Ofcom Broadcast Bulletin

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Contents

Introduction

Under the Communications Act 2003 ("the Act"), Ofcom has a duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives[1]. Ofcom must include these standards in a code or codes. These are listed below. Ofcom also has a duty to secure that every provider of a notifiable On Demand Programme Services ("ODPS") complies with certain standards requirements as set out in the Act[2].

The Broadcast Bulletin reports on the outcome of investigations into alleged breaches of those Ofcom codes below, as well as licence conditions with which broadcasters regulated by Ofcom are required to comply. We also report on the outcome of ODPS sanctions referrals made by ATVOD and the ASA on the basis of their rules and guidance for ODPS. These Codes, rules and guidance documents include:

a) Ofcom's Broadcasting Code ("the 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.

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 advertising[3].

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 can be found on Ofcom's website for television and radio licences.

e) rules and guidance for both editorial content and advertising content on ODPS. Ofcom considers sanctions in relation to ODPS on referral by the Authority for Television On-Demand ("ATVOD") or the Advertising Standards Authority ("ASA"), co-regulators of ODPS for editorial content and advertising respectively, or may do so as a concurrent regulator.

Other codes and requirements may also apply to broadcasters and ODPS, depending on their circumstances. These include the Code on Television Access Services (which sets out how much subtitling, signing and audio description relevant

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

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

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

licensees must provide), the Code on Electronic Programme Guides, the Code on Listed Events, and the Cross Promotion Code.

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

Standards cases

In Breach

Dhoh Mitte Bhol

Unity FM (Birmingham), 19 November 2014, 13:00

Introduction

Unity FM is a community radio station licensed to serve the Muslim community in Sparkbrook, Birmingham and the immediately surrounding area. The licence for Unity FM (Birmingham) is held by Birmingham Cedars Limited ("BCL" or "the Licensee").

During routine monitoring, Ofcom noted a two hour programme called *Dhoh Mitte Bhol* consisting of a female presenter giving her interpretation of certain Qur'anic texts and other advice from an Islamic perspective. It was broadcast in Urdu. In assessing the content Ofcom obtained a translation of the content into English by an independent translator. At one point in the programme, the presenter gave details of how vinegar, honey and garlic could be used to tackle certain medical complaints:

> *"I was reading this tip about the effective treatment of blood pressure, cholesterol and rheumatic pains, with age you get pains in the knees, cholesterol increases, blood pressure is raised. There is a homeopathic doctor who has said this is a very good remedy, everyone knows the benefits of garlic, he said that he had used honey for patients who had depression, they were fed up with life and would say silly things, while depressed, what he did was that in the morning instead of adding sugar to the porridge he added two spoons of honey, in fact I think it's very tasty when you add honey to porridge, when I went to America the whole time, we would have breakfast in the hotel and I would only have porridge mixed with honey. Anyhow in the evening they would give the patients one spoon of honey in water, in a few days their weakness was gone and slowly their depression had gone. When you study Islamic medical tips you would realise that honey and vinegar are very prominent things. There is a Hadith[1] that in a house where there is vinegar, there would be no illness".*
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> ****
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> *"You can use* [garlic] *in a homeopathic way… she* [a caller] *broke up a pack of garlic and took out eight pieces and added vinegar and honey and mixed them in a grinder and filled up a glass bottle, the glass bottle keep one inch empty from the top. You can use a jam or a conserve bottle. For eight days it was kept in the lower compartment of the fridge and on the ninth day she gave her one table spoon first thing in the morning. And to have breakfast after half an hour and to use plenty of vegetables. Then after 10 or 12 days* [the caller]*'s mother felt better. She had her test after one month and was surprised that cholesterol and blood pressure were far better than before, she also found it easy to work".*
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> ****

[1] The Hadith are supplementary texts which help interpret the Qur'an.

"Brothers and sisters, whoever has a knee pain, or has blood pressure or anyone who has depression, I will tell you this remedy [i.e. garlic, vinegar and honey] *and by the blessing of Allah and please try".*

Soon after, the presenter then twice referred to this remedy as being effective for angina as follows:

"This remedy is also good for angina, to lower cholesterol, and for blood pressure please take it down, pure honey one cup, fruit vinegar one cup, local garlic eight pieces after it has been peeled, mash it up and grind it in a grinder, once the garlic has been dissolved, first you should mash the garlic and then add the other things, fill up a glass bottle, jam or jelly bottle, take down the date, and then on the ninth day first thing in the morning have a table spoon of this, then have breakfast after one hour, keep it in the bottom compartment of the refrigerator and sometimes don't forget to shake it, especially when you are about to drink it".

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"A sister has mentioned about knee pains, I will tell you again, take eight pieces of garlic and mix vinegar in honey, I will tell you the recipe for it again, this is a good remedy for angina, to open up the blood vessels, for cholesterol, and is also effective for high blood pressure, it's very good. Pure honey one cup, fruit vinegar one cup, local garlic eight pieces, peel it off and mash it, add all three ingredients to the grinder and grind it, once the garlic has dissolved then fill up a glass bottle".

Ofcom considered that the content raised issues warranting investigation under the following rules of the Code:

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

Rule 4.6: "Religious programmes must not improperly exploit any susceptibilities of the audience".

We therefore sought BCL's comments as to how this material complied with these rules.

Response

The Licensee apologised for the "errors made" in relation to this programme. It also said that on being contacted by Ofcom in this matter it "recognised the seriousness of the allegations and immediately suspended" the programme.

BCL said that as the "main language at Unity FM is English" it had arranged for a fluent Urdu speaker to listen to the programme in this case. According to the Licensee, the Urdu speaker had confirmed that the programme did not include any steps "to ensure that listeners to this programme, including those with serious illnesses, were not caused potential harm on the basis of what they have heard on Unity FM". Concerning the fact that the programme was in Urdu, BCL also said that: "If it [had been] in English our studio manager would have been listening in and would most likely have taken action. It is difficult to see how we can get around this as we are committed to broadcasting in different community languages".

The Licensee said that the presenter had "confirmed that she had received the Ofcom training" and, according to BCL, the presenter had stated that there are "no harmful effects of garlic (it is a food) and that no one has died of eating garlic". However, BCL added that it did not condone this point of view and said that the "presenter's actions were a serious breach" of the Licensee's internal guidelines as well as the Code. It added that that the presenter had accepted that "a disclaimer" would have been useful in this case, although she did not "feel it was needed when garlic is so commonly used". According to the Licensee, the presenter considered that the medicinal properties of garlic "are well known, especially [its] cardiovascular effects (indeed a search on the NHS Choices website[2] has revealed the…potential medicinal benefits of garlic". However, BCL said that it had explained to the presenter that "a disclaimer for herbal remedies is needed as some exaggerated claims [were] made" in this case. In summary, the Licensee said that this programme was "not a medical show" and it remained "inexplicable why the presenter went seriously off tangent and started to discuss medical matters". It added that: "The presenter has now resigned".

BCL said that it provides training about the Code to all its presenters including the rules "with regard to promoting medicinal treatments and claims". The Licensee added that: "We try our best to prepare our presenters through training but we cannot guarantee that they will not make mistakes". According to BCL, the "error made [was] an isolated one and it is covered in our training process". To illustrate this point, it provided Ofcom with a recording of another programme broadcast on Unity FM during February 2015 which dealt with the issue of bodybuilding. The Licensee said that in that case "the presenter specifically advises the listeners to consult a medical professional before taking bodybuilding supplements". It argued that this was "an example of the training that we provide our presenters being put into practice".

In conclusion, BCL set out the steps it had taken to improve compliance as a result of this case including ensuring presenters receive further training on the issue of health advice in programming. The Licensee added that it had also broadcast a "disclaimer"[3] containing an apology in all its Urdu programmes for a period of a week.

BCL also made a number of general comments about the purpose of community radio. In particular, the Licensee said that it interprets giving "social benefit to the community" by providing access to radio broadcasting to "people who would not get a look in on a commercial radio station… [including] presenters from disadvantaged" and various other backgrounds. However, it said that: "All our presenters are amateurs, and the risk with this is that they will make mistakes… [and] this is the logical consequence of the legislative framework that brought community radio stations into existence".

[2] See www.nhs.uk/Livewell/superfoods/Pages/is-garlic-a-superfood.aspx

[3] BCL provided the following translation of the broadcast "disclaimer": *"On 19 November 2014 Unity FM broadcast a show which suggested that High Blood Pressure, Angina, Raised Cholesterol, Depression and Arthritis could be cured with Honey, Garlic or Vinegar. We would like to clarify that these are serious diseases and that there is no evidence of any significant benefit with any of these suggested treatments. We would recommend that our listeners seek medical advice from their GP before deciding to alter or stop any prescribed medication. Unity FM would like to apologise for deviating from our high standards on this occasion".*

Decision

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 objectives, including that: "generally accepted standards are applied...so as to provide adequate protection for members of the public from the inclusion...of harmful and/or offensive material"; "broadcasters exercise the proper degree of responsibility with respect to the content of programmes which are religious programmes"; and religious programmes do not involve "any improper exploitation of any susceptibilities of the audience for such a programme". These objectives are reflected in Sections Two and Four of the Code.

In reaching a Decision in this case, Ofcom has taken account of the right to freedom of expression. This includes the right of the broadcaster to impart information and ideas, and the right of the audience to receive them without unnecessary interference by public authority, subject to restrictions prescribed by law that are necessary in a democratic society. This is set out in Article 10 of the European Convention on Human Rights ("ECHR").

Ofcom also had regard to Article 9 of the ECHR which states that everyone "has the right to freedom of thought, conscience and religion." This Article goes on to make clear that freedom to "manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of…health…or for the protection of the rights and freedoms of others."

Medical and health topics are matters of great interest to audiences. We recognise that broadcasters want the editorial freedom to explore the debates around particular medical conditions and their treatments, and to make this information available to their viewers and listeners. However, broadcasters must take special care to comply with the Code and act responsibly when broadcasting medical or health advice, either preventative or for existing medical conditions, because of the harm that may result if the advice is not appropriately placed in context.

Rule 2.1

Rule 2.1 of the Code states that:

> "Generally accepted standards must be applied to the contents of television and radio services so as to provide adequate protection for members of the public from the inclusion in such services of harmful and/or offensive material".

Rule 2.1 is specifically concerned with the protection of listeners and viewers from harm. In this case, Ofcom had concerns about the advice given in this case by the presenter to treat serious medical conditions such as angina, high blood pressure and depression. In such circumstances, the Code requires that broadcasters apply "generally accepted standards" to provide the audience with adequate protection from harmful material. The purpose of this requirement is to mitigate any risk that viewers or listeners who suffer from such conditions might forego or delay orthodox medical treatment in favour of the advice given during the programme, with consequent harm caused to their health.

In assessing the material in this case under Rule 2.1, Ofcom had to consider whether the statements made by the presenter, laid out in the Introduction, could have encouraged listeners to follow and rely on her advice for the treatment of angina,

high blood pressure and depression. If this was the case, there was a potential for harm because some listeners – especially more vulnerable ones – might have relied on her advice alone and/or might not have sought, or might have abandoned, existing, conventional medical treatment for angina, high blood pressure and depression. In Ofcom's view, this clearly could have been very harmful.

First, we considered whether the advice given by the presenter concerning the treatment of angina, high blood pressure and depression had the potential to cause harm. We noted that several times the presenter put forward an alternative remedy, namely a concoction of honey, vinegar and garlic. She repeatedly stated that this was a *"very good"* remedy which specifically was *"good for angina, to lower cholesterol, and for blood pressure".* In addition, the presenter also said that if a person took *"one spoon of honey in water"* then *"in a few days…slowly their depression had gone"*.

Ofcom was particularly concerned about the references to the treatment of angina. Angina is chest pain that occurs when the blood supply to the muscles of the heart is restricted. It usually happens because the arteries supplying the heart become hardened and narrowed. In addition, we understand that angina pains are often a serious warning sign that a person has an increased risk of life-threatening problems, such as a heart attack or stroke[4]. Accepted medical advice is to treat this serious condition by specific medication and occasionally surgery.

We also had concerns that the presenter said that high blood pressure or depression could be effectively treated by drinking a concoction of honey, vinegar and garlic, and that honey alone could successfully treat depression. High blood pressure is a medical condition, which if left untreated, increases a person's risk of a heart attack or stroke. Accepted medical advice is that it should be treated through a combination of lifestyle changes and, as appropriate, medication[5]. Depression is a medical condition that can be seriously debilitating. Accepted medical advice is that it should be treated by either medication or talking treatments, or a combination of the two[6].

In assessing the advice given by the presenter, we took into account the Licensee's reference to NHS advice[7] that BCL said "revealed the…potential medicinal benefits of garlic". On reviewing this source, we noted that it said that although one study had been identified that "suggested that…garlic… reduced blood pressure" there was "insufficient evidence to say if garlic was an effective means for treating high blood pressure and reducing death rates". We noted that the NHS advice did not indicate that garlic could be used as a remedy for angina and depression.

In its representations, the Licensee also said that, in the presenter's view, there are "no harmful effects of garlic (it is a food) and…no one has died eating of garlic". We acknowledged that BCL did not condone this point of view and the Licensee underlined that in its opinion the presenter's actions were a "serious breach" of the Licensee's guidelines as well as the Code. However, Ofcom's concerns in this case did not focus on whether or not garlic was non-toxic.

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[4] See http://www.nhs.uk/conditions/angina/pages/introduction.aspx

[5] See http://www.nhs.uk/Conditions/Blood-pressure-(high)/Pages/Treatment.aspx

[6] See http://www.nhs.uk/Conditions/Depression/Pages/Introduction.aspx

[7] See footnote 3.

Given that the presenter espoused the view that angina, high blood pressure and depression could be treated solely by eating honey, vinegar and garlic (or honey only in the case of depression) we considered that the presenter's statement had the potential to cause serious harm due to the risk that listeners with those medical conditions might have relied on her advice alone and/or might not have sought, or might have abandoned, existing, conventional medical treatment. This likelihood was increased by the fact that the presenter's health advice was given in a programme where she was giving religious advice. Given that Unity FM's target audience is a religious community, we considered there was a stronger likelihood that listeners might have deferred to the presenter's advice. In addition, given that some listeners may have been suffering from serious medical conditions, such as angina or clinical depression, they may have been in a vulnerable state, and therefore this may have increased the likelihood of this material causing them harm.

Ofcom next examined whether the Licensee took steps to provide adequate protection for listeners from this potentially harmful material. We could not identify any steps for example that the Licensee took to put the presenter's health advice into appropriate context and therefore provide adequate protection to viewers. How such adequate protection might be achieved is an editorial matter for the individual broadcaster. However, for example, the presenter did not advise listeners to consult a qualified doctor before acting on her advice about angina, high blood pressure and depression. We concluded that it was likely that some members of the audience – especially more vulnerable ones – could have been left with the false impression that angina, high blood pressure and depression could be effectively treated solely by eating honey, vinegar and garlic (or honey only in the case of depression).

In reaching our Decision in this case, we took into account the Licensee's various representations, for example that while this programme was broadcast in Urdu, the studio manager in this case did not speak that language, and, if the programme had been "in English [BCL's] studio manager would have been listening in and would most likely have taken action". Ofcom recognises the logistical issues facing community radio licensees to ensure compliance with the Code. However, a licensee has full editorial responsibility for all its output. We expect broadcasters to take all appropriate measures to ensure compliance with the Code. For example if a community radio licensee cannot be confident that its presenters can be trusted to broadcast unsupervised in compliance with the Code, the licensee must ensure they are appropriately monitored by other staff (who as necessary must have the requisite language skills).

Second, the Licensee said that it provided training about the Code to all its presenters (including the presenter in this case), and this training covered the promotion of "medicinal treatments and claims". According to BCL, the "error made [was] an isolated one and it is covered in our training process". We noted this point. However, although this training may have been given, the fact remains that in this case, the presenter gave potentially harmful advice to listeners.

Third, the Licensee argued that there is a risk that some of its presenters, as amateurs "will make mistakes… [and] this is the logical consequence of the legislative framework that brought community radio stations into existence". We acknowledged this point. However, another important requirement of the legislative framework is that all community radio licensees must comply with the Code.

