

Ofcom Broadcast Bulletin

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Introduction

Under the Communications Act 2003, Ofcom has a duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives¹, Ofcom must include these standards in a code or codes. These are listed below.

The Broadcast Bulletin reports on the outcome of investigations into alleged breaches of those Ofcom codes, as well as licence conditions with which broadcasters regulated by Ofcom are required to comply. These include:

- a) Ofcom's Broadcasting Code ("the Code"), which, can be found at: <http://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/broadcast-code/>.
- b) the Code on the Scheduling of Television Advertising ("COSTA") which contains rules on how much advertising and teleshopping may be scheduled in programmes, how many breaks are allowed and when they may be taken. COSTA can be found at: <http://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/advert-code/>.
- c) certain sections of the BCAP Code: the UK Code of Broadcast Advertising, which relate to those areas of the BCAP Code for which Ofcom retains regulatory responsibility. These include:
 - the prohibition on 'political' advertising;
 - sponsorship and product placement on television (see Rules 9.13, 9.16 and 9.17 of the Code) and all commercial communications in radio programming (see Rules 10.6 to 10.8 of the Code);
 - 'participation TV' advertising. This includes long-form advertising predicated on premium rate telephone services – most notably chat (including 'adult' chat), 'psychic' readings and dedicated quiz TV (Call TV quiz services). Ofcom is also responsible for regulating gambling, dating and 'message board' material where these are broadcast as advertising².

The BCAP Code is at: www.bcap.org.uk/The-Codes/BCAP-Code.aspx

- d) other licence conditions which broadcasters must comply with, such as requirements to pay fees and submit information which enables Ofcom to carry out its statutory duties. Further information on television and radio licences can be found at: <http://licensing.ofcom.org.uk/tv-broadcast-licences/> and <http://licensing.ofcom.org.uk/radio-broadcast-licensing/>.

Other codes and requirements may also apply to broadcasters, depending on their circumstances. These include 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. Links to all these codes can be found at: <http://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/>

It is Ofcom's policy to describe fully the content in television and radio programmes that is subject to broadcast investigations. Some of the language and descriptions used in Ofcom's Broadcast Bulletin may therefore cause offence.

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

² 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

Standards cases

In Breach

To the Stage: Eminem

Flava, 7 December 2011, 18:00

Introduction

Flava is a music television channel specialising in rap, RnB and hip-hop. It is owned and operated by CSC Media Group (“CSC” or “the Licensee”).

A complainant alerted Ofcom to the use of the words “motherfucking”, “fucking”, and two uses of the word “fuck” in the pre-watershed broadcast of the music video for the song “The Way I Am” by Eminem.

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

“The most offensive language must not be broadcast before the watershed (in the case of television) ...”.

We therefore sought comments from the Licensee as to how the material complied with this Code rule.

Response

The Licensee apologised for any distress caused by the broadcast of this material. CSC explained that the video was “compiled by our in-house team a number of years ago” and “should have been flagged and the offensive lyrics edited out.” It added that as a safeguard it “immediately pulled back the videos compiled in this same batch as well as videos by the same artist and recompiled them.”

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, one of which is that “persons under the age of eighteen are protected”. This objective is reflected in Section One of the Code.

Rule 1.14 states that the most offensive language must not be broadcast before the watershed. Ofcom research on offensive language¹ makes clear that the words “motherfucker” and “fuck” and variations of these words are considered by audiences to be amongst the most offensive language. Such language is unacceptable before the watershed, whatever the audience profile of the channel.

Rule 1.14 of the Code states unequivocally that “the most offensive language must not be broadcast before the watershed...”. The broadcast of four instances of the most offensive language in this music video before the watershed was therefore in breach of Rule 1.14.

¹ Audience attitudes towards offensive language on television and radio, August 2010 (<http://stakeholders.ofcom.org.uk/binaries/research/tv-research/offensive-lang.pdf>)

Ofcom noted the actions taken by the Licensee to ensure that potentially problematic material would not be broadcast again. However, broadcasters are under a clear duty to ensure that robust procedures are in place to ensure compliance with the Code. Ofcom does not expect any recurrence of these issues on services whose licences are held by CSC.

Ofcom takes this opportunity to remind the Licensee and all other television broadcasters that it has recently published guidance on material broadcast before the watershed, which is available on the Ofcom website at:

<http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/watershed-on-tv.pdf>.

Breach of Rule 1.14

In Breach

Eyewitness

Ahlulbayt TV, 27 September 2011, 18:30

Introduction

Ahlulbayt TV is a satellite television channel serving the Shi'a Muslim community in the UK. The licence for Ahlulbayt TV is held by Ahlulbayt Television Network Ltd ("ATNL" or "the Licensee"). *Eyewitness* is a current affairs programme that contains lengthy interviews about topics of political interest.

A viewer alerted Ofcom to a programme featuring Agha Murtaza Poya, a Pakistani politician and journalist. In this programme, Agha Murtaza Poya talked about various geo-political issues, and his contribution included a critique of US foreign policy in relation to, for example, Afghanistan, Iran and Israel/Palestine. The viewer considered that the programme:

- incited hatred towards countries such as the USA; and
- presented no alternative point of view to that expressed by Agha Murtaza Poya.

Ofcom noted that the programme featured Agha Murtaza Poya speaking at length about his views on the conflicts in the Middle East, the US presence there, the spread of Islam and the future of Israel. The programme consisted of Agha Murtaza Poya giving answers to a range of questions. The programme did not include the voice of the interviewer. Instead the questions asked in the interview were included in voiceover as part of the programme commentary.

We noted that the programme included a range of statements from Agha Murtaza Poya, including the following, which could be interpreted as being highly critical, in particular, of: the foreign policies of the USA:

"I would certainly want all these regimes to start showing a more human face - whether it is an Assad or a Gaddafi or anybody - but the crimes being committed by the so-called international community - that is worse than anything else."

"They [the US] didn't fail, they didn't go in for anything else. They didn't fail in Iraq. They beat the daylight out of the Iraqi society, and fractured it, gave it multiple fractures, so therefore... but it's bought Israel ten years, and that was the purpose of going in."

"Till now, US policy is Zionocentric. How to protect Israel, how to perpetuate Israel. This has been their policy. And unless they make a metamorphical [sic] change on that, you can get no stability at all."

"NATO is a fig leaf. It is the US that is down there [in Afghanistan]."

“War on Terror – this is just a cover. This is just a cover and there’s no question – we know how much these same terrorists¹ even today are being helped by the US.”

“They [the US] basically don’t want neither Pakistan, nor Iran, nor Afghanistan to emerge as sovereign states. They’re trying to hem them in, one after another.”

“If the US people... are truly educated into the crimes that... successive US governments have committed in trying to protect the Zionist entity... I think the truth will come out and people will revolt against the whole policy.”

[Asked by the interviewer why he believes that the US pursues such Zionocentric policies]: *“I think... it’s just the unholy alliance between the Zionists and the WASPs², which is going to finally break down.”*

“They [the USA] have been pursuing a criminal policy for the last sixty five years. After World War Two, they’ve been merciless. They’ve been criminals. And really, if anybody deserves to have cases instituted against them in the International Criminal Court of Justice, I think it’s the US.”

“Finally, the toll will catch up with them [the USA]. It’s caught up previously with other empires, it’ll catch up with them also.”

“The biggest problem is India which is being beefed up by the US on every issue... hopefully the Indians, wisdom will dawn upon them and they won’t get dragged into the thing. Hopefully, but we have seen then how the Indians have faced the Chinese. They have just slunk back. They refuse to take them on any issue.”

Ofcom considered that the programme raised issues warranting investigation under Rule 5.5 (due impartiality) of the Code, which states that:

“Due impartiality on matters of political or industrial controversy and matters relating to current public policy must be preserved on the part of any person providing a service.... This may be achieved within a programme or over a series of programmes taken as a whole.”

We therefore sought ATNL’s comments on how this material complied with this rule.

Response

ATNL stated that it was dedicated to adhering to Ofcom’s rules and that it has “displayed a consistent approach towards providing impartiality.”

The Licensee said that Agha Murtaza Poya is a prominent Pakistani politician and journalist and that “his views are not necessarily those of [ATNL] despite his expertise in his chosen area.”

¹ Ofcom understood this to be a generic reference to the Afghan terrorists targeted by the US-led War on Terror.

² An acronym for “White Anglo Saxon Protestant”.

The Licensee argued that Agha Murtaza Poya's views were not presented unopposed in the programme, as "any particular view points presented by the guest" were challenged through questions included in the voiceover to the programme. According to the Licensee, this editorial technique meant that "every point made by Mr Poya is dissected, critiqued, and challenged to him in the form of a new question. Although he is the only visible person on the show, his opinion is far from being the only one on view. Repeatedly, the questions put to him bring in multiple narratives and facts as claimed by other parties in the issues being discussed". The Licensee stated that its "approach sought to provide impartiality by pointing out the flaws in the argument being made by the guest".

The Licensee said that "*Eyewitness* has a track record of covering important and controversial topics, while attempting to maintain a balance through the use of a presenter". The episode of *Eyewitness* that preceded the original transmission³ of the episode being investigated by Ofcom related to "the Burqa ban in France, where the guest was a Muslim woman arguing that the ban should be upheld". In addition, ATNL added that "when it comes to US policy in the Middle East, one of our earlier episodes that aired in September 2010 had Professor Rosemary Hollis from the City University [London] as a guest." The Licensee said these two previous programmes demonstrated that "as well as attempting to maintain due impartiality over the course of an episode, we have also endeavoured to maintain an impartial stance over the course of a series of programmes".

However, due to the potential of the format of *Eyewitness* being "misconstrued", the Licensee said that it would now change the format of *Eyewitness* so that "the presenter is always visible and the questions being asked...are shown onscreen, so that viewers do not feel that there is only one view being presented". In so doing, the Licensee anticipated that "this will reduce the potential for a false impression that the guest is being allowed to present their views unchallenged. This will also help the viewer see how the guest is being challenged face to face by the questioner".

In conclusion, the Licensee said that: the producer of the programme in this case would be receiving further training on compliance with the Code; and that all past episodes of *Eyewitness* would be reviewed "in light of the issues raised".

Decision

Under the Communications Act 2003, Ofcom has a duty to ensure that due impartiality is preserved within television and national radio services on matters of political or industrial controversy and matters relating to current public policy. This duty is reflected in Section Five of the Code.

In particular, Rule 5.5 states that: "Due impartiality on matters of political or industrial controversy and matters relating to current public policy must be preserved on the part of any person providing a service.... This may be achieved within a programme or over a series of programmes taken as a whole."

When applying the requirement to preserve due impartiality, Ofcom must take into account the broadcaster's and audience's right to freedom of expression. This is set out in Article 10 of the European Convention on Human Rights. Article 10 provides for the right of freedom of expression, which encompasses the right to hold opinions

³ The Licensee stated that the edition of *Eyewitness* in the present case was originally transmitted on 26 April 2011.

and to receive and impart information and ideas without interference by public authority.

The broadcaster's right to freedom of expression is therefore not absolute. In carrying out its duties, Ofcom must balance the right to freedom of expression on one hand, with the requirement in the Code to preserve "due impartiality" on matters relating to political or industrial controversy or matters relating to current public policy. Ofcom recognises that Section Five of the Code, which sets out how due impartiality must be preserved, acts to limit, to some extent, freedom of expression. This is because its application necessarily requires broadcasters to ensure that neither side of a debate relating to matters of political or industrial controversy and matters relating to current public policy is unduly favoured. Therefore, while any Ofcom licensee should have the freedom to discuss any controversial subject or include particular points of view in its programming, in doing so broadcasters must always comply with the Code. Further, in reaching decisions concerning due impartiality, Ofcom underlines that the broadcasting of highly critical comments concerning the policies and actions of any government or state is not, in itself, a breach of due impartiality. Any broadcaster may do this provided it complies with the Code. However, depending on the specific circumstances of any particular case, it may be necessary to reflect alternative viewpoints in an appropriate way in order to ensure that Section Five is complied with.

Ofcom first considered whether the requirements of Section Five of the Code should be applied. That is, whether the subject matter of the programme concerned matters of political or industrial controversy or a matter relating to current public policy.

In this case, we considered that through the content of the interview with Agha Murtaza Poya, the programme dealt with particular aspects of US foreign policy, including, for example, the actions and policies of the USA in relation to the Middle East and Afghanistan. For example, we noted that Agha Murtaza Poya variously described US foreign policy as: "*Zionocentric*"; "*trying to protect the Zionist entity*"; and being "*a criminal policy*". He also laid out, in his view, some of the USA's foreign policy aims as, for example, not wanting "*Pakistan, nor Iran, nor Afghanistan to emerge as sovereign states*".

Ofcom therefore considered that the programme dealt with a matter of political controversy and matter relating to relating to current public policy. Rule 5.5 was therefore applicable. In summary, the programme included a large number of statements that Ofcom considered to be highly critical of, in particular, the USA and its foreign policy in the Middle East, Pakistan and Afghanistan.

