a second point, set out in detail above, where James Whales said to Ms Hodgson *"It doesn't really matter what you are, you're talking as a woman aren't you? And maybe this gulf between men and women".* And: *"I'm listening to you rant at me that's what I'm listening to at the moment…"*. The Licensee acknowledged this was "an unedifying exchange" due to the presenter's "interruptions" and it was "regrettable". However, it was "arguably no more offensive to either interviewee or the audience than could be seen or heard on a lively edition of *Question Time*". Further, the Licensee said that "at no time did James Whale in any way cast doubt as to the veracity of [Ms Hodgson's] account of being sexually assaulted".

In response to concerns from complainants that the questioning of Ms Hodgson amounted to "victim blaming", the Licensee said that Ms Hodgson replied "candidly and effectively" to James Whale's question *"did you get the number of the cab?"*. It said that her response was accepted "without question" and she went on to raise the subject of the availability of CCTV. Ms Hodgson then explained how CCTV was deleted after 30 days and the presenter and his co-presenter "expressed incredulity". The Licensee explained this was "not aimed at Hodgson but at the police for allowing CCTV to be deleted so it would be unavailable for review".

The Licensee pointed to a third part of the discussion, when it was suggested by the presenters that Ms Hodgson could have done more to pursue the police regarding her assault. The presenter said: *"…you should have stayed there, you should have carried on…"*; and asked her whether, by not going *"further"* was she not concerned *"this brute could actually do this to other women…"*. The Licensee said that this exchange appeared "on the face of it to be unwarranted and insensitive". However, it said it was important that it was placed in context and this part of the interview concluded with Ms Hodgson "welcoming a chance to explain the circumstances of her case" and James Whale's suggestion that the taxi driver could be listening to the programme and could come forward. Further, the Licensee said that the interview then "ended on a positive and amicable note".

The Licensee acknowledged the concerns raised about this interview and said "swift and effective action" was taken once it became aware of them. This included:

| | |
|---|---|
| Friday 3 August: | James Whale was suspended pending an investigation following the publication of an opinion piece by Nichi Hodgson in the Guardian titled: "I was humiliated on Talk Radio for talking about my rape".[5] |
| Monday 6 August: | An internal investigation was launched, involving interviews with eight key programming and presenting staff. |
| Thursday 9 August: | A 3,000-word report of the investigation was completed and submitted to management. |
| Monday 13 August: | Senior executives met Talk Radio's Programme Director and prior to the broadcast of James Whale's programme, the findings of the investigation were discussed with the presenter. The importance of handling interviews with sensitivity and in compliance with the Ofcom Broadcasting Code, particularly in regard to Harm and Offence, was stressed to him. |

On the same day, at the start of James Whale's programme, an apology to Ms Hodgson was read out by the presenter. In summary, he said:

> *"…On the 30th of July I interviewed Nichi and there has been a lot in the media and on social media about this and I am sure you have all seen it, you've all heard about it, you're all thinking about it and you're all going to ask questions about it. So, I briefly want to give you my side of it. This has arisen over the last week and I have to admit that I've been absolutely devastated that anybody, anyone could actually think that I would act insensitively towards somebody who has been the victim of any kind of sexual assault, any kind of assault at all.*
> *And so Nichi I am very sorry that you felt that this programme and me in particular did not respond to your story as sympathetically as you expected and, to be quite honest, deserved to be treated and I had no idea that it came across in that way….*
>
> *…In my mind Nichi I would never, ever, ever have wanted to upset anybody in that situation and I've seen quite a lot of the social media and some of the keyboard warriors and what they've had to say. But I want only to say to you Nichi that I am absolutely devastated that it should have upset you like that and I'm very sorry".*

In response to a complaint Ms Hodgson made herself to Talk Radio, the Licensee said it was its "sincere wish to settle this complaint amicably". It had offered Ms Hodgson a further interview "to voice her grievances regarding the initial interview on air" but Ms Hodgson had declined.

In summary, the Licensee said that extracts from the interview "might appear to make a case that James Whale's treatment of Nichi Hodgson" was, as complainants have stated, "dismissive, insensitive, victim shaming and, overall, highly offensive". It acknowledged that: "[C]ertainly, some of Whale's remarks may have appeared harsh in isolation but not when

[5] An opinion piece by Ms Hodgson was published on Friday 3 August in the comment is free section of The Guardian headlined "I was humiliated on Talk Radio for talking about my rape".

examined in context, although regrettably his interruptions did lower the tone of the debate".

Further, the Licensee said that Ms Hodgson was "more than a match for Whale, a well-prepared, eloquent and informed guest who stood her ground and gave as much, if not more, than she got". Throughout the sometimes heated discussion, Ms Hodgson "appeared calm, confident, well-informed with all the facts at her fingertips and assertive. As a result, she was successful in getting her points across and putting her argument forward to such an extent that she could well be deemed to have come out on top in the debate".

The Licensee therefore initially concluded that this broadcast was not in breach of Rule 2.3.

However, in response to Ofcom's Preliminary View, which proposed that the material was in breach of Rule 2.3, Talksport said that in light of the action it had taken "to effectively ensure that nothing of this nature is repeated", the issue should be resolved.

The Licensee said it appreciated that Ofcom had taken into account the steps it had taken, namely: the suspension of James Whale pending investigation; the internal investigation and the personal apology to Ms Hodgson broadcast by James Whale. However, it took issue with Ofcom's Preliminary View that more "timely action" at the time of broadcast or shortly after would have assisted in minimising offence. In summary, the reasons for this were that:

- the earliest indication that Ms Hodgson was upset by the interview was the day after the broadcast (Tuesday 31 July). Ms Hodgson spoke to a member of the production team who said that she was "angry" and was offered an apology because James Whale had given her "a hard time"; and

- only one complaint from a listener was received on Wednesday 1 August and no other complaints were received until Friday 3 August when Ms Hodgson's article was published in The Guardian newspaper.

Shortly after the broadcast, therefore, the Licensee said "there was no indication that Ms Hodgson was upset by the interview or that material had been aired which was likely to cause offence within the context of the James Whale programme". Consequently, Talksport said it was "difficult to see" how it could have taken "swifter action" before Friday 3 August when it suspended James Whale and launched its investigation.

The Licensee added that as a result of the internal investigation and the apology, it had "impressed upon the presenter and staff" the importance of complying with the Code, in particularly Rule 2.3. Since that time James Whale has not been subject to any further complaints and a full-time Editorial Compliance Manager had been appointed to assist with "day-to-day decision making around live broadcasts" and to support complaints handling.

## Decision

Reflecting our duties under the Communications Act 2003[6], Section Two of the Code requires that generally accepted standards are applied to the content of television and radio services

[6] http://www.legislation.gov.uk/ukpga/2003/21/section/319

so as to provide adequate protection for members of the public from the inclusion of harmful or offensive material.

Ofcom has also had due regard[7] in the exercise of its functions to the need to eliminate unlawful discrimination, to advance equality of opportunity and to foster good relations between those who share a relevant protected characteristic, such as gender, and those who do not.

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

Under Rule 2.3 of the Code, material which has the potential to offend may be broadcast, as long as its inclusion in a programme is justified by the context. The Code makes clear that context includes factors such as the editorial content of the programme; the degree of offence likely to be caused by material; the service on which the content was broadcast; and the likely expectations of the audience.

As set out in our published Guidance[8] on offensive language, Ofcom recognises that a substantial amount of radio output is devoted to the live reporting, discussion and analysis of news and current affairs issues. We recognise that there is a rich and welcome tradition of live, hard-hitting, speech-based current affairs content, featuring presenters (e.g. 'shock jocks') or other contributors, which may present challenging listening to some audience members. Consistent with the right to freedom of expression, Ofcom recognises the importance of broadcast content of this type, provided that any potential offence is justified by the context.

We first considered whether the material in this case had the potential to cause offence.

As set out in the Introduction, early in the interview Ms Hodgson disclosed her experience of a sexual assault during a discussion about the impact of #MeToo and remarks made by author Jilly Cooper. This disclosure set a context for the participants in the interview, and for listeners, within which subsequent exchanges need to be considered.

The Presenter James Whale and co-presenter Asher Gould immediately challenged Ms Hodgson, putting the imperative for action to have been taken following the assault principally on her as the victim. Specifically (emphases added):

- James Whale interrupted Ms Hodgson as she started to explain the sexual assault: *"…Well I hope you reported the person…"*;
- he interrupted her again to ask *"Did you get the number of the cab?";* and

[7] Under section 149 of the Equality Act 2010.

[8] https://www.ofcom.org.uk/__data/assets/pdf_file/0014/40541/offensive-language.pdf

- co-presenter Ash Gould then questioned why it would be so hard to find the person who assaulted her *"with cameras and everything"* and Mr Whale added *"…well then why didn't you…?"*.

When James Whale returned to the subject of Ms Hodgson's sexual assault five minutes later at 20:20, his line of questioning, and the endorsing comments made by Asher Gould, went further and implied that Ms Hodgson should have done more to pursue the man who assaulted her. For example (emphases added):

- James Whale said: *"If you go to the police and say this has happened to me and they say we can't do anything about it then **you should have stayed there, you should have carried on…"***
- even though Ms Hodgson previously explained that CCTV was not available, Ash Gould contradicted her: *"Yeah there **must have been** CCTV…"*; and
- Mr Whale then asked Ms Hodgson *"are you not concerned that perhaps **unless you did go further** with this then this this brute could actually do this to other women…"*.

In our view James Whale, and co-presenter Asher Gould, responded to Ms Hodgson's disclosure of her sexual assault insensitively; immediately questioning the steps she had taken to report the incident and whether she could have done more to prevent a further assault. On several occasions, they put the imperative on her, as a victim, to prevent further assaults. We considered that the comments were poorly judged, unsympathetic to Ms Hodgson's own experience, liable to discourage other victims of sexual assault to talk publicly about their experiences, and likely to cause a high level of offence.

We also considered that the level of potential offence was likely to have been increased by the additional dismissive and undermining personal comments directed at Ms Hodgson by James Whale, which were made after she revealed she had been a victim of sexual assault, and by his repeated interruptions (which the Licensee accepted were "regrettable"). Specifically, that:

- James Whale said to Ms Hodgson, *"You're very patronising do you know that? Very patronising…"* when she attempted to discuss the figures for sexual assault in the UK;
- questioned the validity of her point of view which had been shaped by her own direct experience of sexual assault: *"It doesn't really matter what you are, you're talking as a woman aren't you?"*; and
- when she challenged this and pointed out she was talking as a victim of sexual assault James Whale twice interrupted her with the words *"have you finished?"* before complaining, *"I'm listening to you rant at me".*

Ofcom then considered whether the broadcast of these potentially highly offensive comments was justified by the context.

The interview was broadcast during a topical discussion programme on a speech-based service. Ofcom acknowledged that listeners to Talk Radio, particularly given the time of this broadcast, would have expected the interview to include challenge and forthright views on current issues, such as the impact of #MeToo. Ofcom also acknowledged that Mr Whale is a well-known presenter, with an established presenting style, which is known by listeners to be opinionated and adversarial.

Ofcom also took into account the Licensee's statement that: "at no time did James Whale in any way cast doubt as to the veracity of her [Ms Hodgson's] account of being sexually assaulted". Ofcom accepted that the comments by James Whale and his co-presenter during this interview did not suggest that Ms Hodgson had not been sexually assaulted.

However, Ofcom's concern was that James Whale's comments were directed at a contributor who had spoken up about her own experience of sexual assault and it was highly inappropriate for his controversial and adversarial presenting style to be applied in this context. The comments displayed a significant lack of sensitivity towards victims of sexual assault and amounted to a series of questions which focused primary responsibility for finding the perpetrator on Ms Hodgson. In addition, the way in which James Whale continued to speak to Ms Hodgson, in a manner which was abrupt, dismissive, and undermining of her professional integrity, aggravated the potential offence caused in this case.

Ofcom took into consideration that this was a live broadcast and the disclosure of the sexual assault was not anticipated by the presenters, who had expected the focus to be on the more light-hearted comments from Jilly Cooper. However, Ms Hodgson was invited to give her views on the impact of #MeToo, a movement about victims being empowered to speak out about sexual abuse and informing people about the scale of sexual violence and, within this editorial context, the presenters demonstrated a lack of awareness on how to respond to the relevant issues around this subject.

We acknowledged that the Licensee's acceptance that there were "heated flashpoints" during this interview and it regretted that some of the comments represented "an unedifying exchange" due to the presenter's "interruptions". However, Ofcom strongly disagreed with the Licensee that the discussion was "arguably no more offensive to either interviewee or the audience than could be seen or heard on a lively edition of *Question Time*". In Ofcom's view, the context of *Question Time*, a discussion programme where the views and actions of elected members of Parliament or political commentators are placed under scrutiny and questioned by members of the public, was not at all comparable with the discussion in this case, particularly where the contributor had revealed personal information of her sexual assault.

We also took into account that in the Licensee's view, contributor Ms Hodgson was "more than a match for [James] Whale, a well-prepared, eloquent and informed guest who stood her ground and gave as much, if not more, than she got" and their view "that she could well be deemed to have come out on top in the debate". In our view, despite her treatment by the presenters, Ms Hodgson did respond robustly and articulately. However, we did not consider that this justified the insensitive and inappropriate behaviour of the presenters towards Ms Hodgson and in Ofcom's view their comments would have exceeded the likely expectations of listeners. Additionally, while Ms Hodgson dealt confidently with the combative response from the presenters to her disclosure she had been assaulted, we considered that the tone and content of the interview had the potential to discourage those with similar experiences from discussing them in programmes in future. This was particularly relevant given that listeners' expectations were likely to have been heightened by the ongoing current public and media debate on the issue as a result of the recent #MeToo campaign.

Given all of the above we considered the comments expressed by the presenters in this programme were likely to have exceeded audience expectations. Therefore, for the reasons

set out above, our Decision is that the inclusion of this potentially highly offensive material was not justified by the context, in breach of Rule 2.3.

We took into account the steps taken by the Licensee in this case, namely: the suspension of Mr Whale pending investigation; the investigation; and, the personal apology to Ms Hodgson broadcast by James Whale. These actions, while appropriate in the circumstances, were four days after the material was first broadcast and followed Ms Hodgson authoring a piece in a national newspaper.

In response to Ofcom's Preliminary View the Licensee said it was "difficult to see" how it could have taker swifter action to mitigate the offence in this case as: it was only made aware of Ms Hodgson's dissatisfaction the day after the broadcast; and, it received one complaint two days after the broadcast and subsequent complaints only after the publication of a newspaper article, four days after the broadcast.

However, the Licensee has acknowledged that there were "heated flashpoints", "unfortunate exchanges", "an unedifying exchange" and that James Whale gave Ms Hodgson "a hard time". It did not dispute Ofcom's Preliminary View that the comments were potentially highly offensive, rather Ofcom's view that it could have taken more timely action.

In Ofcom's view, the potential offence to listeners was significant and it was not incumbent on the interviewee to alert the Licensee to this. The Licensee should have been aware, at the time of the live broadcast, or shortly after, that it needed to take immediate steps to minimise the significant offence to listeners and we are concerned it did not recognise this at the time of broadcast or sooner than 13 August when it broadcast an apology from James Whale. In Ofcom's view, this programme was therefore a breach of Rule 2.3.

**Breach of Rule 2.3**

# In Breach

## Father of Man
## *Together, various dates and times, October and November 2018*

### Introduction

Together is a television channel broadcasting documentaries, reality and entertainment programming with a national and international community focus. The licence is held by The Community Channel ("the Community Channel" or "the Licensee").

*Father of Man* is a short film about a father coming to terms with a diagnosis of cancer and the effect this has on his relationship with his son.

A complainant alerted Ofcom to the broadcast of the most offensive language in a broadcast of the film at 20:00 on 4 November 2018.

Ofcom identified several examples of offensive language in the short film, including: at least 50 uses of "fuck" or "fucking", one use of "dick" and one of "bollocks".

Ofcom requested a copy of the schedule detailing all dates and times that this version of the film had been broadcast. Across October and November 2018, *Father of Man* was broadcast five times before the watershed, four of these at approximately 20:00, and one at 14:30 during school half term holidays.

We considered the material raised potential issues under the following Code rules:

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

Rule 2.3: "In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context…".

We requested the Licensee's comments on how these broadcasts complied with the above rules.

### Response

The Community Channel said that *Father of Man* was originally acquired with a number of other short films and was intended to be shown during its "Black History Month" season in October, in post-watershed timeslots only. A decision was made to also broadcast the short film in November, which resulted in it being aired at the times detailed in the schedule received by Ofcom. The Licensee expressed its "deep regret" that the programme had been broadcast before the watershed and said it "would like to apologise unreservedly for broadcasting this film in a pre-watershed slot".

The Community Channel explained that this compliance issue arose due to "the post-watershed notes and 'slot after' rules in [its] title management software… not be[ing] entered fully". Had this data been fully entered, the Licensee explained it "would have prevented pre-watershed broadcast by flagging it during scheduling lockdown checks".

The Community Channel added that it accepted that its normal compliance procedures had not worked as they should in this case and that the channel's Chief Executive had already discussed action that could be taken as a result of this. In addition, the Licensee explained that it was planning to "review [its] content and compliance processes again", which it said might include moving to a new scheduling software system with more robust compliance processes in the future.