We noted that BCL: apologised for the "errors made", including broadcasting an apology in all its Urdu programmes for the period of a week; recognised the "seriousness" of the matters in this case and immediately suspended the programme

on being contacted by Ofcom; acknowledged that some sort of "disclaimer" should have been provided in this case to prevent harm being cause to listeners; and had taken steps to improve compliance in this area. Ofcom underlines that broadcasters are free to discuss controversial medical issues as long as they are appropriately contextualised. However, for all the reasons explained above, the Licensee did not take steps to provide listeners with adequate protection from the potentially harmful advice given. Ofcom therefore concluded that Rule 2.1 was breached.

Rule 4.6

Rule 4.6 states that:

> "Religious programmes must not improperly exploit any susceptibilities of the audience".

In this case, we considered that this was a religious programme as defined by Section Four of the Code i.e. the programme dealt with matters of religion as the central subject, or as a significant part, of the programme.

We noted that the presenter suggested in positive and definitive terms that angina, high blood pressure and all forms of depression could be treated solely by taking a concoction of honey, vinegar and garlic (or honey only in the case of depression). In our view, the presenter suggested in unequivocal terms that the above medical conditions could be treated by means of the remedies she was suggesting. We considered that the audience would have been likely to have been susceptible to the advice being given by the presenter. This was because the audience of Unity FM – a religious community – was to a great extent self-selecting, was more likely to defer to a presenter dispensing religious advice within a religious programme and was less likely to question the content broadcast in this programme. Also we noted that, in giving her health advice, the presenter referred to a sacred text (hadith[8]) which, according to the presenter, said that "*in a house where there is vinegar, there would be no illness".*

In Ofcom's view this material had the potential to improperly exploit the vulnerability of listeners suffering from angina, high blood pressure and depression. This was all the more likely because, as already detailed above, the Licensee did not provide any advice to listeners to seek appropriate medical advice if minded to follow the health advice given by the presenter. Therefore we considered it likely that some in the audience would have been susceptible to the health advice being presented.

In reaching our Decision, we noted that BCL: apologised for the "errors made"; broadcast an apology in all its Urdu programmes for the period of a week; recognised the "seriousness" of the matters in this case; immediately suspended the programme on being contacted by Ofcom; acknowledged that some sort of "disclaimer" should have been provided in this case to prevent harm being cause to listeners; and, had taken steps to improve compliance in this area. However, given that some individuals experiencing serious illnesses may have been vulnerable to the health advice being given, Ofcom concluded that there was a material risk that susceptible members of the audience may have been exploited by the material broadcast on Unity FM. This was therefore also a breach of Rule 4.6.

Breaches of Rules 2.1 and 4.6

[8] See footnote 2.

In Breach

Catch Me If You Can 2

Vox Africa, 13 January 2015, 13:55

Introduction

Vox Africa is a digital satellite channel aimed at the African community. The channel broadcasts a variety of news and entertainment programming. The licence for Vox Africa is held by Vox Africa Plc ("Vox Plc" or "the Licensee").

On 13 January 2015 at 13:55, the channel broadcast the Nigerian crime film *Catch Me If You Can 2*. A viewer contacted Ofcom to raise concern because it contained offensive language.

We noted that this 60 minute programme was preceded by a warning alerting viewers that *"The following movie has been rated PG – Parental Guidance"*. We also noted the following:

- 24 uses of the words "fuck" or "fucking" and two uses of the word "motherfucker". In addition, the lyrics of a song played during the programme's end credits included a further two uses of the word 'fuck' and three uses of the word 'motherfucker'.

- Approximately 14 minutes after the start of the programme, a scene in which a couple were shown kissing on a sofa. A man said to his female lover:

  "..and how do you intend to achieve that?"

  She responded:

  "By kissing you, and giving you a BJ".

  She was then seen to reach into the man's jeans.

- Approximately 23 minutes into the programme's duration, a female character said:

  "I've got a new dick, and a stronger one".

- Two minutes later, another female character said:

  "I like his dick and the way he uses it".

Ofcom considered the broadcast of this material before the watershed raised issues warranting investigation under the following rules of the Code.

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

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

Rule 2.3: "In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context… Such material may include, but is not limited to, offensive language…sex…".

We therefore sought comments from the Licensee as to how the material complied with these rules.

Response

Vox plc said that after an internal investigation it found the issue was caused due to "human error" during its compliance process. The Licensee apologised and said it had added "new steps" to its compliance procedures to "eliminate" the potential for human error.

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appears to it best calculated to secure the standards objectives, including that that "persons under the age of eighteen are protected" and that "generally accepted standards" are applied so as to provide adequate protection for members of the public from the inclusion in such services of offensive and harmful material.

Rule 1.14

Rule 1.14 states that the most offensive language must not be broadcast before the watershed. Ofcom research on offensive language[9] clearly notes that the words "fuck" and "motherfucker", and variations of these words, are considered by audiences to be among the most offensive language.

As noted above, this programme included a total of 31 uses of the most offensive language. We therefore considered that this programme at 13:55 was in breach of Rule 1.14.

Rule 1.3

Rule 1.3 requires that children are protected by appropriate scheduling from material that is unsuitable for them. Ofcom first assessed whether the broadcast contained material unsuitable for children.

In addition to the repeated and frequent uses of the most offensive language, as described above, we also noted a number of sexual references contained within the programme. These are also described above. The dialogue included for example a reference to a woman giving *"a BJ"* and a female character describing how she had *"got a new dick, and a stronger one"*. In Ofcom's view, these overtly sexual references were further indicative of the programme's unsuitability for children.

We then went on to consider whether the material was appropriately scheduled.

We took into account: that this content was broadcast at 13:55 on a weekday during term time; the clear adult tone and themes of the programme; and, the likelihood of there being children available to view this programme when broadcast at lunchtime

[9] http://stakeholders.ofcom.org.uk/binaries/research/tv-research/offensive-lang.pdf

on a freely available channel. Ofcom recognised that Vox Africa is a channel unlikely to attract a significant child audience. However we did consider that, given the time of broadcast, there was the potential that children, some unaccompanied by an adult, might have been watching or that they may have come across the programme unawares.

We also noted that a warning was shown before the programme alerting viewers that the film had been rated PG for *"parental guidance*". We noted the similarity of the wording of this warning with the British Board of Film Classification's ("BBFC") "PG" (Parental Guidance) certification. While the Licensee may have considered it was suitable to apply a rating to the programme, it was clearly inappropriate to do so in a way which may have led viewers to believe this version had been judged to similar standards as material certified by the BBFC, when in fact it had not. Ofcom advises broadcasters not to use language which might imply approval or certification by the BBFC without prior consultation.

Warnings may be useful as a guide to viewers in some circumstances. However, warnings must be accurate and may not alone be sufficient to ensure that material is appropriately scheduled.

Given the above, we considered the programme was in breach of Rule 1.3.

Rule 2.3

Rule 2.3 requires broadcasters to ensure that the broadcast of potentially offensive material must be justified by the context. Ofcom therefore considered first whether the language in this programme was potentially offensive; and, if so, whether the offence was justified by the context. Context includes for example: the editorial content of the programme; the service on which it is broadcast; the time of broadcast; and, the likely size and composition of the potential audience and the likely expectation of the audience.

As noted above, Ofcom research on offensive language identifies the words "fuck", "motherfucker" and their variations as amongst the most offensive language. In Ofcom's view, 31 uses of these words over the course of this hour-long programme was capable of causing offence to viewers. We therefore considered whether this potential offence was justified by the context.

Catch Me If You Can 2 was a crime film aimed at an adult audience. Given this, we considered that its audience may have expected some limited instances of offensive language.

However, we noted the programme began with inaccurate information indicating that the film's content was equivalent to a PG rating. Ofcom also noted that the programme was broadcast at 13:55, many hours before the start of the watershed. Although the watershed is designed primarily to protect children from material that is unsuitable for them, it also shapes the expectations of adult viewers as to the level and type of offensive material they would expect on a channel before 21:00. In Ofcom's view therefore, given the time of broadcast, viewers would not have expected the frequent uses of the most offensive language that this programme contained.

We therefore considered that the broadcast of this offensive content was not justified by the context and was in breach of Rule 2.3. Ofcom noted that the Licensee said that this issue occurred due to "human error" and that it had introduced new

procedures to “eliminate” the possibility of this recurring. However, we also noted that this is the second recent breach[10] recorded against this Licensee due to the broadcast of the most offensive language before the watershed. Ofcom is therefore putting the Licensee on notice that we may consider further regulatory action should any further similar compliance issues occur.

Breaches of Rules 1.3, 1.14 and 2.3

[10] See Decision *Box Of Truth* in (http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb277/Issue277.pdf) (20 April 2015)

In Breach

The Mustard Show

Mustard TV, 18 March 2015, 18:30

Introduction

Mustard TV is a local television service for Norwich and surrounding areas. The licence for the service is held by Mustard TV Limited ("the Licensee").

The Mustard Show is a daily topical magazine programme covering a range of local issues broadcast at various times of the day.

A complainant alerted Ofcom to the broadcast of offensive language during a pre-watershed episode of this programme. Having viewed the programme, Ofcom noted that when introducing a report about archaeological discoveries on a local beach (presented by her colleague), the presenter said the following:

> *"This is what happened when this cunt went to Happisburgh beach to look at some fossils or something".*

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...".

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

Response

The Licensee said that the broadcast was "entirely unacceptable" and it sincerely regretted the incident. It explained that the programme segment in question was pre-recorded and this version, containing inappropriate language used in jest, was included in the final edited programme in error.

The Licensee said that the presenter broadcast an apology the following evening and that the inappropriate language was removed immediately from any repeat broadcast of the programme and the version available online. It added that disciplinary action had been taken against the staff concerned and compliance procedures tightened to ensure the circumstances which resulted in this incident would not happen again.

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 of the Code states that "the most offensive language must not be broadcast before the watershed…". Ofcom research on offensive language[1] notes

[1] Audience attitudes towards offensive language on television and radio, August 2010

that the word “cunt” is considered by audiences to be amongst the most offensive language.

Ofcom noted the Licensee’s actions to mitigate the offence caused to viewers and to improve compliance. However the use of the word “cunt” in this programme broadcast before the watershed was a clear breach of Rule 1.14 of the Code.

Breach of Rule 1.14

(http://stakeholders.ofcom.org.uk/binaries/research/tv-research/offensive-lang.pdf).

In Breach

The Verdict

Movie Mix, 14 December 2014, 16:00

Introduction

Movie Mix is a general entertainment service which broadcasts films and acquired drama series, mainly from America, and is owned and operated by Media Mix Limited ("Media Mix" or "the Licensee"). Media Mix Limited is a subsidiary of Sony Pictures Entertainment.

Ofcom was alerted to two instances of offensive language in this film broadcast in the afternoon on Movie Mix.

We noted that at 16:06 and 16:07 a conversation between two characters included the following two instances of offensive language: *"He's the prince of fucking darkness"* and *"don't fuck with this case"*.

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

> "The most offensive language must not be broadcast before the watershed (in the case of television)…"

We therefore asked the Licensee how this broadcast material complied with Rule 1.14.

Response

Media Mix explained that the film had been reviewed by its compliance team and offensive language removed to create a version of the film suitable for broadcast before the watershed. The edited 'Suitable Any Time' ("SAT") version was then entered into the scheduling system for Movie Mix. However, on 24 November 2014, it became known that Sony Pictures had experienced a significant cyber-attack. Media Mix shares a number of important computer systems with Sony Pictures. As a result of the cyber-attack, the Licensee said Movie Mix's scheduling system was compromised and the SAT version of *The Verdict* was erased.

The Licensee said that, in response to the cyber-attack, the Movie Mix schedules had to be rebuilt manually. In this case, the film was recovered from storage in a form expected to be the SAT version. However, it said that unfortunately due to human error, it was in fact the unedited film which included the two instances of the most offensive language which was retrieved and it was this which was broadcast by mistake.

The Licensee apologised that offensive language was broadcast before the watershed and said it took compliance "very seriously". It added that because of the cyber-attack the Licensee was "working under unique and difficult circumstances to continue broadcasting as usual," the scheduling issues had now been resolved and its "usual thorough compliance systems" were now in place.

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 language[1] clearly notes that the word "fuck" and other variations of this word are considered by audiences to be among the most offensive language. Such language is unacceptable before the watershed, particularly when used in an aggressive manner.

Ofcom noted Media Mix's explanation that this version of the film was broadcast following the Sony Pictures cyber-attack, which compromised the data on its scheduling systems. However, we noted that it was human error which led to an assumption being made that the version on the system was the SAT version suitable for broadcast before the watershed, rather than the unedited version which included the most offensive language. The version of the film retrieved from storage was not checked again at that stage to ensure it was appropriate for broadcast before the watershed.

Therefore, although we note the exceptional circumstances which formed the background to the compliance error, this broadcast of two instances of the most offensive language was in Ofcom's view clearly avoidable, and there was a breach of Rule 1.14.

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).

In Breach

Editors – Parliament Hill

London Live, 5 April 2015, 11:00

Introduction

London Live is a local television station broadcasting news and entertainment programmes. It is owned and operated by ESTV Limited ("ESTV" or "the Licensee").

Editors – Parliament Hill is an arts programme which follows the rock band Editors around London as they talk about their favourite locations in the city. A complainant alerted Ofcom to the use of the phrase *"It's pretty fucking terrifying"* by one of the band members during this pre-recorded programme.

Ofcom considered that this broadcast of offensive language raised issues warranting investigation under Rule 1.14 of the Code, which states that:

> "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 programme complied with this rule.

Response

ESTV apologised for the mistake and said this was down to "simple human error", as the word was "missed" during editing.

The Licensee said "to ensure this does not happen in future" it has reviewed its compliance procedures and has "made some key changes." ESTV said: programmes will now go through a single quality control and compliance process; it has introduced a new procedure to edit post-watershed material for pre-watershed transmission; and a programme will be not be placed in the schedule for pre-watershed broadcast until a "pre-watershed edition has been supplied."

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 language[1] clearly notes that the word "fuck" and related words are considered by audiences to be among the most offensive language. Such language is unacceptable before the watershed.

[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 additional compliance measures introduced by ESTV in response to this incident. Nevertheless, the use of the word “fucking” was clearly audible at 11:05 in this programme when broadcast. There was therefore a breach of Rule 1.14.

Breach of Rule 1.14

In Breach

Heart Breakfast with Robin Galloway

Heart (Central Scotland), 24 February 2015, 06:00 to 10:00

Introduction

Heart (Central Scotland) is a local radio station which broadcasts programming at peak times on weekdays and on weekend afternoons. The licence for this service is held by Real Radio (Scotland) Limited, part of the Global Radio group ("Global Radio" or "the Licensee").

A complainant alerted Ofcom to offensive language broadcast in the "*Heart Breakfast*" programme at about 10:00.

Ofcom noted that during a news bulletin that concluded the breakfast show, a conversation between breakfast show presenter Robin Galloway and his co-presenter could be heard in the background. In particular, Ofcom noted that once the news bulletin ended, the conversation became clearly audible and included the following comment by the co-presenter:

> *"… Oh it's a shame that flat's away. Shit. Motherfucker".*

After the broadcast of this breakfast show, the Licensee broadcast the following apology at 11:15:

> *"Kelly Clarkson on Heart. Just want to apologise, due to some technical problems that left the studio live on air earlier, some listeners in the east of Scotland may have heard some content that shouldn't have been broadcast and we sincerely apologise for any offence caused".*

The offensive language was broadcast at approximately 10:00 on a Tuesday during school term time. Ofcom therefore considered that this was not a time when children would be particularly likely to be listening.

Nonetheless, Ofcom considered that the material raised issues warranting an investigation under Rule 2.3 of the Code which states:

> "In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context [...]. Such material may include, but is not limited to, offensive language, […]. Appropriate information should also be broadcast where it would assist in avoiding or minimising offence."

We therefore sought comments from Global Radio as to how the broadcast of the offensive language complied with this rule.

Response

Global Radio explained that, due to a technical problem affecting one of its transmitters, at the end of the breakfast show "a post-show, private conversation between the two presenters was unintentionally broadcast" which "affected a relatively small number of listeners in the east of Scotland". The Licensee

acknowledged that the conversation contained “inappropriate language that clearly was not suitable for broadcast in this context”.

Global Radio said that once it became aware of the problem “the programming team aimed to issue an apology” as soon as possible to mitigate any offence. However, as a result of another technical issue the apology was not broadcast at the first attempt, but was aired “shortly after” (as detailed in the Introduction).