In assessing whether due impartiality has been applied in this case, the term "due" is important. Under the Code, it means adequate or appropriate to the subject and nature of the programme. "Due impartiality" does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. Due impartiality may be preserved in a number of ways and it is an editorial decision for the broadcaster as to how it ensures due impartiality is maintained.

This programme consisted entirely of an interview with Agha Murtaza Poya. We noted that ATNL argued that "any particular view points presented by the guest" were challenged through questions included in the voiceover to the programme, including the following:

- 1) After Agha Murtaza Poya said: *“But the crimes being committed by the so-called international community. That is worse than anything else. And the only way out is to stop trying to hem in the Islamic Republic of Iran. Stop trying to hem in the Islamic forces. Then once that decision is taken, all these so-called dictators over the last 30 or 40 years, they’ll all disappear”.*

This was followed by a question put by the voiceover: *“It is seductive to imagine the rise of a global Islamic ethos in the wake of a resolved Palestine, but what about the facts on the ground? We asked Mr. Poya if he believed the Taliban can be expected to set up a government and stop the chaos in the country [Afghanistan] should the foreign troops leave.”*

- 2) After Agha Murtaza Poya said: *“So these adventures and misadventures [the USA] are going in for: firstly, the toll will catch up with them. It has caught up previously with other empires. It will catch up with them also.”*

The voiceover then said *“But this purported clash between the West and Islam has seen great violence in the Muslim world over the past thirty years. Over that time, countries like Afghanistan and Pakistan have consistently seen war and have come to a point where they consistently weaponise [sic] and militarise at the expense of intellectual and ideological growth. Is there not a fear that even if the Americans leave, these countries will cannibalise themselves rather than coming together under the banner of an Islamic ethos?”*

- 3) After Agha Murtaza Poya said: *“All these crimes that have been committed [by the US], have been committed in Algeria, in Palestine, in Lebanon, everywhere, is only, has only, been to protect the Zionist entity”.*

The voiceover then said: *“It’s all well and good to speak of moral high grounds, but how far can we take those?”*

We considered that the questions included in the voiceover did, to some limited extent, clarify or add context to the viewpoints being expressed by Agha Murtaza Poya. In our view however these questions served principally to highlight geo-political issues relating to various nations, such as Palestine, Pakistan and Afghanistan; and served as a means of punctuating the points being made by the interviewee. None of the questions included in the voiceover could reasonably be said to reflect the viewpoint of the US Government in relation to its foreign policy in the Middle East, Pakistan and Afghanistan.

In our view, taken overall this programme contained a range of statements that were highly critical of various aspects of US foreign policy, but did not include any views that could reasonably be said to reflect the viewpoint of the US Government in relation to its foreign policy and that countered the points being made by Agha Murtaza Poya.

Ofcom noted the Licensee’s submission that it had achieved due impartiality through two preceding episodes of *Eyewitness*. We disagreed. In the programme immediately preceding the one in question, there was a discussion about the ban introduced in France on the wearing of the Burqa in public places, and this discussion did not refer to US foreign policy. In the second example cited by the Licensee, although Professor Rosemary Hollis appeared in an edition of *Eyewitness* concerning “US policy in the Middle East” broadcast in September 2010, ATNL did not state how, and from what perspective Professor Rosemary Hollis discussed US foreign policy so as

to represent in some way the viewpoint of the US Government. In any case, even assuming that Professor Rosemary Hollis had expressed views opposing the opinions expressed by Agha Murtaza Poya in the present case, Ofcom considered that the interval of approximately a year between the two episodes meant that they could not reasonably be considered to be part of “a series of programmes taken as whole.” The meaning of this phrase is set out in Rule 5.5 of the Code as “more than one programme in the same service, editorially linked, dealing with the same or related issues within an appropriate period and aimed at a like audience”. The two programmes referred to by the Licensee clearly did not meet all these criteria.

The programme when considered alone gave a one-sided view on this matter of political controversy. Further, the broadcaster did not provide any evidence of views of the US Government on this issue being included in a series of programmes taken as a whole (i.e. more than one programme in the same service, editorially linked, dealing with the same or related issues within an appropriate period and aimed at a like audience). Ofcom therefore considered the programme to be in breach of Rule 5.5 of the Code.

As referred to above, the broadcasting of highly critical comments concerning the policies and actions of any state (such as happened here with the USA) is not, in itself, a breach of due impartiality. It is essential that current affairs programmes are able to explore and examine controversial issues and contributors are able to take a robust and highly critical position. However, depending on the specific circumstances of any particular case, it may be necessary to reflect alternative viewpoints in an appropriate way in order to ensure due impartiality is preserved.

Ofcom is concerned that this breach of Rule 5.5 comes only a few months after a similar breach by the Licensee of the due impartiality requirements of the Code⁴. Ofcom is therefore requiring the Licensee to attend a meeting to explain its compliance procedures in this area. The Licensee is put on notice that any further similar contraventions of the Code will be considered for further regulatory action by Ofcom.

Breach of Rule 5.5

⁴ See Ofcom Broadcast Bulletin 185, 4 July 2011 (<http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb185/obb185.pdf>).

Advertising Scheduling Findings

In Breach

Advertising minutage

ARY Qtv, 9 October 2011, 06:00

Introduction

Rule 4 of the Code on the Scheduling of Television Advertising (“COSTA”) states:

“time devoted to television advertising and teleshopping spots on any channel in any one hour must not exceed 12 minutes.”

Ofcom received a complaint about advertising scrolling across the bottom of the image seen on screen. Such advertising is permitted in television programmes providing it is kept distinct from editorial content. Scrolling advertising is subject to COSTA and must not exceed the 12 minute allowance in a single clock hour.

After reviewing this output, Ofcom noted that ARY Qtv (“the Licensee”) exceeded this allowance and broadcast 52 minutes and 18 seconds of advertising in a clock hour.

Ofcom considered the case raised issues warranting investigation in respect of Rule 4 of COSTA and therefore sought formal comments from the Licensee about how this material complied with this rule.

Response

The Licensee confirmed that the advertising had appeared and apologised for this error. ARY Qtv said its regular practice is to obscure the scrolling advertising text which originates from the original feed of this material in Pakistan. However, ARY Qtv said that due to a technical failure this was not possible. The Licensee said its technical team immediately followed up this incident to remedy the fault. ARY Qtv said the situation had been rectified and noted the advertising text has now been permanently “hidden” as is its normal practice.

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content which it considers are best calculated to secure a number of standards objectives. One of these objectives is that “the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with”.

Articles 20 and 23 of the EU Audiovisual Media Services (AVMS) Directive set out strict limits on the amount and scheduling of television advertising. Ofcom has transposed these requirements by means of key rules in COSTA. Ofcom undertakes routine monitoring its licensees’ compliance with COSTA.

In this case, Ofcom was particularly concerned by how significantly the Licensee exceeded the maximum allowance permitted by Rule 4 of COSTA, with the advertising comprising almost the entire clock hour. Although this was the result of a technical problem which has since been rectified, this was a serious breach and

Ofcom does not expect similar issues to arise in the future, or further regulatory action may be considered.

Breach of COSTA Rule 4

In Breach

Advertising minutage

Channel I, 30 September 2011, 22:00, and 1 October 2011, 21:00 to 23:00

Introduction

Rule 4 of the Code on the Scheduling of Television Advertising (“COSTA”) states:

“time devoted to television advertising and teleshopping spots on any channel in any one hour must not exceed 12 minutes.”

Ofcom received a complaint about excessive advertising during the periods in question. After reviewing this output, Ofcom noted that in the three clock hours outlined above, Channel I (“the Licensee”) exceeded the allowance permitted by COSTA by broadcasting 23:51, 25:21 and 20:44 minutes of advertising in these three clock hours respectively.

Ofcom considered the case raised issues warranting investigation in respect of Rule 4 of COSTA and therefore sought formal comments from the Licensee about how this material complied with this rule.

Response

The Licensee apologised for this error. Channel I said that it had investigated the situation and found “some gaps in [its] operations procedures”, and that human error led to these incidents.

The Licensee said that on 30 September and 1 October, it had broadcast “special live events” and the members of staff responsible for ensuring compliance with COSTA had been concentrating on preparing the live programmes. Channel I said it regarded this as “misconduct”. The Licensee said it has instigated new compliance procedures, including further training, and that it will be introducing an automated monitoring system which it said would prevent any future occurrences of this nature.

Channel I assured Ofcom the errors highlighted were not committed deliberately, nor was there any financial benefit from the excess advertising.

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content which it considers are best calculated to secure a number of standards objectives. One of these objectives is that “the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with”.

Articles 20 and 23 of the EU Audiovisual Media Services (AVMS) Directive set out strict limits on the amount and scheduling of television advertising. Ofcom has transposed these requirements by means of key rules in COSTA. Ofcom undertakes routine monitoring its licensees’ compliance with COSTA.

In this case, Ofcom found that the amount of advertising broadcast on Channel I was in breach of Rule 4 of COSTA on three occasions. Ofcom was concerned by how far

the Licensee had exceeded the maximum allowance permitted by Rule 4, especially in the 21:00 clock hour on 1 October, which had a substantial overrun of 13 minutes and 21 seconds.

The preparation of live programming should not distract any broadcaster from its compliance with COSTA or any other regulatory obligation. Given the compliance measures Channel I has committed to implement, Ofcom does not expect any recurrence of such issues.

Breaches of COSTA Rule 4

In Breach

Breach findings table

Code on the Scheduling of Television Advertising compliance reports

Rule 4 of the Code on the Scheduling of Television Advertising (“COSTA”) states:

“... time devoted to television advertising and teleshopping spots on any channel must not exceed 12 minutes.”

Channel	Transmission date and time	Code and rule / licence condition	Summary finding
Liverpool FC TV	5 October 2011, 15:00 and 23:00, 8 October 2011, 14:00	COSTA Rule 4	Ofcom noted, during monitoring, that Liverpool FC TV exceeded the permitted advertising allowance on these dates, twice by two minutes and once by one minute and 26 seconds. Finding: Breaches
Cartoon Network	12 November 2011, 11:00 and 18:00	COSTA Rule 4	Ofcom noted, during monitoring, that Cartoon Network exceeded the permitted advertising allowance by three minutes and two minutes respectively. Finding: Breaches
Challenge TV	4 September 2011, 21:00	COSTA Rule 4	Ofcom noted, during monitoring, that Challenge TV exceeded the permitted advertising allowance on this date by one minute and 30 seconds. Finding: Breach

Fairness and Privacy Cases

Not Upheld

Complaint by Mr Barry Dungey

The Pet Detectives, Channel 4, 22 August 2011

Summary: Ofcom has not upheld this complaint of unjust and unfair treatment and unwarranted infringement of privacy made by Mr Barry Dungey.

The programme followed a number of private detectives trying to solve cases of pets that had been stolen, had gone missing or in some circumstances been killed. One particular case featured in the programme concerned budgerigars belonging to Mr Andrew Pooley and Ms Linda Dungey, which had gone missing. Mr Barry Dungey, the complainant, was mentioned in the programme and provided information to the private detective, Mr John Hayward, who was investigating the case.

Following the broadcast of the programme, Mr Dungey complained that he had been treated unjustly and unfairly in the programme as broadcast and that his privacy had been unwarrantably infringed in the programme as broadcast.

In summary, Ofcom found as follows:

- The programme did not present facts in a way that was unfair to Mr Dungey.
- Mr Dungey did not have a legitimate expectation that his name, or the town where he lives in Cornwall, would not be broadcast in the programme.
- Mr Dungey had a legitimate expectation of privacy in relation to the broadcast of photographs of him at his wedding. However because he was not identifiable from the photographs, any infringement of his privacy was limited and therefore warranted.

Introduction

On 22 August 2011, Channel 4 broadcast an edition of its documentary series *The Pet Detectives*. The series followed a number of private detectives working to reunite owners with their “trophy” pets which had been kidnapped, following a rise in this type of crime.

One of the cases featured was that of budgerigars belonging to Mr Andrew Pooley and his partner Ms Linda Dungey. The programme opened with a press conference appealing for information about the killing of the prize winning bird “Penmead Pride”, and the whereabouts of a number of other budgerigars which had gone missing one night before the Cornwall Budgerigar Show. All these birds belonged to Mr Pooley and Ms Dungey. The press conference was held by Mr John Hayward, a former police officer known as “*Britain’s number one pet detective.*”

The programme then featured archive content of an ITN news report about the case. The report stated that Mr Pooley and Ms Dungey suspected sabotage because the crime had occurred the night before the Cornwall Budgerigar Show. Mr Hayward was shown speaking with Mr Pooley and Ms Dungey about the incident and it was stated that the couple believed that “*domestic issues*” were at the heart of the crime.