In response to Ofcom's Preliminary View, the Licensee said that it accepted Ofcom's Preliminary View that the broadcasts were in breach of Rules 1.14 and 2.3 and would "once again like to apologise for this". The Community Channel confirmed that it had instructed an independent third party to conduct a formal review of its compliance processes and that it had already initiated changes to its scheduling software system to increase robustness around editorial processes.

## Decision

Reflecting our duties under the Communications Act 2003[1], Section One of the Code requires that people under eighteen are protected from unsuitable material in programmes. Section Two of the Code requires that generally accepted standards are applied to provide adequate protection for members of the public from the inclusion of harmful or offensive material.

Ofcom takes account of the audience's and the broadcaster's right to freedom of expression set out in Article 10 of the European Convention on Human Rights. In carrying out its duties, Ofcom must seek to balance the broadcaster's freedom to broadcast potentially offensive content and the requirement in the Code to ensure that material which may cause offence is justified by the context.

Rule 1.14

Rule 1.14 requires that the most offensive language must not be broadcast before the watershed on television.

Ofcom's 2016 research[2] on offensive language clearly indicates that the word "fuck" and variations of it are considered by audiences to be amongst the most offensive language.

The inclusion of more than 50 uses of the words "fuck" and "fucking" in this film were clear examples of the most offensive language being broadcast before the watershed.

We took into account that this had occurred due to an error, and the steps the Licensee said it intended to take to ensure that an incident of this nature did not recur.

Nevertheless, Ofcom's Decision is that the broadcast breached 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

Rule 2.3

Under Rule 2.3 of the Code, and as set out above, material which has the potential to offend may be broadcast, as long as its inclusion in a programme is justified by the context. The Code makes clear that context includes factors such as: the editorial content of the programme; the degree of offence likely to be caused by material; the service on which the content was broadcast; the time of broadcast; the likely expectations of the audience; and any warning given to the audience.

We first assessed whether the material had the potential to cause offence.

In addition to the repeated broadcast of the most offensive language as detailed above, this short film also contained the words "dick" and "bollocks", which Ofcom's research indicates are also found offensive by audiences. "Dick" is described in the research as strong language and "bollocks" is described as medium language, both of which may be unacceptable before the watershed without sufficient contextualisation. Therefore, it was clear to Ofcom that the language within this broadcast had the potential to cause offence to viewers.

Ofcom then considered whether the offence was justified by the context.

Ofcom recognised that the subject matter of this short film – a father at a difficult time in his life, coming to terms with a diagnosis of cancer – provided some editorial justification for the inclusion of strong and offensive language. However, the early evening time of the broadcasts and the lack of a warning at the start of the film would, in Ofcom's view, have meant that viewers were unlikely to have expected the level and frequency of offensive language that was broadcast. This was even more so in the case of the broadcast at 14:30.

*Together* is a community-focused channel that describes itself on its website as "inspiring social change", with programming focused on inclusion and wellbeing. It is Ofcom's view that regular viewers of the *Together* channel were unlikely to have found frequent use of the most offensive language before the watershed in line with the nature of the channel more generally. We therefore considered that, despite the editorial context, the content was likely to have exceeded general audience expectations for the time of day and the channel.

Ofcom took into account The Community Channel's explanation for the failure in its usual compliance procedures and the remedial action and compliance process reviews it said it was seeking to take to avoid such issues happening again in the future. However, for the reasons set out above, our Decision is that the broadcast of this offensive language was not justified by the context and was therefore in breach of Rule 2.3.

The Community Channel was found in breach of Rule 1.14 in issue 361 of the Broadcast and On Demand Bulletin, published 10 September 2018[3]. At the time of that investigation, The Community Channel assured Ofcom that it had "reviewed the compliance and post-watershed status of all its programme stock, viewer labelling and failsafe processes to ensure this does not happen again". Ofcom is concerned that a similar issue has occurred again in such a short space of time.

**Breaches of Rules 1.14 and 2.3**

[3] https://www.ofcom.org.uk/__data/assets/pdf_file/0037/119998/issue-361-ofcom-broadcast-on-demand-bulletin.pdf

# In Breach

## Janet Pollard Show
## *Radio St. Austell Bay, 27 November 2018, 19:05*

### Introduction

Radio St. Austell Bay is a community radio station aimed at people living and working in and around St. Austell in Cornwall. The licence for the service is held by the Radio St. Austell Bay Community Interest Company ("RSAB" or "the Licensee").

Ofcom received two complaints that the broadcast of the song *Rollin'* by Limp Bizkit contained numerous examples of the most offensive and racially offensive language.

The song contained 21 uses of the words *"fuck", "fucking"* and *"motherfucker"* and five uses of the word *"nigger"*.

We considered that this material raised potential issues under Rule 2.3 of the Code[1]:

Rule 2.3: "In applying generally accepted standards, broadcasters must ensure that material which may cause offence is justified by the context…Appropriate information should also be broadcast where it would assist in avoiding or minimising offence"

We asked the Licensee for its comments on how the material complied with this rule.

### Response

The Licensee apologised for the broadcast of the song. It said it had received a notification from a follower on Twitter after the song had been played and the track was immediately deleted from the radio station's system.

RSAB explained that the regular presenter Janet Pollard was unable to present her show that evening due to ill health. With no replacement available, the radio station reverted to its overnight player from 19:00 which contained a playlist of uploaded music tracks.

It said that the song *Rollin'* by Limp Bizkit had been uploaded on the overnight player due to a previous station policy, under the previous management of RSAB, allowing volunteers to add their own music choices to the system without checking the content first. The current station manager explained that she had recently amended the policy and had changed the uploading procedure so no volunteers could add their own music. Instead, access to upload music was now limited only to station engineers.

[1] We did not consider this material raised issues under Rule 1.14 ("The most offensive language must not be broadcast…when children are particularly likely to be listening (in the case of radio)…") because this broadcast at 19:05 fell outside the times indicated in Ofcom's guidance as being when children are particularly likely to be listening to radio programming (see: https://www.ofcom.org.uk/__data/assets/pdf_file/0014/40541/offensive-language.pdf)

In addition, the Licensee said that the existing tracks on the overnight player had been reviewed and "many hours" spent removing any content that was "remotely offensive". Any "obviously suspect tracks" or songs with "innocuous titles" but recorded by infamous bands were removed. In this case, however, the song *Rollin'* was missed because of its "innocent" song title and because the engineers were "unaware of the nature of the band" Limp Bizkit[2].

The Licensee provided assurance that all tracks by the band had now been removed from the system. It said that station staff were reviewing all of the artists on the overnight player system again and would remove any problematic material immediately.

In response to Ofcom's Preliminary View, the Licensee reiterated its sincerest apologies and the efforts the volunteers on RSAB had taken to check and remove problematic material. The Station Manager also fully accepted that a public apology should have been given. She explained that, as the regular presenter was unwell, no one had been in the studio to broadcast an immediate apology but acknowledged that this could have been broadcast the day after.

## Decision

Reflecting our duties under the Communications Act 2003[3], Section Two of the Code requires that generally accepted standards are applied to the content of television services to provide adequate protection for members of the public from the inclusion of harmful and/or offensive material.

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

We first considered whether the material had the potential to cause offence.

Ofcom's research on offensive language[4] indicates that the word "fuck" is considered by audiences to be among the most offensive language. The research also indicates that racist language, such as the term "nigger", is considered by audiences to be among the most unacceptable words and its use required significant contextual justification.

[2] Limp Bizkit is a rap metal band widely known for song lyrics featuring offensive and the most offensive language. In May 2017 Ofcom found community radio station Gravity FM in breach of Rule 1.14 (the most offensive language must not be broadcast when children are likely to be listening) for the broadcast of the Limp Bizkit song *My Generation* which included 20 uses of the word fuck or variations of it. See: https://www.ofcom.org.uk/__data/assets/pdf_file/0017/102086/Issue-329-of-Ofcoms-Broadcast-and-On-Demand-Bulletin.pdf

[3] http://www.legislation.gov.uk/ukpga/2003/21/section/319

[4] https://www.ofcom.org.uk/__data/assets/pdf_file/0022/91624/OfcomOffensiveLanguage.pdf

The 21 uses of the work "fuck" (and variations of it) and the use of the word "nigger" in this case clearly had the potential to cause offence to listeners. Ofcom therefore considered whether this offence was justified by the context.

Our guidance on offensive language on radio[5] states: "In reaching any decision about compliance with the Code, Ofcom will take into account the likely audience expectations of a particular radio station at the time of broadcast". In our view, the majority of listeners to Radio St. Austell Bay, a community radio station playing a broad range of music, would be unlikely to expect a music track to contain repeated instances of the most offensive language and racially offensive language at this time in the early evening.

We took into account that RSAB is a community radio station staffed by volunteers. We also acknowledged that the Licensee had acted quickly to remove the music track from the overnight player following notification by a listener and accepted that the material should not have been broadcast.

However, in Ofcom's view the Licensee was clearly aware that the previous procedure of allowing volunteers to upload tracks to the overnight player, without appropriate oversight, had created compliance risks as it had taken action to address this. While time had been spent by the Licensee removing "obviously suspect tracks" from the system, this appeared to have been based only on the title of the song or the band name. This was clearly insufficient as, in this case, neither the band nor the song title indicated the nature of the repeated and extremely offensive lyrics. Ofcom was also concerned that at no point had the Licensee taken steps to apologise to listeners to assist in minimising the potential offence caused.

Our Decision is therefore that this content was in breach of Rule 2.3.

**Breach of Rule 2.3**

[5] https://www.ofcom.org.uk/__data/assets/pdf_file/0014/40541/offensive-language.pdf

# Resolved

## Broadcast competition
## *Northsound 1, 2 May 2018, 10:00*

### Introduction

Northsound 1 is a local commercial radio station in the Aberdeen area. The licence for the station is held by Northsound Radio Limited which is owned by Bauer Media Group ("Bauer" or "the Licensee").

A complainant alerted Ofcom to a daily broadcast competition run by the station between 30 April and 4 May. The prize of a holiday to Florida, Orlando was awarded each day.

Entrants were required to note two numbers and a letter, making up a flight seat number, which were read out once individually at different times during the programme between 10:00 and 13:00. A short time after the final clue was announced, the presenter invited listeners to call the studio to submit the answer. A caller was then selected at random and if they submitted the correct flight seat number, they were awarded the day's prize. Entries were made by calling an '03' number, charged at standard rate.

We requested information from the Licensee about the execution of the competition. The Licensee told Ofcom that when the competition was conducted on 2 May 2018, a period of 10 minutes elapsed between the selection of a caller and this caller submitting their answer on air. This meant that during this time, listeners' attempts to contact the studio to enter the competition were unsuccessful. However, these listeners may still have been charged.

Ofcom considered that this competition raised potential issues under Rules 2.13 of the Code.

Rule 2.13: "Broadcast competitions…must be conducted fairly".

We therefore sought comments about how the competition complied with this rule.

### Response

Bauer stressed that it made no financial gain from calls to the enter this competition.

The Licensee confirmed that due to an error on the part of the station, on 2 May 2018 there were approximately 10 minutes between the time at which it selected an entrant and when this entrant actually went on air and won the daily prize. It said that because calls made during this period did not reach the studio, it was unable to confirm how many were affected.

It said that it had spoken to the relevant production team to ensure that this error is not repeated and that entrants are selected and put on air as quickly as reasonably practicable. It added it would highlight the error in its forthcoming training programme for all presenters and production teams.

## Decision

Reflecting our duties under the Communications Act 2003[1], Section Two of the Code requires that generally accepted standards are applied to the content of television services to provide adequate protection for members of the public from the inclusion of harmful (and/or offensive) material.

This is reflected in Rule 2.13 which requires broadcasters to ensure broadcast competitions are conducted fairly. An important part of the purpose of this rule is to ensure that members of the audience who try to enter broadcast competitions are not at risk of financial harm or loss.

During the competition on 2 May 2018, a period of 10 minutes elapsed before listeners were made aware that a winner had been selected. Throughout this time, listeners who tried to enter had no chance of being selected and were therefore unfairly excluded from the competition. Depending on whether calls to the studio's number were included in their calling plan[2], listeners who called during this period may have also been charged for their attempted entry.

However, given the steps taken to prevent a recurrence, Ofcom's Decision is that the matter is resolved.

**Resolved**

[1] http://www.legislation.gov.uk/ukpga/2003/21/section/319

[2] Calls to 03 numbers cost no more than a national rate call to an *01* or *02* number and must count towards any inclusive minutes in the same way as *01* and *02* calls. If an entrant had no inclusive minutes in their calling plan, a standard rate charge would have applied.

# Not in Breach

## Celebrity Big Brother
## *Channel 5, 30 & 31 August 2018, 21:00 and 1 September 2018, 22:00*

### Introduction

*Celebrity Big Brother* is a well-known reality show based on the established *Big Brother* format, broadcast initially on Channel 4 and, since 2011, on Channel 5 (or "the Licensee"). A number of celebrity contestants[1] ("Housemates") live together in the Big Brother House ("the House") where they compete to win by the public voting for them to remain in the House. In entering the House contestants agree to live in a controlled environment, isolated from the outside world. The "Diary Room" is the only location within the House where Big Brother engages in personal conversations with the Housemates. All the conversations and actions of the Housemates are recorded and edited daily into a one-hour programme which is broadcast on Channel 5 the following night.

Ofcom received a total of 25,322 complaints about the three episodes above in the 22nd series of the show. The majority of these complaints concerned the episode broadcast on 30 August 2018 (21,494 complaints) in which Housemate Roxanne Pallett ("Roxanne") alleged that fellow Housemate Ryan Thomas ("Ryan") had "deliberately" and "repeatedly" physically assaulted her[2]. The alleged incident had featured in the broadcast on 30 August. The majority of complainants expressed concern that the programme had continued to broadcast Roxanne's allegations against Ryan, which complainants considered to be false and potentially damaging to his career and reputation. Some complainants were also concerned about Roxanne's wellbeing and whether she should remain in the House.

In summary, the sequence of events as broadcast in the edited nightly programmes was as follows (many conversations were edited for transmission):

30 August episode (recorded highlights of events of 29 August)

The following pre-programme information was read out to viewers and shown in text: *"Be prepared for offensive language and altercation"* (before the start of the episode and after the second commercial break); and *"Be prepared for offensive language"* (after the first and third commercial break).

15:55

While in conversation with another Housemate, Ryan approached Roxanne in the kitchen area of the House and appeared to make a series of small boxing motions around the top half of her body.

Roxanne: *"Ow. Woman beater. That bloody hurt".*

[1] The Celebrity Housemates in this series were: Gabby Allen, Dan Osborne, Roxanne Pallett, Kirstie Alley, Sally Morgan, Rodrigo Alves, Chloe Ayling, Ryan Thomas, Jermaine Pennant, Hardeep Singh Kohli, Natalie Nunn, Nick Leeson and Ben Jardine.

[2] The episode broadcast on 31 August received 2,581 complaints and the episode on 1 September received 1,249 complaints.

Ryan: *"Did it? Sorry".*

Roxanne went into the bedroom and commented to herself: *"Ow. I've just been beaten up by Corrie's Jason Grimshaw*[3]*. Ow. Big Brother, that hurt".* Roxanne asked Big Brother to call her to the Diary Room.

In the Diary Room Roxanne asked to speak to a producer. She refused to provide details to Big Brother on camera of what she wished to speak about but explained that she wanted to talk *"about something that has just happened that has made me feel really uncomfortable".* No further footage was shown of her conversation in the Diary Room.

20:04

The Housemates, including Roxanne, were shown enjoying a party as a reward for completing a previous task. Later, Roxanne was called to the Diary Room.

Big Brother: *"Roxanne, Big Brother just wanted to talk to you because of an incident between yourself and Ryan earlier".*

Roxanne: *"Yeah?"*

Big Brother: *"Big Brother has reviewed the footage and Big Brother just wanted to let you know that we are going to speak to Ryan about this incident. And Big Brother wanted to assure you that Big Brother takes matters like this very seriously"*.

Roxanne: *"I am just a little bit in shock. I have gone from upset to anger now because a boy who has punched me, repeatedly, unprovoked, completely deliberate – he actually punched me like a boxer would punch a bag* [Roxanne accompanied her statement with hand movements to indicate several repeated punches] – *and we weren't playfighting, there wasn't banter, there wasn't a joke, there was no exchange…"*

Big Brother: *"…Big Brother just wanted to let you know you are being listened to. Big Brother doesn't want you to think at all that you are not being listened to".*

Roxanne: [Crying] *"Can't believe you are letting someone stay who has done that. It's not ok".*

Big Brother: *"Roxanne, Big Brother just wants to assure you that Big Brother takes something like this very seriously. Big Brother doesn't want you to be upset and Big Brother doesn't want you to worry".*

Roxanne: [Nodding, still crying] *"Okay".*

Ryan was then shown in the Diary Room, having been called there sometime later in the evening:

Big Brother: *"Before you entered the Big Brother House rules regarding unacceptable behaviour were clearly explained to you. Big Brother has called you to the Diary Room because you have broken this rule. At 3.55pm today, Big Brother*

[3] Ryan's character in *Coronation Street*, who he played from 2000 to 2016.