The Licensee stated that while it had not intended to broadcast the offensive language it was “taking the incident very seriously”. It had “reminded the presenters via formal letter of [its] station policy that all discussions in a studio should be suitable for broadcast”.

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 including that “generally accepted standards” are applied so as to provide adequate protection for members of the public from the inclusion of offensive and harmful material. These objectives are reflected in Section Two of the Code.

Rule 2.3 of the Code provides that broadcasters must ensure that material which may cause offence is justified by the context. Such material may include offensive language. Ofcom therefore considered first whether the language included in the broadcast was potentially offensive; and if so, whether the offence was justified by the context. Context includes, for example, the editorial content of the programme; the service on which it was broadcast; the time of broadcast; the likely size and composition of the potential audience; and the likely expectation of the audience.

Ofcom’s research on offensive language[1] notes that the word “motherfucker” is considered by audiences to be among the most offensive language. We therefore considered that the inclusion of this offensive language clearly had the potential to cause offence to the audience.

We went on to consider the context of the broadcast. Ofcom’s guidance on offensive language in radio[2] (regarding Rule 2.3) states: “Ofcom’s 2010 audience research found that in general, listeners do not expect to hear strong language during the day on radio [...] During daytime, broadcasters should ensure that presenters and contributors in all types of live radio programming are mindful of their language at all times.”

In this case we noted that the most offensive language was used as part of a private conversation between two presenters, unintentionally broadcast due to a technical problem. However, this language was played out to the audience, and in Ofcom’s view, listeners to this breakfast show would not have expected to hear the most offensive language broadcast at this time of day. As a result, we concluded that the broadcast of this language was not justified by the context.

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

[2] Ofcom Guidance: Offensive Language on Radio, December 2011, (http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/offensive-language.pdf).

Ofcom took into account that: the language had been broadcast due to a technical error; an apology was broadcast just over one hour later; and, the Licensee had written to its presenters to remind them only to use suitable language when in the studio.

In light of the above, we decided that this was a breach of Rule 2.3.

Breach of Rule 2.3

In Breach

Winning Weekend Competition

U105 FM, 7 and 8 March 2015

Introduction

U105 is a commercial radio station that broadcasts across most of Northern Ireland. It is owned by UTV Radio (or "the Licensee").

The station regularly runs *The Winning Weekend* competition across a Saturday and Sunday with a partner organisation. Prizes, provided or arranged by the partner, are awarded during a number of different programmes broadcast over the weekend.

On the weekend of 7 and 8 March, the competition was run in conjunction with Lisburn City Centre and ten prizes from retailers within the city were awarded across ten programmes. In each of these programmes, the competition opened when the presenter gave a "cue to call". Listeners wishing to enter were required to call a geographic rate number[1]. The fifteenth caller was put on air and asked a question; if answered correctly, the caller won a prize.

Ofcom received a complaint from a listener who won the competition prize on offer during *The Jerry Lang Show* on 7 March. The complainant stated that they were also put to air in *Not the Top 40* broadcast the following day. However, despite answering the question correctly and being announced as the winner of the latter programme's prize, the complainant received a call from the station two days later explaining that the competition's terms and conditions did not allow for entrants to win multiple prizes. The station therefore told the complainant that she was not eligible to receive the second prize.

The complainant told Ofcom that, having won a second time, she had advised the presenter of *Not the Top 40* off-air that she had also won the previous day, but it was not until two days later that she was informed that this condition applied.

Ofcom reviewed both programmes. We noted that no information about the condition that prohibits previous winners from entering was broadcast in either show.

Ofcom considered the matter raised issues warranting investigation under the following rules of the Code.

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

Rule 2.15: "Broadcasters must draw up rules for a broadcast competition…These rules must be clear and appropriately made known. In particular, significant conditions that may affect a viewers or listener's decision to participate must be stated at the time an invitation to participate is broadcast".

Ofcom therefore sought comments from the Licensee as to how the broadcast competition complied with these rules.

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[1] Geographic telephone numbers are those beginning 01 or 02.

Response

The Licensee said *The Winning Weekend* is a regular feature run as one competition across two weekend calendar days and clearly signposted as such.

The Licensee explained that it has seven different presenters across the weekend who each send the details of winning competition entrants to a Sponsorship and Promotions team which then contacts the winners. The Licensee said that it was only during this process that it identified a listener had been successful on two different programmes. It then contacted the complainant to apologise and explain the situation.

UTV Radio said that its presenters were briefed to read a line on air referring listeners to the station's website for full terms and conditions. However, having listened to the occasions referred to by the complainant, the Licensee accepted that this did not happen in these instances and apologised for the oversight.

Notwithstanding this omission, the Licensee maintained both that the competition was conducted fairly and that its rules were clear as it had adhered in this case to the terms and conditions which were available to listeners on the station's website.

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 standards objectives, including "that generally accepted standards are applied to the contents of ... radio services so as to provide adequate protection for members of the public from the inclusion in such services of ... harmful material."

This is reflected in part by Rules 2.13 and 2.15 of the Code, which require, among other things, that broadcasters conduct competitions fairly, and that competition rules are both clear and "appropriately made known" to potential participants. In particular, Rule 2.15 requires that broadcasters state "significant conditions that may affect a...listener's decision to participate...at the time an invitation to participate is broadcast."

Ofcom's Guidance to Section Two of the Code[2] makes clear that "Ofcom expects all competitions to be run fairly and honestly. Broadcasters who run them are inviting viewers and listeners to take part in schemes on terms that would be assumed to be equitable and free of deception. All aspects of a competition should therefore be clear and fair." For competitions to be run fairly, listeners must be given sufficient information to enable them to decide whether or not to participate. For example, a competition excluding a particular category of listeners from entry would clearly affect those listeners' decision to participate. Our Guidance to Rule 2.15 makes clear that Ofcom "expects rules that limit those who can take part in a competition to be broadcast" before adding "their broadcast is not expected if specific individuals – e.g. previous prize winners – have been informed directly."

Ofcom noted that *The Winning Weekend* broadcast on 7 and 8 March comprised ten separately executed competitions on ten different programmes promoted under a single theme. We also noted that, upon winning a competition on 7 March, the complainant was not informed directly that she would be unable to win any of the remaining competitions on U105 that weekend. Further, we noted this condition was

[2] See http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section2.pdf.

not referenced in the presenter's on-air invitation to participate during *Not the Top 40* the following day. Because the complainant had not been advised of this specific exclusion either directly or during the programme, we concluded the Licensee had breached Rule 2.15.

Further, we noted that despite being declared the winner of the competition broadcast during *Not the Top 40*, the complainant was later advised by the station that she was, in fact, ineligible to win the prize. As stated above, it is Ofcom's view that the complainant should have been informed of this condition either directly or when the invitation to participate was broadcast. Therefore, to disallow the complainant's win after they were put on air and had answered a question correctly was unfair. Accordingly, Ofcom is also recording a breach of Rule 2.13 of the Code with regard to this broadcast competition.

Although we noted UTV Radio's acknowledgement that some of its on-air invitations to listeners to participate had not contained enough information, we were concerned by its assertion that the inclusion of a general reference to its online terms and conditions would – in its view – have been sufficient to ensure compliance with the Code. We remind all broadcasters that important conditions must either be broadcast or made clear to potential participants as appropriate.

Breaches of Rules 2.13 and 2.15

Resolved

Good Morning Britain

ITV, 13 April 2015, 07:40

Introduction

Good Morning Britain is a daily breakfast programme broadcast on ITV. This edition of the programme was hosted by Susanna Reid and Piers Morgan. The programme is complied by ITV Broadcasting Limited ("ITV"), on behalf of the Licensee, ITV Breakfast Broadcasting Limited.

Two complainants alerted Ofcom to the use of offensive language in this programme.

During this programme Piers Morgan ("PM") and Susanna Reid ("SR") interviewed the French climber, Alain Robert ("AR"), who was speaking from Dubai about having climbed a skyscraper there. During the interview there was the following exchange:

PM: *"You've done 100 big climbs now of skyscrapers. How many times have you thought in all those climbs 'I might die here'? How many moments have you had of real 'This could be it. This could be the moment I fall'?"*

AR: *"Well, many times, but the thing is, you know, as long as you are not falling, it's just like a fucking warning. Like you are nearly falling, but you are not falling. Then you need to fight for your life and usually I'm quite good at doing that kind of stuff. You know, just saving my ass".*

PM: [Laughs] *"You see, you are a nutcase! But a brilliant nutcase. You know, this world is full of great explorers over the centuries and you're like one of those guys. It's mad to normal people like us, but to you, this is what you love doing isn't it?"*

AR: *"Yeah, well, I think, you know if I wasn't doing that kind of stuff, life would be boring. You know I need to feel pretty much dead to feel that I am fucking alive".*

PM: [Laughs].

SR: *"Okay".*

PM: *"Hang on, we're–".*

SR: *"Slightly more frank language at this time of the morning than we're normally, erm, used to on 'Good Morning Britain', so apologies for that".*

PM: *"Did he just use the? He did, yes".*

SR: *"Well, I think we'll gloss over it and apologies. Erm. Well, look, it's lovely to talk to you. Just to remind us, you, you used to be scared of heights, didn't you?' How – you were, were a child – how did you get over your fear of heights? Just keep the language moderate as well".*

AR: "*I think, you know, my will for climbing was even stronger than my fear of heights. And that's the reason why finally I did manage to overcome that fear. And then along the way I got a very bad accident and I started to suffer vertigo. That was the biggest issue actually than just being afraid of heights".*

PM: "*Well, Alain, you're a tremendously brave guy. You go and recover now from your latest climb, and we are going to try and recover from your, your choice use of language, which, which was a little alarming for us at this early time in the morning. But it's been great talking to you".*

SR: *"Thank you very much. Lovely to talk to you. Apologies again".*

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

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

We therefore asked ITV how the programme complied with this rule.

Response

The Licensee apologised for any offence that was caused in this case.

ITV said that the use of offensive language by Alain Robert was "unexpected". It said all interviewees on *Good Morning Britain* are briefed prior to interview, although the briefing will vary "according to the guest, the subject matter of the item, and their likely contribution". According to the Licensee, the briefing will "generally include" amongst other things "not swearing or using offensive language". In addition, ITV said that: "During transmission, the presenters are briefed that if any guest does swear inadvertently they should issue an apology". It added that it had processes in place "to ensure that any compliance issues that arise during transmission are immediately referred to the compliance team".

The Licensee said that "we had some significant technical issues with the live link to the studio in Dubai". It added that this meant that before the interview, Alain Robert "was not specifically warned not to use offensive language" during the interview. It also said that the interviewee, Alain Robert "is not a native English speaker, and consequently the pre-broadcast briefing was not as extensive as would be usual for a guest appearing in our London studio". However, ITV said that: "[Alain] Robert is regularly interviewed by news agencies…and we had no reason to suspect that he would use offensive language".

With regard to the first use of the word "fucking" in this interview, the Licensee said that "both the presenters and the producers in the gallery initially were unsure what had been said, and therefore did not apologise immediately". However, ITV added that: "As soon as the guest swore a second time, it became clear to them and to the gallery that he had in fact done so twice, and presenter Susanna Reid did then issue an immediate apology to viewers". In addition, Piers Morgan then "reacted more humorously…and Susanna therefore apologised again, and after asking a further question reminded [Alain] Robert to 'Just keep the language moderate'". The Licensee also said that "at the end of the interview she issued a further apology to viewers".

Following the programme, ITV said that the instances of offensive language were edited out of the programme on its ITV+1 broadcast and the version of the

programme available on ITV's on demand service. In addition, the programme editor "specifically addressed with the production team the potential issues with guests who may be taking part in a succession of media interviews in a different time zone, and may not be as fully aware of the nature of this programme and its scheduling as a London studio guest, even where that guest has a good deal of experience of being interviewed on television".

In summary, the Licensee considered that it had taken "prompt action…to mitigate any offence arising from this incident, including repeated apologies once it had occurred and warning to the guest not to use that language again".

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 on television before the watershed. Ofcom's research on offensive language[1] notes that the word "fuck" and similar words are considered by audiences to be amongst the most offensive language.

In this case, the word "fucking" was broadcast twice before the watershed. There was therefore a clear breach of Rule 1.14.

We also took into account the particular circumstances of this live interview. These two instances of the most offensive language were used in a live interview with a non-native English speaker by satellite link, concerning which the broadcaster was facing "significant technical issues". We noted that Alain Robert had received a briefing before going on air, which ITV described as "not as extensive as would be usual for a guest appearing in our London studio". In particular, it added that Alain Robert "was not specifically warned not to use offensive language" in his live interview.

We noted that that neither presenter made any remark after the interviewee used the first instance of offensive language because, according to the Licensee, both they and production staff "were unsure what had been said". In this regard we noted that the interviewee, while audible, spoke English with a quite distinct accent. We noted however that following the second instance of offensive language by the interviewee, Susanna Reid apologised immediately:

> *"Slightly more frank language at this time of the morning than we're normally, erm, used to on 'Good Morning Britain', so apologies for that".*

Soon afterwards she once again apologised and specifically warned Alain Robert over any further use of offensive language:

> *"Well, I think we'll gloss over it and apologies. Erm. Well, look, it's lovely to talk to you. Just to remind us, you, you used to be scared of heights, didn't you?' How – you were, were a child – how did you get over your fear of heights? Just keep the language moderate as well".*

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

Finally, when concluding the interview, Piers Morgan referred to Alain Robert's *"choice use of language, which, which was a little alarming for us at this early time in the morning".* In addition, Susanna Reid again apologised to the audience for the offensive language. Therefore ITV broadcast several apologies very soon after the two instances of offensive language in this case. We did have concerns, however, that the effect of these apologies were lessened to a degree by the fact that Piers Morgan laughed after Alain Robert said "fucking*"* for the second time and then further reacted, as ITV said "more humorously" (*"Did he just use the? He did, yes"*).

However, we took into account: the several apologies broadcast shortly after the incident; the fact that the Licensee removed the instances of offensive language from the versions of the programme broadcast on its ITV+1 broadcast service and made available in its on demand service; and, the steps taken by the Licensee to improve further compliance in this area.

Given all the above, on balance we considered the matter resolved.

Resolved

Not in Breach

The Angels' Share

Film 4, 15 October 2014, 21:00

Introduction

Film 4 is a channel which specialises in screening a mixture of independent and 'arthouse' film productions and mainstream Hollywood films. The licence for Film 4 is held by Channel Four Television Corporation ("Channel 4" or "the Licensee").

Film 4 broadcast the film *The Angels' Share* at 21:00 on 15 October 2014, a Wednesday evening. *The Angels' Share* is an award winning drama, based in Scotland, following a character Robbie who, having escaped a prison sentence and become a parent, tries to change his life by staging a whisky heist. The British Board of Film Classification ("BBFC") gave the film a '15' certificate rating for its cinema release in 2012[1].

A complainant alerted Ofcom to the offensive language it contained, and in particular the offensive language broadcast at the beginning. The complainant considered it was inappropriate to broadcast such language immediately after the 21:00 watershed, and immediately following the film "Stardust" (a PG-rated film, described by the BBFC[2] as a "fantasy adventure"). In particular the complainant highlighted the frequent use of the word "fuck" and related words in the pre-title sequence, and four instances of the word "cunt" in the broadcast overall, including the use of this word at approximately 21:15.

Ofcom assessed the complaint and decided that it did not raise potentially substantive issues under the Code which warranted investigation by Ofcom.[3] Subsequently, the complainant made detailed representations on Ofcom's decision not to investigate. Having carefully considered those submissions, Ofcom decided, exceptionally, to retake its decision and to open an investigation. This document sets out Ofcom's Decision on the substance of the complaint.

The broadcast of the film on 15 October was preceded by a warning: *"Now on Film 4, winning the Jury Prize at Cannes, this heart-warming tale of the body warming spirit. One group on the edge of the law, take a shot at pulling off a whisky heist. With violence and very strong language throughout, the Film 4 premiere of Ken Loach's The Angels' Share"*.

Ofcom noted in particular the following sequences in the film:

Sequence One (the pre-title sequence)

The pre-title sequence broadcast at 21:03, immediately after the warning, began with opening on-screen credits accompanied by the voiceover of a barrister: *"This was an*

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[1] See: http://www.bbfc.co.uk/releases/angels-share-2012

[2] See: http://www.bbfc.co.uk/releases/stardust-2007

[3] See: http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb271/obb271.pdf

unusual case, my Lord. The accused was at an unmanned station under the influence of a strong fortified wine".