Photographs of Ms Dungey and her ex-husband, Mr Barry Dungey (whose face had been blurred) were broadcast along with the accompanying commentary:

“One possible suspect is her ex-husband, Barry Dungey, who also breeds budgies”.

Ms Dungey also spoke about Mr Dungey and said:

“I don’t look at him as an ex-husband anymore; he’s been so arrogant, so rude. I don’t know him as I knew him when I married him”.

Mr Hayward asked Ms Dungey what Mr Dungey’s motive might be for possibly stealing the couple’s budgerigars. She replied that it would be with a view to making money out of the birds.

As Mr Hayward continued with his investigations, photographs were shown of Mr Dungey and Ms Dungey’s wedding, with Mr Dungey’s face blurred. The commentary stated that:

“Barry Dungey is still being investigated as John Hayward believes he would know how to identify the birds”.

Mr Hayward was then shown taking a call on his mobile telephone from Mr Dungey and arranging to meet up with him. Mr Dungey was not audible in the broadcast. The programme stated that during the subsequent meeting, Mr Dungey *“dropped a bombshell”* by hinting that the birds may still be alive. Mr Hayward said that Mr Dungey told him that Mr Pooley had debts and had in fact sold the birds.

Later in the programme, Mr Hayward was shown following up on his inquiries into the case by speaking with Mr Robbie Brookes, Mr Pooley’s *“budgie helper”*, having been advised by Mr Dungey to *“look closer to home”*. Mr Hayward returned to meet with Mr Pooley to discuss Mr Brookes. Following this, the programme explained that:

“Even with all the accusations and rumours flying around, there is no evidence to link Andrew [Mr Pooley], Robbie Brookes or Linda’s ex-husband Barry Dungey, to the crime”.

The programme stated that after four months Mr Hayward handed his file over to the police, but that the case was not resolved and was subsequently closed.

Following the broadcast of the programme, Mr Dungey complained to Ofcom that he was treated unjustly or unfairly in the programme as broadcast and that his privacy was unwarrantably infringed in the programme as broadcast.

Summary of the complaint and the broadcaster’s response

Unjust or unfair treatment

In summary, Mr Dungey complained that he was treated unjustly or unfairly in the programme as broadcast in that:

- a) Material facts were presented in a way that was unfair to Mr Dungey. In particular:

- i) Mr Dungey said that he was portrayed as a “prime suspect” in the case of the missing budgerigars.

By way of background, Mr Dungey said that he hoped that the programme would not affect his hobby as a budgie breeder.

In response, Channel 4 denied that Mr Dungey was unfairly portrayed as a “prime suspect” in the programme. Channel 4 said that the conversation Ms Dungey and Mr Pooley had with Mr Hayward was to discuss how Mr Dungey would react if Mr Hayward approached him and if he had any motive for the crime. Consequently, in Channel 4’s view, the programme focused on Mr Hayward’s interview techniques, lines of enquiries and approach to the case. Channel 4 stated that Mr Dungey’s connection in the case of the missing budgerigars was of sufficient significance to include it in the programme, but that it was made clear to viewers that Mr Dungey merely provided further evidence in the case which led Mr Hayward’s investigation down a new route of enquiry that ruled Mr Dungey out of any further investigation.

- ii) Mr Dungey said that Mr Hayward had twisted Mr Dungey’s words when reporting in the programme what he had said at their meeting. Mr Dungey added that Mr Hayward did not tell him that he was a “prime suspect” in the case.

In response, Channel 4 stated that according to Mr Hayward’s account of his conversation with Mr Dungey, there was a very detailed discussion about the missing birds and that it was made clear in the conversation with Mr Dungey that Mr Hayward was visiting him to investigate the case and to elicit information about what might have happened. Further, Channel 4 said that in terms of fairness to Mr Dungey, it was important that viewers were left in no doubt that he had been ruled out as being linked to the theft. Channel 4 said that the programme accurately reflected what was stated in the meeting between Mr Hayward and Mr Dungey.

- iii) Mr Dungey said that he was told by Mr Hayward that everything he said in their meeting would be in the strictest confidence.

In response, Channel 4 acknowledged that Mr Dungey had asked not to be recorded and filmed and this request was honoured throughout the programme. However, Channel 4 said that Mr Dungey was aware that the programme was being filmed and that Mr Hayward was a contributor to the programme. Therefore, in Channel 4’s view, it was reasonable to presume that the conversation between Mr Dungey and Mr Hayward would be mentioned during the programme.

Unwarranted infringement of privacy

Mr Dungey complained that his privacy was unwarrantably infringed in the programme as broadcast in that:

- b) When Mr Hayward was shown taking a call from Mr Dungey, he kept repeating Mr Dungey’s name, although Mr Dungey was not aware that the call was going to be broadcast. Mr Dungey’s name was mentioned several times in the programme and the town where he lived in North Cornwall was also mentioned.

In response, Channel 4 said that although Mr Dungey asked not to be recorded or filmed (a request which Channel 4 say was honoured) he was aware that the programme was being filmed and that Mr Hayward was a contributor. Therefore, Channel 4 stated that it was reasonable to presume that the phone call would be featured in the programme. Further, Channel 4 said that at no point in the programme as broadcast was Mr Dungey visible or was a recording of his voice played. In addition, the programme did not reveal any other personal details about which Mr Dungey would have a reasonable expectation of privacy.

Channel 4 said that in relation to broadcasting the name of the town where Mr Dungey lived, this was mentioned once at the start of the programme and in connection with the case of the missing budgerigars and not in relation to Mr Dungey's home. Channel 4 said that for the remainder of the programme, the area in question was referred to as "*Cornwall*" or "*North Cornwall*". Further, Channel 4 said that any images of the area were generic Cornwall countryside images, and not specific to the town where Mr Dungey lived, and therefore most of the shots of public houses and hotels would have been unrecognisable to the majority of viewers.

- c) Photographs of his wedding were shown in the programme.

In response, Channel 4 said that only six photographs of Mr Dungey's wedding were featured during the programme and for approximately thirteen seconds in total. In addition, Mr Dungey's face was completely obscured in all of them. Channel 4 stated that Mr Dungey's privacy was not infringed in the programme as broadcast because of the brevity of the images of Mr Dungey shown on the programme and the fact that no other information for which there would be a reasonable expectation of privacy was revealed.

Decision

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

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

In reaching its decision, Ofcom carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast and transcript and both parties' written submissions.

When considering complaints of unjust and unfair treatment, Ofcom has regard to whether the broadcaster's actions ensured that the programme as broadcast avoided unjust or unfair treatment of individuals and organisations, as set out in Rule 7.1 of Ofcom's Broadcasting Code ("the Code"). Ofcom had regard to this Rule when reaching its decision on the individual heads of complaint detailed below.

- a) Ofcom first considered the complaint that material facts were presented, disregarded or omitted in a way that was unfair to Mr Dungey.

In keeping with the right to freedom of expression, Ofcom recognises that broadcasters and programme makers have the editorial freedom to make programmes on a broad range of topics and it is a matter for them to decide what material is included in or omitted from the programme as broadcast, and how the content is presented. In taking these decisions however broadcasters must comply with Practice 7.9 of the Code. This states that, when broadcasting a factual programme, broadcasters should take reasonable care to satisfy themselves that material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation.

In considering this complaint and all its various sub-heads below, Ofcom therefore had regard to Practice 7.9 of the Code.

Ofcom considered each of the following sub-heads of complaint in order to reach an overall decision as to whether Mr Dungey was unfairly portrayed in the programme as broadcast.

- i) Ofcom first considered the complaint that the programme portrayed Mr Dungey as a “prime suspect” in the case of the missing budgerigars.

Ofcom noted the following extract from the programme:

Voiceover: *“John’s photographs of the aviary are the first evidence in his crime scene analysis. He then talks to Andrew Pooley and his partner Linda. The families’ opinion is that domestic issues are at the heart of this crime. One possible suspect is Linda’s ex husband Barry Dungey, who also breeds budgies.*

Ms Dungey: *I don’t look at him as an ex-husband anymore. He’s been so arrogant, so rude. I don’t know him as I knew him when I married him.*

Mr Hayward: *What do you think would happen then if we went and knocked on his front door and said “Oi, do you know anything about the bird theft.” What do you think his attitude would be?*

Ms Dungey: *I think he would be quite off handed and probably it would be quite a good idea to get a reaction.*

Mr Hayward: *If he’d have come and stolen your birds, do you think he would have done it purely to deprive you of the birds or to sell and turn them into money.*

Ms Dungey: *Yes to make something out of it. He don’t do nothing for nothing at all”.*

In Ofcom’s view, it was clear from the above exchange in the programme that Ms Dungey suspected her ex-husband, Mr Dungey, as being responsible for the missing budgerigars. Ofcom noted that Mr Hayward questioned what Mr Dungey’s possible motive may be for stealing the birds and what his reaction may be to being questioned on the matter. At this point in the programme, Ofcom considered that Mr Dungey was portrayed as a possible suspect in the case. However, immediately following the above exchange, Ofcom noted that the programme stated:

Voiceover: *“John [Hayward] knows that emotions are running high. And whilst unsubstantiated accusations are common place he still has no real evidence or witnesses.*

Mr Hayward: *It’s complicated because of emotions and being emotive. It’s exacerbated, it’s aggravated. It’s a very close knit community”.*

This exchange highlighted to viewers that Mr Hayward was aware that because of *“emotions running high”*, he was unable to rely on the accusations made by Ms Dungey. Further, the search for answers to the case had only just begun because Mr Hayward still had *“no real evidence or witnesses”*. Ofcom noted that later in the programme, viewers were notified that Mr Dungey was *“still being investigated as John [Hayward] believes he would know how to identify the birds”*. Mr Hayward was then shown following up his investigation with Mr Brookes and again with Mr Pooley, after receiving information from Mr Dungey. Ofcom noted too that following Mr Hayward’s discussions with Mr Pooley and Mr Brookes, Mr Hayward was still unable to make any progress with his investigations and this was explained in the programme as follows:

“Even with all the accusations and rumours flying around there is no evidence to link either Andrew [Mr Pooley], Robbie Brooks, or Linda’s ex-husband Barry to the crime. John leaves with a head full of information to digest.”

In Ofcom’s view, the puzzling nature of the case and that there was no clear prime suspect, was signposted to viewers. It considered that the role of Mr Dungey as a possible suspect was quickly altered into someone who would be of assistance with trying to provide clues in relation to the case. Ofcom also noted that the programme informed viewers that after four months the case was handed to the police *“but because it is unresolved they take no further action and the case is closed.”*

Taking all the above factors into account, Ofcom considered that, although the programme initially focussed on Mr Dungey being a possible suspect, this was quickly dismissed as speculation and it was made clear in the programme that the crime remain unsolved. In Ofcom’s view, it was unlikely that viewers would have regarded Mr Dungey as a, or even the, “prime suspect” in the case.

Ofcom therefore found that programme makers had taken reasonable care to ensure that material facts had not been presented, disregarded or omitted in a way that was unfair to Mr Dungey.

- ii) Ofcom considered the complaint that Mr Dungey said that Mr Hayward had twisted his words in reporting what Mr Dungey had said at their meeting. Mr Dungey added that Mr Hayward did not tell him that he was a “prime suspect” in the case.

Ofcom noted the following extract in the programme:

Voiceover: *“John [Hayward] drives to meet Barry [Dungey] who doesn’t want to appear on camera. But in an informal chat he drops a bomb shell. Maybe the birds are still alive.*

Mr Hayward: *He [Mr Dungey] said somebody has got those birds and he knows where he's [i.e. Mr Pooley] either given them or sold them. I said well why would he sell them. He said to turn them into money, to pay his debts.*

Narrator: *Barry tells John that he thinks Andrew Pooley was in debt, so he sold his own birds. When it comes to budgies there is no one closer to Andrew than Robbie Brookes. John Hayward decides to set up a meeting with him".*

Ofcom noted that the meeting between Mr Hayward and Mr Dungey was not broadcast. Instead, following the meeting, Mr Hayward reported in the programme what Mr Dungey was alleged to have said. As a result of the meeting, it was clear that Mr Hayward was alerted to the possibility of another suspect (i.e. Mr Pooley) and a possible motive for the crime (namely that Mr Pooley had sold the birds to pay for debts he had supposedly incurred). The programme later showed Mr Hayward speaking with Mr Pooley and Mr Brookes.

Ofcom noted Mr Dungey's complaint that what he had said at the meeting had been twisted by Mr Hayward, although Mr Dungey did not specify to Ofcom how he had been misrepresented by Mr Hayward. Ofcom acknowledged Channel 4's statement that, in its view, the programme accurately reflected what was said at the meeting. Ofcom recognised that there was a disparity in the recollections between the parties on this point and that there was no further documentary material, such as contemporaneous notes of the meeting, which would assist Ofcom in determining whether what was said in the meeting was accurately and fairly reflected in the programme. However, Ofcom's remit is to consider and adjudicate on complaints of unfair treatment and as such is not required to resolve conflicts of evidence as to the nature or accuracy of particular accounts of events. Its role is to adjudicate on whether Mr Dungey had been treated unfairly in the programme as broadcast.