*noticed that whilst almost playfighting, you punched Roxanne in the ribs. This caused Roxanne to say: 'Ow. That bloody hurt'. Whether you intended to hurt Roxanne or not is irrelevant. Ryan do you understand that what you did was unacceptable?"*

Ryan: *"Erm, from your point of view yes. But, you know, I think we both know, and Roxanne knows, there was no malice, or hurt and anger in anything I did during this time. But from your point of view from doing this show I am sorry and I understand".*

Big Brother: *"Ryan, Big Brother is issuing you with a formal warning in regards to physical contact in the House. If there is any repetition of this behaviour Big Brother may have no option but to remove you from the House".*

01:14

Roxanne was shown getting out of bed and going into the Diary Room.

Roxanne: *"I don't feel comfortable sleeping in the same room as Ryan. Can't sleep. I can't sleep".*

Big Brother: *"Big Brother can arrange for you to sleep in the spare bedroom if you prefer".*

Roxanne: *"I'm now suffering – I'm now having to alter my experience because somebody else was violent".*

Big Brother: *"Roxanne, Big Brother understands that the spare bedroom is not the ideal situation but obviously we don't want you to go back into the bedroom if you are feeling unsafe and uncomfortable".*

Roxanne: [Crying] *"I can't believe you are letting him stay here".*

Big Brother: *"Roxanne, Big Brother can assure you we are taking this very seriously".*

Roxanne: *"It has to be because this is awful".*

Big Brother: *"After reviewing the footage and speaking to Ryan, we can reassure you, you are safe".*

Roxanne: *"I'm going to get nominated now for being unsociable".*

Big Brother: *"Big Brother suggests that you don't worry about anything like nominations. All we are worried about is that you are feeling comfortable and safe and you get a good night's sleep".*

Roxanne: *"Thank you".*

Big Brother: *"Roxanne, would you be happy to proceed to the spare bedroom now?"*

Roxanne: *"Okay. Yeah".*

Big Brother: *"Bear with Big Brother while we put this in place for you".*

Roxanne: *"Thank you".*

Big Brother: *"Take all the time you need".*

The episode concluded with Roxanne leaving the Diary Room and entering the spare bedroom.

31 August (recorded highlights of events of 30 August)

The following pre-programme information was read out and shown in text: *"Be prepared for flashing images and offensive language from the start and throughout"* (before the start of the episode)*;* and, *"Be prepared for flashing images and offensive language* (after the end of each commercial break).

Roxanne was shown waking up in the spare room and returning to the main House, passing through the garden and past Ryan and another Housemate, who were in conversation in the kitchen. As she passed them, she said *"It's so bright outside!"*. Ryan responded, *"Is it? Is it bright?"* She then entered the Diary Room.

09:30

Roxanne: *"I don't feel very comfortable or happy at the moment because I slept separately last night because I felt uncomfortable because Ryan assaulted me and he's still here and he smirked at me as I walked past".*

The programme then showed Ryan talking to the other Housemate:

Ryan: *"Big Brother can say one thing to you that is minor…It happened to me – just a tiny thing and it can make you feel really low. It's all heightened in here though, everything is heightened in here, they have all got regulations and stuff in here, they have to talk a certain way to you…when they were telling me what they were talking about it was so minute – it makes me not want to be here. When they see me they know I am not a bad person and I am not causing anyone any harm in here. So when they pick up something that is nothing and turn it into something massive…I'm a soft guy I don't ever mean any harm to anyone…but I am not a quitter – that is one thing I am not".*

The programme then returned to Roxanne in the Diary Room:

Big Brother: *"Roxanne, Big Brother has intervened appropriately by speaking to Ryan and is confident that there won't be any repetition...".*

Roxanne: [Shakes her head] *"…No".*

Big Brother: *"…and you are safe in the house".*

Roxanne: *"That's not acceptable".*

Big Brother: *"Big Brother assures you that Big Brother has your safety first and foremost in mind…"*

Roxanne: *"It's already happened. It's already happened!"*

Big Brother: *"…and that footage has been reviewed".*

Roxanne: *"A grown man purposefully punched me repeatedly. How can somebody proceed after doing that to someone? That's not ok. So I am going to have to act my way through the rest of this show. Thanks".* [She gives a thumbs up].

Later, another Housemate was shown in discussion with Ben about a separate incident in the House involving Roxanne[4].

Housemate: *"Someone like Roxy can choose to misrepresent things because I think she likes a bit of drama…"*

19:02

Roxanne was shown confiding in Ben that Ryan had *"punched"* her (this conversation was away from the cameras in the House toilet but audio was broadcast):

Roxanne: [Crying] *"It wasn't playfighting. He punched me repeatedly in my ribs there. I didn't say anything but I was in so much pain all night. It was intentional to hurt...He went for it, he did it with his fists and it was so sore and so aggressive and I walked off and for the next hour I was, like, in a blur of, like, confusion…and…"*

Ben: *"Are you alright?"*

Roxanne: *"No! I'm not!"*

Ben was heard reacting in astonishment. Roxanne apparently demonstrated the punch on Ben who was heard to gasp in pain. She said it happened *"four, five, six times"*. Ben said he intended to confront Ryan and Roxanne asked him not to. He said, *"You don't do that to…"* and she said, *"That's what he did. He did that with the intention of hurting me. I know".*

Subsequently, another Housemate commented that the conversation between Ben and Roxanne in the toilet had lasted for 40 minutes and asked Ben about it. Ben did not reveal the nature of the conversation but some of the Housemates were apparently under the impression that it had related to Ben and Roxanne's friendship.

19:21

In conversation in the garden with two other Housemates, Ben was shown confirming that he was aware of the reason why Roxanne was upset but said he could not give the other

[4] The second incident concerned the fact that some of the Housemates had noticed Roxanne and Ben developing a close friendship in the House, despite it being known that Roxanne had a fiancé. There was an apparent perception amongst Housemates that Roxanne may have been behaving in a way which was unfair to Ben. The situation caused much discussion amongst Housemates and, over time, became interconnected with the coverage of the separate incident involving Ryan and Roxanne.

Housemates more details. When they tried to question him he said, *"Bless her, something's happened to her, and it ain't nice".* He also said her confiding in him had confused him and that *"I feel like I'm getting played a little bit".* When Roxanne joined the group she asked Ben not to talk about the issue with the other Housemates. She commented to all three of them:

Roxanne: *"All I want you to do is not listen to anyone else who plant seeds of doubt and not hold it against me for being upset. It's because of something that's happened to me, and this is my reaction. I'm okay…The show is dealing with it massively".*

20:16:

Ryan was in the bedroom in conversation with two other Housemates. He wondered why it had been necessary for Ben and Roxanne to have had a conversation for 40 minutes in the toilet, rather than in a public area of the House. Another Housemate attributed it to her wanting *"camera time"* and Ryan said her apparent behaviour was something he had *"been seeing for years and years and years"* (having known Roxanne before he entered the House).

The programme then cut to Ben in the Diary Room. He explained to Big Brother that Roxanne had confided in him about the alleged incident with Ryan and said this had confused him. He said he believed her because: *"I've looked into the girl's eyes and you can see that* [it's real]*"* but also asked, *"Am I getting mugged off here? Can you tell me that?"* Big Brother's response was not shown.

23:48

The three Housemates who had been shown earlier in the programme in discussion with Ben and Roxanne in the garden were now shown in the living room, accompanied by Ben, Roxanne and an additional Housemate. Viewers were informed by the narrator: *"Some of the Housemates are talking about Ryan":*

Housemate: *"If what you are saying – if he does stay in here – then after here he'll be fucked. Depending on what is it, I don't know what it is".*

Housemate: *"He shouldn't have the privilege of winning this show…"*

Roxanne: *"…Thank you. Thank you…"*

Housemate: *"…the potential chance of winning this show".*

Roxanne: *"He shouldn't even continue the experience which I said. I said that. It's very strange how he retreated. Guilt".*

Housemate: *"Ah that's fucking shit mate".*

Roxanne: *"I don't want him to be here anymore because why should I – well, no, I said I don't want to be under the same roof as him and therefore why should I leave".*

Ben: *"And all they've done is, is that why you went in that other room the other night?"*

Roxanne: *"Yeah. Yeah".*

Housemate: *"Well if that was me yeah – well I don't know what it is – I would never do anything like whatever he has done. But I would walk out. I'd be like fuck man I'm going what a dick I am".*

Roxanne: *"But he has had the audacity to do it – so actually – and he's got the audacity to stay".*

As the episode on 31 August was also a live eviction episode, the programme then moved on to presenter Emma Willis who was live outside the Big Brother House:

Presenter: *"So that is what's happened yesterday. As you can imagine today has been an eventful day in the House. So we wanted to give you a little insight into the latest between Ryan and Roxanne".*

A short clip of Ryan and Roxanne in the garden room followed:

Ryan: *"Honestly, I want you to know from the bottom of my heart I was showing my affection. Maybe it came across the wrong way. I promise you, you have got it wrong and I really do apologise if it has come across that way. For the sake of your little time in here, and my time and everyone else's, put it to bed".*

*Roxanne:* *"I am not questioning your integrity, I just felt shocked. And it just threw me…"*

*Ryan:* *"Let's just sort it out, let's just, you know, make everyone else smile. Make everyone else's time good in here and we can move forward".*

Ryan and Roxanne shook hands and agreed to *"make it right"*. Back in the live eviction setting, the presenter then said, *"You can see the full story on tomorrow night's show".*

Later, during the beginning of the eviction process, the crowd gathered outside the House could be heard shouting: *"Get Roxy out".* When the doors of the House opened, as Ben exited (the evictee that week), the crowds could be heard chanting again: *"Get Roxy Out"*.

After the eviction, the presenter interviewed Ben. She mentioned the alleged incident with Roxanne and Ryan. Ben said, *"at the end of the day, I trust Roxy and I trust what she was saying".* However, he also said her confiding in him had *"really messed me up"*. It became apparent he had confronted Ryan about the incident in the last 24 hours (which had not yet been seen by the audience) and said this was because he could see Roxanne was *"shaking, she's petrified"*. He said he wanted to get Ryan's *"take"* on the situation and had told him that *"boxing's* [to be kept] *in the gym"*.

Ben was then shown the clip of the incident and asked for his reaction. He said, *"It breaks me heart".* He said he could see Roxanne had *"laughed it off"* and said he felt *"like I've been mugged right off"*. The presenter said, *"Listen, we're not, kind of, showing that to blame her, to blame him, to blame anybody. We're just trying to have a fair portrayal, really, of what has happened".* Ben said, *"That's not what I got told* [happened]*".* He also said that he had realised in the last 24 hours that *"if anything's really that serious, Big Brother are gonna look*

*after you and they're gonna get you out".* He said Ryan had found himself isolated by the other Housemates in the last 24 hours, which Ben had tried to address by speaking to him to *"ease the tension"*. He said he'd felt all day that he'd been *"played"*. The presenter also discussed Ben's friendship with Roxanne and he said: *"I do feel a little bit of a mug sat here right now".*

1 September (recorded highlights of events of 31 August, most of which took place prior to Ben's eviction)

The following pre-programme information was read out and shown in text: *"Be prepared throughout for offensive language and adult themes"* (before the start of the episode); and *"Be prepared for offensive language"* (after each commercial break).

Various groups of Housemates were shown throughout the programme discussing the alleged incident.

09:24

Two of the Housemates with whom Roxanne had been shown having discussions on the previous day were speaking in the bedroom. They speculated that Roxanne might benefit from Ryan leaving the House.

Ben was then shown challenging Ryan in the garden room. He said he had been told that Ryan had *"cracked"* someone and asked if he had hit someone in the House. Ryan said, *"Eh? No! Why?"* When Ben explained further, Ryan said he was *"not supposed to speak about it"*. Ben explained that he felt partly responsible because he had been showing Ryan some boxing moves but advised Ryan, *"Don't hit anyone!"* Ryan vigorously defended himself, said he had been *"doing it with everyone"* and was adamant a mistake had been made. He said:

> *"It's not fair! It's not fair to be judged like that! It wasn't aggression. I've never been an aggressive person! It's not fair, man! It's so upsetting that's what, that's what people think about it. It's so unfair man. It's just so bad, the way it's been, and you know what? This comes from something else, this. It was, nothing happened! And she made something out of something. And it's not fair. And I'm really upset about it. It's just not the sort of person I am, mate… It's not fair that you would even have that judgement on me. Or anyone else. Because that's not what I'm about".*

Two other Housemates were shown sitting outside the garden room and overheard the conversation. One asked the other if it concerned Roxanne and the other Housemate said: *"Just, basically, something's happened. But there's two sides to the story, so. And we've only heard one side of it".*

Back in the garden room, Ryan demonstrated on Ben his recollection of what had happened regarding the incident with Roxanne. Ben said, *"I got told something different".* Ryan said, *"Yeah, well, that's, you will do. You will do. You'll see when you get out, mate".* Ben said he didn't want there to be *"atmosphere"* and Ryan said, *"Yeah, well, who's caused it? Who's caused it? You're trying to help this person. This person can't be helped, bro. I'm telling you".*

Two other Housemates entered the garden room. Ryan again explained his position, said he had been *"playfighting"* and *"showing affection"*. He added that, in his view, the incident

was rooted in his prior relationship with Roxanne and said he was sorry it might have affected the way people viewed him in the House.

Meanwhile, Roxanne was shown approaching the garden room, standing outside in tears and shaking her head in disbelief at Ryan's statements. Ryan eventually left the room after all agreed to *"leave it"*. Roxanne then spoke to the three remaining Housemates in the room:

Roxanne: *"*[Crying] *He's lying. He's lying… It wasn't a little…"*

Housemate: *"Was it like he wanted to hit you, hurt you?"*

Roxanne: *"… He doesn't speak to me and then he went up to me, punched me in the ribs so strong and just because you laugh afterwards doesn't mean it was a joke…I am a human being I know how it feels when someone does that…* [Roxanne demonstrated on Ben several quick punches to his ribs]*…this is why women don't say anything because it's, like, turned around completely…he meant it… He doesn't even talk to me to go then to punching me repeatedly in my ribs...it was four or five times…it was one, two, three, four, five. It was little punches like a boxer…like he was enjoying it…"*

Housemate: *"You don't know your own strength, people don't".*

Roxanne: *"He knew his own strength Ben…it's working, he's trying to backtrack…"*

12:29

Ben confided in another Housemate about what Roxanne had told him without naming who was involved in the alleged incident. In response, the other Housemate said: *"I think if there had been violence in here they would have come in, the person removed immediately. And I think that, I've got a rough idea of the guy you were talking to and, listen, he doesn't have a bad bone in his body".*

Meanwhile, three other Housemates were shown discussing the alleged incident in the bedroom. One, who had evidently experienced playfighting with Ryan himself, said, *"When he's done it to me, it's been, like, barely touching".* All three voiced their confusion regarding who to believe.

Roxanne returned to the Diary Room, asking to speak to the producers about *"what Ryan did to me"* and that he was now *"lying"* and *"trying to manipulate"* the other Housemates into believing she had made it up. She said she felt *"terrible"*, *"lost"* and *"uncomfortable"* and voiced her belief that Ryan was *"calculating"* and *"tarnishing my reputation"*.

14:06

One Housemate was shown going into the Diary Room where he received the following information from Big Brother:

Big Brother: *"*[Housemate]*, it is important that you know that Big Brother has looked at the footage and has fully investigated this incident and you should trust that Big Brother has taken the appropriate action. It's perhaps worth thinking about why Ryan has not been removed from the House".*

Housemate: *"Okay. So, she's playing up to it. They're both actors, so maybe Roxy is acting and we're all falling for it. I dunno. I guess the proof's in the pudding, he's still in here".*

The programme then showed Ryan in tears in the pool, accompanied by another Housemate. He said: *"Just don't understand it"* and that Roxanne was trying to *"ruin my reputation"*.

14:34

The Housemate who was previously featured in the Diary Room was shown speaking to Ben in the bedroom, sharing the information he had been given by Big Brother and confirming that what Ryan, had said was *"basically, accurate".* Meanwhile, Roxanne was shown in tears in the bathroom, being comforted by another Housemate.

Ben and another Housemate then went to speak to Ryan at the pool, apologised and reassured him that they were now better informed and aware of what had actually happened. They said that Roxanne had *"sucked us all in"*. Ben said it had been *"killing me for fucking two days, mate"* and Ryan said: *"I can't even describe to you what it's like, how someone could set me up that way".*

16:08

A conversation was shown in the bedroom in which some Housemates were informed by others of the details of the alleged incident and aftermath for the first time. During this discussion, Ryan came to understand the reason for Roxanne sleeping in the spare bedroom the night before. He became very upset, saying the situation was *"breaking me"*, that he was *"heartbroken"* and that it would *"finish me"*. Other Housemates tried to reassure him, with one saying: *"didn't she realise…this is like crying rape…".* The conversation was interrupted by Roxanne entering the room, looking uncomfortable when she realised the topic of conversation and sitting on a bed.