A shot of the character Albert [*"the accused"*] immediately followed, walking along the edge of an empty platform, at a railway station, while holding a bottle of alcohol wrapped in a brown bag. The accompanying voiceover continued: *"Railway personnel, from some 20 miles away manning security cameras, saw him staggering towards the station's edge"*.

As the chimes of the station's speaker system could be heard, Albert was shown drinking from the bottle and retracing his steps along the edge of the platform. The following conversation took place between Albert and an employee of the railway (who could be heard over the speaker system):

Employee: *"Will all passengers stand back from the edge of the platform.* [Albert, who stood on the edge of the platform with his back to the train tracks, looked around to see where the voice was coming from] *You with the trainers on. You with the blue tracksuit. Get back, there is a train coming through here any minute. Stand back"*.

Albert: *"Is somebody taking the piss here?"*

Employee: *"What do you do when you're told to stand back?"*

Albert: *"Stand back"*.

Employee: *"That's right you heard me. Stand back!"*

Albert: *"If you say so pal* [Albert raised his arms up as he stepped backwards and fell on to the track]*. Oh Shit!"*

Employee: *"See, look what you've done now you fucking imbecile! Get off that track! There is a train coming through here in seconds"*.

Albert: *"What the fuck was that you arsehole!* [Albert attempts to get up] *I fucking nearly broke my bottle"*.

Employees: *"Fuck the bottle! Get off that track! Hurry up and get a fucking move on"*.

Albert: *"I can't find my glasses!"*

Employee *"This is God calling. Get off the fucking track will you! Get a fucking move on or you're gonna die"*.

Albert: *"Fuck me* [while crouching on the railway track Albert searched for his glasses]*"*.

Employee: *"Move it you fucking arsehole"*.

Albert: *"Thank fuck.* [Having found his glasses, Albert slowly walked to the platform edge lifting himself up onto the platform] *Ahh shit"*.

During this sequence Ofcom noted ten instances in total of the word "fuck" and related words.

Sequence Two

This sequence at about 21:15 featured the characters Robbie and his community service officer, Harry, in the toilets of a hospital, after a fight between Robbie and his girlfriend's relatives. In an exchange between Robbie and Harry, Robbie mumbled *"fucking cunt smashed my phone, man"* as he washed blood off his nose.

Ofcom considered that the material in these two sequences raised issues warranting investigation under the following rules of the Code:

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

Rule 1.6: "The transition to more adult material must not be duly abrupt at the watershed…For television, the strongest material should appear later in the schedule".

Rule 2.3: "In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context... Such material may include, but is not limited to, offensive language…Appropriate information should also be broadcast when it would assist in avoiding or minimising offence".

Sequence Three

In addition to the material detailed above, we noted that after 21:30 a further six instances in total of the word "cunt" were included in the broadcast of the film. Ofcom noted that these included a sequence at approximately 21:55, featuring the immediate aftermath of a confrontation between Robbie and a rival, whom Robbie had threatened by holding a knife to his face in an aggressive manner. As Robbie walked away down the street he shouted "*fuck you cunt*" and kicked a parked motorbike over.

Ofcom considered these six uses on the word "cunt" also raised issues warranting investigation under Rule 2.3 of the Code.

We therefore sought comments from Channel 4 as to how the material outlined above complied with these rules.

Response

Channel 4 stated that: "*The Angels' Share* was appropriately scheduled for broadcast on the dedicated film channel, Film 4, after the watershed at 9:03pm with a clear and unambiguous warning as to the nature of its content". The Licensee confirmed that the film it broadcast was rated '15' by the BBFC.

By way of background, Channel 4 explained that the film was directed by "probably Britain's most distinguished contemporary director" Ken Loach. Following its release in 2012, the film won the Jury Prize at that year's Cannes Film Festival. The screenplay was by Paul Laverty, with whom Ken Loach had previously worked on various projects. According to Channel 4, Paul Laverty is well known for his in-depth research and "ability to register the vernacular of contemporarily Scottish speech", and "almost the entire body of work [Loach and Laverty films] has been played in 9pm slots on the Channel".

Rules 1.3 and 1.6: Appropriate Scheduling (Sequences One and Two)

The Licensee stated that the opening sequence was "part and parcel of the film's narrative" and was "carefully set up from the outset…as a flash-back to a trial". It said that the scene detailed "all we need to know about the social conditions of this protagonist [Albert]: he is poor, barely literate, and none too bright".

Channel 4 argued that it had ensured the film was appropriately scheduled after the watershed and the transition to more adult material was not unduly abrupt for the following reasons:

- scheduling was approved at senior editorial and legal level;
- the film commenced five and a half minutes after the end of the previous film *Stardust* and was separated from it by advertisements and promotions;
- the film was preceded by a "clear and unambiguously explicit warning" (see Introduction);
- Film 4 is a dedicated film channel and the scheduling took into account "the demographic expectations for the channel and the relevant film"; and
- Channel 4 provided audience figures to support its view that "there were hardly any children" watching *The Angels' Share*.

The Licensee said that "[f]ilms on the channel tend to be destination viewing with viewers turning to the channel to watch a particular film" and it "would not be expected that viewers would continuously watch the channel from film to film". It added that while "all films are carefully scheduled at an appropriate time, a film channel would not be expected to have the same progression in the nature of its content as might be expected with the main [public service] Channel".

Rule 2.3: Offensive Material

In summary, the Licensee said that the offensive language included in the film, including in particular in Sequences One to Three, complied with Rule 2.3 because it was justified by the context.

By way of background, the Licensee said that this film featured "a couple of star-crossed lovers…[who] fall victim to menaces and violence from local thugs". The narrative was about "the breaking of a culture of violence, one of the most pressing issues of our time".

Channel 4 made various points which in its opinion justified the broadcast of all the offensive language contained in the film, and in particular the word "cunt", in summary:

- Film 4 is a specialist film channel;
- the "highly regarded films of Loach, and Loach/Laverty, have been gathered together in a number of special seasons on Film 4, with a number of titles transmitted in the prime 9pm slot";
- the BBFC '15' certified version was broadcast;

- the audience for Film4 is “unusually skewed” towards an older, adult demographic; and

- the film had already been widely exhibited in cinemas, on DVD and on-demand services, and was funded and distributed with the help of the British Film Institute.

In relation to the use of “cunt” at about 21:55 as referred to in Sequence Three in particular, Channel 4 explained that the thug (Robbie’s rival) is “represented as a wholly unacceptable individual – feared and disliked by all...who threatens lives and makes risky the Romeo and Juliet love story”.

Channel 4 commented that “it is by no means unusual for a BBFC rated PG film to be followed by a BBFC rated 15 film after the watershed” and “there is no prohibition…for an 18 certificate film playing at 9pm”. It added that “no film is scheduled to play at any time without a case-by-case assessment of the film”.

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set such standards for broadcast content as appear to it best calculated to secure the standards objectives, including that “persons under the age of eighteen are protected” and that “generally accepted standards” are applied so as to provide adequate protection for members of the public from the inclusion of offensive and harmful material. These objectives are reflected in Sections One and Two of the Code.

In reaching a Decision in this case, Ofcom has taken into account the right to freedom of expression which gives broadcasters a right to transmit and the audience a right to receive creative material, information and ideas without interference by a public authority, but subject to restrictions prescribed by law and necessary in a democratic society. This is set out in Article 10 of the European Convention on Human Rights. However, the broadcaster’s right to freedom of expression is not absolute. In carrying out its duties, Ofcom must balance the right to freedom of expression on one hand against the requirements in the Code.

Rule 1.3 and Rule 1.6: Appropriate Scheduling

Rule 1.3 states that children[4] must be protected by appropriate scheduling from material that is unsuitable for them. Appropriate scheduling is judged according to a number of factors including: the nature of the content; the likely number and age range of children in the audience; the time of broadcast; the nature of the channel and programme; and, likely audience expectations.

Rule 1.6 states that the transition to more adult material must not be unduly abrupt at the watershed[5], and adds that the strongest material should appear later in the schedule. What constitutes an “unduly abrupt” transition to more adult material depends on the context: for example, factors such as the nature of the material, the editorial content of the programme, the channel, the time of the broadcast and the expectations of the audience.

[4] Children are defined in Section One of the Code as people under the age of fifteen years.

[5] Meaning of the watershed: The watershed is at 21:00. Material unsuitable for children should not, in general, be shown before 21:00 or after 05:30.

Ofcom considered the application of these rules together in this case because they both go to the same issue: whether the film was appropriately scheduled given the repeated use of the most offensive language in the first fifteen or so minutes.

Ofcom's guidance on observing the watershed on television[6] states that: "Content that commences after the watershed should observe a smooth transmission to more adult content. It should not commence with the strongest material". Recognising that children may not have ceased viewing at exactly 21:00, Rule 1.6 is designed to avoid a sudden change to more adult material that would only be deemed suitable for a post-watershed broadcast.

Rule 1.6 is not prescriptive. It does not stipulate a certain set time after the watershed when broadcasters may start to transmit the most offensive language. However, bearing in mind that there is an absolute prohibition on the most offensive language immediately before 21:00 (Rule 1.14[7]), a broadcaster would need very strong reasons to justify starting to broadcast the most offensive language – especially when used repeatedly – in the period immediately after the 21:00 watershed. Ofcom has made clear in various published findings[8] that broadcasters should not use the most offensive language immediately after the watershed without sufficient justification.

The material included in Sequence One (the pre-title sequence) and Sequence Two, as detailed above, contained repeated use of the most offensive language. The pre-title sequence contained ten uses of the word "fuck" and related words. These started one and a half minutes into the film, which commenced at about 21:03. Sequence Two, broadcast at approximately 21:15, contained one use of the word "cunt". Ofcom's research on offensive language[9] notes that the word "fuck" (and variations of this word) and "cunt" are considered by audiences to be amongst the most offensive language. The research states that: "[m]any participants felt that the word 'cunt' was particularly offensive". This research confirmed also however that the level of offence caused by the use of these words varied according to individual viewers and contextual factors.

We considered that this frequent and repeated broadcast of the most offensive language shortly after the 21:00 watershed was clearly unsuitable for children. We therefore went on to examine whether it was appropriately scheduled and whether the transition to this more adult material was unduly abrupt.

Ofcom started by examining the nature of the content in Sequences One and Two. The pre-title sequence (Sequence One) provided an introduction to the character Albert, at an isolated railway station, drunk, unaware of his surroundings and the danger he faced by falling onto the train tracks. In Ofcom's view the nature of the

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[6] http://www.ofcom.org.uk/files/2011/11/1-189291759_annex.pdf

[7] Rule 1.14 of the Code states: "The most offensive language must not be broadcast before the watershed (in the case of television)…".

[8] See for example the breach findings on *Playing it Straight* on E4 published on 11 June 2012 in Bulletin 207 (http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/989142/obb207.pdf); and on *Big Brother* on Channel 5 published on 19 December 2011 in Bulletin 196 (http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb196/obb196.pdf)

[9] Audience attitudes towards offensive language on television and radio, August 2010: http://stakeholders.ofcom.org.uk/binaries/research/tv-research/offensive-lang.pd

Albert character was illustrated by this scene – a comedic exchange with an increasingly frustrated railway employee addressing Albert by means of a public address system. This gave viewers important background on, and an introduction to, Albert at the start of the film.

Ofcom considered that the word "fuck" and related words in Sequence One were not used in an aggressive or confrontational manner, with (for example) the two characters shouting abusive language directly at each other in shot. Rather, this pre-title sequence showed Albert and the railway employee talking at each other via a loudspeaker system. This gave the exchange a surreal character and was part of the intended comedy (consistent with Albert's interaction with other characters throughout the film).

We noted the use in Sequence Two of the word "cunt" (as detailed above), at approximately 21:15, in a dialogue between Robbie and Harry, two characters on friendly terms, following an extremely intense confrontation with relatives of Robbie's girlfriend. Ofcom noted that in this case Robbie used the most offensive language to express his frustration in the aftermath of a confrontation with a very violent character. The sequence illustrated the vulnerability of Robbie, despite his previous bravado, and the start of the turning point in his life. The strong language was not used aggressively at another character – rather, it was mumbled in a dejected tone as Robbie realised his phone had been damaged, adding another issue to his spiralling list of problems.

These factors, in Ofcom's opinion, provided some editorial justification for the broadcast of the offensive language at this time at the start of the film, and to some extent mitigated its capacity to cause offence.

We assessed next the fact that this film followed the film *Stardust,* a BBFC 'PG'-rated fantasy adventure film described by the BBFC as containing "moderate fantasy violence and scary moments"[10]. We considered Channel 4's comments that "films on the channel tend to be destination viewing with viewers turning to the channel to watch a particular film" and it "would not be expected that viewers would continuously watch the channel from film to film". However, when stronger broadcast material is scheduled immediately after content designed for a wider audience there is a possibility that the later programme inherits a higher child audience than otherwise might be the case.

We noted the BARB audience figures for both *Stardust* and *The Angels' Share* on Film 4. The audience for *Stardust* during the period 20:45 to 21:00 was 425,000 viewers, of which 24,000 (5.7% of the total) were children aged four to 15[11]. However, audience figures for *The Angels' Share* demonstrated that the number of child viewers fell sharply from 21:00 when the film started. The total audience for the period 21:00 to 21:15 was 448,000, but the total child audience dropped to 1.4% of viewers at this time (a total of 6,272 children - all aged 10 to 15). We also noted that *The Angels' Share* was broadcast on a Wednesday evening during term time, when it was likely that fewer children would be available to view after the 21:00 watershed.

[10] See footnote 2.

[11] In the Code "children" means "people under the age of fifteen years." BARB data however divides the audience into three groups: children aged four to nine, children aged ten to fifteen, and individuals aged sixteen and over.

Ofcom also took into account that there was a fairly lengthy break between the time *Stardust* ended (at about 20:57), and the start of *The Angels' Share* (at around 21:03). This period of about five and half minutes consisted of advertisements and promotions.

Channel 4 gave the following warning immediately before *The Angels' Share* started and before the pre-title sequence:

> *"Now on Film 4, winning the Jury Prize at Cannes, this heart-warming tale of the body warming spirit. One group on the edge of the law, take a shot at pulling off a whisky heist. With violence and very strong language throughout, the Film 4 premiere of Ken Loach's The Angels' Share".*

We considered that this warning was very clear. It assisted parents and carers by providing them with accurate and important information about the content to be shown (in particular the use of very strong language throughout) which would enable them to assess it as unsuitable for any children who remained in the audience.

Ofcom also took into account that Film 4 is a channel which is well known for specialising in screening films with all BBFC classifications free of charge to viewers. In the evenings, and especially after the 21:00 watershed, it regularly shows more challenging independent and 'arthouse' film productions (like *The Angels' Share*) with BBFC '15' ratings (and on occasion BBFC '18' ratings) aimed at an adult audience. In our opinion therefore the likely expectations of the audience for this channel from 21:00 on a midweek night was for the broadcast of challenging films aimed at adult viewers.

Taking all these factors into account, Ofcom considered that this film, with repeated examples of the most offensive language broadcast very soon after 21:00 after a clear warning, would not have exceeded the likely audience expectations for a film of this kind, broadcast on this specialist film channel.

For all of these reasons, on the facts of this particular case, Ofcom's view was that the film was appropriately scheduled and the transition to more adult material was not unduly abrupt.

Ofcom's Decision was therefore that the broadcast of this material did not breach Rules 1.3 and 1.6 of the Code.

Rule 2.3: Offensive Material

Rule 2.3 requires that broadcast material which may cause offence, including offensive language, is justified by the context. Context includes but is not limited to the editorial content of the programme, the service on which the material was broadcast, the time of broadcast, programmes scheduled before and after, the degree of harm or offence likely to be caused, likely audience expectations, warnings given to viewers and the effect on viewers who may come across the material unawares.

Ofcom's Guidance on Rule 2.3 states that: "Whether language is offensive depends on a number of factors. Language is more likely to be offensive, if it is contrary to audience expectations. Sensitivities can vary according to generation and communities/cultures….

In addition to the editorial justification and context, broadcasters will wish to take into account:

- the individual impact of the particular swearword;

- the type of programme in which it appears. For example, in dramas and films, character and plot development may lessen the impact of such a phrase, whereas in a documentary, while a phrase can reflect the reality of a person or group, it may be less acceptable to the wider audience of viewers;

- whether information before or during the programme may lessen potential offence."