Ofcom observed that, on account of Mr Dungey not wanting to be filmed, only Mr Hayward's comments about their meeting were broadcast. In Ofcom's view, and in the absence of any information to the contrary, there appeared to be no reason to doubt Mr Hayward's recollection of the meeting. Therefore, it was reasonable for the programme makers to broadcast Mr Hayward's comments about the meeting. In any event, Ofcom considered that Mr Hayward was conveying the fact that Mr Dungey had given Mr Hayward further information to assist him with his enquiries into the case of the missing budgerigars and consequently, Ofcom did not consider that this would have caused unfairness to Mr Dungey.

Ofcom considered, therefore, that the broadcaster had taken reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in way that was unfair to Mr Dungey.

- iii) Ofcom considered the complaint that Mr Dungey said that he was told by Mr Hayward that everything he said in the meeting would be in the strictest confidence.

In considering this particular sub-head of the complaint, Ofcom also had regard to Practice 7.7 of the Code which states that guarantees given to

contributors (for example relating to the content of a programme, confidentiality or anonymity) should normally be honoured.

Ofcom observed, as set out in sub head ii) above, that Mr Hayward had said in the programme that he had been told by Mr Dungey that Mr Pooley was in debt and had therefore sold the birds. As a direct consequence of the meeting, Mr Hayward was shown to follow *“up on Barry Dungey’s advice to look close to home for a perpetrator. John decides to put a couple of questions to Andrew Pooley’s helper, Robbie Brookes”*.

Ofcom noted that Channel 4 said that a guarantee was given by the programme makers to Mr Dungey that he would not be recorded or filmed in relation to his meeting with Mr Hayward, and that this was honoured. Ofcom was not provided with any documentary material by either party to the complaint that assisted it in determining whether or not a guarantee was given to Mr Dungey by Mr Hayward in relation to what was said in the meeting being kept in the “strictest confidence”. As stated in sub-head ii) above, Ofcom’s remit is not to resolve disputes in evidence but to adjudicate on whether, in this case, Mr Dungey had been treated unfairly in the programme as broadcast. In addition, the Code states that “failure to follow practices will only constitute a breach where it results in unfairness to an individual or organisation”. Therefore, Ofcom went on to consider whether revealing what was said in the meeting resulted in unfairness to Mr Dungey.

Ofcom recognised the potential for unfairness to an individual in a programme where that individual is under the impression that what they say will remain confidential, but that confidentiality is subsequently compromised. However, in the circumstances stated above where Mr Dungey has not provided Ofcom with any evidence of a guarantee of confidentiality being given by the programme makers. Therefore, in the absence of any evidence to support Mr Dungey’s claim and taking the factors referred to above into account, Ofcom considered that viewers were likely to have appreciated that Mr Dungey was assisting with the investigation by providing Mr Hayward, as the detective responsible for this case, with information that Mr Hayward could either investigate further or eliminate persons, as appropriate, from the enquiries.

Ofcom considered that by revealing what was said in the meeting with Mr Dungey, Mr Hayward was able to progress with his investigations into the case. In addition, Mr Dungey would have been likely to have been perceived by viewers as providing important assistance to Mr Hayward. Consequently, Ofcom considered that revealing what Mr Dungey said at the meeting to Mr Hayward did not cause any unfairness to Mr Dungey.

Ofcom considered, therefore, that the broadcaster had taken reasonable care in the circumstances to satisfy themselves that material facts had been presented in the programme in way that was not unfair to Mr Dungey.

Unwarranted infringement of privacy

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

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

Ofcom also had regard to Practice 8.6 of the Code which states that if the broadcast of a programme would infringe the privacy of a person or organization, consent should be obtained before the relevant material is broadcast, unless the infringement of privacy is warranted.

- b) Ofcom considered the complaint that when Mr Hayward was shown taking a call from Mr Dungey, he kept repeating Mr Dungey's name, although Mr Dungey was not aware that the call was going to be broadcast. Mr Dungey's name was mentioned several times in the programme as was the small town where he lives in North Cornwall.

Ofcom first considered the extent to which Mr Dungey had a legitimate expectation of privacy in relation to the broadcast of his name and the town where he lives in North Cornwall in the programme.

Ofcom noted that while Mr Dungey did not feature in the programme as broadcast, his name was mentioned throughout the relevant section of the programme which related to the case of the missing budgerigars. As stated in sub-head i) of the Decision, Mr Dungey was an integral part of Mr Hayward's investigations and his name was mentioned in relation to the information he provided to Mr Hayward. Ofcom also noted that at the start of the programme, viewers were informed that Mr Hayward was in "*Cornwall*" to investigate the case and images of the town in Cornwall where Ms Dungey and Mr Pooley lived were broadcast. However, in relation to Mr Dungey, it was not specified where in Cornwall he lived. Ofcom also acknowledged that, as stated in sub head iii) of the Decision, Mr Dungey was given guarantees by the programme makers that he would not be filmed or recorded in the programme as broadcast.

In taking these factors into account, Ofcom considered that although Mr Dungey had not wanted to appear in the programme, he was aware that he had given information to the programme, and he has never asserted that he sought any guarantee that his name or that of the town where he lived would not be referred to in the programme that he knew was going to be broadcast. Therefore, while Ofcom acknowledged that Mr Dungey was given guarantees in relation to not being filmed or recorded, in the absence of any other material, it did not consider that this was extended to any mention of his name which would in turn have affected any legitimate expectation he may have had.

Ofcom therefore reached the decision that Mr Dungey did not have a legitimate expectation of privacy in relation to his name or the town he lives being broadcast in the programme. Consequently Ofcom did not go on to consider whether any infringement of Mr Dungey's privacy was warranted.

- c) Ofcom next considered the complaint that Mr Dungey's privacy was unwarrantably infringed in the broadcast of the programme because photographs of his wedding were shown in the programme.

Ofcom first considered the extent to which he had a legitimate expectation of privacy in relation to the photographs of him at his wedding that were broadcast in the programme.

Ofcom observed that six photographs of Mr and Ms Dungey at their wedding were shown in one camera shot. The footage then focused on one photograph in particular of Mr and the then Mrs Dungey who were facing the camera. Mr Dungey's face had been obscured in all of the photographs. However, in Ofcom's opinion, it was clear to viewers that the person in the photograph was Mr Dungey because the commentary which accompanied the photograph identified him as "*Linda's ex-husband Barry [Dungey]*".

Ofcom considered that the photographs were personal to Mr Dungey as they concerned his private relationship with his ex-wife Ms Dungey. In addition, Mr Dungey's wedding was not relevant to the case of the missing budgerigars. Therefore, Ofcom considered that Mr Dungey had a legitimate expectation of privacy in relation to the photographs of him at his wedding.

Having taken into account the decision that Mr Dungey had a legitimate expectation of privacy in relation to the broadcast of photographs of him at his wedding, Ofcom went on to consider the broadcaster's competing right to freedom of expression and the audience's right to receive information and ideas without unnecessary interference.

Ofcom did not consider there to be any public interest justification in broadcasting the photographs because in particular Mr Dungey's wedding was not relevant to the case of the missing budgerigars. Ofcom however acknowledged the steps that the broadcaster had taken to ensure that the photographs themselves did not identify Mr Dungey. Ofcom also took into consideration the fact that the photographs were only shown for a few seconds. In view of the facts that Mr Dungey's face had been obscured and the photographs were only shown in the programme for a few seconds, any infringement of privacy was, in Ofcom's opinion, limited.

Taking the above factors into account, and balancing Mr Dungey's legitimate expectation of privacy against the broadcaster's right to freedom of expression, Ofcom is satisfied that there has not been an unwarranted infringement of Mr Dungey's privacy.

Accordingly, Ofcom has not upheld Mr Dungey's complaint of unjust and unfair treatment and unwarranted infringement of privacy in connection with the obtaining of material included in the programme and in the programme as broadcast should not be upheld.

Not Upheld

Complaint by The Reverend Colin Coward

Straight Talk, Voice of Africa Radio, 21 August 2011

Summary: Ofcom has not upheld this complaint of unfair treatment made by Reverend Colin Coward.

The programme featured a discussion on attitudes to homosexuality in Africa and included comments on whether or not homosexuality was acceptable. The Reverend Coward, a British man who runs an international organisation that works to change attitudes towards homosexuality in the Anglican Church, contributed to the programme.

In summary, Ofcom found that the programme did not result in unfairness to Reverend Coward in that he gave informed consent for his contribution and he was given an appropriate and timely opportunity to respond to a significant allegation of racism made against him in the programme.

Introduction

Voice of Africa Radio (“VOAR”) provides a community radio service to the African community in Newham in London. On 14 August 2011 and 21 August 2011 VOAR broadcast *Straight Talk*, a weekly topical discussion programme which includes guest commentators and a listener call-in.

Both editions of the programme on 14 August 2011 and 21 August 2011 included discussions on attitudes to homosexuality in Africa and comments on whether or not homosexuality was acceptable. These discussions and comments were prompted by an anti-homosexual campaign in Ghana that was sparked by comments made by the parliamentary minister for Ghana’s western region (Reverend Paul Evans Aidoo). During the introduction to each programme the presenter, Mr Space Clottey, explained that the minister had called for homosexuals to be arrested and had asked people to inform on anyone whom they suspected of being homosexual. Mr Clottey also said that this campaign had been condemned by Mr Steven O’Brien MP (the UK’s Under-Secretary of state for International Development).

The majority of contributors to each programme (which included several ministers in the African branch of the Anglican Church) expressed anti-homosexual sentiments and several criticised homosexual church ministers in particular.

The Reverend Colin Coward, a British man who runs an international organisation that works to change attitudes towards homosexuality in the Anglican Church, contributed to both programmes. Much of the discussion in each programme revolved around the correct interpretation of biblical texts and some of the contributors argued that the Reverend Coward’s interpretation of the bible was incorrect and that homosexuality was “*an abomination*”. In addition, several contributors, including a studio guest during the programme broadcast on 21 August 2011, said that in their view white men were promoting homosexuality and that what they regarded as the growth of homosexuality in Africa was the result of cultural imperialism.

During the programme broadcast on 14 August 2011 Reverend Coward spoke about the aims of his organisation, his own homosexuality, his calling to the priesthood, his marriage to a Nigerian man, the strongly anti-homosexual feelings amongst some people in Africa and the need for homosexual people in Africa to be treated with dignity rather than with prejudice.

Following the broadcast of the programme broadcast on 21 August 2011, The Reverend Colin Coward complained to Ofcom that he was treated unjustly or unfairly in this programme as broadcast.

The Complaint and VOAR's response

The details of the Reverend Coward's complaint are set out below, followed by VOAR's responses on particular points.

In summary, the Reverend Coward complained that he was treated unjustly or unfairly in the programme as broadcast in that:

- a) After his participation in the discussion during the programme broadcast on 14 August 2011 VOAR had told him (the Reverend Coward) that they would like to continue the conversation. However, without telling him in advance, VOAR called him on Sunday 21 August 2011, wanting him to participate in the programme immediately. Before he was able to decline he was connected to the studio.

In response, VOAR said that the Reverend Coward could have chosen to withdraw at any time during the telephone conversation he had with Mr Clotney (the presenter) during the programme but instead he chose to continue to contribute to the programme and to express his views and opinions. The broadcaster added that a studio assistant called the Reverend Coward three times on the day on which the programme was broadcast. The first occasion was prior to the broadcast and, having failed to speak to the Reverend Coward, the studio assistant left a message explaining that she was calling on behalf of the *Straight Talk* programme on VOAR. During the second call the Reverend Coward asked the studio assistant to call back a little later as he was driving and at the beginning of the third call, the studio assistant invited the Reverend Coward to contribute to a live edition of the *Straight Talk* programme on the issue of homosexuality in Africa. VOAR said that the Reverend Coward happily consented to participate and was passed through to the presenter in the studio, although (due to the fact that someone else was contributing to the programme at this point) the Reverend Coward was left on hold for about ten minutes before he was put on air. In addition, VOAR said that at the end of the previous week's programme (to which he had contributed), the Reverend Coward had agreed to take part in a future broadcast of *Straight Talk*. VOAR indicated that the recording of this 14 August 2011 programme, a copy of which had already been provided to Ofcom, would prove this was the case.

- b) The Reverend Coward was interrogated with hostile questions about biblical texts for thirty minutes and was then subjected to aggressive and abusive comments from various contributors to the programme for ninety-five minutes while repeatedly being told that he would be allowed to respond. The Reverend Coward said that for a period of at least an hour he was made to listen to abusive statements about himself and his homosexuality before being allowed to respond.