Ryan expressed his upset tearfully in the Diary Room, saying he had *"done nothing"*, that he was going to *"get this show back on the road"*, *"make amends"* and *"be the bigger person"*. He also said:

> *"If I have offended anyone, or have done something wrong, I am so sorry. I didn't have any idea…"*

This was intercut with footage of Roxanne agreeing with the other Housemates that she should have a discussion with Ryan in the living room, as she didn't *"want anyone to feel like this"*. The Housemate who had previously been spoken to by Big Brother in the Diary Room said, *"I genuinely don't believe for one minute that he meant to hurt you".* Roxanne was asked by another Housemate if she believed he had and she responded, *"It hurt".* When pushed as to whether she believed it had been intentional, she said *"At the time I did… in that moment, I have never felt an impact and a repetition of fists going into my ribs in my life".*

16:42

A Housemate was shown telling Roxanne she needed to *"do the right thing"*. When she asked for clarification he replied, *"tell the truth".*

Ryan and Roxanne then had the conversation to clear the air which was shown on the previous night's episode.

During the eviction process, the crowd gathered outside the House could be heard shouting: *"Get Roxy out".* When the doors of the House opened, as Ben exited, the crowds could be heard chanting again: *"Get Roxy Out"*. Ryan reacted to the chanting tearfully, saying he *"needed that"* and was comforted by another Housemate. Roxanne was shown sitting alone looking shocked.

23:04

Roxanne asked the Housemates why they thought the public were chanting *"Get Roxy Out"*. In response, one Housemate said:

> *"People just think, you know, you spent the night in there because of what happened but you still stayed… If you had come to me…I'd have said you have to go now. Because if someone – if I thought one of these fellas hit me and meant it – I'd go. I'd go and find a lawyer. I think to remain in just doesn't go with what you're saying".*

00:09

Roxanne entered the Diary Room crying and said no one liked her and she felt isolated. She asked Big Brother to leave the House.

00:58:

Big Brother announced to the Housemates that Roxanne had left the House.

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

Rule 2.3: *"*In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context…appropriate information should also be broadcast where it would assist in avoiding or minimising offence".

We therefore sought comments from Channel 5 on how the above content complied with this rule.

**Response**

Channel 5 said that it did not consider the content of the programmes contravened Rule 2.3. The Licensee explained that *Celebrity Big Brother* was "a well-known reality television programme with a reputation for an honest and faithful depiction of the activities of the Housemates". It set out the editorial format of the show (which it said the audience was familiar with) and highlighted that the series was well established and was "known to deal with controversial and difficult situations and confrontations between persons who may have extreme personalities".

Channel 5 added that the audience for this programme accepted and expected that there would be drama and comedy from the Housemates and that, sometimes "tough situations

would play out over hours, days or even weeks". The Licensee added, "Indeed, the audience would be disappointed if such situations did not arise". In its view, "[N]o viewer, even a casual viewer" would be in any doubt when tuning into *Celebrity Big Brother* that they would "encounter dramatic, confrontational and sensational behaviour".

Channel 5 explained that when controversial topics were covered in *Celebrity Big Brother* there were "detailed protocols in place", which were reviewed and updated prior to the start of every series. These ensured full compliance with the Code and minimised the possibility of harm and offence. Housemates were advised on their physical conduct and there was a protocol on any "non-consensual, unwanted or violent" physical contact. The Licensee also explained that "interventions with Housemates occur frequently in *Celebrity Big Brother*, although not all interventions are included in broadcasts". The Licensee emphasised that "at all times…the safety and welfare of the Housemates is the prime consideration".

The Licensee said that this particular situation was "unprecedented" and "a situation like this had never previously arisen". Channel 5 therefore set out the steps it had taken behind the scenes to manage the incident with Roxanne and Ryan:

- following the incident on 29 August (as broadcast in the episode of 30 August), Roxanne spoke to the independent programme psychiatrist off-camera who referred the incident to the most senior representatives in Big Brother and Channel 5. Having reviewed the footage, which the Licensee confirmed had been captured, in long shot, on one camera only, the view was that Ryan had made contact with Roxanne but had not intentionally tried to hurt her;

- a decision was made that, subject to Ryan's view, he should be given a formal warning. This was consistent with the Licensee's treatment of previous Housemates who had "invaded another Housemate's personal space or [had] made uninvited physical contact with another Housemate which could technically be classified as assault";

- Ryan was then called to the Diary Room and given the formal warning. The Licensee explained Roxanne had emphasised to Big Brother that she did not want Ryan to know that she had reported the incident. Ryan was therefore told that "this incident was something Big Brother had seen and was dealing with";

- following this, Roxanne went to the Diary Room on two further occasions: at 01:00 on 30 August (when she asked to sleep in the spare room) and later on that morning (after she woke up). On both occasions Big Brother advised Roxanne that lawyers had reviewed the footage, that appropriate action had been taken against Ryan and she was safe;

- later the same day, three senior programme executives spoke to Roxanne off camera. She was advised that "as this was a very serious accusation she needed to be given the opportunity to report the matter to the police". She was given some time to consider this but eventually declined to formally report it (as she said she "knew that Ryan wouldn't do it again after being warned"). She also said she did not want to talk to the programme psychiatrist but was given permission to confide in

someone in the House "if it made her feel better";

- on 31 August, after confiding in another Housemate and the incident subsequently becoming more widely known within the House, Roxanne returned again to the Diary Room and accused Ryan of "manipulating everyone and turning them against her". Roxanne spoke off-camera to the programme psychiatrist;

- after the live eviction at 23:30 Roxanne returned to the Diary Room and asked to leave. At midnight the programme psychiatrist and Executive Editor entered the Diary Room and she left the House shortly after; and

- the Big Brother welfare team and programme psychiatrist followed up with Roxanne and her representatives and offered ongoing support. The Licensee confirmed they were "also available to Ryan" following completion of the series.

Channel 5 emphasised again that the welfare of Housemates was "always the primary consideration" and that the welfare of Ryan and Roxanne "was given serious consideration at the highest levels within Endemol and Channel 5". It accepted that the incident did not appear to be anything more than "the sort of play fighting that was commonplace between other Housemates in this series". However, it explained that "there had been contact and…Roxanne had a severe reaction to the incident".

The Licensee said that it was important that the incident and Roxanne's reaction were included in the broadcasts. This was because there was a "discrepancy between what appeared to have happened in the altercation and Roxanne's reaction to it" and also because it was likely to be a topic of discussion within the House and after Roxanne left the House. It said: "[V]iewers were entitled to see the incident, how it had affected Roxanne and how Big Brother had dealt with the situation". It added, "to do otherwise would have compromised the editorial integrity of the programme". As Big Brother was a competition in which viewers actively participated, it was incumbent upon the programme makers to ensure that viewers were "properly appraised of key issues which might affect a viewer's perception about which Housemate that the viewer might want to vote to evict or save".

Channel 5 accepted that issues arose in reality programmes which concerned the welfare and safety of participants and audiences could be caused offence because of concern for the well-being of those participants. However, it pointed out that such situations were "rarely straightforward". In this case, viewers were apparently concerned that the allegations made did not appear to be borne out by the footage of the incident broadcast. Fewer viewers "appeared to be concerned about the welfare of Roxanne or what may have caused her to react in that way".

Channel 5 then responded to the other specific concerns raised by the complainants[5]. In response to concerns that:

- Roxanne had made a false allegation which had not been handled effectively: Channel 5 explained that, whatever the reasons for Roxanne's reaction to the incident with Ryan, she was clearly distressed by it. She appeared, in that moment, "to have perceived Ryan as a threat and to have reacted instinctively". The Licensee

[5] These were set out in Ofcom's letter to Channel 5 requesting its comments on how the programme complied with Rule 2.3.

explained that "nobody knew if there was a reason that caused Roxanne to respond in the way that she did", although Channel 5 suggested some possibilities, including the fact that Roxanne and Ryan had apparently "not been on the best of terms" before entering the House and the fact that Roxanne had "previously spoken publicly about how she had been a victim of domestic abuse". It was therefore "important for Big Brother to prioritise her welfare, to show understanding and empathy for her and to ensure she felt supported and safe". To do otherwise would have "quite rightly … been severely criticised";

- Roxanne appeared to display mental distress and should have been asked to leave the House earlier: Channel 5 explained that, from the point at which she made the first allegation until she left the House, the independent programme psychiatrist was across the situation. While it was clear that Roxanne was distressed, "at no stage were concerns raised about her mental health or her fitness to remain in the House";

- Big Brother should have showed Housemates footage of the incident in order to minimise the impact of the allegation on them and better manage their treatment of Ryan: Channel 5 explained that the editorial spine of the programme occasionally involved tough situations playing out over long periods of time. Big Brother tried "to allow Housemates to resolve matters between themselves without interference but will always intervene when considered necessary". In this case, Roxanne had specifically asked that Ryan not be told she had made a complaint and they had both been asked not to discuss the issue within the House. As a result, many of the Housemates were unaware of the allegation for some time. It was not until 11:00 on 31 August that a wide group of Housemates became aware of it and at the same time Ryan provided his side of the story. At this point, it was clear that the Housemates did not know who to believe and the production team recognised that "there was a risk that Ryan could become isolated". Consequently, Big Brother called one Housemate to the Diary Room and told him that the footage had been reviewed, that he should trust Big Brother, that appropriate action had been taken and that "he should think about why Ryan had not been removed from the House". The Housemate immediately understood, informed the other Housemates and he and another Housemate apologised to Ryan. Channel 5 therefore explained that the allegations were only known by some of the Housemates for a period of approximately three hours before Big Brother intervened to try to resolve it. The Licensee added that it did not believe that it would have been appropriate to have played the footage of the incident to the Housemates while Roxanne was still in the House. This was because, "with her welfare in mind, it was appropriate for Big Brother to continue to support her, help her feel safe and move on, rather [than] show the footage to her fellow Housemates which would likely have made her continued stay in the House untenable". Had she not chosen to leave the House that night, then it is likely that "consideration would have been given to showing her the footage of the incident and assuring her again that Big Brother had carefully considered the footage and had taken appropriate action".

- the allegation had the potential to damage Ryan's reputation and should therefore have been addressed immediately: the Licensee explained that this was why it had ensured footage of the incident itself was included in the programme on 30 August, "so viewers could see what happened".

- the allegation had a direct impact on victims of domestic violence: Channel 5 apologised if the footage broadcast offended anyone in this way. However, it added that Big Brother was a reality programme that sought to broadcast footage that fairly represented events in the House. One of the challenges in complying *Celebrity Big Brother* was finding the right "balance" between showing the viewing audience the actual events in the House (so that they can make informed voting decisions) and avoiding including material which may cause offence. The Licensee repeated its assertion that, in situations like this, "things are rarely clear cut and there are often many factors at play". It emphasised that it was "possible to accept that Ryan unintentionally made contact with Roxanne, but also empathise with Roxanne who appeared to have misinterpreted the situation". It argued that victims of domestic violence would "no doubt empathise with Roxanne in such circumstances" and would be "less inclined to go along with viewers who were prepared to accept Ryan's genuine emotion, while dismissing Roxanne's emotion as acting".

In summary, Channel 5 concluded that:

- Big Brother intervened correctly to warn Ryan about "uninvited physical contact";

- the editorial integrity of Big Brother would have been compromised if the incident and subsequent events were not covered in the programmes as broadcast;

- although the behaviour of Roxanne appeared, on the face of it, "to be an overreaction to an apparently innocuous incident", it was not inherently offensive given the circumstances;

- it would have been offensive to viewers if Big Brother had dismissed the allegations of a "victim" and not prioritised her welfare; and

- once Ryan was made aware of the allegations and other Housemates were having difficulty in deciding who/what to believe, Big Brother swiftly intervened to clarify and both Ryan and Roxanne spoke to the independent programme psychiatrist to assist them to resolve the matter and try to move on.

Ofcom issued a Preliminary View that the programme was not in breach of Rule 2.3 and invited the Licensee's representations on the Preliminary View. The Licensee did not provide representations other than to correct a factual error about the nature of the prize won by the winner.

## Decision

Reflecting our duties under the Communications Act 2003[6], Section Two of the Code requires that generally accepted standards are applied so as to provide adequate protection for members of the public from the inclusion of harmful or offensive material.

Ofcom takes account of the audience's and the broadcaster's right to freedom of expression set out in Article 10 of the European Convention on Human Rights. In carrying out its duties, Ofcom must seek to balance the broadcaster's freedom to broadcast potentially offensive

[6] http://www.legislation.gov.uk/ukpga/2003/21/section/319

content and the requirement in the Code to ensure that material which may cause offence is justified by the context.

Under Rule 2.3 of the Code, and as set out above, material which has the potential to offend may be broadcast, as long as its inclusion in a programme is justified by the context. The Code makes clear that context includes factors such as: the editorial content of the programme; the degree of offence likely to be caused by material; the service on which the content was broadcast; the time of broadcast; the likely expectations of the audience; and any warning given to the audience.

We first assessed whether the material had the potential to cause offence.

The episode of *Celebrity Big Brother* on 30 August included footage of the incident between Ryan and Roxanne. The rest of the episode, and the two subsequent episodes, continued to broadcast Roxanne's reaction to the incident through her conversations with Big Brother and the other Housemates, as well as Ryan's reaction to events. As acknowledged by the Licensee, there was a difference between what appeared to have actually taken place between Ryan and Roxanne and Roxanne's reaction to the incident. In addition, the incident centred on an allegation of assault, which Ofcom considered was highly sensitive as it had the potential to impact on both the reputations of the Housemates involved, and on sufferers of violence who may have been watching. Nevertheless, the incident continued to be a main point of focus for more than three days of the programme's broadcasts. Ofcom therefore considered that the extended focus on a highly sensitive incident about which there was a clear difference of interpretation had the potential to cause offence. On the one hand, the fact that an alleged assault occurred and the alleged perpetrator remained in the house while the victim clearly felt distressed and uncomfortable had the potential to cause offence. On the other hand, the fact that a serious and supposedly false allegation was allowed to stand against Ryan also had the potential to cause offence.

Ofcom therefore considered whether this offence was justified by the context.

*Celebrity Big Brother* is a well-established and long running reality post-watershed programme and this was its 22nd series. Regular viewers of the series, and of Channel 5 post-watershed programming, were likely to have had a clear expectation of controversial and confrontational events. We also took into account that, given the competition and voting element of the programme, it was appropriate for viewers to have had the opportunity to see controversial matters taking place within the House between the Housemates and the consequences of these.

However, given the nature of the highly sensitive nature of the alleged physical assault, and that both Housemates were significantly distressed by the incident, Ofcom also considered whether the Licensee had taken sufficient action in broadcasting the incident to minimise the degree of any potential offence caused by the material.

30 August episode

The majority of complaints received followed the transmission of the first episode on 30 August. The programme was preceded by a warning at the start of the programme: *"Be prepared for offensive language and altercation"* (the same warning was repeated after the second commercial break half-way through the episode). The programme included:

- the incident at 15:55, which appeared to show Ryan making a series of small boxing motions around the top half of Roxanne's body in the kitchen while other Housemates were present;
- Roxanne's three visits to the Diary Room to set out her interpretation of events, in which she described the incident as a repeated *"unprovoked", "completely deliberate"* series of punches *"like a boxer would punch a bag"*;
- Big Brother twice informing Roxanne twice it had reviewed the footage and providing reassurance that she was being *"listened to"* and she was *"safe";*
- a formal warning being issued to Ryan for contravening *"the Big Brother House rules regarding unacceptable behaviour"*. Big Brother advised Ryan that *"whilst almost playfighting, you punched Roxanne in the ribs"* and it was irrelevant whether he *"intended to hurt Roxanne or not";* and
- Ryan's responding to the formal warning: *"I think we both know, and Roxanne knows, there was no malice, or hurt and anger in anything I did during this time but from your point of view from doing this show I am sorry and I understand".*

In Ofcom's view the lack of clear information about the details of the incident in this episode had the potential to heighten any offence caused, on the basis that it was unclear whether Ryan was being falsely accused of assault. The footage of the incident included in the programme was captured in a wide shot by a camera which was some distance away from the action (it appeared to have been located at the opposite end of the kitchen). This made the actual events appear unclear. The Licensee confirmed that the footage was only captured on one camera. We considered that, in the context of a House which was purpose-built to monitor all activity on a constant basis and which was specifically surrounded by cameras from all angles, this was unfortunate.

Channel 5 said it became aware that there was a "discrepancy between what appeared to have happened in the altercation and Roxanne's reaction". However, when explaining the formal warning to Ryan, Big Brother referred to the incident as *"almost playfighting"*, *"unacceptable behaviour"* and that is was *"irrelevant"* as to whether he had actually intended to hurt Roxanne. In Ofcom's view, there was therefore a risk that viewers might have interpreted the formal warning as an acceptance of Roxanne's interpretation of, and reaction to, the incident rather than as a rebuke for contravening a protocol regarding unwarranted physical contact agreed before entering the House.