As already detailed above, Ofcom's research on offensive language notes that audiences consider that "fuck" (and variations of it) and "cunt" are among the most offensive language.

Ofcom noted multiple instances of both words being used during the broadcast of *The Angels' Share*, including as detailed in Sequences One, Two and Three in the Introduction. We therefore went on to consider whether, as required by Rule 2.3, the broadcast of the offensive material was justified by the context.

Ofcom has already discussed above the various factors which ensured that the examples of the most offensive language in Sequences One and Two were appropriately scheduled. Many of these factors were also applicable in our opinion to justify by context the offence the strong language in all three Sequences and throughout the film may have caused. In this case we noted in particular the following factors.

First, Channel 4's and the audience's right to freedom of expression. This was a challenging film and we considered it important that a broadcaster should be able to show such films, provided the Code was complied with.

We took account of the type of programme. This was a film drama, and in this type of content character and plot development may depend to some extent on the use of offensive language, and this in turn may also correspondingly lessen the impact of that offensive language. In Ofcom's opinion this was the case with *The Angels' Share*.

We noted that there were six uses of the word "cunt" after 21:30. Four of these were not aggressive uses and/or formed part of dialogue between friends. We observed that the sequence at approximately 21:55, when Robbie shouted *"fuck you cunt"* and kicked a parked motorbike over, followed a violent confrontation with a rival. However Robbie was alone in shot at the time and was walking away from the scene of the confrontation. Ofcom noted that on one occasion at approximately 21:40 Robbie did use the word "cunt" aggressively in a pool hall when, in the middle of loud shouting, he wished to confront a gang and stand up for himself. We took account of the facts however that: this was the only time the word was used in a directly aggressive manner in the film; there was a specific dramatic context in which it was used; and, that it was used a considerable time after the watershed.

We also noted: the clear warning about very strong language preceding the broadcast which provided important information to alert viewers; the specialist nature of this film channel aimed at an adult audience; and, the resulting expectations of the

audience for this channel to see more challenging and potentially offensive material. Clearly the use of the most offensive language (and especially uses of the word "cunt") in this broadcast were capable of causing offence to some viewers (including those who came across it unawares), but in Ofcom's view the potential degree of offence was mitigated by factors such as the post-watershed scheduling, the type of programme, and the clear warning.

For all these reasons we considered that this programme would not have exceeded the likely audience expectations for a programme of this kind on this channel when shown at 21:00.

We noted that *The Angels' Share* was preceded by the film *Stardust,* a BBFC 'PG'-rated fantasy adventure film. However there was: a fairly lengthy break between the time *Stardust* ended (at about 20:57), and the start of *The Angels' Share* (at around 21:03); a clear warning to viewers before *The Angels' Share* started; and, a very sharp drop in the number of children watching from 21:00 when the film commenced. In Ofcom's view the fact that *The Angels' Share* was preceded by a family film did not necessarily mean that viewers would have assumed *The Angels' Share* was appropriate for children to view, taking into account that it began after the 21:00 watershed.

Our Decision was therefore, on the particular facts of this case, that this broadcast did not breach Rule 2.3 of the Code.

Not in Breach of Rules 1.3, 1.6 and 2.3

Advertising Scheduling cases

In Breach

Advertising minutage

Prime TV, various dates and times

Introduction

Prime TV is a general entertainment satellite channel aimed at the Pakistani community. The licence for this service is held by PAK (UK) T.V. Limited ("the Licensee").

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".

During its routine monitoring of COSTA compliance, Ofcom identified 21 instances where the Licensee had broadcast more than the permitted advertising allowance:

Date	Clock hour	Amount of Advertising (minutes and seconds)
11/02/2015	16	12:54
12/02/2015	21	14:50
15/02/2015	17	13:19
15/02/2015	18	13:05
19/02/2015	21	14:33
22/02/2015	17	12:39
22/02/2015	18	13:45
22/02/2015	20	12:23
01/03/2015	16	12:42
01/03/2015	20	14:34
24/02/2015	9	12:12
02/03/2015	19	12:51
03/03/2015	8	12:24
04/03/2015	19	12:30
05/03/2015	22	14:32
07/03/2015	20	14:42
08/03/2015	17	15:38
08/03/2015	20	12:14
11/03/2015	19	12:58
12/03/2015	21	12:38
19/03/2015	21	13:26

Ofcom considered the matter raised issues warranting investigation in respect of Rule 4 of COSTA. We therefore asked the Licensee for its comments under this rule.

Response

The Licensee said that upon being alerted to the matter, it had thoroughly checked the times identified by Ofcom. It sincerely apologised for the incidents and said that in its 18 year history, this was the first time that Prime TV had exceeded its advertising allowance.

The Licensee explained that, having recently registered with the Broadcasters' Audience Research Board ('BARB'), it had been required to switch to new scheduling software. Because this new system was not compatible with the playout system used by the Licensee for advertising, it had had to create two identical schedules. This process required manually inputting transmission data created in the new system into the playout system with staff working to ensure the data in both systems "was 100% identical."

The Licensee said that due to human errors during this process, there were several discrepancies between the data in the two systems. As a result, on the occasions listed above, the Licensee broadcast more advertising than permitted.

To prevent similar incidents occurring, the Licensee said it intended to purchase software that would enable the two systems to synchronise. It said, in the interim, it had increased is staffing in this area to ensure transmission data was thoroughly checked.

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 Audiovisual Media Services 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.

On 21 occasions, the Licensee broadcast more advertising than permitted by Rule 4 of COSTA and therefore breached Rule 4 of COSTA in each case.

Ofcom noted the measures undertaken by Licensee to improve compliance in this area. We were concerned, however, that the Licensee had been unaware, until informed by Ofcom that it had breached COSTA both significantly and repeatedly over the course of a month. Ofcom will therefore continue to monitor Prime TV's advertising minutage and puts the Licensee on notice that it is likely to consider further regulatory action in the event of further breaches of COSTA.

Breaches of Rule 4 of COSTA

In Breach

Advertising minutage

TV99, 2 April 2015, 19:00

Introduction

TV99 is a general entertainment channel aimed at the Asian community in the UK and Europe. The licence for the service is owned by 99 Media Org Limited ("the Licensee").

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".

During routine monitoring, Ofcom noted that a scrolling message containing the following text was displayed throughout the 19:00 clock hour on 2 April 2015:

> *"FOR ADVERTISEMENT & SPONSORSHIP ON TV NINE NINE, EMAIL:* [email address given]*"*.

COSTA defines 'television advertising as "any form of announcement broadcast whether in return for payment or for similar consideration or broadcast for self-promotional purposes by a public or private undertaking or natural person in connection with a trade, business craft or profession in order to promote the supply of goods and services, including immovable property, rights and obligations, in return for payment".

Because the scrolling message invited viewers to advertise their products and services on TV99 subject to a commercial arrangement, it therefore met the definition of advertising in COSTA. Consequently, 60 minutes of advertising was broadcast during this clock hour.

Ofcom considered the matter raised issues warranting investigation in respect of Rule 4 of COSTA. We therefore asked the Licensee for its comments under this rule.

Response

The Licensee said the presence of the message was due to human error. It explained that the employee responsible for the scrolling text was not aware that it met the definition of 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 Audiovisual Media Services 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.

As stated in the Introduction, the scrolling message broadcast on TV99 during the 19:00 clock hour on 2 April 2015 met the definition of advertising in COSTA.

Ofcom noted the Licensee's explanation for the broadcast of the scrolling message but was concerned that the individual responsible for inserting it was not aware that the message would count towards TV99's advertising allowance. Ofcom reminds the Licensee that it is responsible for ensuring employees are familiar with the requirements of COSTA.

In this case, the scrolling text remained on screen throughout the clock hour. Because the total advertising shown during the clock hour exceeded the permitted advertising allowance by 48 minutes, Rule 4 of COSTA was breached.

Ofcom considers this to be a significant breach of COSTA and puts the Licensee on notice that it is likely to consider further regulatory action in the event of a recurrence.

Breach of Rule of 4 of COSTA

In Breach

Advertising minutage

Channel i, 2 January 2015, 16:00

Introduction

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

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 was alerted by a complainant to a message displayed in a strap during programming in the 16:00 clock hour on 2 January 2015.

As the message was in Bangla, Ofcom commissioned an independent translation of the message which stated:

> *"To advertise in Channel i Europe for your organisations, please contact:* [telephone numbers given]*".*

COSTA defines 'television advertising as "any form of announcement broadcast whether in return for payment or for similar consideration or broadcast for self-promotional purposes by a public or private undertaking or natural person in connection with a trade, business craft or profession in order to promote the supply of goods and services, including immovable property, rights and obligations, in return for payment".

Because the scrolling message invited viewers to advertise their products and services on Channel i subject to a commercial arrangement, it therefore met the definition of advertising in COSTA. Taking into account the onscreen message and advertising broadcast during commercial breaks, 43 minutes and 51 seconds of advertising was broadcast during this clock hour.

Ofcom considered the matter raised issues warranting investigation in respect of Rule 4 of COSTA. We therefore asked the Licensee for its comments under this rule.

Response

The Licensee said the incident was due to a technical error with its playout operations. It explained that the system failed to select the correct playlist and instead played files from a reserve list.

The Licensee added that to prevent a recurrence, it had implemented alarm software that alerted operators to such errors and allowed them to override the automated system.

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 Audiovisual Media Services 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 noted the measures undertaken by the Licensee to enable it to identify and resolve potential compliance issues. However, as stated in the Introduction, the message broadcast on Channel i during the 16:00 clock hour on 2 January 2015 met the definition of advertising in COSTA. Because the total advertising shown during the clock hour exceeded the permitted advertising allowance by 31 minutes and 51 seconds, Rule 4 of COSTA was breached.

Ofcom considers this to be a significant breach of COSTA and puts the Licensee on notice that it will consider further regulatory action in the event of a recurrence.

Breach of Rule 4 of COSTA

Resolved

Resolved findings table

Code on the Scheduling of Television Advertising compliance reports

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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
TLC	31 March 2015, 22:00	Rule 4 of COSTA	TLC notified Ofcom that it exceeded the permitted advertising allowance in a clock hour by 44 seconds. To mitigate the effect of the overrun the Licensee informed Ofcom that it had deducted advertising minutage scheduled for a later date. **Finding: Resolved**

Broadcast Licence Conditions cases

In Breach

Provision of information: relevant turnover submission

Introduction

Ofcom is partly funded by the broadcast licence fees it charges television and radio licensees. Ofcom has a statutory obligation to ensure that the fees paid by licensees meet the cost of Ofcom's regulation of broadcasting. The approach Ofcom takes to determining licensees' fees is set out in the Statement of Charging Principles[1]. The fees all television licensees and national and local analogue radio licensees are required to pay are based on a percentage of their turnover from related activities. This is known as Relevant Turnover.

Each licensee is required to submit to Ofcom an annual statement of its Relevant Turnover for the previous calendar year. This provision of information is a licence requirement. As well as enabling Ofcom to determine the fees for the following year, the information is used by Ofcom to fulfil its market reporting obligations.

Failure by a licensee to submit an annual Relevant Turnover return when required represents a serious and fundamental breach of a broadcast licence, as the absence of the information contained in the return means that Ofcom is unable properly to carry out its regulatory duties.

A number of television licensees failed to submit their Relevant Turnover return to Ofcom by the deadline specified.

Ofcom considered that this raised issues warranting investigation under Licence Condition 12(1) which states:

> "The Licensee shall furnish to Ofcom in such manner and at such times as Ofcom may reasonably require such documents, accounts, estimates, returns, reports, notices or other information as Ofcom may require for the purpose of exercising the functions assigned to it by or under the 1990 Act, the 1996 Act or the Communications Act and in particular (but without prejudice to the generality of the foregoing):
>
> (a) a declaration as to the Licensee's corporate structure in such form and at such times as Ofcom shall specify;
>
> (b) such information as Ofcom may reasonably require from time to time for the purposes of determining whether the Licensee is on any ground a disqualified person by virtue of any of the provisions in Section 143 (5) of the 1996 Act and/or Schedule 2 to the 1990 Act or whether the requirements imposed by or under Schedule 14 to the Communications Act are contravened in relation to the Licensee's holding of the Licence".

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[1] Statement of Charging Principles - http://stakeholders.ofcom.org.uk/binaries/consultations/socp/statement/charging_principles.pdf

Decision

In Breach

The following licensees have failed to submit their Relevant Turnover returns. These licensees have therefore been found **in breach** of their licences.

Licensee	Service Name	Licence Number
Al Insen TV Ltd	Al Insen TV	TLCS001649BA
MCL Limited	AlexanderCasino	TLCS001759BA
The Chinese Channel Limited	TVBS Europe	TLCS000057BA

As Ofcom considers this to be a serious and continuing licence breach, **Ofcom is putting these licensees on notice that this contravention of their licences will be considered for the imposition of a statutory sanction, including licence revocation**.

Ofcom takes this opportunity to remind all TV licensees that failure to submit Relevant Turnover information when required represents a significant breach of a television broadcasting licence.

Breach of Licence Condition 12(1) in Part 2 of the Schedule to the Television Licensable Content Service Licence

Resolved

The following licensee failed to submit its Relevant Turnover return in accordance with the original deadline, but subsequently submitted a late return. We therefore consider the matter **resolved**.

Licensee	Service Name	Licence Number
Kensington Project Management Limited	IQTV	TLCS100550BA

In Breach

Broadcasting licensees' late and non- payment of licence fees

Ofcom is partly funded by the broadcast licence fees it charges television and radio licensees. Ofcom has a statutory duty to ensure that the fees paid by licensees meet the cost of Ofcom's regulation of broadcasting. The approach Ofcom takes to determining licensees' fees is set out in the Statement of Charging Principles[1]. Detail on the fees and charges payable by licensees is set out in Ofcom's Tariff Tables[2].

The payment of a licence fee is a requirement of a broadcasting licence[3]. Failure by a licensee to pay its licence fee when required represents a significant and fundamental breach of a broadcast licence, as it means that Ofcom may be unable properly to carry out its regulatory duties.

In Breach

The following licensees failed to pay their annual licence fees in accordance with the required payment date. These licensees have therefore been found **in breach** of their broadcast licences.

Licensee	Service Name	Licence Number
ABS-CBN Europe Ltd	WRR 101.9	RLCS000004BA
Bang Media and Entertainment Ltd	BANG Radio	CR000068BA
Switch Radio	Switch Radio 107.5	CR000174BA
University of Bedfordshire	Radio LaB	CR000197
The Roundhouse Trust Ltd	Roundhouse Radio	ADSRSL000013BA

Breach of Licence Conditions 3(1) and (2) in Part 2 of the Schedule of the relevant licences.

1 http://stakeholders.ofcom.org.uk/binaries/consultations/socp/statement/charging_principles.pdf

2 http://www.ofcom.org.uk/content/about/annual-reports-plans/tariff-tables/Tariff_Tables_2015_16.pdf

3 As set out in Licence Condition 3 for radio licensees and Licence Condition 4 for television licensees.

Fairness and Privacy cases

Not Upheld

Complaint by Mr Sam Jones on his own behalf and on behalf of Ms Dawn Hart, Mrs Piyaporn Jones, and her son

My Online Bride, *Channel 4, 18 August 2014*

Summary

Ofcom has not upheld this complaint by Mr Sam Jones made on his own behalf and on behalf of his mother, Ms Dawn Hart, his wife, Mrs Piyaporn Jones, and her son (a minor), of unjust or unfair treatment in the programme as broadcast.

Ofcom has also not upheld Mr Jones' complaint that his privacy was unwarrantably infringed in connection with the obtaining of material included in the programme and in the programme as broadcast.

The programme documented how the internet had changed the way in which people look for love. It explained that more British men were going abroad to find partners and it focussed on the experiences of three British men, one of whom was the complainant. The programme explained that Mr Jones had met his Thai girlfriend, "Apple" (now Mrs Piyaporn Jones), at a friend's party and that they had: "…*maintained their relationship online ever since*". It showed Mr and Mrs Jones getting married in a Thai government office and explained the visa process with regards to arranging for Mrs Jones and her son to move to the UK. The programme then followed Mr and Mrs Jones as they began living together in the UK.

Ofcom found that:

- The programme makers had not been unfair in their dealings with Mr Jones and his family as potential contributors because it was reasonable for them to consider that they had their informed consent to film them, and, up until at least the week commencing 11 August 2014, to include footage of them in the programme.