In reply VOAR said that *Straight Talk* had developed a particular format over a period of years. Between 10am and noon studio guests are invited to articulate

their position on the day's topic and from noon onwards listeners are given the chance to contribute and share their opinion with the invited guests live on air. VOAR said that consequently it was not unusual for contributors, either in the studio or on the telephone, to listen rather than talk for extended periods.

VOAR also said that that before ending the Reverend Coward's second contribution, which was twenty-minutes long, the presenter informed him that he must "leave" him for a while in order to open up the phone lines and give an opportunity to members of the public to contribute as well. The broadcaster added that due to the large volume of calls received, the presenter took contributions from members of the public for about an hour, which was the normal practice for this programme.

VOAR said that the Reverend Coward contributed to the edition of *Straight Talk* broadcast on 21 August 2011 on four occasions and for a total of forty minutes and that he was therefore given an appropriate, ample and fair opportunity to articulate his position on the matters discussed and to respond to comments from other contributors.

- c) Contributors were given the freedom to repeatedly make abusive comments about the Reverend Coward and his sexuality.

In response, VOAR said that it appreciated that the subject matter of homosexuality in Africa was a sensitive matter and that contributors could be passionate in their views and expressions. However, it argued that they were not abusive towards the Reverend Coward. In addition, VOAR said that on several occasions the presenter took account of the cultural perspectives on the topic under discussion and either warned callers to avoid making insults or deliberately silenced contributors in order to avoid any possibility of offence to the Reverend Coward. VOAR also indicated that the presenter treated the Reverend Coward with respect and that the Reverend Coward was given the last word in the programme despite this causing annoyance to the studio guest.

Decision

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

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

In reaching its decision, Ofcom carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast and transcript, both parties' written submissions and a recording and transcript of the unedited footage.

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

Broadcasting Code (“the Code”). Ofcom had regard to this rule when reaching its decision on the individual heads of complaint detailed below.

- a) Ofcom first considered the Reverend Coward’s complaint that he was unfairly treated in that without telling him in advance VOAR called him on 21 August 2011 wanting him to participate in the programme immediately and before he was able to decline he was connected to the studio.

In considering this part of the complaint, Ofcom had regard to Practice 7.3 which provides that in order for potential contributors to a programme to be able to make an informed decision about whether to take part, they should be given sufficient information about a number of aspects of the programme including: the programme’s nature and purpose; what kind of contribution they are expected to make (for example, live, pre-recorded, interview, discussion, edited, unedited, etc.); and the areas of questioning, with wherever possible the nature of the other likely contributions.

Ofcom considered the information available to the Reverend Coward before his contribution to the programme on 21 August 2011. It observed that the Reverend Coward had contributed to the preceding week’s edition of the programme during which the same topic, namely homosexuality in Africa, was discussed. This programme included some very forthright comments that were critical of homosexuality in general and of homosexual church ministers in particular. It also observed that from the submissions of both parties it appeared that there was a discussion between Reverend Coward and the presenter of *Straight Talk* about “continuing the conversation” in a future broadcast after the 14 August 2011 programme had ended¹.

Ofcom noted that on the morning of 21 August 2011, VOAR called the Reverend Coward on three occasions; that on the second occasion he asked the studio assistant to call him back later; and, that as a result of comments he made during the third telephone conversation VOAR’s studio assistant understood that he had agreed to participate in that day’s programme (which was already being broadcast) and therefore put him through to the studio. Ofcom recognises that the Reverend Coward might have regarded this action as precipitate. However, Ofcom noted that although the Reverend Coward was then put on hold for around ten minutes and was therefore not asked to make an immediate contribution to the programme, he remained on the line rather than ending the telephone call. Ofcom also noted that having subsequently heard part of the programme (notably the presenter introducing him and saying that he believed many African pastors were homosexuals and the reaction of a caller, “*Kwami from Ghana*”, to this idea) the Reverend Coward did not tell the presenter that he did not wish to participate but instead indicated his willingness to contribute by saying “*Maybe I can come in?*”. There was no evidence that the Reverend Coward was forced in any way to participate in the programme against his will and it was open to the Reverend Coward to ring off at any moment.

Ofcom considered that, given his participation in the previous week’s edition of the programme, his position as a clergyman who runs an organisation that campaigns for the rights of homosexuals in the Anglican Church (notably within

¹ While VOAR provided Ofcom with a copy of the edition of *Straight Talk* broadcast on 14 August 2011, this recording did not include any post broadcast material. However, on the information available to it, it appeared to Ofcom that after this programme the presenter talked to the Reverend Coward about contributing to a future edition of the programme.

Africa), his discussion with the presenter at the end of the programme broadcast on 14 August 2011 and the telephone calls he received from VOAR on 21 August 2011, the Reverend Coward would have understood the following prior to making his contributions to the *Straight Talk* programme on 21 August 2011 that:

- *Straight Talk* was a live discussion programme broadcast on a radio service for the African Community in Newham in East London.
- contributors were given relatively lengthy periods of time in which to expound upon their views, often without any rebuttal.
- the programme covered topical and sometimes contentious issues.
- homosexuality in Africa and particularly in the branches of the Anglican Church in Africa was just such a topic and that it had raised and would again raise a passionate and sometimes even intemperate debate.
- as a practising homosexual in the Anglican Church, who advocated the rights of homosexuals in the Anglican Church, any comments he made were likely to provoke a strong reaction amongst some of the listeners and contributors to the programme.
- on 21 August 2011 VOAR wished him to contribute to a very similar discussion to that he had already taken part in the week before.

Ofcom recognises that the Reverend Coward might regret having taken part in the edition of *Straight Talk* broadcast on 21 August 2011. In light of the factors noted above however we consider that he gave informed consent for his participation in the programme.

Ofcom therefore found that the programme did not result in unfairness to the Reverend Coward in this respect.

b) & c)

Ofcom considered together the Reverend Coward's complaints that he was unfairly treated in that he was interrogated with hostile questions about biblical texts for thirty minutes, and then subjected to aggressive and abusive comments from various contributors to the programme for ninety-five minutes while repeatedly being told that he would be allowed to respond, and that contributors were given the freedom to repeatedly make abusive comments about him and his sexuality.

In considering this part of the complaint, Ofcom had regard to Practices 7.9 and 7.11 of the Code. Practice 7.9 provides that, before broadcasting a factual programme, broadcasters should take reasonable care to satisfy themselves that material facts have not been presented, disregarded or omitted in a way that is unfair to the individual or organisation. Practice 7.11 states that if a programme alleges wrongdoing or incompetence or makes other significant allegations, those concerned should normally be given an appropriate and timely opportunity to respond.

Ofcom noted that before the Reverend Coward contributed to the programme broadcast on 21 August 2011, the presenter Mr Clotley made several comments setting out the position the Reverend Coward had articulated in the previous week's programme. Mr Clotley then invited the studio guest, Pastor Valentine, who firmly disagreed with the Reverend Coward's views, to respond. For example, Mr Clotley said:

“Colin Coward defended homosexuality and said that all the, all the quotations that we quoted in the Bible are just fallacious and taken out of context – it does not, we don’t know what we are talking about...in fact he said that there are many pastors in our churches, in African churches, who are preaching the Bible from Genesis to Revelations every day and are all homosexuals, and are all gays. He said it. Over to you – is it true that before we even look at the Bible, is it true that there are many, uh, charismatic pastors, churches, who are lesbians and gays for the pastors themselves”.

In response Pastor Valentine said:

“I would say to you categorically this, I am not aware of any...does nature not frown at homosexuality? Is it right for a man to marry a man? Is it right for a woman to marry a woman? What’s Reverend Colin talking about? If he’s saying to us that the Bible has been misinterpreted, I want to know in what format, in what context? The Bible is very clear – Jesus Christ spoke. If you look at Mark chapter 10, verse 7, if you look at Ephesians chapter 5, 25, if you look at Matthew 19, 5, the Bible, Jesus spoke clearly. He doesn’t need any, we don’t need any interpretation because it was spoken in plain English. He said for this reason shall a man leave his Mum and Dad and cling together with a wife and the two shall become one. That’s easy to understand. In the book of Ephesians chapter 5, 25 the Bible made clear he said “husbands, love your wives”.”

Ofcom observed that this conversation continued for a few more minutes and that the presenter then made it clear that a technical difficulty had prevented the Reverend Coward from contributing to the programme at this juncture. Some thirty minutes later the presenter spoke to a caller, “Kwami from Ghana”, who suggested that homosexuality should be banned in his country. In conversation with the presenter Kwami asked:

“Where is the hardcore substantive evidence to, to, to substantiate his [Reverend Coward’s] point that there are many gay priests in Ghana? You know, I want figures, I just want, I don’t want hearsay, I want figures, actual figures, in which churches they are in Ghana? That are homosexuality [sic], can he actually reveal them please?”

The Reverend Coward then made his first contribution to the programme. Ofcom observed that during a thirteen-minute exchange between Kwami and the Reverend Coward (as well during his subsequent contributions), the Reverend Coward made clear that he disagreed with the biblical interpretations put forward by the African church ministers who had contributed to the programme and considered that *“this anti-homosexuality drive [was] fuelled by prejudice, not by a principled understanding of the bible”*. Ofcom also observed that the Reverend Coward and the presenter had a further exchange (of around twenty-minutes duration), during which the presenter put several contentious points to the Reverend Coward and asked for his responses. For example, he said that Pastor Valentine’s reading of the Bible indicated that no man was to have sexual relations with another man. The Reverend Coward responded:

“OK, question back to you then, you’re right, the whole of that section of Leviticus is called the Cleanliness Code. It’s about what is unclean and clean. And if you read it in full, then there are some laws that we obey still, like intercourse with animals, and some laws that we no longer obey, because we think that they are not relevant to our culture. And the issue then, in looking at

verse 22 is, is that verse still relevant to society now, or not relevant? And I would say it's not relevant any longer because now we know from research over the last 100 years that for a small minority in every population, are a group of people who are attracted to people of the same sex".

The Reverend Coward also made it clear that in his opinion: neither Jesus nor the Bible condemned homosexuality; that people did not and should not *"take the bible literally"*; that *"we all interpret the Bible from our own culture and personal perspective"*; that everyone *"should take the Bible as the inspired word of God"*; that he believed in a *"God who is loving"* rather than a *"God who is punishing and judgemental"*; and that he supported *"a faithful, lifelong sexual relationship with one other person"* because *"sexual fidelity is very important"*.

Ofcom also noted that it was also clear from the programme that the Reverend Coward considered that the anti-homosexual campaign in Ghana was *"grossly misguided"* and *"contrary to the word of God"* and that he believed that homosexuality had been extant in Africa before Christianity; that it continued to be so and that homosexuals lived everywhere in Africa, including in remote villages.

Ofcom observed that the following sixty minutes of the discussion (which accounted for most of the remainder of the programme) consisted of more contributions from both African church ministers and calls from listeners as well from the studio guest Brother Leader Mbandaka². Almost all of the contributors during this section of the programme were hostile to homosexuality. In particular, Ofcom observed that Brother Leader Mbandaka said that the Reverend Coward had employed *"downright intellectual dishonesty, when you see the way that he has danced around the issues that you have put to him in relation to the clear words of the Bible"* and that he had *"violat[ed] African culture, and the right of African people to determine our own moral codes and to determine our destiny."* In addition, Brother Mbandaka said that the Reverend Coward had employed *"typical white racist language in response to any African who dares, who dares, to speak up for ourselves"*; described the Reverend Coward's earlier responses to Kwami as *"white European arrogance"*; and said that the Reverend Coward was *"continuing to colonise the minds of people using the Christian church"*.

After this section of the programme the Reverend Coward was invited to contribute for a third time and specifically to respond to the contributions which had been made by others. The Reverend Coward said that he had been abused by a number of people in a manner that was not consistent with a Christian attitude and added that many Nigerian and Ghanaian bishops would be horrified by the views that had been expressed on the programme. He acknowledged that there were a wide range of views on homosexuality but said that many Africans had told him that *"they knew they were gay"*, that *"it had nothing to do with white men"* and was *"natural"* for them to identify themselves as gay or lesbian. The Reverend Coward said that he was trying to help people understand that there were different variations of human sexuality. In addition, he rejected the ideas that there was no evidence of homosexual behaviour in animals and that homosexuality was not natural because God designed male and female human anatomy to fit together.

² Ofcom understands that Brother Mbandaka is the leader of the Alkebu-Lan Revivalists Movement an organisation which campaigns against what it considers to be the oppression of the African British community by the British state.

The Reverend Coward was then cut off due to a technical problem. After this Brother Mbandaka said that he thought the programme had given *“these people”* too much space to express their views and they *“abuse us”*. He accused Europeans of *“assuming the victim role once you begin to challenge their racist premise”*; and said that this was part of *“the dynamics of racism”* and *“a subtle form of aggression”* which was *“exactly what Reverend Colin did just now by saying that he’s been attacked and he’s been called racist.”* Brother Mbandaka went on to say:

“Nobody called him [The Reverend Coward] a racist. I challenged his premise and I said his premise was racist and his attitude was racist and I stand by that and he needs to address that issue. I didn’t call him a racist. I don’t know him but I am quite clear that his stance and his premise is racist. And, I take it one step further, and say when I hear of so-called gay or homosexual priests who are leading churches in African communities in Africa it gives me the chills especially within the context of all of this paedophilia that we have heard about in the Church and in particular in the Anglican Church”.