However, Ofcom also fully accepted that, as Roxanne was obviously distressed and had reacted strongly to the incident, there was clear editorial justification for Big Brother to have shown empathy and reassurance towards her. We were satisfied that the Licensee had provided sufficient information to viewers (as outlined in the points above) to demonstrate this support. We also considered that the measured language used by Big Brother about the incident – confirming to Roxanne that it had *"reviewed"* the footage twice and had *"intervened appropriately"* and, to another Housemate in a later episode, that it had *"fully investigated this incident"* and had *"taken the appropriate action"* – provided some signposting that Big Brother was fully aware that Ryan's actions were not as serious or deliberate as Roxanne had described. Finally, we took account of the warnings given throughout the programme. Ofcom considered taken together these actions were likely to have gone some way to mitigating the potential degree of any offence.

31 August and 1 September

As set out in the Introduction to this Decision, Roxanne's version of events was repeated throughout both of the episodes on 31 August and 1 September, which Ofcom considered carried a risk of further contributing to viewers' potential offence about the issue. In particular, lengthy scenes showed the Housemates speculating about and debating what had happened, who was involved, what action was being taken and why Ryan had not been removed from the House. Examples from the 31 August episode included Ben, at 19:21, telling other Housemates *"something's happened to her, and it ain't nice"* and six Housemates discussing the issue at 23:48, even though one said: *"I don't know what it is"*. Examples from the 1 September episode included: two Housemates discussing the situation in the bedroom at 09:24; Ben confiding in another Housemate at 12:29 and three other Housemates simultaneously discussing the situation in the bedroom, with all three voicing their confusion as to who to believe. Some complainants clearly took from this that the production team had drawn out the issue to heighten the drama. This was potentially exacerbated by a moment in the episode on 31 August when Ben was specifically seen asking Big Brother to verify details about the incident (*"Am I getting mugged off here?")* and Big Brother's response was not broadcast.

However, Ofcom took into account the information provided by the Licensee that Roxanne had specifically asked that Ryan not be informed she had made a complaint and that both Housemates had been asked not to discuss the incident within the House. Channel 5 also set out in detail the developments which led at each stage to other Housemates finding out about the allegation and had said that the allegations were only known by some of the Housemates for a period of approximately three hours before Big Brother intervened to try to resolve it. Therefore, although it may have seemed somewhat drawn out in the broadcasts, it was apparent that most Housemates were unaware of the details of the incident for quite some time. Ofcom was therefore satisfied that the Licensee had taken appropriate action to resolve this situation and minimise the potential offence swiftly once this situation changed.

In Ofcom's view these episodes also included a large amount of information and signposting which explained Ryan's viewpoint, indicated the support he was being given in the House and provided additional potentially relevant context for Roxanne's behaviour. In Ofcom's view, this would also have been likely to help minimise the potential viewer offence, for example (as set out in full in the Introduction to this Decision):

- Ryan explained to a Housemate that when Big Brother spoke to him it was about *"a minor thing"* but *"they know I'm not a bad person"*;
- Big Brother responded to Roxanne that it had *"intervened appropriately"* and did not remove Ryan from the House;
- another Housemate was seen voicing his opinion (despite not knowing the details of the incident) that Roxanne *"likes a bit of drama"*, a second Housemate said he thought she wanted *"camera time"* and Ryan was shown saying that her apparent behaviour was something he had *"been seeing for years and years"*;
- the fallout of the incident became intertwined with another key storyline involving Roxanne (her friendship with Ben) which somewhat diluted its effect. The link between the two storylines was made stronger in the episode of 31 August, which specifically juxtaposed scenes of Roxanne confiding in Ben with scenes of other Housemates wondering about the appropriateness of their private discussion;

- a clip showing that Ryan and Roxanne had settled their concerns was shown during the live eviction programme on 31 August (at an early point in the programme) and the audience were informed that the full scene would be in the following night's programme;
- the crowd were heard by viewers (and the Housemates) chanting *"Get Roxy Out".* The audience saw this reassured Ryan that viewers were aware of the facts of the incident;
- viewers saw Ben, during his eviction interview, being shown the footage of the incident and his reaction to it (*"I've been mugged right off")*;
- Ryan was shown being challenged by some of the other Housemates and giving his explanation of events in some detail;
- Ryan was shown being given support by various Housemates throughout the programmes, some of whom also defended him (*"I've got a rough idea of the guy you were talking to and, listen, he doesn't have a bad bone in his body")*;
- Big Brother spoke to a Housemate and explained it had fully investigated the incident, appropriate action had been taken and he should think about why Ryan *"has not been removed from the House"*. This information was then seen being immediately shared with all the Housemates; and
- Roxanne was shown being challenged by some of the Housemates at various points, once they were aware of the details of the incident (*"I genuinely don't believe for one minute that he meant to hurt you", "tell the truth", "I think to remain in just doesn't go with what you're saying"*).

Conclusion

In this case Ofcom concluded that the extended focus over these three programmes on a highly sensitive incident about which there was a difference of interpretation had the clear potential to cause offence. However, taking all of the above contextual factors into account, including the editorial content of the programme which we concluded was unlikely to have exceeded audience expectations for the majority of viewers, and the actions taken by the Licensee to minimise the degree of potential offence which could have arisen, our Decision is that the programmes were not in breach of Rule 2.3 of the Code.

**Not in Breach of Rule 2.3**

# Not in Breach

## Loose Women
## *ITV, 29 August 2018, 12:30*

### Introduction

*Loose Women* is a lunchtime panel-led discussion programme normally broadcast live each weekday. The programme features topical discussions between four regular panellists and a celebrity guest in front of a studio audience.

The celebrity guest during this episode was Kim Woodburn. Ms Woodburn was a regular presenter of the programme *How Clean is Your House?* and appeared in *Celebrity Big Brother 2017* ("CBB"). Following her appearance in CBB with *Loose Women* panellist and eventual CBB winner Coleen Nolan, she publicly criticised Ms Nolan for being *"two-faced"* and undeserving of her win.

Before Ms Woodburn arrived on set, it was explained by panellist Janet Street-Porter that the premise of inviting Ms Woodburn on the programme was to reconcile her and Ms Nolan, who also appeared as a panellist during this episode.

Ms Street-Porter, dressed as a judge, introduced the item by stating: *"Now, after Donald Trump and Kim Jong-Un's historic handshake earlier this year, we thought it was time to settle Coleen's feud with her very own Kim – Kim Woodburn"*. Ms Street-Porter ("JSP") invited viewers to *"take a look at the evidence in the case of Coleen vs Kim"* and a series of video clips were shown containing footage from both women's appearance in CBB and subsequent television interviews about their experience.

For example, Ms Woodburn was shown in the CBB house having heated arguments with several contestants. This was followed by the reaction from Ms Nolan ("CN").

CN: [in the CBB diary room] *"I think there's always potential for it to go 'cause of Kim. Her and Nicola* [another housemate] *just clash. It's just bizarre. I mean, I had the giggles last night over it all".*

Ms Woodburn ("KW") was then shown participating an in interview with Philip Schofield ("PS") on the programme *This Morning*:

PS: *"Do you think Coleen was a worthy winner?"*

KW: *"No I do not…I'm not two-faced…She was a horrible person, she was sweet as pie to me. She never said a wrong word to me…And when I watched it back, what she was saying about me, I couldn't believe".*

This was followed by clips of Ms Woodburn and Ms Nolan giving their view on the matter in previous, separate, episodes of *Loose Women*. This included:

CN: *"I was completely, hand on my heart, two-faced to Kim".*

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KW: *"*[describing Ms Nolan] *A two-faced maggot".*

Ms Street-Porter then introduced Ms Woodburn, who entered the studio to the opening bars of Karl Orff's 'O Fortuna'. After briefly explaining her role as mediator, Ms Street-Porter, positioned between the two women, said that she felt there was *"more than just four feet of gap here"*. Ms Woodburn gestured towards Ms Nolan and the following exchange took place:

KW: *"You wanted me on here. What have you got to say?* [negative audience reaction]…*I didn't ask to come here, folks...just know the true story"*.

CN: *"I didn't ask you to come here".*

JSP: *"…what exactly is it that Coleen has done that annoys you so much?"*

KW: *"Ask Coleen".*

Another panellist, Linda Robson ("LR") then intervened.

LR: *"You tell us what she did. We couldn't see anything!"*

KW: *"*[to LR] *Look, I don't want to let you down with something you've told me but I'm going to because…"*

LR: *"What did I tell you?"*

KW: *"*[to the studio audience] *Folks, I am straight and honest. I came here three weeks after I came out of Big Brother. Now, I didn't want to do this but* [to LR] *you're another one that's putting a phoney act on* [negative audience reaction]*".*

JSP: *"So, Linda's the phoney…".*

KW: *"Just a minute".*

LR: *"Is there anyone that isn't phoney?"*

KW: *"Just a minute.* [to LR]. *Deny you said this. And I said Coleen was very two-faced, you saw the show…and we were all leaving the stage and you turned to me and your exact words were "as a matter fact Kim" you said, "Coleen admitted she was very two-faced with you…now, now you did".*

The panel then attempted to explain that Ms Nolan had admitted this on a previous episode of *Loose Women*.

KW: *"I'm not going to converse on this show because I'm going tell you why".*

JSP: *"Let's just go to Coleen for a moment".*

KW: *"Folks, I know what I went through".*

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KW: *"…I didn't want to come on here and I'll tell you why. Because I know she'd sit there* [impersonates CN*] "how do you mean?". I knew, I've just said behind the scenes. They asked me to come on and I said I don't think I want to come on, I said, because I've told you what happened and that's the truth".*

JSP: *"Well actually".*

KW: *"And they said well Coleen wants to say something to you".*

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KW: *"I come in here. She's sitting there. Doesn't say a word…I would never have come. She's supposed to want to speak to me".*

JSP: *"Kim, my understanding is that you were very happy to come here today and you said were completely comfortable with it. But let me turn to Coleen and hear what Coleen has to got to say about the charge of being two-faced".*

CN: *"Erm yes. I think, I think Kim's right. I was two faced with Kim in the house. I tried not to be in the beginning. I did try and be the peacemaker 'cause everybody was rowing and I don't think it helps at all to join in the row. I think Kim, very very cleverly, because she is a super-fan of the show, of Big Brother, came in to play "oh look at me, poor me, I'm being bullied, everyone's picking on me" in the hope that they weren't showing that she came in like a demon from day one. So I was trying to keep the peace and then gradually, just, we were near the end and I just couldn't stand it anymore. And if that makes me two-faced, then yeah I guess I was two-faced* [applause]*".*

JSP: *"*[to CN] *Why didn't you confront Kim earlier?".*

CN: *"Because...the way she's just come out now was the way she woke up every morning. She just wanted to go at people all the time. The fact she can even come out here, with everyone that's on this panel and have a go at Linda Robson who's the nicest woman I've ever met in my life".*

KW: *"I haven't had a go at her, I'm just saying what she told me".*

CN: *"But you're just antagonistic, you come out for a row and that's how she woke up every morning".*

The argument escalated and Ms Woodburn announced that she was leaving the set.

KW: *"*[to CN] *You know what you did. And I'm going to tell you something…".*

CN: *"I'll tell you what I did. I didn't tell you how vile you are from day one. That's what I should have done* [applause from audience] *You're a horrible, self-centred, publicity-seeking witch".*

At this point, panellist Linda Nolan ("LN"), defended Coleen Nolan (her sister) by commenting on Ms Woodburn's behaviour:

LN: *"Then only way she* [KW] *is on TV is because she comes out and is…controversial. You've no talent. That's the only way you get to be on TV".*

KW: *"Excuse me. Excuse me. Excuse me. That alone tells you how stupid you are. What is your talent apart from moaning?"*

The argument escalated again before Ms Street Porter stepped in to defuse it.

JSP: *"Can we stop the slanging match for just a moment. Kim, what to you hope to gain my coming on the show today?"*

KW: *"Nothing at all".*

JSP: *"You're here but why did you come"?*

KW: *"They paid me a good amount of money* [laughter from the audience]*".*

When offered the opportunity to make peace with Ms Nolan, Ms Woodburn declined it:

KW: *"You* [to CN] *will not say what went on in that house. Well, I'll tell you something, folks, look at your computers…98 percent of people, look on your computers, say "they give you a rough time in there, Kim". I can't put a computer on so it's not me doing it, but 98 percent said "God Kim, they didn't half gang up on you". Now, it's not just me".*

LN: *"98 people, you mean.* [laughter]*".*

KW: *"Don't be so stupid. Don't be so silly".*

LR: *"Do you think you've got anger issues?"*

KW: *"No".*

LR: *"You seem very angry all the time. No?"*

CN: *"So, do you think we can draw a line under it, Kim. Can we draw a line under it?"*

KW: *"I'm going to tell you something. Then I'm going to go. I've had, a lot of you have had miserable lives, not just me, I'm not suggesting for one moment. We've all had problems we've all had problems and we always will. I had a very, very sad childhood. I had a brutal childhood. Terrible".*

[LR put her hand on KW's shoulder to comfort her but she pushes her away]

KW: *"Don't be two faced.* [negative audience reaction]*"*

LR: *"I'm not being two-faced, I'm trying to comfort you".*

KW: *"Don't comfort me".*

JSP: *"Alright".*

KW: *"Just a minute. I'm speaking now. A brutal, rotten childhood".*

LN: *"We know".*

KW: *"Terrible, I can't describe what I went through".*

LN: *"We know, we've heard it".*

KW: *"And when I was in Big Brother house and all the memories of those years came back. The bullying they were doing to me. And I was very upset in the house, and I pretended I wasn't. I was terribly upset. They picked on me. This one* [points at CN] *"Cup of tea, Kim?" Every bloody day. "Cup of tea, Kim?"*

CN: *"I made a cup of tea for you".*

KW: *"And behind my back, they were slagging me off. If I haven't had that rotten experience as a child…".*

LN: *"Why didn't you leave?"*

JSP: *"Why didn't you leave the house?"*

KW: *"I wanted the money".*

The argument escalated once more and Ms Street-Porter reiterated Ms Nolan's desire to "draw a line under" the incident.

KW: *"I don't want to draw a line under it because I will never forget what the likes of her and seven others put me through. I'll never forget it. Never.* [JSP tried to interject] *It was so awful and it was bloody cruel…Live in there with them, live in there please and don't go by people you see on television. Please don't do that, folks. Don't go by what you see on television, a demure person* [referencing CN]*"*.

CN: *"No, please do because that's what we lived with for three weeks".*

KW: *"I lose my temper but I've got a good heart and soul. She sits there, she's hard as nails.* [JSP tries to interject further]. *Don't do it, folks. Don't do it. She's a con artist…Well I wouldn't want to sit and talk to lying trash like you* [rises from her seat]".

CN: *"Well I think that's sad. I think we should have drawn the line".*

The argument continued as Ms Woodburn walked off set and Ms Nolan introduced the commercial break.

After the commercial break, Ms Nolan welcomed audiences back to a *"calmer Loose Women"* and said:

> *"just to let you know, we have got members of our team with Kim backstage and we didn't intend for it to end like that, we were hoping, actually genuinely hoping for some kind of reconciliation but that wasn't going to happen. All I know is that I will never make anyone a cup of tea ever again* [audience laughter]*".*

Ofcom received 7,912 complaints about this segment of the programme. While there was some support for Ms Nolan, the majority of complainants said that the panel humiliated Ms Woodburn and caused her unnecessary distress.

Ofcom considered the material raised potential issues under Rule 2.3 of the Code.

Rule 2.3: "In applying generally accepted standards, broadcasters must ensure that material which may cause offence is justified by the context. Such material may include offensive language…humiliation, distress, [and] violation of human dignity".

We asked ITV Broadcasting Limited ("ITV" or "the Licensee") for its comments about how the material complied this rule.

## Response

ITV unreservedly rejected the suggestion that the treatment of Ms Woodburn by Ms Nolan or the panel amounted to bullying.

The Licensee said it had received "a little over 1000" complaints about the item. It attributed the significantly higher number of Ofcom complaints to Ms Woodburn's interview on a newspaper website published later the same day – in which she called for Ms Nolan to be sacked by ITV – and a subsequent social media campaign calling for the removal of Ms Nolan from *Loose Women* for "unprovoked bullying".

ITV explained that the feud between Ms Nolan and Ms Woodburn had been well publicised following their appearance on *Celebrity Big Brother 2017.* It added that when preparing this item prior to broadcast, the production team were concerned to ensure that Ms Nolan and Ms Woodburn fully understood the proposed format and that both were content with the subject under discussion and a possible reconciliation. ITV stressed that it certainly did not intend the discussion to end in acrimony and that both women in pre-broadcast research calls and briefings indicated that they were willing to resolve their differences.

The Licensee said it was decided beforehand that Ms Nolan should not anchor this segment of the programme, which had been carefully positioned as a discussion between herself and Ms Woodburn, with Ms Street-Porter as mediator. ITV explained that this was introduced in a deliberately upbeat and light-hearted fashion, as demonstrated by Ms Street-Porter's judge's outfit and the comic allusion to the summit of Donald Trump and Kim Jong-Un earlier in the year.