- Despite Mr Jones and his family informing the programme makers after the filming had taken place that they did not have their consent to include footage of them in the programme, in the particular circumstances of this case, Ofcom did not consider that the broadcaster had been unfair to Mr Jones and his family by including footage of them in the programme without their consent.

- Mr Jones did not have a legitimate expectation of privacy in relation to the obtaining and subsequent broadcast of a number of photographs of him included in the programme. In any event, even if Mr Jones had a legitimate expectation of privacy, we considered that the programme makers had Mr Jones' consent with regards to the obtaining and broadcast of the photographs. Therefore, Mr Jones' privacy was not unwarrantably infringed in this regard.

Introduction and programme summary

On 16 September 2014, Channel 4 broadcast a documentary about how the internet has changed the way in which people look for love. The programme explained that more British men were going abroad to find partners. The programme's narrator introduced the programme:

> *"The internet has changed the way we look for love, the way we date, and even the people we marry. An estimated nine million Brits are currently looking for their perfect partner online. And where the search for love was once confined to our own backyard, the world is now our oyster…British men are spending big, packing up and heading abroad in ever increasing numbers…to marry virtual strangers…who often don't even speak the same language".*

The programme included the interwoven experiences of three men "Chris", "Mike" and "Sam" (the complainant, Mr Sam Jones).

The first man featured in the programme was Chris. Chris was shown in Thailand on a *"romance tour"*, organised by "*A Foreign Affair"*, a *"full service marriage agency"* aimed at introducing Western men to Thai women. Chris was shown searching through the agency's database of women and attending a social event with seven other Western men where there were: *"100 potential Thai brides"*. At the event, Chris was shown meeting a Thai woman, "Baimon".

Later in the programme it was revealed that Chris had to end his relationship with Baimon because her family demanded money from him. Chris described the situation as: "*human trafficking*".

The second man featured in the programme was Mike, who was introduced by the programme's narrator:

> *"These days it is not just older men who are looking abroad for a wife, 26 year old Welshman Mike has recently signed up to Natali's agency and is flying to Ukraine tomorrow…Mike works in a local call centre and has invested all his savings into finding a bride".*

The narrator explained the "*Marriage Broker*", "Natali's", business:

> *"Through her website, Natali connects Ukrainian women to Western men looking for a foreign bride".*

Mike was shown in the programme meeting women registered with the agency.

The third man featured in the programme was Sam, the complainant. Mr Jones' now wife "Apple" (Mrs Piyaporn Jones) was introduced by the programme's narrator as:

> *"One girl who has already started a relationship with a British man is 29 year old Apple. They met at a friend's party and have maintained their relationship online ever since…She lives with her mum and 12 year old son in rural Thailand. The region has the highest concentration of people living in poverty with almost 20% surviving on £1 a day. Many girls from the area want to find a foreign husband and Apple is no different. Her foreign man is called Sam and she's planning to move to the UK to live with him".*

Footage of Mrs Jones, her mother and her young son was shown in their home in Thailand.

Mrs Jones said:

> *"First time I met Sam, I didn't love him yet. Liking became love. From love, I started thinking about visa".*

At this point, three photographs of Mr Jones were shown on screen. These photographs, which appeared to have been taken while Mr Jones was on holiday, featured only Mr Jones and in each photograph he was shown posing for the camera.

The narrator then explained:

> *"Apple's son…is from a previous relationship with a Thai man that broke up soon after he was born. She is hoping that a foreign husband will be a safer bet".*

A further three photographs of Mr Jones, different from those already shown, were shown on screen. Again, the photographs appeared to have been taken while Mr Jones was on holiday. They featured only Mr Jones and in each photograph he was shown posing for the camera.

The narrator explained further:

> *"Thai women often expect their foreign boyfriends to send them money to support their family. Sam sends Apple £200 a month, which goes a long way in Thailand".*

The narrator also said:

> *"Apple's decision to move to the UK has come at a cost. Visa restrictions mean she has to leave her son in Thailand for the first year".*

Mrs Jones talked about how she did not want to leave her son behind in Thailand with her mother. Mr Jones was then shown visiting Mrs Jones in Thailand. They were shown sitting in a government office. The narrator said:

> *"Having visited her in Thailand six times so far, today is their wedding day".*

Mr Jones said:

> *"This is basically a Thai registry office. It's a bit different to ours. It's more like you're doing a tax return or something than actually getting married…the whole process in all will cost over £2000".*

The programme then included an interview with "Darren", a visa agent, who was helping Mr Jones and Mrs Jones with the process. The programme makers asked him:

> *"So tell me, what is so appealing about these Thai women that these guys are going to so much expense?"*

Darren smiled and answered:

> *"Here we have a saying that when you get off the plane in Bangkok, the brains disappear from here* [he pointed to his head] *and go somewhere else…Thai ladies are very beautiful…Their culture is to take care of the man"*.

The narrator explained that Mr Jones then had to return to the UK for six months while they waited for Mrs Jones' visa to be processed.

Later in the programme, Mrs Jones was shown preparing to move to the UK. One of the photographs of Mr Jones was shown again. Mrs Jones talked about how much she would miss her son and was shown saying goodbye to him and her mother. The programme makers then interviewed Mrs Jones' son who said:

> *"If she loves Sam too much, she won't come back for me".*

Footage of Mr Jones preparing his house for Mrs Jones' arrival was then shown. The narrator explained:

> *"He has been working extra shifts as a postman to support Apple".*

The programme makers asked Mr Jones:

> *"Did you ever worry that Apple's only after money?"*

Mr Jones answered:

> *"At first, yeah. You hear the horror stories, but after time you build a relationship and then you know each other inside and out".*

Mrs Jones was later shown arriving in the UK and looking around her new home. The narrator then said:

> *"Despite having been married for half a year, Apple has never met her mother-in-law".*

Mr Jones' mother Ms Hart was then shown visiting the couple. The programme makers asked her:

> *"What did you think when Sam first told you about Apple, you know, having a Thai girlfriend. Was it a surprise to you?"*

Ms Hart responded:

> *"It was a little bit of a surprise. I just wanted Sam to be happy. And, I've known Sam talk about his different girlfriends and I knew this one was different. I could just tell".*

Later, the programme makers asked Mrs Jones what she thought about her new home, whether she planned to work in the UK, and if the money was better in the UK. Mrs Jones said:

> *"I have to work to get the money for my mum and my baby, it's for my future too…Yeah better money in here. Here for one hour, you can get £6, but in Thailand one day you get £6. Very different".*

This concluded the section of the programme featuring Mr and Mrs Jones and their family.

Summary of the complaint and the broadcaster's response

Unjust or unfair treatment

a) Mr Jones complained that he, his mother, his wife and her son were treated unjustly or unfairly in the programme as broadcast because they had been misled by the programme makers regarding the nature and purpose of the programme and the broadcaster did not have their individual informed consent to include footage of them filmed in Thailand and the UK in the programme.

Mr Jones said that they were told that the programme was going to be about "the struggle of people in relationships abroad and the visa process" and that the programme was going to be called "Foreign Love" or "International Love", not *My Online Bride*. He said that they had been "conned" and that the programme made them "a laughing stock".

Background to the complaint

Thailand

Mr Jones explained that he, his wife and her son were provided with contributor release forms for the material filmed in Thailand and that they had signed them. However, Mr Jones said as soon as they found out what the programme was going to be about they told the programme makers that "…we didn't want to be any part of this show going on TV, but it fell on deaf ears".

Mr Jones said that while Mrs Jones signed a contributor release form for her son, he said that they later asked to withdraw this consent. He said that they were told by the programme makers that they could not have the form back.

UK

Mr Jones explained that he, his mother, his wife and her son were provided with further separate contributor release forms for the material filmed in the UK. He said that they did not sign these and therefore the programme makers did not have their consent to include footage of them in the programme.

Mr Jones said that he had understood that the contributor release forms would "protect me from them showing something I didn't like…".

Further, Mr Jones' mother, Ms Hart, also stated in an email to Ofcom dated 22 October 2014 that she had told the programme makers that she did not want to be included in the programme. She provided Ofcom with a copy of an email that she had sent to the programme makers on 18 August 2014 (the day the programme was broadcast) which stated that she did not give her consent for footage of her to be included in the programme and asked for the footage of Mr and Mrs Jones also to be removed from the programme.

In response to head a) of the complaint Channel 4 addressed the issues raised in three sections:

- *Mr Jones claimed that he and his family were misled about the nature of the programme*

Channel 4 explained that during the eight month filming period, the nature of the programme was explained to Mr Jones at various points. It also said that it was clear from the interview footage of Mr Jones and his family included in the programme what the programme was about. The broadcaster said that the programme makers first spoke to Mr Jones on 25 September 2013 when it was explained to him that the programme would be about people looking for love abroad and would show the various stages in the process of finding a foreign bride – from visiting the country for the first time, to finding a suitable wife, to getting married and the visa process. Channel 4 said that the programme makers had explained to Mr Jones that another British man would feature in the programme who had come to Thailand to search for a wife and that Mr Jones' family's contribution would constitute the final stage of the process. Channel 4 said that Mr Jones had told the programme makers that his motivation for contributing to the programme was to try to "debunk" some of the negative myths surrounding Thai-British relationships and show that his relationship with Mrs Jones was genuine.

On the following day, 26 September 2013, Mr and Mrs Jones got married and this was the first day that they were filmed for the programme. Channel 4 said that the programme makers explained again the nature of the documentary and the reasons for wanting to include Mr Jones; they told him that the programme would be about "the ups and downs of finding love abroad". The broadcaster said that Mr and Mrs Jones were given contributor release forms which they signed. The contributor release form included the programme's working title of "Diary of an Online Bride". It pointed out that the programme description on the contributor release form (translated into Thai for Mrs Jones and her son) set out clearly what the programme would be about. It stated:

> "We are making a one-off documentary about the modern day search for love on an international scale. With the advancement of technology, there are hundreds of more ways to start looking for your ideal partner. We aim to follow British men at different stages of their journey and we'll be asking them what has prompted them to look abroad for a partner and talk to the women about what is attractive to them about British men".

Channel 4 said that filming continued with Mr Jones until May 2014 and the programme makers were in regular contact with him throughout this time. It said that prior to filming the arrival of Mrs Jones in the UK in May 2014, it was explained to Mr Jones again that the programme would be about a variety of different people who were looking for a foreign bride.

It said that the programme makers had explained to Mr Jones that another potential contributor to the programme was a man who was travelling to Kiev to meet a woman he had met online.

The broadcaster also said that on 8 May 2014, after Mr Jones' final day of filming, Mr Jones sent a text message to the producer which stated:

> "Thx from both of us for all u and Emma av done Becky. Take care and hope u keep in touch. Ps hope you have a great holiday anything u need help wi just ask and I'll try help".

Channel 4 explained that on 6 August 2014, the programme's producer spoke to Mr Jones on the telephone and explained in detail the content of the edited programme: "…talking him through every scene and exactly what happened and [what] was said in them". It said that Mr Jones was "fine" with these scenes, but requested that a particular line about his employment status be removed. This line was removed from the programme. It said that Mr Jones then asked to watch the programme. The programme makers agreed to show him the sections of the programme in which he appeared.

On 7 August 2014, the programme makers visited Mr Jones in his home to show him the sections of the programme in which he featured. Channel 4 said that Mr Jones had said that he was happy with his portrayal and the content of the scenes. It said that he had: "…seemed relieved and felt that the show was fair and enjoyable". The broadcaster said that Mr Jones had not said anything about the content being different to what he had been told it would be or was expecting.

The programme makers told Mr and Mrs Jones about the other contributors and explained that one of the other contributors, "Chris", had been filmed having a difficult time while looking for a wife in Thailand. At this point, Mr Jones had told the programme makers that he had had a similar experience in Thailand in relation to an ex-girlfriend.

Channel 4 said that Mrs Jones had been concerned about the scenes involving her son. It said that the programme makers received a text message from Mr Jones on 8 August 2014 asking them to change a voiceover line relating to him. The line in question was changed to reflect the fact that it was visa regulations that had prevented Mrs Jones from bringing her son with her to the UK. Channel 4 said that the text message demonstrated that Mr and Mrs Jones were otherwise happy with the programme as it was. The text message stated:

> "Hi after watching the video yday they is one thing we are both we feel very uncomfortable with. The part where her son talks about he hopes she doesn't love me too much and no come back. We are ok with u showing it but would like u to add why we couldn't bring him on voice over or something".

Mr Jones explained in the text message that the reason they could not bring Mrs Jones' son to the UK was due to UK government restrictions based on Mr Jones' income.

In summary, Channel 4 said that all of the complainants had been supplied with a contributor release form which included an accurate description and working title of the programme. It also said that the nature and purpose of the programme had been clearly explained to Mr Jones and his family throughout the process.

- *Mr Jones claimed that the broadcaster did not have his and his family's individual consent to include footage of them filmed in Thailand and in the UK in the programme*

Channel 4 said that Mr Jones had signed a contributor release form on the first day of filming. As outlined above, it said that all of the complainants had been supplied with a contributor release form which included an accurate description and working title of the programme and that the nature and purpose of the programme had been clearly explained to them throughout the process. Channel 4 also argued that the contributor release form provided to Mr Jones was not confined to specific sections of filming but included his entire contribution both in the UK and Thailand.

Channel 4 explained that Mrs Jones had also signed a contributor release form on the first day of filming. It was translated into Thai and explained to her by a translator.

The broadcaster said that Mrs Jones had also signed a parental release form (provided to her in Thai) to give consent for her son's contribution and that this was received by the programme makers on 6 August 2014.

With regards to Mr Jones' mother, Ms Hart, Channel 4 said that she was given a contributor release form to sign on the day she was filmed, i.e. 8 May 2014. It said that Ms Hart was fully informed by the programme makers about the nature of the programme and her contribution and was told about the other stories being filmed for the programme. Channel 4 said that while Ms Hart had said that she was in a hurry and could not sign the form on the day of filming, she did not give any indication that she was unhappy with her contribution.

Channel 4 explained that after a few weeks, since Ms Hart had not returned the signed form, the programme makers made a further request for this to be returned to them. Channel 4 said that at this point, Mr Jones told the programme makers that his mother wanted to know the details of how her contribution would be used before she would agree to sign the form. He said that she was concerned that her contribution may upset Mr and Mrs Jones. On 6 August 2014, the programme makers spoke with Ms Hart and talked her through how her contribution appeared in the edited programme. Channel 4 said that she was happy with what she had been told and informed the programme makers that she had signed the contributor release form and given it to Mr Jones to return to them.

The broadcaster said that on 7 August 2014, the programme makers had also offered Ms Hart the opportunity to watch the sections of the programme which related to Mr and Mrs Jones. Ms Hart thanked them for the offer, but declined because of work commitments. The broadcaster also said that there were positive conversations and text messages with her about her being happy with her contribution. When asked for Ms Hart's signed contributor release form, Mr Jones told the programme makers that he did not have it. The programme makers therefore sent a text message to Ms Hart on 7 August 2014 to ask her for her address so that they could send her another copy of the form to sign. Ms Hart replied with her address.

Channel 4 said that the following week, i.e. the week commencing 11 August 2014, Mr Jones became unhappy with his contribution and "started his attempts to stop the broadcast". It said that while the programme makers did not receive a signed release form from Ms Hart, there was no doubt that she had given her informed consent for her contribution. It said that the interviews included in the programme and the conversations outlined above showed that informed consent

had been obtained from all the contributors to broadcast the footage included in the programme.

- *Mr Jones claimed that he was told that the programme would be called "Foreign Love" or "International Love", and not "My Online Bride"*

Channel 4 pointed out that the contributor release forms included the working title "Diary of an Online Bride" which was very similar to the final title *My Online Bride*. It said that Mr and Mrs Jones signed these forms on the first day of filming. It said that Ms Hart was also provided with a contributor release form with the same working title on 8 May 2014.

The broadcaster said that while there were some discussions between the production company and Channel 4 at various stages about the possibility of using a different title, and these discussions may have been relayed to Mr Jones, Mr Jones was never told that one of the alternative titles had been chosen. Channel 4 also pointed out that Mr Jones had not expressed any concerns over the working title on the contributor release form. The broadcaster added that he had not expressed any concerns about the title until he was told (close to the day of broadcast) that the final title was going to be *My Online Bride*.