Brother Mbandaka added that Europeans were *“wrecking havoc”*; confirmed that he had accused the Reverend Coward of intellectual dishonesty and argued that the Reverend Coward had not used the Bible to refute the points that he had made and disagreed with the Reverend Coward’s comments about homosexual behaviour in animals.

The Reverend Coward then made his fourth and final contribution to the programme. He said that he thought the conversation had actually been between Africans, although it was painted as being between him as a white man who was concerned with white supremacy in Africa and the European colonial tradition, and that he had been *“accused of being the perpetrator of actions against Africans who are all the victims”*. He also said that repeatedly being called a *“so-called Priest”* had been *“really abusive”* and asked people to remember their Christian roots.

Ofcom observed that, having broadcast two contributions from the Reverend Coward in which he was able to make his position very clear, the presenter opened the discussion up for around an hour. Ofcom noted that during this section of programme the presenter repeatedly said that the Reverend Coward would be given an opportunity to respond but that he was not invited to comment again until towards the end of the programme. However, as set out in the decision at head a) above, Ofcom considered that the Reverend Coward would have been aware prior to his participation of the style and format of *Straight Talk*. In addition Ofcom observed that the Reverend Coward was provided with considerable scope in which to make his views clear and that he was able to make a closing argument.

With regard to the nature of the comments made during the programme, Ofcom considered that while some of the anti-homosexual comments were prompted by the Reverend Coward’s position, the majority were not directed specifically at him.

However, we considered that, notwithstanding his denials, Brother Mbandaka’s comments, which were addressed at the Reverend Coward, amounted to a significant allegation against the Reverend Coward, namely that he was a racist. Ofcom considered that the programme makers were therefore required to offer the Reverend Coward an appropriate and timely opportunity to respond.

As set out above, the Reverend Coward was given an opportunity to respond to Brother Mbandaka's comments (including that he was a racist) and he expressed his view that the comments made about him were not consistent with a Christian attitude and restated his arguments with regard to homosexuality. Further, although Brother Mbandaka made further criticisms of the Reverend Coward (after the latter had been cut off due to technical problems), the Reverend Coward was given a final opportunity to express his view of the arguments and comments put forward by Brother Mbandaka.

Taking into account all of the factors already noted above, Ofcom considered that the programme makers took reasonable care to satisfy themselves that the programme did not present, disregard or omit material facts with regard to the Reverend Coward in a way that resulted in unfairness to him. Ofcom also considered that he was given an appropriate and timely opportunity to respond to the significant allegation of racism made about him in the programme.

Ofcom therefore found that the programme did not result in unfairness to Reverend Coward in these respects.

Accordingly, Ofcom has not upheld Reverend Coward's complaint of unfair treatment in the programme as broadcast.

Not Upheld

Complaint by Mr Robert Bennett

Road Wars, Pick TV, 26 September 2011

Summary: Ofcom has not upheld this complaint of unjust or unfair treatment in the programme as broadcast made by Mr Robert Bennett.

This programme broadcast police footage of Mr Bennett travelling on a motorcycle at 122 mph along a road in wet conditions. Riding as a pillion passenger was Mr Bennett's son, who was 14 years old at the time. The programme's commentary stated that the motorcyclist had received a six month prison sentence for speeding and that his son had been riding without "*a crash helmet*".

Mr Bennett complained to Ofcom that it was incorrect and unfair to him for the programme to state that his son had not been wearing a helmet. In summary Ofcom found that, although the broadcaster provided no persuasive evidence to support the claim in the programme that Mr Bennett's son had not been wearing "*a crash helmet*", the statement, in itself, was unlikely to have materially and adversely affected viewers' understanding of the irresponsible and potentially dangerous nature of Mr Bennett's actions in a way that was unfair. In the circumstances, Ofcom considered that the broadcaster had taken reasonable care to satisfy itself that the programme as broadcast did not present, disregard or omit material facts in a way that resulted in unfairness to Mr Bennett.

Introduction

On 26 September 2011, Pick TV broadcast an edition of the series *Road Wars*. The series follows the work of traffic police around the country and the various situations that they deal with. This edition included incidents of violent behaviour and road traffic offences.

One such incident involved Mr Robert Bennett, who was filmed by a police speed camera travelling on a motorcycle at high speed along a road. The programme's commentary stated that the rider was travelling at "*a staggering 122 miles per hour*" in wet conditions and had received a six month prison sentence for "*speeding*". It also stated that the rider had been travelling with his 14 year old son on the pillion seat and that his son had not been wearing "*a crash helmet*". The programme stated that, in addition to the prison sentence, the rider was also disqualified for 18 months and would have to take an advanced rider's test in order to get his licence back.

Footage taken from the police speed camera was shown in the programme. Mr Bennett and his son were only visible from the rear and the registration number plate of the motorcycle was obscured. Neither Mr Bennett nor his son was named in the programme and they were not otherwise identified.

Following the broadcast of the programme, Mr Bennett complained to Ofcom that he was treated unjustly or unfairly in the programme as broadcast.

Summary of the complaint and the broadcaster's response

Mr Bennett complained that he was treated unjustly or unfairly in the programme as broadcast in that it stated wrongly that while Mr Bennett had been speeding on his motorcycle, his son was riding pillion with him without wearing "a crash helmet".

In response, British Sky Broadcasting Limited ("BSkyB"), the Ofcom licensee for Pick TV, said that it was clear from the police speed camera footage included in the programme that Mr Bennett was accompanied by a passenger (who happened to be his son) riding pillion. However, BSkyB said that it was unable to determine whether Mr Bennett's son was wearing a helmet or not as the police speed camera footage was not conclusive one way or the other.

BSkyB said that the information about Mr Bennett's son not wearing a helmet was supplied by the programme makers, who had access to the notes from the court that had sentenced Mr Bennett. The notes stated:

"A motorcyclist caught speeding at 122mph (196km/h) with his 14 year old son riding pillion has been sentenced to six months in prison. Robert Bennett, 47, from Barnstaple in Devon, had pleaded guilty to dangerous driving at an earlier hearing. Exeter Crown Court heard [that] his son was not wearing any protective clothing at the time of the offence [BSkyB's emphasis] in April 2008. Sentencing Bennett, the judge said that if he had lost control of the bike it would have become a "missile"."

BSkyB said that it considered it to be a reasonable assumption that if the court records stated that Mr Bennett's son was "not wearing any protective clothing", he was not wearing a helmet.

BSkyB also said that the programme did not identify Mr Bennett in the commentary or in the footage itself. Both riders were only seen from the rear and their faces were not shown. It said that care was taken to ensure that the motorcycle's registration plate was masked appropriately before broadcast. Consequently, BSkyB said that Mr Bennett was not identifiable from the programme. Accordingly, even if the reference to Mr Bennett's son riding pillion without a helmet was not accurate, Mr Bennett was not identifiable from the programme as the rider.

Decision

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

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

In reaching its decision, Ofcom carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast and transcript, and both parties' written submissions.

When considering complaints of unjust or unfair treatment, Ofcom has regard to whether the broadcaster's actions ensured that the programme as broadcast avoided unjust or unfair treatment of individuals and organisations, as set out in Rule 7.1 of Ofcom's Broadcasting Code ("the Code"). Ofcom had regard to this Rule when reaching its decision on the individual heads of complaint detailed below.

Ofcom considered Mr Bennett's complaint that the programme stated wrongly that while Mr Bennett had been speeding on his motorcycle, his son was riding pillion with him without wearing "a crash helmet".

In considering this complaint, Ofcom had regard to Practice 7.9 of its Broadcasting Code ("the Code") which states that broadcasters should take reasonable care to satisfy themselves that material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation.

Ofcom first noted the relevant commentary in the programme:

"It's been raining, when a speed camera in Devon and Cornwall captures this bike at a staggering 122 miles per hour. The amazing video evidence led to a severe sentence: six months in jail for speeding. But if you think that's harsh, take a closer look as the bike speeds by. The rider's got his 14 year old son on the pillion seat and the teenager doesn't even have a crash helmet on. The biker also got an 18 month riding ban and will have to sit an extended riding test before getting his licence back".

Ofcom noted that this commentary accompanied police speed camera footage of Mr Bennett riding along a road on a motorcycle with his son as a pillion passenger. Owing to the quality of the footage, Ofcom was not able to discern conclusively whether or not Mr Bennett's son was wearing a helmet. However, the broadcaster provided Ofcom with a note of Mr Bennett's court case, which stated that:

"Exeter Crown Court heard [that] his son was not wearing any protective clothing at the time of the offence in April 2008".

Ofcom also conducted its own research into the circumstances surrounding the case and noted an article on 'The Guardian' newspaper's website dated 2 March 2009, which reported on Mr Bennett's sentencing. The article reported that Mr Bennett's son had not been wearing "protective trousers or gloves", but made no reference to the wearing, or otherwise, of a helmet. Ofcom also noted related articles on the websites of other media sources (for example, BBC News, SkyNews, and 'The Telegraph' newspaper), all of which reported the lack of protective clothing or gloves worn by Mr Bennett's son, although none of the articles referred to Mr Bennett's son not wearing a helmet.

Ofcom is aware that it is a criminal offence to ride a motorcycle on a road in the UK without wearing a helmet or to allow a passenger to do so. However, it is not illegal to ride without protective clothing. Ofcom noted BSkyB's argument that "protective clothing" could extend to a motorcycle helmet. However, in the circumstances of this case, Ofcom considered that this interpretation was not convincing and that it was more than likely, in Ofcom's view, that if Mr Bennett's son had not been wearing a helmet, the court notes of the case and the news articles that reported Mr Bennett's sentencing would have referred to this specifically, rather than referring only in general terms to the lack of "protective clothing".

Taking into account the material relating to Mr Bennett's case referred to above, and the corroborative nature of the news articles that reported that Mr Bennett's son had not been wearing protective clothing or, at least, protective trousers and gloves, Ofcom took the view that BSkyB had not provided any persuasive evidence to Ofcom to support the claim made in the programme that Mr Bennett's son had been riding on the pillion seat without "*a crash helmet*".

Ofcom went on to consider whether the unsubstantiated claim made in the programme as broadcast created unfairness to Mr Bennett. In doing so, Ofcom considered the contextual basis for the commentary in the programme and whether the programme's presentation of the commentary resulted in unfairness.

Ofcom considered that the overall purpose of the programme was to highlight the work of traffic police around the country and the various situations that they deal with. In doing so, the programme included a number of incidents dealt with by the police and the consequences for the people involved in them.

In Ofcom's view, the intention of the programme in relation to Mr Bennett had been to highlight the nature of his criminal offence of dangerous driving and the aggravating factors that heightened its seriousness and to put into context the sentence he received. Ofcom considered that it was not the programme's intention to present Mr Bennett as having committed a further criminal offence (i.e. by allowing his son to ride pillion without a helmet), but rather its intention had been to emphasise to viewers the lack of responsibility exercised by Mr Bennett. For instance, Ofcom noted that the programme's commentary had made it clear that he had been travelling on a wet road surface at a "*staggering*" speed of 122 mph and that he had received a custodial sentence for this excessive speeding. The commentary went on to state that the motorcyclist had his 14 year old son riding as a pillion passenger and that he had not been wearing "*a crash helmet*". While Ofcom recognised that there was no persuasive evidence provided by the broadcaster to support the commentary's reference to the "*crash helmet*", it was a fact, which had been recognised by the court, that the motorcyclist's son not been wearing adequate protective clothing.

Ofcom also noted that the programme makers took measures to prevent Mr Bennett's identity being revealed other than to those who already knew him or the case (and who would have therefore been aware that it was likely that Mr Bennett's son had been wearing a helmet). In Ofcom's view, the vast majority of viewers would therefore not have known that the irresponsible actions described by the commentary relating to the 14 year old boy riding pillion were being attributed to Mr Bennett.

Taking the above factors into account, Ofcom concluded that, although BSkyB had not provided any evidence to support the claim in the programme that Mr Bennett's son had not been wearing "*a crash helmet*", the statement, in itself, would have been unlikely to have materially and adversely affected viewers' understanding of the irresponsible and potentially dangerous nature of Mr Bennett's actions in a way that was unfair to him. In the particular circumstances of this case, Ofcom considered that the broadcaster had taken reasonable care to satisfy itself that the programme did not present, disregard or omit material facts in a way that resulted in unfairness to Mr Bennett.

Accordingly, Ofcom's decision is that Mr Bennett's complaint of unjust or unfair treatment in the programme as broadcast should not be upheld.