The Licensee said that throughout the discussion, Ms Street-Porter sought very hard to encourage a reconciliation between the women, and to give both parties a chance to state their position while remaining fair and sympathetic. However, ITV argued that Ms Woodburn

"took a confrontational stance from the outset" and "her position was, to say the least, aggressive and uncompromising". It gave the following examples: antagonising panellist Linda Robson by accusing her of putting on a *"phoney act"*; calling Ms Nolan *"lying trash"*; calling Linda Nolan *"stupid"* and *"silly"* (in response to Linda Nolan defending her sister by claiming Ms Woodburn was deliberately controversial and had no talent); insisting on her own version of events about CBB, and rejecting Ms Nolan's and Ms Street-Porter's requests for a reconciliation.

The Licensee recognised that during the course of the conversation, some of the panel responded to Ms Woodburn's angry and combative manner in kind. However, it pointed out that Ms Street-Porter repeatedly tried to lower the emotional temperature of the discussion. It also said that when Ms Woodburn mentioned her own difficult childhood and appeared distressed in relation to her experience in the Big Brother house, it was clear that Ms Nolan was making conscious efforts not to react, and to adopt a neutral facial expression and body language.

ITV said that having been broadcast since 1999, *Loose Women* is a very well-established discussion programme which often includes robust exchanges of opinion and forthright arguments. It added that while it regretted that Ms Woodburn appeared to find the discussion upsetting, it did not believe that most viewers would have shared her view of the discussion or that the item exceeded the expectations of its audience.

The Licensee acknowledged that Ms Woodburn's distress, when recalling her childhood and her experience in the Big Brother house, and the panel's reaction, had the potential to cause offence. However, it argued that such offence was warranted by the clear editorial context i.e. she had given her informed consent to appear, she understood the proposed format and subject matter and that, by her own admission, she was motivated primarily by the appearance fee.

ITV therefore did not consider the programme was in breach of Rule 2.3 of the Code.

In response to Ofcom's Preliminary View that the programme did not breach the Code, ITV confirmed that neither it nor Coleen Nolan (as an interested third party) had any further comments to make. However, Ofcom received representations from Kim Woodburn on the Preliminary View, which were submitted on her behalf by Unleashed Talent Management ("UTM").

### Response from Kim Woodburn on Ofcom's Preliminary View

UTM said it felt strongly that ITV were in breach of Rule 2.3 because of the humiliation and distress caused to Ms Woodburn which, it said, caused distress to viewers. It submitted that the panel clearly took it upon themselves to "chime in with their opinion on Kim" and therefore, "Kim was outnumbered and out of her depth". UTM said this was not the show that Ms Woodburn had agreed to. [1]

UTM added that the majority of the complaints received by Ofcom said that the panel humiliated Ms Woodburn and caused her unnecessary distress. UTM submitted that it was not inconceivable to think therefore that the "overwhelming British public as a whole would

[1] UTM's submission went on to explain why it considered Ms Woodburn had been treated unfairly by ITV. We therefore directed UTM to our procedures for considering Fairness and Privacy complaints.

consider that the panel humiliated Ms Woodburn and subjected her to unnecessary distress". UTM said that the distress suffered by Ms Woodburn could have been avoided if ITV had filmed and handled this segment of the programme in the manner Ms Woodburn had expected according to what she had been told by ITV.

## Decision

Reflecting our duties under the Communications Act 2003[2], Section Two of the Code requires that generally accepted standards are applied to the content of television services to provide adequate protection for members of the public from the inclusion of harmful and/or offensive material.

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

Under Rule 2.3, broadcasters must ensure that potentially offensive material is justified by the context. Rule 2.3 sets out a non-exhaustive list of the types of material that may cause offence, including humiliation and distress. Context is assessed by reference to a range of factors including the editorial content of the programme or series, the likely expectation of the audience and the extent to which the nature of the content can be brought to the attention of the potential audience.

We first considered whether the material had the potential to cause offence.

As set out above, there were heated exchanges between members of the panel and Ms Woodburn which included Ms Woodburn being referred to as a *"horrible, self-centred, publicity-seeking witch"* and having *"no talent"*. In addition, on several occasions, Ms Woodburn made reference to her childhood, referring to this as *"brutal"*, *"terrible"* and *"sad"*. She explained that her experience in the Big Brother house brought back memories of her childhood and she became visibly distressed. Members of the live studio audience also booed Ms Woodburn as she left the set. Ofcom considered that the portrayal of conflict and showing an individual who was visibly upset had the potential to cause offence.

Ofcom therefore considered whether this offence was justified by the context.

*Loose Women* is a well-established series known for its open discussion and spirited debate covering a range of subjects. The feud between Ms Nolan, a regular panellist on the show, and Ms Woodburn was well documented and had been referred to during previous episodes of *Loose Women* as well as in other media.

In this episode, the item was introduced by Janet Street-Porter, dressed as a judge, as *"the case of Coleen vs Kim"*. A montage of clips chronicling Ms Nolan and Ms Woodburn's feud followed and then Ms Woodburn arrived on set to apocalyptic-style music. In Ofcom's view, these elements sufficiently established the format of the item and the potential for conflict, particularly considering the live nature of the programme.

[2] http://www.legislation.gov.uk/ukpga/2003/21/section/319

In her capacity as mediator, Janet Street-Porter ensured that both women were given the opportunity to talk about their own experience in the Big Brother house and the argument that followed. We noted that Ms Woodburn was able to defend herself by strongly putting her own position across and although disparaging remarks were directed at Ms Woodburn, these were not one-sided. For example, Ms Woodburn referring to the other panellists as *"lying trash"* and *"phoney"*. At various junctures during the discussion, Ms Street-Porter intervened to calm the situation when it became heated.

When addressing Ms Woodburn, Ms Street Porter said that it was her understanding that she was *"quite happy"* to appear on the show. Ms Woodburn also said that her motivation for doing so was that she was paid *"a good amount of money".*

Ms Woodburn was allowed further opportunities to explain how she felt the experience related to her childhood. This was clearly upsetting for her to talk about but she rejected offers of comfort from other members of the panel and offers of reconciliation from Ms Nolan before leaving the set.

After the commercial break, Ms Nolan sought to reassure viewers that the discussion did not end the way that ITV had intended and that Ms Woodburn was currently with the programme's team backstage. Her reference to *"never making a cup of tea again"* was, in Ofcom's view, an attempt to lighten the tone of the programme rather than to make fun of Ms Woodburn's distress.

In light of the above contextual factors, we did not consider the content was likely to have exceeded what regular viewers would have expected of a live edition of *Loose Women*. We therefore considered that the introduction, the way in which the discussion played out and was moderated, and both Ms Nolan and Ms Woodburn's willingness to appear on the programme and ability to defend their own respective positions provided viewers with sufficient context for the potentially offensive nature of the discussion.

Consequently, our Decision is that the material did not breach Rule 2.3 of the Code.

**Not in Breach of Rule 2.3**

# Broadcast Licence Conditions cases

## In Breach

### Fairness and privacy complaints;
### Provision of information relating to a change of control; and,
### Compliance procedures
### *KTV, Khalsa Television Limited*

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**Introduction**

KTV is a television channel broadcasting to the Sikh community in the United Kingdom under a Television Licensable Content Service licence (TLCS101501) held by Khalsa Television Limited ("KTV" or "the Licensee").

Following complaints made to Ofcom relating to issues under the Broadcasting Code[1], Ofcom began various investigations. In the course of these, it appeared that the Licensee was failing to comply with some of its licence conditions.

Fairness and privacy complaints

Condition 20(1) ("Fairness and privacy complaints") of KTV's licence states:

> "The Licensee shall comply with such directions and requests for information as may be given to him by Ofcom following receipt by him from Ofcom of a copy of a fairness complaint that relates to the provision of the Licensed Service, and in particular the Licensee shall, if so requested:
>
> f) Furnish to Ofcom and the complainant a written statement in answer to the complainant…"

Having received complaints, Ofcom entertained complaints relating to the following programmes:

- *Sri Guru Singh Sabha Southall Elections Debate,* KTV, 27 September 2017
- *Programming,* KTV, 30 September 2017

On 3 August 2018, Ofcom wrote two emails to the compliance contact for KTV to notify the Licensee that Ofcom had entertained two Fairness and Privacy complaint relating respectively to the *Sri Guru Sabha Southall Elections debate* complaint and to *Programming*. Each of these emails requested the Licensee to provide a written statement by 3 September 2018.

The Licensee failed to provide the statements by the deadline specified in Ofcom's initial request.

[1] https://www.ofcom.org.uk/__data/assets/pdf_file/0005/100103/broadcast-code-april-2017.pdf

On 5 September 2018, Ofcom sent two emails to the compliance contact noting that the respective deadlines had been missed, and asking for a response as soon as possible but by no later than 6 September 2018.

On 6 September 2018, by email, the Licensee requested an extension to the deadline until 24 September 2018.

Ofcom replied the same day granting an extension to 13 September 2018.

This deadline was also missed. Further to a phone call between Ofcom and Mr Jas Mandair, a Director at the Licensee, Ofcom confirmed by email on 14 September 2018 that Ofcom was willing to extend the deadline until 24 September 2018.

On Friday 21 September 2018, the compliance contact emailed Ofcom and asked for a further extension of "a couple of days".

Ofcom replied on Monday 21 September 2018 extending the deadline until Wednesday 26 September 2018 but stressing that "this is an absolute and final deadline".

On 26 September 2018, Mr Jas Mandair emailed Ofcom saying that the Licensee had been unable to prepare a statement due to the departure of the presenter who had made the programme complained of, and was "at a loss how to respond". He indicated that the Licensee had no compliance officer and was finding it difficult to recruit one, and requested a meeting with Ofcom.

We sent our Preliminary View on this matter to the Licensee on 5 December 2018. KTV failed to respond within the deadline. On 24 January 2019, we informed the Licensee that we would proceed to reach a Decision in the absence of any representations.

As of 20 February 2019, Ofcom has not received statements from the Licensee in relation to either complaint.

## Decision

We therefore consider that the Licensee has breached Condition 20(1) of its Licence on two separate occasions.

Provision of information relating to a change of control

Condition 13(1) and (2) ("Provision of information to Ofcom relating to a change of control") of KTV's licences states that the Licensee shall notify Ofcom:

> "of proposals affecting shareholdings in the Licensee or any body corporate which controls the Licensee, or the directors of the Licensee or the directors of any body corporate which controls the Licensee, and of any proposals to enter into any arrangements of the type referred to in Condition 13(2) below, by giving advance notice of such proposals where they are known to the Licensee as soon as reasonably practicable where such proposals would constitute a change in the persons having control over the Licensee within the meaning of Schedule 2, Part I paragraph 1(3) of the 1990 Act; and,

> of changes, transactions or events affecting shareholdings in the Licensee or any body corporate which controls the Licensee, or the directors of the Licensee or the directors of any body corporate which controls the Licensee (irrespective of whether proposals for them have fallen to be notified) within 28 days of the Licensee becoming aware of any such change, transaction or event and where such change, transaction or event would constitute a change in the persons having control over the Licensee within the meaning of Schedule 2, Part I paragraph 1(3) of the 1990 Act."

When the Ofcom executive completing the above assessments was checking the compliance contact information, they noticed that the directors who were notified to Ofcom at the point of application had since changed. Information on the Companies House[2] website indicates that Prya Bassi resigned from the KTV on 4 June 2018 and was replaced by Harjeet Kaur Gill[3].

Companies House records also say this person replaced Ms Bassi as one of the persons with significant control of the company on 4 June 2018.

On 5 December 2018, Ofcom sent a Preliminary View to the Licensee setting out our provisional view that it had not notified Ofcom of the changes it had made to its directors and controllers within 28 days. We invited comments from it by 18 January 2019. The Licensee did not provide any comments. On 24 January 2019, we informed the Licensee that we would proceed to our Decision in the absence of any representations from it.

## Decision

Ofcom's Decision is therefore that the Licensee is in breach of Condition 13 of its Licence.

Compliance procedures

Condition 17(2)("Compliance") of KTV's licence requires:

> "The Licensee shall adopt procedures and ensure that such procedures are observed by those involved in providing the Licensed Service for the purposes of ensuring that programmes included in the Licensed Service comply in all respects with the provisions of this Licence, the 1990 Act, the 1996 Act, the Communications Act, relevant international obligations and all relevant codes and guidance.
>
> The Licensee shall, without prejudice to the generality of the foregoing, ensure that:
>
> (a) there are sufficient persons involved in providing the Licensed Service who are adequately versed in the requirements of this Licence, the 1990 Act, the 1996 Act, the Communications Act, relevant international obligations and all relevant codes and guidance and that such persons are able to ensure compliance with such requirements on a day to day basis;
>
> –
>
> (b) adequate arrangements exist for the immediate implementation of such general and specific directions as may from time to time be given to the Licensee by Ofcom;"

[2] https://beta.companieshouse.gov.uk/company/09842276/officers

[3] https://beta.companieshouse.gov.uk/officers/fvptbTuBBWXGZWuQihgV3QV2fyA/appointments

In a phone call on or around 14 September 2018, Mr Jas Mandair indicated that the Licensee's compliance contact had left the organisation.

On 26 September 2018, in relation to two fairness and privacy complaints, Mr Jas Mandair emailed Ofcom saying that the Licensee was unable to meet a deadline which had already been extended four times. He said "Due to the recent volume of complaints and the recent staff leavers who organised and presented the two shows we have been unable to compile a full report in relation to the two complaints detailed below.....We have also started the process of employing a new compliance officer but at present are finding it difficult to recruit, however we are sure that we will be successful in the very near future. We humbly ask for your advice on how to proceed not just with these two deadlines if the full report is not forthcoming but also some guidance on the pending pipeline cases we have from Ofcom whilst recruiting a Compliance officer."

In a letter to Ofcom dated 4 October 2018, the Licensee stated that content broadcast on the station on 9 July 2018 had been given "a cursory assessment". It added that "the compliance procedures at KTV have recently suffered on account of the departure of employees responsible for assessing and enforcing compliance". We understand from this that the departure of the compliance employees pre-dated this broadcast. The service continued to broadcast.

Ofcom sent its Preliminary View to the Licensee on this matter on 5 December 2018. The Licensee failed to respond within the deadline. On 24 January 2019, we informed the Licensee that we would therefore proceed to reach a Decision in the absence of any representations.

On 25 January 2019, the Licensee wrote to Ofcom in relation to a separate matter, stating that it had recruited two individuals in January this year, to work solely on compliance matters. It indicated that "a system of procedures and protocols" had been in place to sure all content is vetted prior to and during broadcast, but that it now has a dedicated team "to ensure this is enforced" and was embarking on "renewing the training provided to pre and post production staff on all aspects of the Code".

## Decision

Ofcom's Decision is that the Licensee has been in breach of Condition 17 of its Licence since at least 9 July 2018 and up to at least the recruitment of the two new staff members in January 2019. This Decision by no means constitutes an endorsement of the procedures that the Licensee has now put in place, in relation to which we do not have sufficient information to take a view.

Broadcast licensees may arrange for the content they broadcast to be complied in a variety of different ways. However, Ofcom's Broadcasting Code and other Codes exist to protect audiences and members of the public. It is particularly important that licensees establish and maintain procedures which secure compliance with those codes and with all the conditions of the licence. Ofcom is particularly concerned, in this case, that the Licensee appears to have continued to broadcast despite its recognition that it did not have appropriate compliance procedures in place. Ofcom will take the lack of compliance procedures into account in determining the seriousness of any breaches of the Broadcasting Code the Licensee may have committed during this period.

**Breaches of Licence Conditions 13, 17(2) and 20(1) of the Television Licensable Content Service held by Khalsa Television Limited (licence number TLCS101501).**

In addition to this case, Ofcom has recorded breaches against Khalsa Television Limited in four other Decisions included in this Bulletin (see pages 8, 23, 29 and 40). Ofcom considers that the breaches, taken overall, represent a very serious compliance failure on the part of the Licensee. We are therefore putting the Licensee on notice that we will consider the breaches for the imposition of a statutory sanction.

# In Breach

## Broadcast licensees' late and non-payment of licence fees
## *Various licensees*

### Introduction

Ofcom is partly funded by the broadcast licence fees it charges television and radio licensees. Ofcom has a statutory obligation to ensure that the fees paid by licensees meet the cost of Ofcom's regulation of broadcasting. The approach Ofcom takes to determining licensees' fees is set out in the Statement of Charging Principles.[1] Detail on the fees and charges payable by licensees is set out in Ofcom's Tariff Tables.[2]

The payment of a licence fee and payment made on time is a requirement of a broadcasting licence.[3]

1) 'The Licensee shall pay to Ofcom such fees as Ofcom may determine in accordance with the tariff fixed by it and for the time being in force under Section 87 (3) of the 1990 Act as Ofcom shall from time to time publish in such manner as it considers appropriate.

2) Payment of the fees referred to…above shall be made in such manner and at such times as Ofcom shall specify…'

Failure by a licensee to pay its licence fee when required represents a significant and fundamental breach of a broadcast licence, as it means that Ofcom may be unable properly to carry out its regulatory duties.

### In Breach – late payment

The following licensees failed to pay their annual licence fees by the required payment date. These licensees have therefore breached Condition 4(2) of their licences.