Channel 4 said that at this point, Mr Jones had said that he was unhappy with the title because: "…he felt it did not reflect the nature of his relationship with Mrs Jones". It said that the programme makers had therefore explained to him again that the programme would be about people at various stages in the process of meeting a foreign bride and that the internet, emails and Skype had made meeting foreign women easier and maintaining relationships with them possible.

Channel 4 said that it was later agreed that two lines in the programme would be changed to emphasise the fact that Mr Jones had not met his wife online and had been in a relationship with her for some time before he married her. Channel 4 said that Mr Jones had been involved with the process of amending these lines, agreed to them, and also thanked the programme makers for agreeing to change them. The final lines in question were:

> *"One girl who has already started a relationship with a British man is 29 year old Apple. They met at a friend's party and have maintained their relationship online ever since".*

and,

> *"Now British boyfriend Sam has flown out for an important date with Apple…Having visited her in Thailand six times so far, today is their wedding day".*

Channel 4 said that it was very clear from these lines that Mr and Mrs Jones had initially met in a social context rather than online. Channel 4 said that in any event, the difference between the working title 'Diary of an Online Bride' and the final title *My Online Bride* was "so immaterial" that it did not require the prior consent from either Mr Jones or any of the other contributors in the programme.

Channel 4 stated that it considered that it had properly complied with Rule 7.1 of the Ofcom Broadcasting Code ("the Code") and, in particular, with Practice 7.3 (as set out in detail in Ofcom's "Decision" section below). It said that Mr Jones and his family had given their informed consent to appear in the programme and

that in any event, it did not agree that the programme had resulted in unfairness to them.

The broadcaster said that with regards to Mr and Mrs Jones' contribution, their experience shown in the programme was a fair and accurate reflection of their situation at the time of filming. It also said that any minor inaccuracies bought to the attention of the programme makers had been dealt with appropriately. It pointed out that in contrast to the other contributors featured in the programme (Chris and Mike), it was evident from the programme that Mr and Mr Jones had had success in their search for love. It also said that their contribution was concerned more with issues which arise in more established relationships and the emotional and practical concerns of settling in a different country.

Channel 4 said that while Mrs Jones' son's contribution was limited, he had expressed concerns about his mother not coming back to Thailand "*If she loves Sam too much".* Channel 4 said that this was simply a reflection of some of the difficult decisions involved in relationships between partners from different countries. Furthermore, it said that Mr and Mrs Jones had been aware of his contribution and had requested that a line about the visa process be added to the programme and this had been done (as outlined above).

In relation to Mr Jones' mother, Ms Hart, Channel 4 said that while it was evident that she and Mrs Jones were apprehensive about meeting each other at first, they both appeared to get on well with one another and the programme's narrator commented that Mrs Jones had "*passed the Mother-in-Law test with flying colours*…". Channel 4 also pointed out that there was no criticism either from Ms Hart or in the programme itself about Mr and Mrs Jones' relationship or anything else which would result in any unfairness to Ms Hart.

Channel 4 said that it did not accept that the programme was unfair to any of the complainants. It said that they were all aware of the nature of the programme and where there had been any concerns about the programme, these had been addressed in good faith. It said that it was clear from the programme that while Mr and Mrs Jones had not met online (which, it said, was in itself not unfair), the internet and modern technology in general had facilitated their ability to maintain a long distance relationship. Channel 4 said that both had come across in the programme as happy and committed to finding love and that the programme had presented their relationship as successful. It said that the programme demonstrated the lengths Mr and Mrs Jones were prepared to go to find love and create a life together. The broadcaster gave the example of the fact that Mrs Jones was shown having to temporarily leave her son in Thailand, which it said many viewers would have empathised with. It said that it therefore did not consider that the programme had made a "laughing stock" of the complainants, or had been in any other way unfair to them.

Unwarranted infringement of privacy

Mr Jones complained that:

b) His privacy was unwarrantably infringed in connection with the obtaining of material included in the programme because photographs from his Facebook page were downloaded by the programme makers without his permission.

In response, Channel 4 said that there could be no expectation of privacy in relation to the obtaining of the photographs of Mr Jones. It explained that the

photographs had been accessed from a publicly accessible part of Mr Jones' Facebook page; a page that anyone could (at least at the time they were retrieved) view them without having to be Mr Jones' 'friend'. Channel 4 also said that Mr Jones had verbally agreed to the photographs being used in the programme in a telephone conversation with the programme makers on 14 July 2014. It said that the use of the photographs was discussed again with the programme makers in a telephone call on 6 August 2014. During this conversation, Mr Jones' contribution was explained to him in detail. Channel 4 said that Mr Jones verbally agreed again to the use of the photographs. It said that Mr Jones had been aware that the photographs had been obtained from Facebook and did not express any issue about this at the time.

c) His privacy was unwarrantably infringed in the programme as broadcast because photographs from his Facebook page were included in the programme without his permission. Mr Jones said that he was supplied with a separate contributor release form for the photographs, but said that he did not sign it.

In response, Channel 4 said that there could be no expectation of privacy in relation to the broadcast of the photographs of Mr Jones in the programme. It said that the photographs were not of a private and or sensitive nature and that as Mr Jones was a contributor in the programme, his appearance was already known to viewers. It said that, in any event, Mr Jones verbally agreed to the photographs being used in the programme in a telephone conversation with the programme makers on 14 July 2014. Following that phone call a materials release form was sent to Mr Jones. Mr Jones then sent a text message in which he requested the programme makers' postal address. The following week, a new copy of the release form was sent to Mr Jones, along with other outstanding release forms.

Channel 4 explained that the use of the photographs was discussed again with the programme makers in a telephone call on 6 August 2014. During this conversation, Mr Jones' contribution was explained to him in detail. Channel 4 said that Mr Jones verbally agreed again to the use of the photographs. It said that Mr Jones had been aware that the photographs had been obtained from Facebook and did not express any issue about this at the time.

Channel 4 further explained that on 7 August 2014, Mr Jones was shown the parts of the programme in which he appeared. It said that Mr Jones raised a few specific concerns in the days that followed but that these were addressed (as outlined above). Channel 4 said that Mr Jones did not raise any concerns about the use of the photographs in the programme and again verbally agreed to them being used.

Channel 4 said that on 8 August 2014, the day after having been shown his contribution to the programme, Mr Jones sent the following text message to the programme makers, which it said demonstrated that Mr Jones did not raise any concerns about the photographs at this time:

> *"Hi after watching the video yday they is one thing we are both we feel very uncomfortable with. The part where her son talks about he hopes she doesn't love me too much and not come back. We are ok with you showing it but would like u to add why we couldn't bring him on voice over or something.".*

Channel 4 said that given the above there was no expectation of privacy in relation to either the obtaining of the photographs or the broadcast of them in the

programme. It said that Mr Jones had been aware that the programme makers had obtained the photographs from Facebook and had given his consent for the photographs to be used in the programme. It said that therefore there was no unwarranted infringement of privacy either in relation to the obtaining of the photographs or in the broadcast of them.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View on this case that the complaint should not be upheld. Both parties were given the opportunity to make representations on the Preliminary View, but neither chose to do so.

Decision

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

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

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; copies of signed contributor release forms for Mr and Mrs Jones (in Thai, and corresponding English version); a copy of an unsigned contributor release form that Ms Hart was asked to sign; a copy of a signed (by Mrs Jones) child release form for Mrs Jones' son (in Thai, and corresponding English version); a copy of an unsigned location agreement (to authorise the programme makers to film and broadcast footage of Mr Jones' property); a copy of an unsigned licence for existing material (to authorise the programme makers to broadcast photographs of Mr Jones); and, copies of various text messages sent between the complainants and the programme makers.

<u>Unjust or unfair treatment</u>

a) Ofcom considered Mr Jones' complaint that the programme makers had not been fair in their dealings with him and his family as contributors to the programme and that they were treated unjustly or unfairly in the programme as broadcast because they did not give consent for the footage of them to be broadcast.

   When considering and deciding 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 the Code. It is important to note that where there appears to have been unfairness in the making of the programme, this will only result in a finding of unfairness, if Ofcom consider that it has resulted in unjust or unfair treatment to the complainant in the programme as broadcast.

   In this case, Ofcom considered whether the programme makers were fair in their dealings with Mr Jones and his family as potential contributors to the programme,

as outlined in Practice 7.2 of the Code which states that: "Broadcasters and programme makers should normally be fair in their dealings with potential contributors to programmes, unless, exceptionally, it is justified to do otherwise". In particular, we considered whether Mr Jones and his family gave their individual informed consent to participate in the programme, as outlined in Practice 7.3. Practice 7.3 sets out that in order for those invited to contribute to a programme to be able to make an informed decision about whether to take part, they should be given sufficient information about: the programme's nature and purpose; their likely contribution; the areas of questioning and wherever possible, the nature of other likely contributions; and, any changes to the programme that might affect their decision to contribute. Taking these measures is likely to result in the consent that is given as being informed consent.

We noted from the parties' submissions that the parties agreed that signed contributor release forms for Mr Jones, Mrs Jones and Mrs Jones' son in respect of filming in Thailand had been received by the programme makers. We noted too that the parties agreed that:

- Ms Hart was provided with and asked to sign a contributor release form, though Ms Hart did not sign it.

- Mr Jones was provided with and asked to sign a licence for existing material (to authorise the programme makers to broadcast photographs of Mr Jones). However, Mr Jones did not sign it (see heads b) and c) below for further detail).

- Mr Jones was provided with and asked to sign a location agreement (to authorise the programme makers to film and broadcast footage of Mr Jones' property in the UK). Mr Jones did not sign it.

In addressing the complaint, we first considered whether each of the complainants had given their informed consent to be filmed for inclusion in the programme.

Mr and Mrs Jones

Ofcom noted the disparity in understanding between the complainants and the programme makers with regards to whether the signed contributor release form applied to both the footage filmed in Thailand and the footage filmed in the UK. In its response to the complaint, Channel 4 explained that Mr and Mrs Jones had been provided with individual contributor release forms on the first day of filming which included a programme description and the working title of the programme. Channel 4 said that the release form was not confined to specific sections of filming but included the entire contribution.

Ofcom therefore carefully considered the content of the contributor release forms which Mr and Mrs Jones had both signed. The forms were headed: "Contributor's Consent" and stated: "Programme Title (Working Title): "Diary of an Online Bride".

The forms also stated that the "Description/Location" of the filming was the "Registry Office" and "Banglamung Registration Office" respectively (which was where we understood Mr and Mrs Jones were first filmed).

The forms then gave the following programme description:

"We are making a one-off documentary about the modern day search for love on an international scale. With the advancement of technology, there are hundreds of more ways to start looking for your ideal partner. We aim to follow British men at different stages of their journey and we'll be asking them what has prompted them to look abroad for a partner and talk to the women about what is attractive to them about British men".

In addition to the original contributor release form provided to both Mr and Mrs Jones, Ofcom also noted that Mr Jones had been provided with a "Location Agreement" to authorise the programme makers to film and broadcast footage of Mr Jones' property and a "Licence for Existing Material" to authorise the programme makers to broadcast photographs of Mr Jones. Mr Jones did not sign either of these forms.

We acknowledge that the parties disagreed to the exact scope of the contributor release forms signed and that Mr Jones considered that because he had not signed the "Location Agreement" and "Licence for Existing Material" provided to him in the UK that he had not provided consent for footage to be filmed in his home for inclusion in the programme or for photographs of him to be included in the programme. It is not necessary for Ofcom to determine the scope of the contributor release forms in order to reach our decision on this matter. This is because, while we acknowledge that contributor release/consent forms can be a useful means of obtaining evidence of a contributor's willingness to be filmed and for footage of them to be included in a programme, they are not the only means of obtaining informed consent. Practice 7.3 (as outlined above) sets out what measures programme makers should take in order to satisfy themselves that informed consent has been obtained. It is a matter for the programme makers to decide how best to ensure that they have obtained any necessary consent from contributors.

If a broadcaster chooses to use contributor consent forms they should be aware that if they are not used carefully and the forms' purpose not fully explained to potential contributors, there is a risk of confusion and the creation of an expectation on the part of contributors that by not signing the form they are withholding their consent to be filmed and/or included in any subsequent broadcast programme. Therefore, where potential contributors are offered consent forms to sign, Ofcom considers it best practice that programme makers should make reasonable efforts to ensure that they collect signed forms from contributors promptly at the time of, or soon after, filming takes place or is completed. If they do not receive a signed form back from a potential contributor promptly, they should seek to contact the individual to discover the reason behind the failure or reluctance to return the form. If a third party is involved in the collection of the forms and cannot collect all signed forms promptly, the programme makers should investigate the reason for the delay.

Therefore, in this case, having provided Mr Jones with "Location Agreement" and "Licence for Existing Material" forms, Ofcom considered that the responsibility was on the programme makers to collect the signed forms back from Mr Jones, or make reasonable efforts to contact him once it was realised that these signed forms had not been received, in order to investigate the reason for the delay in their return.

However, this said, from the information available to Ofcom, it appeared that neither Mr Jones nor Mrs Jones at any point raised their concerns about the filming with the programme makers, or indicated their belief that the lack of these forms invalidated their consent to appear in the programme, until after the filming had been completed.

It is important to note that Ofcom expects broadcasters must gain informed consent from all potential contributors, unless there is justification to do otherwise (for example, the public interest). In this particular case, it appeared to Ofcom that the programme makers attempted to ensure that good practice was followed in using various contributor release/consent forms, but failed to follow their own procedures. However, as already stated above, we consider that informed consent does not rest necessarily on the signing of forms such as these alone.

Ofcom therefore considered the information that was available to Mr and Mrs Jones with regards to the nature, likely content of the programme and their likely contribution in advance of agreeing to participate, and also whether there were any significant changes to the programme as it developed which may have altered their willingness to be involved. In doing so, we took account of Channel 4's response to the complaint (set out in detail in the "Summary of the complaint and the broadcaster's response" section above) which argued that the complainants had been fully informed from the beginning about the filming. In particular, Ofcom noted the following points made by Channel 4:

- It was explained to Mr and Mrs Jones on several occasions that the programme would be about people looking for love abroad and would show the various stages in the process of finding a foreign bride. The other contributors' contributions were also explained to them.

- The working title on the contributor release form was "Diary of an Online Bride" which was similar to the final title "My Online Bride".

- The programme description on the contributor release form clearly set out what the programme would be about.

Ofcom noted that Mr Jones did not set out in his complaint to Ofcom any specific details with regards to what information he and Mrs Jones were provided with by the programme makers about the nature of the programme and their likely contribution apart from stating that they were told that the programme would be about "the struggle of people in relationships abroad and the visa process". We considered that this was consistent with the programme description provided in the contributor release form and, therefore, had no reason to doubt the information provided by Channel 4 regarding the information given to Mr and Mrs Jones as potential contributors to the programme. Based on this information, and in the absence of any specific evidence to the contrary, Ofcom considered that Mr and Mrs Jones had been provided with detailed information about the nature and purpose of the programme and their likely contribution to it. Also, it appeared to us that there was no suggestion that there were any significant changes to the programme as it developed which may have invalidated Mr and Mrs Jones' informed consent to participate.

In Ofcom's view, consent and whether it remains valid is an issue that continues to be relevant from the commencement of a contributor's participation through to when their involvement is concluded. Therefore, in assessing whether a

contributor has given informed consent for their participation, Ofcom will not only look at the information that was provided to the contributor prior to the recording of the contribution, but, where possible, Ofcom will also consider the contribution itself. In doing so, Ofcom took account of Channel 4's response to the complaint, and, in particular, we noted the following points made by the broadcaster:

- The programme makers were in regular contact with Mr and Mrs Jones throughout the filming process, including talking to Mr Jones in detail about the edited programme.

- The programme makers took into account Mr and Mrs Jones' concerns about particular comments made in the programme and where appropriate made changes to address these concerns.

- On 14 July 2014, Mr Jones had given his verbal consent in a telephone call to the programme makers for the photographs of him to be included in the programme.

- On 7 August 2014, Mr Jones was shown the sections of the programme in which he featured and he had appeared happy with his portrayal and the content of the scenes.

- Mr and Mrs Jones did not express their concerns about being included in the programme until the week commencing 11 August 2014 (the programme was broadcast on 18 August 2014).