Other Programmes Not in Breach

Up to 18 January 2012

Programme	Broadcaster	Transmission Date	Categories
Advertisements	Hi TV	30/08/2011	Advertising minutage
Advertisements	The Africa Channel	n/a	Advertising scheduling
Adult Channel EPG	Virgin Media	28/11/2011	Sexual material
Pandora	Choice FM	23/11/2011	Scheduling
Soapbox with Chris Hossacks	Phoenix FM (Brentwood)	01/07/2011	Due impartiality/bias
PS3's sponsorship of Five Movies	Five	16/10/2011	Advertising content

Complaints Assessed, Not Investigated

Between 4 and 16 January 2012

This is a list of complaints that, after careful assessment, Ofcom has decided not to pursue because they did not raise issues warranting investigation.

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
100 Best Bodyshockers	E4	16/12/2011	Race discrimination/offence	1
3 Minute Wonder	More4 +1	22/12/2011	Scheduling	1
40 Most Slimmed Down Celebrities	MTV	28/12/2011	Generally accepted standards	1
4thought.tv	Channel 4	07/01/2012	Advertising/editorial distinction	1
5 Live Sport	BBC Radio 5 Live	23/11/2011	Sexual orientation discrimination/offence	1
5 News update	Channel 5	05/01/2012	Generally accepted standards	1
5 News update	Channel 5	05/01/2012	Generally accepted standards	1
5 News update	Channel 5	05/01/2012	Generally accepted standards	1
A Night of Heroes: The Sun Military Awards 2011	ITV1	21/12/2011	Race discrimination/offence	1
Accused: The 74 Stone Babysitter	Channel 4	03/01/2012	Generally accepted standards	1
Adele Live at the Royal Albert Hall	BBC 1	01/01/2012	Offensive language	1
Advertisements	Star Plus	03/01/2012	Advertising minutage	1
Advertisements	Various	n/a	Advertising scheduling	1
Akhbaar umm el donnia	Al Mustakillah Television	24/11/2011	Generally accepted standards	1
Alan Carr's New Year Specstacular	Channel 4	31/12/2011	Sexual orientation discrimination/offence	1
Alan Carr's New Year Specstacular	Channel 4	31/12/2011	Generally accepted standards	55
Alan Carr's New Year Specstacular	Channel 4	31/12/2011	Harm	1
American Pie Presents Band Camp	ITV1	03/01/2012	Outside of remit / other	1
Anadin's sponsorship of the London Weekday Weather	ITV1	29/12/2011	Harm	1
Antiques Roadshow	BBC 1	08/01/2012	Outside of remit / other	1
BBC News	BBC 1	26/12/2011	Generally accepted standards	1
BBC News	BBC 1	31/12/2011	Generally accepted standards	1
BBC News	BBC 1	01/01/2012	Generally accepted standards	1
BBC News at Six	BBC 1	19/12/2011	Outside of remit / other	1
BBC News at Six	BBC 1	04/01/2012	Fairness	1
BBC News at Six	BBC 1	09/01/2012	Outside of remit / other	1
BBC News at Six	BBC 1	10/01/2012	Race discrimination/offence	1

BBC News at Ten	BBC 1	04/01/2012	Race discrimination/offence	8
BBC News at Ten	BBC 1	09/01/2012	Outside of remit / other	1
BBC News programmes	BBC channels	n/a	Outside of remit / other	1
BBC Radio 1's Essential Mix	BBC Radio 1	04/01/2012	Generally accepted standards	1
BBC website	n/a	n/a	Outside of remit / other	1
Big Brother Bit On The Side	Channel 5	14/01/2012	Offensive language	1
Big Fat Quiz of the Year 2011	Channel 4	27/12/2011	Generally accepted standards	1
Big Fat Quiz of the Year 2011	Channel 4	01/01/2012	Transgender discrimination/offence	1
Big Fat Quiz of the Year 2011	Channel 4	01/01/2012	Offensive language	1
Black Mirror: The National Anthem	Channel 4	04/12/2011	Generally accepted standards	1
Bluebird TV	Essex Babes	14/12/2011	Participation TV - Offence	1
Bruno Mars "The Lazy Song"	Heart 103.3FM	14/01/2012	Sexual material	1
BT Vision's sponsorship of The Mentalist	Unknown	n/a	Materially misleading	1
Burn Notice	Film4	01/01/2012	Offensive language	1
Butlins Story	ITV1	20/12/2011	Due accuracy	1
Call the Midwife	BBC 1	15/01/2012	Outside of remit / other	1
Casualty	BBC 1	03/12/2011	Drugs, smoking, solvents or alcohol	1
Casualty	BBC 1	07/01/2012	Race discrimination/offence	1
Celebrity Big Brother	Channel 5	05/01/2012	Drugs, smoking, solvents or alcohol	13
Celebrity Big Brother	Channel 5	05/01/2012	Generally accepted standards	1
Celebrity Big Brother	Channel 5	09/01/2012	Drugs, smoking, solvents or alcohol	1
Celebrity Big Brother	Channel 5	11/01/2012	Animal welfare	1
Celebrity Big Brother	Channel 5	14/01/2012	Sexual material	1
Celebrity Big Brother (trailer)	Channel 5	29/12/2011	Religious/Beliefs discrimination/offence	1
Celebrity Big Brother (trailer)	Channel 5	01/01/2012	Religious/Beliefs discrimination/offence	1
Celebrity Big Brother's Bit on the Side	Channel 5	06/01/2012	Generally accepted standards	12
Celebrity Big Brother's Bit on the Side	Channel 5	09/01/2012	Generally accepted standards	2
Celebrity Big Brother's Bit on the Side	Channel 5	12/01/2012	Gender discrimination/offence	1
Celebrity Come Dine with Me	Channel 4	04/01/2012	Offensive language	1
Celebrity Special	Heart 103.4FM	23/12/2011	Gender discrimination/offence	1
Channel 4 News	Channel 4	03/01/2012	Offensive language	1
Channel 4 News	Channel 4	10/01/2012	Due impartiality/bias	1
Channel Promotion	Comedy Central	04/01/2012	Hypnotic and other techniques	1
Channel Promotion	Comedy	15/01/2012	Hypnotic and other	1

	Central		techniques	
Christian O'Connell Breakfast Show	Absolute Radio	12/12/2011	Race discrimination/offence	1
Come Dine with Me	Channel 4	06/01/2012	Sexual material	1
Comet's sponsorship of Christmas on Alibi	Alibi	n/a	Sponsorship credits	1
Cornwall with Caroline Quentin	ITV1	09/01/2012	Outside of remit / other	1
Coronation Street	ITV1	02/01/2012	Undue prominence	1
Coronation Street	ITV1	09/01/2012	Drugs, smoking, solvents or alcohol	1
Coronation Street	ITV1	09/01/2012	Age discrimination/offence	1
Coronation Street	ITV1	09/01/2012	Product placement	1
Coronation Street	ITV1	n/a	Drugs, smoking, solvents or alcohol	2
Coronation Street	ITV1	n/a	Materially misleading	1
Coronation Street	ITV1	n/a	Promotion of products/services	1
Coronation Street	ITV1	n/a	Undue prominence	1
Countdown	Channel 4	16/01/2012	Offensive language	1
Countdown to 2012	ITV1	31/12/2011	Outside of remit / other	1
Countryfile	BBC 1	08/01/2012	Outside of remit / other	2
Cowboy Builders	Channel 5	11/01/2012	Competitions	1
Dancing on Ice	ITV1	08/01/2012	Disability discrimination/offence	2
Dancing on Ice	ITV1	08/01/2012	Race discrimination/offence	1
Dancing on Ice	STV	08/01/2012	Disability discrimination/offence	1
Dave Berry	Capital Radio	17/12/2011	Sexual material	1
Daybreak	ITV1	13/12/2011	Competitions	1
Daybreak	ITV1	04/01/2012	Race discrimination/offence	1
Daybreak	ITV1	13/01/2012	Gender discrimination/offence	1
Deal or no Deal	Channel 4	n/a	Sexual orientation discrimination/offence	1
Dirty Tricks	4Music	23/12/2011	Generally accepted standards	1
Don't Tell the Bride	BBC 3	09/01/2012	Harm	1
Don't Tell The Bride	Really	08/01/2012	Offensive language	1
Downton Abbey	ITV1	25/12/2011	Exorcism, the occult and the paranormal	1
Dreams' sponsorship of Christmas on Sky	Sky1	01/01/2012	Sponsorship credits	1
Drive Time	Somer Valley FM	05/01/2012	Outside of remit / other	1
EastEnders	BBC 1	25/12/2011	Generally accepted standards	1
EastEnders	BBC 1	27/12/2011	Generally accepted standards	1
EastEnders	BBC 1	09/01/2012	Religious/Beliefs discrimination/offence	1

EastEnders	BBC 1	13/01/2012	Violence and dangerous behaviour	4
Eastenders	BBC 1	18/12/2012	Drugs, smoking, solvents or alcohol	1
EastEnders	BBC 2	18/12/2011	Crime	1
EastEnders	BBC 3	26/12/2011	Generally accepted standards	1
Elvenquest	BBC Radio 4	08/12/2011	Generally accepted standards	1
Emmerdale	ITV1	26/12/2011	Sexual material	1
Emmerdale	ITV1	12/01/2012	Sexual material	1
Emmerdale	ITV1	n/a	Materially misleading	
Eternal Law	ITV1	05/01/2012	Religious programmes	1
Four Lions	Film 4	31/12/2011	Generally accepted standards	1
Frank Mitchell	U105	02/12/2011	Fairness	1
Futurama	Sky1	09/01/2012	Sexual material	1
Gavin and Stacey	Gold	02/01/2012	Offensive language	1
Gillette Soccer Special	Sky Sports 1	02/01/2012	Generally accepted standards	1
Great Movie Mistakes	BBC 3	31/12/2011	Scheduling	1
Hacks	Channel 4	01/01/2012	Generally accepted standards	1
Harvey's Furniture Store's sponsorship of Coronation Street	ITV1	23/12/2011	Gender discrimination/offence	1
Harvey's Furniture Store's sponsorship of Coronation Street	ITV1	04/11/2011	Generally accepted standards	1
Harvey's Furniture Store's sponsorship of Coronation Street	ITV1	n/a	Gender discrimination/offence	6
Harvey's Furniture Store's sponsorship of Coronation Street	ITV1	n/a	Harm	2
Heart Breakfast with Matt and Caroline	Heart FM Devon	06/01/2012	Disability discrimination/offence	1
HI TV	HI TV	30/11/2011	Drugs, smoking, solvents or alcohol	1
How to be a Good Mother with Sharon Horgan	Channel 4	11/01/2012	Generally accepted standards	1
How to be a Good Mother with Sharon Horgan (trailer)	Channel 4	10/01/2012	Generally accepted standards	1
How to be a Good Mother with Sharon Horgan (trailer)	Channel 4	11/01/2012	Generally accepted standards	1
How to be a Good Mother with Sharon Horgan (trailer)	More4	11/01/2012	Generally accepted standards	1
In Bruges	Film4	27/12/2011	Offensive language	1
Indiana Jones and the Kingdom of the Crystal Skull	BBC 1	02/01/2012	Offensive language	1
Introduction to Abney and teal	CBeebies	03/01/2012	Violence and dangerous behaviour	1
It'll be Alright on the Night	ITV1	31/12/2011	Race discrimination/offence	1
It'll be Alright on the Night	ITV1	06/01/2012	Race discrimination/offence	1
It'll be Alright on the Night	ITV1	06/01/2012	Race discrimination/offence	1
ITV competitions	ITV1	06/01/2012	Competitions	1