The outstanding payments have now been received by Ofcom. Ofcom will not be taking any further regulatory action in these cases.

| Licensee | Service Name | Licence Number |
|---|---|---|
| 99 Media Org Limited | TV 99 | TLCS001747BA |
| African Movie Channel Limited | African Movie Channel | TLCS101129BA |
| Alliance Media FZ LLC | Urdu1 Europe | TLCS101789BA |
| APGO Media Limited | TVC – Television Continental TV | TLCS001581BA |
| ATN Bangla UK Ltd | ATN Bangla UK | TLCS001029BA |
| Bay TV Swansea Limited | That's Swansea Bay | L-DTPS100082BA |

[1] Statement of Charging Principles – bhttp://stakeholders.ofcom.org.uk/binaries/consultations/socp/statement/charging_principles.pdf

[2] https://www.ofcom.org.uk/__data/assets/pdf_file/0029/99614/Tariff-Tables-2017-18-.pdf

[3] As set out in Licence Condition 3 for radio licensees and Licence Condition 4 for television licensees.

| Licensee | Service Name | Licence Number |
|---|---|---|
| BET International Inc | BET Black Ent Tv | TLCS001200BA |
| BoxBeat Media Limited | Kiss Me TV, Proud Dating | DTAS100040BA |
| | 365 Travel | DTAS101309BA |
| Cambridge Presents Limited | That's Cambridge | L-DTPS100084BA |
| | Cambridge TV | TLCS101062BA |
| Chelsea Football Club Limited | Chelsea TV | TLCS000449BA |
| Chiswick Park Studios Limited | YANGA! TV | TLCS102305BA |
| City News Network (SMC) Pvt Ltd | Channel 44 | TLCS101252BA |
| Daar Communications (UK) Ltd | AIT Movistar | TLCS001209BA |
| Decland Limited | Drive In Movie Channel | TLCS101125BA |
| Esplanade Vale Media Limited | British Muslim TV | TLCS100280BA |
| Fadak Media Broadcasts | Fadak Media Broadcasts | TLCS001490BA |
| Fashion One Television Limited | Fashion 4K | TLCS001633BA |
| | F.O. TV | TLCS100266BA |
| | Fashion One | TLCS100818BA |
| Formula One Digital Media Limited | F1 TV | TLCS102383BA |
| France Islam Ltd | France Islam | TLCS001337BA |
| Greener Technology Limited | BEN TV | TLCS001094BA |
| Harmony Media Enterprises (UK) Limited | UKS Fuzion TV | TLCS001292BA |
| Hidayat Welfare Society Ltd | Hidayat Welfare Society | TLCS000914BA |
| IBC TV Limited | Sharqiya TV | TLCS100114BA |
| Imam Hussein Media Group Ltd | Imam Hussein TV 3 | TLCS102112BA |
| IMG Media Ltd | EDGEsport (Belgium, The Netherlands, Slovakia and Czech Republic) | TLCS100371BA |
| | EDGEsport (Bulgaria) | TLCS101836BA |
| | EDGEsport (UK) | TLCS102204BA |
| Immediate Media TV Limited | Jewellery Maker, Sewing Quarter | DTPS101135BA |
| | Jewellery Maker | TLCS001450BA |
| | Sewing Quarter | TLCS102328BA |
| KEEPITCOUNTRY.TV.LTD | Keep it Country | DTPS101491BA |
| | Keep it Country | TLCS101331BA |
| Khalsa Television Limited | KTV | TLCS101501BA |
| LEBARA MEDIA SERVICES LIMITED | Lebara Play Electronic Programme Guide | TLCS100871BA |
| Leeds Trinity University | Trinity Vision | TLCS100470BA |
| Light Upon Light Media Limited | TV ONE | TLCS101194BA |
| Loveworld Limited | Loveworld Television Network | TLCS000787BA |
| Middlesex Broadcasting Corporation Limited | MATV National | TLCS000384BA |
| | Matv Music | TLCS000385BA |
| MUTV Limited | MUTV | TLCS102379BA |

| Licensee | Service Name | Licence Number |
|---|---|---|
| Netplay TV Group Limited | SUPERCASINO.COM | TLCS000786BA |
| NFL Enterprises LLC | NFL Network | TLCS001009BA |
| Number 1 TV and Media Ltd | Fashion One | TLCS001158BA |
| | NR1 | TLCS001180BA |
| | NR1 Turk TV | TLCS101349BA |
| Passion Broadcasting Television Services Limited | Passion TV | TLCS000885BA |
| Perform Investment Limited | DAZN | TLCS101563BA |
| | DAZN Football | TLCS101570BA |
| Polsat Limited | Polsat Volleyball 1 (HD) | TLCS100573BA |
| | Polsat Volleyball 2 | TLCS100574BA |
| | Polsat Volleyball 3 | TLCS100575BA |
| | Polsat Volleyball 4 | TLCS100576BA |
| Pure Media Corporation Limited | TV OKAZJE | TLCS102085BA |
| Red Pepper Television & Media Limited | Party TV | TLCS101057BA |
| | Cinemachi Kids | TLCS101059BA |
| | Cinemachi Movies | TLCS101677BA |
| | Smilie TV | TLCS101678BA |
| Ride Television Network Inc | RIDE TV | TLCS102024BA |
| Runners TV Limited | Iqra Bangla | TLCS001288BA |
| Sports Information Services Limited | SiS+ | TLCS000709BA |
| | SIS Spanish | TLCS001689BA |
| | SIS Europe | TLCS001690BA |
| | SIS2 | TLCS001691BA |
| | SIS ROTW (Rest of the World) | TLCS001692BA |
| | VBC (Virtual Betting Channel) | TLCS001693BA |
| TalkTalk Telecom Group PLC | TalkTalk Player EPG | TLCS001743BA |
| That's Carlisle Limited | That's Cumbria | L-DTPS100725BA |
| That's Hampshire Limited | That's Hampshire | L-DTPS100231BA |
| That's Oxford Limited | That's Oxford | L-DTPS000008BA |
| That's Production Limited | That's York | L-DTPS100089BA |
| That's Salisbury Limited | That's Salisbury | L-DTPS100229BA |
| That's Solent Limited | That's Solent | L-DTPS000007BA |
| | That's Solent | TLCS100799BA |
| That's Surrey Limited | That's Surrey | L-DTPS100232BA |
| Turner Broadcasting System Europe Limited | Warner TV | TLCS102220BA |
| TV Enterprises Limited | NTAI | TLCS000743BA |
| TV Today Network Limited | Aaj Tak | TLCS001076BA |
| TV Warehouse Limited | TV Warehouse | TLCS001730BA |
| United Christian Broadcasters Limited | UCBTV | TLCS000693BA |
| Visionmed Limited | NABA TV | TLCS001591BA |
| Vox Africa Plc | VA TV | TLCS001064BA |
| YourTV Manchester Limited | That's Manchester | L-DTPS000016BA |

| Licensee | Service Name | Licence Number |
|---|---|---|
| YourTV Preston Limited | That's Lancashire | L-DTPS000019BA |

The following licensees failed to pay their annual licence fees by the required payment date. These licensees have therefore breached Condition 3(2) of their licences.

The outstanding payments have now been received by Ofcom. Ofcom will not be taking any further regulatory action in these cases.

| Licensee | Service Name | Licence Number |
|---|---|---|
| U105 LIMITED | U105 | AL000295BA |
| Alpha Radio Ltd | Rathergood Radio | AL100639BA |

### In Breach – non-payment

The following licensees failed to pay their annual licence fees. These licensees have therefore been found in breach of Conditions 4(1) and 4(2) of their licences.

As Ofcom considers these to be a serious and continuing licence breaches, **Ofcom is putting these licensees on notice that this contravention of their licences will be considered for the imposition of a statutory sanction, which may include a financial penalty or revocation of the licence.**

| Licensee | Service Name | Licence Number |
|---|---|---|
| AplusLive Media Limited | Muzik Ankara | TLCS001195BA |
| Cira Media Productions Limited | Cira TV | TLCS001556BA |
| DM Global Media Limited | DM HD | TLCS100193BA |
| Galaxy Television LTD | Galaxy TV | TLCS102196BA |
| Gong Media Limited | Gong Max | TLCS001097BA |
| | Gong | TLCS001754BA |
| KM TV Limited | Top Pop | TLCS001535BA |
| Prime Bangla Limited | Channel i | TLCS001127BA |
| Property TV Broadcasting Limited | Property TV | TLCS100677BA |
| Reflex Media Limited | Sufi Channel | TLCS101698BA |
| Star LLC Limited | Persian Star TV | TLCS001552BA |
| To Sky Limited | AEE TV | TLCS100095BA |
| Wild TV | Wild TV | TLCS001427BA |
| Filmflex Movies Limited | FilmFlex | TLCS000861BA |

The following licensees failed to pay their annual licence fees. These licensees have therefore been found in breach of Conditions 3(1) and 3(2) of their licences.

As Ofcom considers these to be a serious and continuing licence breaches, **Ofcom is putting these licensees on notice that this contravention of their licences will be considered for the imposition of a statutory sanction, which may include a financial penalty or revocation of the licence.**

| Licensee | Service Name | Licence Number |
|---|---|---|
| Cambridge Radio Ltd | Star Radio | AL100763BA |

# Complaints assessed, not investigated

Here are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 4 and 17 February 2019 because they did not raise issues warranting investigation.

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

| Programme | Service | Transmission Date | Categories | Number of complaints |
|---|---|---|---|---|
| 10 Iconic Grammy Moments | 4Music | 10/02/2019 | Offensive language | 1 |
| Fonejacker | 4Music | 25/01/2019 | Generally accepted standards | 1 |
| Cricket: India vs Australia | BT Sport 1 | 29/12/2018 | Race discrimination/offence | 1 |
| Broadcast competition | Capital FM (Birmingham) | 29/01/2019 | Competitions | 1 |
| 24 Hours in A&E | Channel 4 | 05/02/2019 | Gender discrimination/offence | 1 |
| Channel 4 News | Channel 4 | 30/12/2018 | Due accuracy | 1 |
| Channel 4 News | Channel 4 | 30/01/2019 | Due impartiality/bias | 3 |
| Channel 4 News | Channel 4 | 04/02/2019 | Due impartiality/bias | 9 |
| Channel 4 News | Channel 4 | 06/02/2019 | Due impartiality/bias | 1 |
| Channel 4 News | Channel 4 | 09/02/2019 | Due impartiality/bias | 1 |
| Channel 4 News | Channel 4 | 12/02/2019 | Due impartiality/bias | 1 |
| Channel ident | Channel 4 | 27/01/2019 | Due impartiality/bias | 1 |
| Great British Car Journeys | Channel 4 | 02/02/2019 | Offensive language | 1 |
| Great British Car Journeys | Channel 4 | 02/02/2019 | Religious/Beliefs discrimination/offence | 2 |
| Hunted | Channel 4 | 24/01/2019 | Generally accepted standards | 1 |
| Hunted | Channel 4 | 07/02/2019 | Gender discrimination/offence | 3 |
| Hunted | Channel 4 | 07/02/2019 | Materially misleading | 1 |
| Naked Attraction | Channel 4 | 12/02/2019 | Generally accepted standards | 1 |
| Pure | Channel 4 | 30/01/2019 | Generally accepted standards | 1 |
| Ramsay's Kitchen Nightmares USA | Channel 4 | 30/01/2019 | Gender discrimination/offence | 1 |
| SAS: Who Dares Wins | Channel 4 | 27/01/2019 | Gender discrimination/offence | 1 |
| SAS: Who Dares Wins | Channel 4 | 27/01/2019 | Generally accepted standards | 1 |

| Programme | Service | Transmission Date | Categories | Number of complaints |
|---|---|---|---|---|
| SAS: Who Dares Wins | Channel 4 | 27/01/2019 | Offensive language | 1 |
| Training Teachers to Kill | Channel 4 | 04/02/2019 | Information/Warnings | 1 |
| Britain's Parking Hell | Channel 5 | 08/01/2019 | Crime and disorder | 1 |
| Britain's Parking Hell | Channel 5 | 29/01/2019 | Offensive language | 2 |
| Celebrity 5 Go Camping | Channel 5 | 25/01/2019 | Generally accepted standards | 1 |
| Do the Right Thing with Eamonn and Ruth | Channel 5 | 08/02/2019 | Generally accepted standards | 1 |
| Jeremy Vine | Channel 5 | 28/01/2019 | Generally accepted standards | 2 |
| Jeremy Vine | Channel 5 | 04/02/2019 | Generally accepted standards | 1 |
| Jeremy Vine | Channel 5 | 06/02/2019 | Generally accepted standards | 1 |
| Ryanair: Britain's Most Hated Airline? | Channel 5 | 07/02/2019 | Materially misleading | 1 |
| Project Z (trailer) | CITV | 05/02/2019 | Scheduling | 1 |
| Mail on Sunday advertisement | Classic FM | 10/02/2019 | Political advertising | 4 |
| Top Gear | Dave | 07/02/2019 | Offensive language | 1 |
| Yukon Men | Discovery Channel | 21/01/2019 | Animal welfare | 1 |
| Celebs Go Dating (trailer) | E4 | 29/01/2019 | Offensive language | 5 |
| Shipwrecked | E4 | 29/01/2019 | Generally accepted standards | 1 |
| Shipwrecked | E4 | 03/02/2019 | Generally accepted standards | 1 |
| Shipwrecked | E4 | 07/02/2019 | Generally accepted standards | 1 |
| The Coach Trip | E4 | 06/02/2019 | Drugs, smoking, solvents or alcohol | 1 |
| The Sex Clinic | E4 | 28/01/2019 | Materially misleading | 1 |
| Geo News | Geo News | 17/01/2019 | Violence | 1 |
| Rick Stein's French Odyssey | Good Food | 25/01/2019 | Animal welfare | 1 |
| Mail on Sunday advertisement | Heart FM (Plymouth) | 10/02/2019 | Political advertising | 1 |
| Mail on Sunday advertisement | Heart FM (Sussex) | 10/02/2019 | Political advertising | 1 |
| Britain's Top 100 Dogs Live 2019 | ITV | 29/01/2019 | Materially misleading | 1 |
| Call the Cleaners | ITV | 05/02/2019 | Drugs, smoking, solvents or alcohol | 1 |
| Cleaning Up | ITV | 06/02/2019 | Materially misleading | 1 |

| Programme | Service | Transmission Date | Categories | Number of complaints |
|---|---|---|---|---|
| Cleaning Up | ITV | 06/02/2019 | Religious/Beliefs discrimination/offence | 1 |
| Cleaning Up | ITV | 13/02/2019 | Crime and disorder | 3 |
| Coronation Street | ITV | 15/01/2019 | Generally accepted standards | 1 |
| Coronation Street | ITV | 21/01/2019 | Generally accepted standards | 1 |
| Coronation Street | ITV | 30/01/2019 | Generally accepted standards | 1 |
| Coronation Street | ITV | 04/02/2019 | Undue prominence | 1 |
| Coronation Street | ITV | 06/02/2019 | Generally accepted standards | 1 |
| Dancing on Ice | ITV | 03/02/2019 | Generally accepted standards | 5 |
| Dancing on Ice | ITV | 03/02/2019 | Voting | 46 |
| Dancing on Ice | ITV | 10/02/2019 | Generally accepted standards | 2 |
| Emmerdale | ITV | 31/01/2019 | Generally accepted standards | 1 |
| Emmerdale | ITV | 06/02/2019 | Advertising minutage | 1 |
| Emmerdale | ITV | 07/02/2019 | Generally accepted standards | 7 |
| Emmerdale | ITV | 08/02/2019 | Generally accepted standards | 3 |
| Emmerdale | ITV | 11/02/2019 | Generally accepted standards | 1 |
| Good Morning Britain | ITV | 23/01/2019 | Generally accepted standards | 1 |
| Good Morning Britain | ITV | 24/01/2019 | Generally accepted standards | 1 |
| Good Morning Britain | ITV | 29/01/2019 | Generally accepted standards | 21 |
| Good Morning Britain | ITV | 04/02/2019 | Generally accepted standards | 6 |
| Good Morning Britain | ITV | 04/02/2019 | Scheduling | 1 |
| Good Morning Britain | ITV | 05/02/2019 | Generally accepted standards | 5 |
| Good Morning Britain | ITV | 06/02/2019 | Generally accepted standards | 6 |
| Good Morning Britain | ITV | 11/02/2019 | Generally accepted standards | 1 |
| Good Morning Britain | ITV | 11/02/2019 | Race discrimination/offence | 1 |
| Good Morning Britain | ITV | 12/02/2019 | Nudity | 4 |
| ITV News | ITV | 04/01/2019 | Generally accepted standards | 7 |