ITV News	ITV1	n/a	Outside of remit / other	1
ITV News at Ten and Weather	ITV1	22/12/2011	Due impartiality/bias	1
James O'Brien	LBC 97.3FM	15/12/2011	Generally accepted standards	1
Jason and Tommy Breakfast Show	Radio Hartlepool	22/12/2011	Commercial communications on radio	1
Jeff Randall Live	Sky News	19/12/2011	Due impartiality/bias	1
Jeremy Vine	BBC Radio 2	04/01/2012	Race discrimination/offence	1
Jet2's sponsorship of Poirot	STV	26/12/2011	Surreptitious advertising	6
Jurassic Park	ITV1	07/01/2012	Offensive language	1
K-9	ITV1	28/12/2011	Offensive language	1
Lee Mack Going Out Live	BBC 1	01/01/2012	Generally accepted standards	2
Lee Nelson's Well Good Show	BBC iPlayer	n/a	Outside of remit / other	1
Lewis	ITV1	12/01/2012	Scheduling	1
Live Ford Football Special	Sky Sports 1	30/12/2011	Offensive language	1
Live NHL	Premier Sports	14/01/2012	Outside of remit / other	1
Live World Darts Championship	Sky Sports 1	02/01/2012	Race discrimination/offence	1
Location, Location, Location	Channel 4	05/01/2012	Sexual orientation discrimination/offence	2
London Tonight	ITV1	03/01/2012	Race discrimination/offence	1
Look North	BBC 1	03/01/2012	Outside of remit / other	1
Lorraine	ITV1	09/01/2012	Generally accepted standards	1
Magic Beyond Words: The JK Rowling Story	Channel 5	02/01/2012	Materially misleading	1
Mark Dennison	BBC Radio Nottingham	03/01/2012	Generally accepted standards	1
Match of the Day	BBC 1	21/12/2011	Race discrimination/offence	8
Most Shocking Celebrity Moments 2011	Channel 5	01/01/2012	Offensive language	1
Motorway Cops	Watch	09/01/2012	Advertising minutage	1
Murnaghan	Sky News	18/12/2011	Due impartiality/bias	1
Music video: Beyonce "Best Thing I Never Had"	MTV	15/12/2011	Scheduling	1
My Daughter the Teenage Nudist	Channel 4	12/01/2012	Gender discrimination/offence	1
My Funniest Year	E4	29/12/2011	Religious/Beliefs discrimination/offence	1
New You've Been Framed!	ITV1	08/01/2012	Generally accepted standards	1
Newsbeat	BBC Radio 1	29/12/2011	Disability discrimination/offence	1
Newsnight	BBC 2	05/01/2012	Race discrimination/offence	1
Newsnight	BBC 2	10/01/2012	Outside of remit / other	1
Nick Grimshaw	BBC Radio 1	05/01/2012	Race discrimination/offence	1

Nicorette's sponsorship of The Big Lebowski	Dave	17/12/2011	Sponsorship credits	1
Non-Stop Music	Kerrang Radio	31/12/2011	Outside of remit / other	1
One Born Every Minute	Channel 4	11/01/2012	Generally accepted standards	1
Outnumbered	BBC 1	24/12/2011	Disability discrimination/offence	1
Outnumbered	BBC 1	24/12/2011	Offensive language	1
Panorama	BBC 1	28/11/2011	Outside of remit / other	1
Paul	Sky Movies Showcase	13/01/2012	Offensive language	1
Perfect Couples	Channel 4	20/12/2011	Sexual material	1
Planet's Funniest Animals	ITV2	05/01/2012	Animal welfare	2
Playboy TV	Playboy TV	14/12/2011	Participation TV - Offence	2
Playboy TV	Playboy TV	n/a	Participation TV - Offence	1
Playing It Straight (trailer)	E4	01/01/2012	Sexual orientation discrimination/offence	1
Plusnet Broadband's sponsorship of Celebrity Big Brother	Channel 5	05/01/2012	Sponsorship credits	1
Point Break	BBC 1	02/01/2012	Violence and dangerous behaviour	1
Poirot	ITV1	26/12/2011	Surreptitious advertising	1
Radio Hartlepool	Radio Hartlepool	24/12/2011	Offensive language	1
Rags To Riches Holiday	Sky 2	31/12/2011	Generally accepted standards	1
Red Light Central	Red Light 1	08/12/2011	Participation TV - Offence	1
Red Light Lounge	Red Light 1	29/12/2011	Participation TV - Offence	1
Regional News and Weather	BBC 1	09/01/2012	Fairness & Privacy	1
Regular Show	Cartoon Network	05/01/2012	Sexual material	1
Reporting Scotland	BBC 1 Scotland	10/01/2012	Outside of remit / other	1
Rhod Gilbert	BBC Radio Wales	24/12/2011	Generally accepted standards	1
Ricky Tomlinson: Sitcom Does Christmas	Gold	08/12/2011	Offensive language	1
Rude Tube	E4	18/12/2011	Under 18s in programmes	1
Russell Howard's Good News Extra	Dave	29/12/2011	Generally accepted standards	1
Sherlock	BBC 1	01/01/2012	Sexual orientation discrimination/offence	1
Sherlock	BBC 1	01/01/2012	Scheduling	19
Shipwrecked: The Island	Channel 4	08/01/2012	Animal welfare	4
Shipwrecked: The Island	E4	03/01/2012	Gender discrimination/offence	1
Sky News	Sky News	09/12/2011	Due impartiality/bias	1
Sky News	Sky News	10/01/2012	Due impartiality/bias	1
Sky Sports Goals on Sunday	Sky Sports 1	18/12/2011	Voting	1

Sky Sports News	Sky Sports News	21/12/2011	Race discrimination/offence	1
Sky Sports News	Sky Sports News	03/01/2012	Race discrimination/offence	1
Sorority Girls	E4	18/12/2011	Generally accepted standards	1
Southall Homeless Sikhs	Sikh Channel	11/12/2011	Generally accepted standards	1
Stella	Sky1	06/01/2012	Materially misleading	1
Stella (trailer)	Sky1	01/01/2012	Offensive language	1
Stephen Lawrence: Justice For a Murdered Son	ITV1	03/01/2012	Generally accepted standards	1
Strictly Come Dancing	BBC 1	29/10/2011	Sexual material	1
Super Casino	Channel 5	04/01/2012	Materially misleading	1
Super Sunday	Sky Sports 1	15/01/2012	Outside of remit / other	1
Take Me Out	ITV1	07/01/2012	Crime	1
Take Me Out	ITV1	07/01/2012	Generally accepted standards	11
Take Me Out	ITV1	14/01/2012	Generally accepted standards	1
Take Me Out - The Gossip	ITV2	07/01/2012	Harm	1
Talksport	Talksport	22/12/2011	Generally accepted standards	1
The Angelos Neil Epithemiou Show	Channel 4	30/12/2011	Disability discrimination/offence	1
The Bank Job	Channel 4	03/01/2012	Age discrimination/offence	1
The Bank Job	Channel 4	03/01/2012	Materially misleading	2
The Bank Job	Channel 4	07/01/2012	Competitions	1
The Bank Job	Channel 4	07/01/2012	Age discrimination/offence	1
The Bank Job	Channel 4	07/01/2012	Generally accepted standards	1
The Big Breakfast	Channel 4	n/a	Outside of remit / other	1
The Biggest Loser	ITV1	03/01/2012	Materially misleading	1
The Biggest Loser	ITV1	03/01/2012	Generally accepted standards	1
The Bishop and the Prisoner	BBC Radio 4	02/01/2012	Offensive language	1
The Bleak Old Shop of Stuff	BBC 2	29/12/2011	Religious/Beliefs discrimination/offence	1
The Channel 4 Mash Up - Come Dine With Me: Made in Chelsea	Channel 4	02/01/2012	Animal welfare	1
The Channel 4 Mash Up - Come Dine With Me: Made in Chelsea	Channel 4	02/01/2012	Generally accepted standards	1
The Chase	ITV1	03/01/2012	Materially misleading	1
The Chase	ITV1	13/01/2012	Age discrimination/offence	1
The Chris Evans Breakfast Show	BBC Radio 2	05/01/2012	Generally accepted standards	1
The Chris Moyles Show	BBC Radio 1	12/01/2012	Generally accepted standards	1
The FA Cup 3rd Round Live	ITV1	08/01/2012	Generally accepted standards	6
The FA Cup 3rd Round Live	ITV1	08/01/2012	Offensive language	3

The FA Cup 3rd Round Live	ITV1	08/01/2012	Outside of remit / other	1
The FA Cup Highlights	ITV1	07/01/2012	Generally accepted standards	4
The FA Cup Highlights	ITV1	07/01/2012	Outside of remit / other	1
The FA Cup Highlights	ITV1	09/01/2012	Outside of remit / other	1
The Graham Norton Show	BBC 1	13/01/2012	Religious/Beliefs discrimination/offence	1
The Graham Norton Show	BBC 1	13/01/2012	Product placement	1
The Great Sport Relief Bake Off	BBC 2	10/01/2012	Religious/Beliefs discrimination/offence	1
The Hotel	Channel 4	01/01/2012	Offensive language	2
The Hotel	Channel 4	15/01/2012	Offensive language	1
The Joy of Teen Sex	Channel 4	27/10/2011	Generally accepted standards	23
The Joy of Teen Sex	Channel 4	17/11/2011	Generally accepted standards	5
The Joy of Teen Sex	Channel 4	17/11/2011	Sexual material	1
The Joy of Teen Sex	Channel 4	24/11/2011	Generally accepted standards	1
The Joy of Teen Sex	Channel 4	14/12/2011	Generally accepted standards	1
The Joy of Teen Sex	Channel 4	n/a	Generally accepted standards	1
The Making of the Iron Lady	Yesterday	05/01/2012	Materially misleading	1
The One Lenny Henry	BBC 1	06/01/2012	Generally accepted standards	1
The One Lenny Henry	BBC 1	08/01/2012	Materially misleading	1
The Phantom of the Bay competition	The Bay 96.9FM	27/08/2011	Competitions	1
The Simpsons	Sky1	06/01/2012	Sexual material	1
The True Story	Channel 5	04/01/2012	Violence and dangerous behaviour	1
The Vault	ITV1	n/a	Outside of remit / other	1
The World's Most Stupid Criminals	Dave	09/01/2012	Offensive language	1
The Zone	ITV1	06/01/2012	Gambling	1
This Morning	ITV1	05/01/2012	Generally accepted standards	1
This Morning	ITV1	13/01/2012	Race discrimination/offence	1
Thought For the Day	BBC Radio 4	13/01/2012	Outside of remit / other	1
Tim Minchin: Ready for This?	E4	01/01/2012	Religious/Beliefs discrimination/offence	1
TNA Wrestling	Challenge TV	06/12/2011	Generally accepted standards	1
Today	BBC Radio 4	24/12/2011	Outside of remit / other	1
Today	BBC Radio 4	13/01/2012	Outside of remit / other	1
Tombola.co.uk's sponsorship of Emmerdale	ITV1	26/12/2011	Sponsorship	1
Tombola.co.uk's sponsorship of Emmerdale	ITV1		Sponsorship	1
True Stories: Little Matador	More4	20/12/2011	Under 18s in programmes	1
TV Licensing promotion	BBC News	n/a	Outside of remit / other	1

UFC141	ESPN	30/12/2011	Outside of remit / other	1
Various	BBC channels	n/a	Outside of remit / other	1
Various	Capital Radio	n/a	Outside of remit / other	1
Various	ITV3	n/a	Outside of remit / other	1
Various	Ummah Channel	n/a	Materially misleading	1
Various	Various	n/a	Outside of remit / other	1
Various	Various	n/a	Outside of remit / regional bias	1
Von Ryan's Express	Channel 4	02/01/2012	Offensive language	1
Waterwörld	TV6	11/11/2011	Generally accepted standards	1
webuyanycar.com's sponsorship of Harry Hill's TV Burp	ITV1	07/01/2012	Generally accepted standards	1
Weekend Sports Breakfast	Talksport	01/01/2012	Generally accepted standards	1
Without You	ITV1	22/12/2011	Generally accepted standards	1
wonga.com's sponsorship of Channel 5 drama	5USA	02/01/2012	Generally accepted standards	1
wonga.com's sponsorship of Channel 5 drama	Channel 5	12/01/2012	Generally accepted standards	1
wonga.com's sponsorship of Channel 5 drama	Channel 5	n/a	Generally accepted standards	2
wonga.com's sponsorship of Channel 5 drama	Channel 5		Outside of remit / other	1
wonga.com's sponsorship of Channel 5 drama	Channel 5		Sponsorship	1
WWE Experience	Sky1	18/12/2011	Violence and dangerous behaviour	1
WWE promotion	Sky Sports 1	21/12/2011	Generally accepted standards	1
You've Got Mail	ITV2	30/12/2011	Offensive language	1

Investigations List

If Ofcom considers that a broadcast may have breached its codes, it will start an investigation.

Here is an alphabetical list of new investigations launched between 19 January and 1 February 2012.

Programme	Broadcaster	Transmission Date
Advertising scheduling	Channel AKA	16 November 2012, 17 November 2012, 19 November 2012, and 20 November 2012
Advertising scheduling	Clubland TV	25 November 2012, 26 November 2012, and 27 November 2012
Andrew Peach	BBC Radio Berkshire	9 December 2011
Celebrity Big Brother's Bit on the Side	Channel 5	24 January 2012
Cherry Healey: Like a Virgin	BBC 3	12 January 2012
Coppers	Channel 4	23 January 2012
Meet Britain's Chinese Tiger Mothers: A Wonderland Film	BBC 2	5 January 2012
Panorama	BBC 1	3 November 2011
Playing it Straight	E4	9 January 2012
Road Wars	Pick TV	11 January 2012
Shot One	UCTV	1 December 2012
Storm	Storm	9 December 2011
The Secrets in the Walls	Channel 5	20 January 2012
This Morning	ITV1 London	17 January 2012
Vigil for Christ	Rainbow Radio	12 January 2012

It is important to note that an investigation by Ofcom does not necessarily mean the broadcaster has done anything wrong. Not all investigations result in breaches of the Codes being recorded.

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

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/>.

For fairness and privacy complaints go to:

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/fairness/>.