| Programme | Service | Transmission Date | Categories | Number of complaints |
|---|---|---|---|---|
| ITV News | ITV | 23/01/2019 | Due impartiality/bias | 1 |
| ITV News | ITV | 24/01/2019 | Generally accepted standards | 1 |
| ITV News | ITV | 01/02/2019 | Due impartiality/bias | 3 |
| ITV News | ITV | 03/02/2019 | Due accuracy | 1 |
| ITV News | ITV | 05/02/2019 | Due impartiality/bias | 1 |
| ITV News | ITV | 12/02/2019 | Generally accepted standards | 1 |
| Loose Women | ITV | 30/01/2019 | Generally accepted standards | 1 |
| Loose Women | ITV | 30/01/2019 | Materially misleading | 1 |
| Loose Women | ITV | 01/02/2019 | Generally accepted standards | 1 |
| Loose Women | ITV | 05/02/2019 | Generally accepted standards | 1 |
| Loose Women | ITV | 05/02/2019 | Race discrimination/offence | 1 |
| Lorraine | ITV | 30/01/2019 | Generally accepted standards | 6 |
| Mail on Sunday advertisement | ITV | 09/02/2019 | Political advertising | 3 |
| Peston | ITV | 23/01/2019 | Due impartiality/bias | 1 |
| Six Nations Rugby: Ireland v England | ITV | 02/02/2019 | Generally accepted standards | 4 |
| Tenable | ITV | 04/02/2019 | Competitions | 2 |
| The Chase | ITV | 04/02/2019 | Fairness | 1 |
| The Jeremy Kyle Show | ITV | 04/02/2019 | Generally accepted standards | 1 |
| The Jeremy Kyle Show | ITV | 06/02/2019 | Generally accepted standards | 1 |
| The Voice UK | ITV | 02/02/2019 | Race discrimination/offence | 1 |
| This Morning | ITV | 31/01/2019 | Generally accepted standards | 2 |
| This Morning | ITV | 01/02/2019 | Disability discrimination/offence | 2 |
| This Morning | ITV | 04/02/2019 | Gender discrimination/offence | 1 |
| This Morning | ITV | 06/02/2019 | Materially misleading | 1 |
| This Morning | ITV | 07/02/2019 | Animal welfare | 1 |
| Through the Keyhole | ITV | 26/01/2019 | Generally accepted standards | 1 |
| ITV News Central | ITV Central | 28/01/2019 | Gender discrimination/offence | 108 |

| Programme | Service | Transmission Date | Categories | Number of complaints |
|---|---|---|---|---|
| ITV News Granada Reports | ITV Granada | 01/02/2019 | Generally accepted standards | 1 |
| ITV News Meridian (trailer) | ITV Meridian | 31/01/2019 | Violence | 1 |
| ITV News Calendar | ITV Yorkshire | 25/01/2019 | Generally accepted standards | 1 |
| You've Been Framed | ITV2 | 31/01/2019 | Generally accepted standards | 1 |
| Law and Order: UK | ITV3 | 31/01/2019 | Product placement | 1 |
| Outsiders | Kanal 11 (Sweden) | 24/01/2019 | Sexual material | 1 |
| Kaum Di Dastaan | KTV | 19/01/2019 | Hatred and abuse | 3 |
| James O'Brien | LBC 97.3FM | 24/01/2019 | Due impartiality/bias | 1 |
| James O'Brien | LBC 97.3FM | 25/01/2019 | Generally accepted standards | 3 |
| James O'Brien | LBC 97.3FM | 29/01/2019 | Due accuracy | 2 |
| James O'Brien | LBC 97.3FM | 30/01/2019 | Generally accepted standards | 1 |
| James O'Brien | LBC 97.3FM | 07/02/2019 | Due impartiality/bias | 1 |
| James O'Brien | LBC 97.3FM | 07/02/2019 | Generally accepted standards | 1 |
| James O'Brien | LBC 97.3FM | 12/02/2019 | Due accuracy | 1 |
| Maajid Nawaz | LBC 97.3FM | 26/01/2019 | Due accuracy | 1 |
| Nick Ferrari | LBC 97.3FM | 05/02/2019 | Materially misleading | 1 |
| Nick Ferrari | LBC 97.3FM | 05/02/2019 | Race discrimination/offence | 1 |
| Nigel Farage | LBC 97.3FM | 23/01/2019 | Due impartiality/bias | 1 |
| Nigel Farage | LBC 97.3FM | 07/02/2019 | Due impartiality/bias | 1 |
| Nigel Farage | LBC 97.3FM | Various | Due impartiality/bias | 1 |
| Steve Allen | LBC 97.3FM | 04/02/2019 | Crime and disorder | 1 |
| Steve Allen | LBC 97.3FM | 05/02/2019 | Sexual orientation discrimination/offence | 1 |
| Steve Allen | LBC 97.3FM | 08/02/2019 | Generally accepted standards | 1 |
| John Marshall | Lincs FM 102.2 | 23/01/2019 | Generally accepted standards | 1 |
| Broadcast competition | MFR | 13/02/2019 | Competitions | 1 |
| Advertising minutage | Quest | 04/02/2019 | Advertising minutage | 1 |
| Wake up with Webbo | Radio Ashford | 21/01/2019 | Offensive language | 1 |
| Scott Gallagher | Radio Wave Blackpool | 30/01/2019 | Generally accepted standards | 1 |
| The Chris Moyles Show | Radio X | 29/01/2019 | Disability discrimination/offence | 1 |
| Fat Families | Real Lives | 06/02/2019 | Generally accepted standards | 1 |

| Programme | Service | Transmission Date | Categories | Number of complaints |
|---|---|---|---|---|
| All Out Politics | Sky News | 01/02/2019 | Due impartiality/bias | 1 |
| All Out Politics | Sky News | 04/02/2019 | Due impartiality/bias | 1 |
| Shades of Blue (trailer) | Sky News | 04/02/2019 | Sexual material | 1 |
| Sky News | Sky News | 23/01/2019 | Generally accepted standards | 2 |
| Sky News | Sky News | 30/01/2019 | Due impartiality/bias | 1 |
| Sky News | Sky News | 31/01/2019 | Due impartiality/bias | 1 |
| Sky News | Sky News | 04/02/2019 | Generally accepted standards | 1 |
| Sky News | Sky News | 06/02/2019 | Due impartiality/bias | 1 |
| Sky News | Sky News | 07/02/2019 | Generally accepted standards | 2 |
| Sky News | Sky News | Various | Due impartiality/bias | 1 |
| World View | Sky News | 06/02/2019 | Due impartiality/bias | 1 |
| Football League: Leeds United v Derby County | Sky Sports Football | 11/01/2019 | Offensive language | 1 |
| Good Morning Sports Fans | Sky Sports News | 12/01/2019 | Materially misleading | 1 |
| Good Morning Sports Fans | Sky Sports News | 14/01/2019 | Generally accepted standards | 1 |
| Sky Sports News at 10 | Sky Sports News | 07/02/2019 | Generally accepted standards | 1 |
| Race Day Live | Sky Sports Racing | 10/01/2019 | Promotion of products/services | 1 |
| Just Another Immigrant | Sky1 | 30/01/2019 | Generally accepted standards | 1 |
| Rob and Romesh vs the NFL | Sky1 | 01/02/2019 | Race discrimination/offence | 1 |
| Rob and Romesh vs the NFL | Sky1 | 07/02/2019 | Race discrimination/offence | 1 |
| The Killer Inside Me | Sony Movie Channel | 04/02/2019 | Violence | 1 |
| News | Spire FM | 04/02/2019 | Due accuracy | 1 |
| Studio 66 TV | Studio 66 TV | 14/01/2019 | Participation TV - Harm | 1 |
| The Late Night Alternative with Iain Lee | Talk Radio | 31/12/2018 | Generally accepted standards | 1 |
| The Late Night Alternative with Iain Lee | Talk Radio | 02/01/2019 | Generally accepted standards | 1 |
| Drivetime | Talksport | 05/02/2019 | Generally accepted standards | 1 |
| The Warm Up | Talksport | 03/02/2019 | Generally accepted standards | 1 |

| Programme | Service | Transmission Date | Categories | Number of complaints |
|---|---|---|---|---|
| Broadcast competition | Tay FM | 14/02/2019 | Competitions | 1 |
| Community Hour | Vintage Music Radio (Darlington) | 07/02/2019 | Materially misleading | 1 |
| Virgin Breakfast Show | Virgin Radio | 09/01/2019 | Generally accepted standards | 1 |
| Dr Christian: Special Clinics | W | 04/02/2019 | Materially misleading | 3 |
| Emma Willis: Delivering Babies | W | 31/01/2019 | Materially misleading | 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 | Service | Transmission Date | Categories | Number of complaints |
|---|---|---|---|---|
| Breakfast | BBC 1 | 13/08/2018 | Due impartiality/bias | 1 |
| Question Time | BBC 1 | 31/01/2019 | Due impartiality/bias | 1 |
| The One Show | BBC 1 | 08/10/2018 | Due impartiality/bias | 1 |
| BBC Brexit coverage | BBC channels | Various | Due impartiality/bias | 1 |
| Programming | BBC channels | Various | Due impartiality/bias | 1 |
| Broadcasting House | BBC Radio 4 | 22/07/2018 | Due impartiality/bias | 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

Here is an alphabetical list of complaints that, after careful assessment, Ofcom has decided not to pursue between 4 and 17 February 2019 because they did not raise issues warranting investigation.

| Licensee | Licensed service | Categories | Number of complaints |
|---|---|---|---|
| Andover Radio Limited | Andover Radio | Other | 2 |

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 assessed under the Procedures for investigating breaches of rules for On Demand programme services

| Service provider | Categories | Number of complaints |
|---|---|---|
| Euronews | Due impartiality/bias | 1 |

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

# Complaints 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 that does not fall within the scope of regulation.

| Programme | Service | Transmission Date | Categories | Number of complaints |
|---|---|---|---|---|
| Advertisement | All 4 | 01/02/2019 | Advertising content | 1 |
| Programming | Babestation | n/a | Outside of remit | 1 |
| BBC | BBC | 14/01/2019 | Other | 1 |
| NFL: Super Bowl | BBC 1 | 04/02/2019 | Outside of remit | 1 |
| Programming | BBC channels | Various | Outside of remit | 1 |
| 5 Live Sport | BBC Radio 5 Live | 09/02/2019 | Outside of remit | 1 |
| Live Champions League Football: Manchester United v Paris Saint-Germain | BT Sport 2 | 12/02/2019 | Outside of remit | 1 |
| Advertisement | Capital FM | 02/02/2019 | Advertising content | 1 |
| Advertisement | Channel 4 | 03/02/2019 | Advertising content | 1 |
| Dispatches – Grenfell: Did the Fire Brigade Fail? | Channel 4 | 18/02/2019 | Outside of remit | 6 |
| Advertisement | Channel 5 | 03/01/2019 | Advertising content | 1 |
| Advertisement | Channel 5 | 04/02/2019 | Advertising content | 1 |
| Advertisement | Channel 5 | 11/02/2019 | Advertising content | 1 |
| Neighbours | Channel 5 | 04/02/2019 | Outside of remit | 1 |
| Advertisement | Drama | 05/02/2019 | Advertising content | 1 |
| Advertisement | Home | 05/02/2019 | Advertising content | 1 |
| Travel with a Goat | Insight HD | 09/02/2019 | Outside of remit | 1 |
| Advertisement | ITV | 03/02/2019 | Advertising content | 2 |
| Advertisement | ITV | 10/02/2019 | Advertising content | 1 |
| Britain's Got Talent | ITV | n/a | Outside of remit | 1 |
| Good Morning Britain | ITV | 04/02/2019 | Outside of remit | 1 |
| Fantastic Beasts and Where to Find Them | ITV2 | 28/01/2019 | Advertising content | 1 |
| Advertisement | ITV3 | 01/02/2019 | Advertising content | 1 |
| Snooker Grand Prix | ITV4 | 08/02/2019 | Outside of remit | 1 |
| Advertisement | n/a | n/a | Advertising content | 1 |
| Polar | Netflix | 30/01/2019 | Violence | 1 |
| Advertisement | Sky | 05/02/2019 | Advertising content | 1 |
| Advertisements | Sky News | 24/01/2019 | Advertising content | 1 |
| Advertisement | Talk Radio | 08/02/2019 | Advertising content | 1 |
| Captain Phillips | TV3 (Sweden) | 26/01/2019 | Outside of remit | 1 |
| Go Jetters | Universal Kids | 13/02/2019 | Outside of remit | 1 |
| Advertisement | W | 03/02/2019 | Advertising content | 1 |

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

# BBC First

The BBC Royal Charter and Agreement was published in December 2016, which made Ofcom the 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 |
|---|---|---|---|---|
| BBC Breakfast | BBC 1 | 06/02/2019 | Race discrimination/offence | 1 |
| BBC London News | BBC 1 | 07/02/2019 | Due impartiality/bias | 1 |
| BBC News | BBC 1 | 30/01/2019 | Race discrimination/offence | 1 |
| BBC News | BBC 1 | 31/01/2019 | Due impartiality/bias | 1 |
| BBC News | BBC 1 | 01/02/2019 | Due impartiality/bias | 1 |
| BBC News | BBC 1 | 01/02/2019 | Generally accepted standards | 1 |
| BBC News | BBC 1 | 07/02/2019 | Due impartiality/bias | 1 |
| BBC News | BBC 1 | 10/02/2019 | Due impartiality/bias | 1 |
| BBC News | BBC 1 | 13/02/2019 | Animal welfare | 1 |
| Breakfast | BBC 1 | 06/02/2019 | Scheduling | 1 |
| Breakfast | BBC 1 | 13/02/2019 | Violence | 1 |
| Call the Midwife | BBC 1 | 03/02/2019 | Materially misleading | 1 |
| Casualty | BBC 1 | 09/02/2019 | Violence | 1 |
| Dr Who | BBC 1 | 02/02/2019 | Religious/Beliefs discrimination/offence | 1 |
| Moving On | BBC 1 | 05/02/2019 | Offensive language | 1 |
| Party Political Broadcast by the Labour Party | BBC 1 | 13/02/2019 | Materially misleading | 1 |
| Question Time | BBC 1 | 17/01/2019 | Due impartiality/bias | 1 |
| Question Time | BBC 1 | 17/01/2019 | Generally accepted standards | 1 |
| Question Time | BBC 1 | 31/01/2019 | Due impartiality/bias | 1 |
| Question Time | BBC 1 | 07/02/2019 | Due impartiality/bias | 34 |
| Six Nations Rugby: France v Wales | BBC 1 | 01/02/2019 | Due impartiality/bias | 1 |
| Six Nations Rugby: France v Wales | BBC 1 | 01/02/2019 | Flashing images/risk to viewers who have PSE | 1 |
| South Today | BBC 1 | 12/02/2019 | Generally accepted standards | 1 |

| Programme | Service | Transmission or Accessed Date | Categories | Number of Complaints |
|---|---|---|---|---|
| The British Academy Film Awards | BBC 1 | 10/02/2019 | Due impartiality/bias | 1 |
| Newsnight | BBC 2 | 07/02/2019 | Due impartiality/bias | 1 |
| BBC News | BBC channels | 23/06/2016 | Due impartiality/bias | 1 |
| BBC News | BBC channels | 31/01/2019 | Due impartiality/bias | 1 |
| BBC News | BBC channels | Various | Due impartiality/bias | 1 |
| Programming | BBC channels | 01/01/2019 | Due impartiality/bias | 1 |
| Programming | BBC channels | Various | Due impartiality/bias | 14 |
| Question Time | BBC iPlayer | 03/02/2019 | Due impartiality/bias | 1 |
| BBC News | BBC News Channel | 24/01/2019 | Due impartiality/bias | 1 |
| BBC News | BBC News Channel | 28/01/2019 | Due accuracy | 1 |
| BBC News | BBC News Channel | Various | Due impartiality/bias | 1 |
| Radio 1's Dance Anthems | BBC Radio 1 | 05/01/2019 | Commercial communications on radio | 1 |
| Jeremy Vine | BBC Radio 2 | 30/01/2019 | Due accuracy | 1 |
| Jeremy Vine | BBC Radio 2 | 07/02/2019 | Generally accepted standards | 1 |
| 19 Weeks | BBC Radio 4 | 19/01/2019 | Disability discrimination/offence | 1 |
| Mark Steel's in Town | BBC Radio 4 | 07/02/2019 | Offensive language | 1 |
| Today | BBC Radio 4 | 18/01/2019 | Due accuracy | 1 |
| Woman's Hour | BBC Radio 4 | 09/02/2019 | Sexual material | 1 |
| Show Me Show Me | CBeebies | 04/02/2019 | Offensive language | 1 |
| BBC News | Various | 06/02/2019 | Due impartiality/bias | 1 |
| Programming | Various | 12/02/2019 | Due impartiality/bias | 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 February 2019.

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

| Programme | Service | Transmission date |
|---|---|---|
| Programming | Channels24 | Various |
| Six Nations Rugby: Ireland v England | ITV | 02/02/2019 |
| LAPD African Cops | ROK | 24/01/2019 |
| Extremely British Muslims | Together | 12/01/2019 |

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 |
|---|---|---|
| STV News | STV | 01/11/2018 |

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 Procedures for the consideration and adjudication of BBC Fairness and Privacy complaints

| Programme | Service | Transmission date |
|---|---|---|
| Disclosure: The Dark Side of Dairy | BBC 1 Scotland | 10/09/2018 |

For information about how Ofcom considers and adjudicates upon Fairness and Privacy complaints on BBC Broadcasting Services and BBC ODPS, go to: https://www.ofcom.org.uk/__data/assets/pdf_file/0003/100101/Procedures-for-the-consideration-and-adjudication-of-Fairness-and-Privacy-complaints.pdf

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

| **Licensee** | **Licensed Service** |
|---|---|
| The Funky Academy Ltd | Funky SX |

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