Ofcom watched the programme carefully in order to take into account Mr and Mrs Jones' contribution to the programme (see "Introduction and programme summary" section above). In particular, we noted that the programme followed the story of Mr and Mrs Jones getting married, the visa process, and Mrs Jones' new life in the UK. They were both shown fully engaging with the programme makers as they made arrangements for their new life together as a married couple in the UK. They were shown freely discussing the problems that they had encountered in this process and their thoughts on what married life would be like together.

Both were shown in the programme on various occasions being interviewed on a one to one basis with the programme makers. Neither of them appeared to Ofcom to be uncomfortable or concerned about talking to the programme makers while being filmed. Mrs Jones, for example, openly talked about her feelings regarding the fact that she had had to temporarily leave her son behind in Thailand due to visa restrictions.

In these circumstances, and after carefully considering Mr and Mrs Jones' contribution to the programme (both in Thailand and the UK), we considered that they had been aware that they were being filmed and that they both appeared at ease with it. They were shown engaging fully with the programme makers and freely providing their views and opinions to them. On balance, therefore, Ofcom considered that it was reasonable for the programme makers to consider that they had Mr and Mrs Jones' informed consent throughout the filming process to film them and include footage of them in the programme.

Given all of the above, Ofcom considered that Mr and Mrs Jones had given their informed consent up until at least the week commencing 11 August 2014 for the

purposes of Rule 7.1 and Practices 7.2 and 7.3. The fact that they did not consider that they had signed consent forms to cover the filming in both Thailand and the UK and that Mr Jones had not signed and returned the "Location Agreement" and "Licence for Existing Material" forms did not invalidate that consent.

Mrs Jones' son

With regards to Mrs Jones' son we noted that Mrs Jones had signed a child release form agreeing for him to be filmed for inclusion in the programme. Channel 4 explained that this form had been received by them on 6 August 2014 (eight working days before the programme was broadcast). The form contained the same working title and programme description as the contributor release form which Mr and Mrs Jones had both signed.

As explained above, contributor release/consent forms are not the only means of obtaining informed consent. Therefore, although Ofcom acknowledged that the programme makers had obtained a signed child release form for Mrs Jones' son's contribution to the programme, we also considered the information that was available to Mrs Jones with regards to the nature, likely content of the programme and her son's likely contribution in advance of agreeing to allow him to participate, and also whether there were any significant changes to the programme as it developed which may have altered her willingness to let him be involved. In doing so, Ofcom took account of Channel 4's response to the complaint (set out in detail in the "Summary of the complaint and the broadcaster's response" section above) which argued that: the complainants had been fully informed from the beginning about the filming; it had been explained to them on several occasions that the programme would be about people looking for love abroad and would show the various stages in the process of finding a foreign bride; and, it was explained to them what the other contributors' contributions would be. It also said that the programme description on the contributor release form clearly set out what the programme would be about.

As set out in detail above, Ofcom considered that Mr and Mrs Jones had been provided with detailed information about the nature and purpose of the programme and their family's likely contribution to it. Also, from the information available, it appeared to us that there was no suggestion that there were significant changes to the programme as it developed which may have invalidated Mrs Jones' informed consent with regards to her son's participation in the programme.

As also explained in detail above, in assessing whether a contributor has given informed consent for their participation, Ofcom will not only look at the information that was provided to the contributor prior to the recording of the contribution, but, where possible, Ofcom will also consider the contribution itself.

In doing so, Ofcom took account of Channel 4's response to the complaint, in particular, noting the following points:

- The programme makers were in regular contact with Mr and Mrs Jones throughout the filming process, including talking to Mr Jones in detail about the edited programme.

- The programme makers took into account Mr and Mrs Jones concerns about particular comments made in the programme and where appropriate made

changes to address these concerns. This included changing a particular comment made by the narrator about Mrs Jones' son. Channel 4 said that the programme makers had received a text message on 8 August 2014 asking them to change a voiceover line relating to him. The line in question was changed to reflect the fact that it was visa regulations that had prevented Mrs Jones from bringing her son with her to the UK. Channel 4 said that the text message demonstrated that Mr and Mrs Jones were otherwise happy with the programme as it was.

- Mr and Mrs Jones did not express their concerns (including with regards to Mrs Jones' son) about being included in the programme until the week commencing 11 August 2014 (the programme was broadcast on 18 August 2014).

Ofcom watched the programme carefully in order to take into account Mrs Jones' son's contribution to the programme (see "Introduction and programme summary" section above). Mrs Jones' son was shown in his home in Thailand, preparing for his mother's departure for the UK. He was shown fully engaging with the programme makers in a one to one interview. He talked freely about his mother's plans to go and live in the UK and his concerns about this. Although he appeared sad about his mother leaving him behind temporarily, he did not appear to Ofcom to be uncomfortable or concerned about talking to the programme makers while being filmed.

In these circumstances, and after carefully considering Mrs Jones' son's contribution to the programme, on balance, Ofcom considered that it was reasonable for the programme makers to consider that they had Mrs Jones' informed consent throughout the filming process to film her son and include footage of him in the programme.

Given all of the above, Ofcom considered that Mrs Jones had given her informed consent for her son to be filmed for inclusion in the programme at least up until the week commencing the 11 August 2014 for the purposes of Rule 7.1 and Practices 7.2 and 7.3.

Ms Hart

With regards to Mr Jones' mother, Ms Hart, we noted that Ms Hart had not signed the contributor release form provided to her. This form contained the same working title and programme description as the contributor release form which Mr and Mrs Jones both signed.

As explained above, contributor release/consent forms are not the only means of obtaining informed consent. However, having provided Ms Hart with a contributor release form, Ofcom considered that the responsibility was on the programme makers to collect the signed form back from Ms Hart, or make reasonable efforts to contact her once it was realised that this signed form had not been received, in order to investigate the reason for the delay in its return.

Channel 4 said that Ms Hart was given a contributor release form to sign on the day she was filmed, i.e. 8 May 2014. The broadcaster said that while Ms Hart had said that she was in a hurry and could not sign the form on the day of filming, she did not give any indication that she was unhappy with her contribution. We noted from Channel 4's statement (see "Summary of the complaint and the broadcaster's response" section above) that the broadcaster gave a detailed

account of the steps the programme makers had taken in order to obtain a signed consent form from Ms Hart but that she had not provided one. Channel 4 explained that while the programme makers did not receive a signed release form from Ms Hart, there was no doubt that she had given her informed consent for her contribution. In particular, Channel 4 said that the interview included in the programme as broadcast and the various conversations Ms Hart had had with the programme makers (as outlined in the "Summary of the complaint and the broadcaster's response" section above) showed that informed consent had been obtained.

As outlined above, broadcasters must gain informed consent from all potential contributors, unless there is justification to do otherwise (for example, the public interest). In this case, it appeared to Ofcom that the programme makers attempted to ensure that good practice was followed in using contributor release/consent forms, but failed to follow through on their own procedures.

However, as already stated above, Ofcom considers that informed consent does not rest necessarily on the signing of forms such as these alone. We therefore considered the information that was available to Ms Hart with regards to the nature, likely content of the programme and her likely contribution in advance of agreeing to participate, and also whether there were any significant changes to the programme as it developed which may have altered her willingness to be involved. In doing so, Ofcom took account of Channel 4's response to the complaint (set out in detail above) which argued that Ms Hart had been fully informed from the beginning about the filming. In particular, we noted the following points made by Channel 4:

- Ms Hart was fully informed by the programme makers about the nature of the programme and her contribution and was told about the other stories being filmed for the programme.

- The programme description on the contributor release form clearly set out what the programme would be about.

Ofcom noted that Mr Jones did not set out in his complaint to Ofcom any specific information with regards to what information Ms Hart was provided with by the programme makers about the nature of the programme and her likely contribution. Ofcom therefore had no reason to doubt the information provided by Channel 4 regarding the information given to Ms Hart as a potential contributor to the programme. Therefore, based on the information provided by Channel 4 in response to the complaint above, and in the absence of any specific evidence to the contrary, Ofcom considered that Ms Hart had been provided with detailed information about the nature and purpose of the programme and her likely contribution to it. Also, from the information available, it appeared to us that there was no suggestion that there were any significant changes to the programme as it developed which may have invalidated Ms Hart's informed consent to participate.

As noted above, consent and whether it remains valid is an issue that continues to be relevant from the commencement of a contributor's participation through to when their involvement is concluded. Therefore, in assessing whether Ms Hart gave her informed consent for her participation, we took into account the information that was provided to her prior to the recording of her contribution, and the contribution itself.

In doing so, Ofcom took account of Channel 4's response to the complaint. In particular, we noted the following points:

- On 6 August 2014 the programme makers spoke with Ms Hart and talked her through how her contribution appeared in the edited programme. Channel 4 said that she was happy with what she had been told.

- On 7 August 2014, Ms Hart was offered the opportunity to watch the relevant sections of the programme. She declined because of work commitments. She was also asked via text message for her address details so that another contributor release form could be sent to her. She responded with her address. She did not raise any objections to her inclusion in the programme at this time.

Ofcom watched the programme carefully in order to take into account Ms Hart's contribution to the programme (see "Introduction and programme summary" section above). Ms Hart's contribution was brief (approximately one minute in length). She was shown visiting Mr and Mrs Jones' home and meeting Mrs Jones for the first time. She was also shown fully engaging with the programme makers in a one to one interview and she talked freely about how she had felt when Mr Jones had first told her that he had a Thai girlfriend. Ms Hart did not appear to Ofcom to be uncomfortable or concerned about talking to the programme makers while being filmed.

While Ms Hart had said that she had spoken to the programme makers previously with regards to her concerns about being included in the programme, it did not appear that she had confirmed with the programme makers that she did not want to be included in the programme until 18 August 2014 (the day the programme was broadcast) when she sent an email to them stating that she did not give her consent for her contribution to be included in the programme. She also explained that Mr and Mrs Jones wished to withdraw their consent. Ms Hart provided a copy of the email to Ofcom which stated:

> "I am Sam Jones' Mum and I am writing to let you know that I DO NOT give consent for you to show my part in the documentary.
>
> I also wanted to say that it is a distressing time for Sam and Apple as since [sic] they found out the title of the film they also decline their permission to be part of the film".

In these circumstances, and after carefully considering Ms Hart's contribution to the programme, we took the view that she had been aware that she was being filmed and that she appeared comfortable with this. She was shown engaging fully with the programme makers and freely providing her views and opinions to them. Given this, on balance, Ofcom considered that it was reasonable for the programme makers to consider that they had Ms Hart's informed consent throughout the filming process to film her and include footage of her in the programme.

Given all of the above, Ofcom considered that Ms Hart had given her informed consent up until 18 August 2014 (at the very latest) for the purposes of Rule 7.1 and Practices 7.2 and 7.3. The fact that Ms Hart had not signed and returned the contributor release form did not invalidate that consent.

Having established that the programme makers had Mr and Mrs Jones' informed consent, Mrs Jones' informed consent on behalf of her son, and Ms Hart's informed consent up until at least the week commencing 11 August 2014, Ofcom then considered whether they had been unfair to them by including footage of them in the programme after they had withdrawn that consent.

Although it was unclear to Ofcom exactly when the complainants withdrew their individual consent to be included in the programme, from the information available to us, it appeared that Mr and Mrs Jones (on their own behalf and on behalf of Mrs Jones' son) withdrew their consent in the week commencing 11 August 2014 and Ms Hart withdrew her consent and the consent of Mr and Mrs Jones in writing on 18 August 2014 (the day the programme was broadcast).

Therefore, given the fact that the complainants had withdrawn their consent to include footage of them in the programme, Ofcom next considered whether the programme makers were unfair to them by deciding to include them without their consent. In considering this aspect of the complaint, we took into account the broadcaster's competing right to freedom of expression and that of the other participants in the programme.

Ofcom recognises that programme production would be difficult, and in some cases impossible, if any contributor was entitled to withdraw their consent to be included in the programme at any point between the recording of their contribution and the date of broadcast. Once an individual has given his or her informed consent to be filmed for inclusion in a programme and that footage has been recorded, that individual, normally, does not have any automatic right to compel the broadcaster not to include their contribution, or present it in any particular way. The broadcaster may edit and transmit that contribution when and how it wishes, provided that the broadcast complies with the Code.

In this particular case, and for the reasons already given above, Ofcom considered that the complainants had been provided with sufficient information about the nature and purpose of the programme and had engaged fully in the programme making process. We also considered that no significant changes had been made to the programme. We noted the complainants did not give any specific reason for their change of mind apart from stating that they felt that they were misled about the nature of the programme.

Ofcom also took account of the fact that it was not until after filming had been completed that the complainants informed the programme makers that they did not want to be included in the programme (at the earliest, it appeared that it was no more than one week before the programme was due to be broadcast).

In considering whether the complainants had been treated unfairly, we also considered their contribution to the programme. In this case, the complainants were all shown in the programme discussing Mr and Mrs Jones' relationship and their plans for a new life together in the UK, as described in detail above. In Ofcom's view, there was nothing included of them in this footage that was likely to materially and adversely affect viewers' opinions of them in a way that was unfair to them. While we noted that Mr Jones had said that the programme had made them "a laughing stock", we did not consider either he or any of his family members who had contributed to the programme had been in any way misrepresented in the programme or, for example, edited in such a manner that portrayed them unfairly.

Further, we noted that Mr Jones and his family's contribution focussed on his and his wife's relationship, their visa related issues, and their planning of a new life together in the UK. We considered that this was in keeping with Mr Jones' assertion that the programme makers had told him that the programme would be about "the struggle of people in relationships abroad and the visa process". We also thought that this was consistent with the programme description provided on the contributor release form provided to (and in the case of Mr and Mrs Jones and Mrs Jones on behalf of her son signed by) the complainants. Although we noted that the focus of the other contributors' (Chris and Mike) contributions was not about the visa process specifically, their stories were about them finding and maintaining relationships abroad. We did not consider that the inclusion of their stories along with his and his family's created unfairness to him and his family.

We also assessed whether or not the programme's title *My Online Bride* had led to unfairness to the complainants. In doing so we noted that the working title provided on the contributor release form provided to the complainants was "Diary of an Online Bride". We noted that Mr Jones had said that the programme makers had implied that the programme might be called "Foreign Love" or "International Love" and not *My Online Bride*. While we acknowledged that the difference between these potential titles was small we went on to consider Mr Jones' objection that the title *My Online Bride* implied that he had met Mrs Jones online. We noted that the programme stated:

> *"One girl who has already started a relationship with a British man is 29 year old Apple. They met at a friend's party and have maintained their relationship online ever since…".*

We therefore considered that it was made clear in the programme that Mr and Mrs Jones had not met online, but at a friend's party. Given this we did not consider that Mr Jones had made out a case that the final title amounted to unfairness to him and his family.

Given all of the above, Ofcom considered that all of the complainants had given their informed consent for the programme makers to film them for inclusion in the programme, and that the fact that the programme makers included footage of them in the programme despite them later withdrawing that consent was not unfair to them for the purposes of Rule 7.1.

Ofcom therefore found that the complainants were not treated unjustly or unfairly in the programme as broadcast by the inclusion of footage of them in the programme after they had withdrawn their consent.

Unwarranted infringement of privacy

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

This is reflected in how Ofcom applies Rule 8.1 of the Code which states that any infringement of privacy in programmes, or in connection with obtaining material included in programmes, must be warranted[1].

b) Ofcom considered first Mr Jones' complaint that his privacy was unwarrantably infringed in connection with the obtaining of material included in the programme because photographs from his Facebook page were downloaded by the programme makers without his permission.

Ofcom took into consideration Practice 8.5 of the Code, which states that any infringement of privacy in the making of a programme should be with the person's and/or organisations consent or be otherwise warranted.

In assessing whether or not Mr Jones' privacy was unwarrantably infringed in connection with the obtaining of material included in the programme, Ofcom considered the extent to which he had a legitimate expectation of privacy. The Code's statement on the meaning of "legitimate expectation of privacy" makes clear that such an expectation:

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

In considering whether Mr Jones had a legitimate expectation of privacy, we first considered the nature of the material obtained. We noted that Mr Jones' complaint related to the obtaining of six photographs of him which had been downloaded from his Facebook page and which were subsequently included in the programme. These photographs, which appeared to have been taken while Mr Jones was on holiday, featured only Mr Jones and in each photograph he was shown posing for the camera. Ofcom considered that an individual's holiday photographs may be personal and private to them, and therefore may afford them a legitimate expectation of privacy. We also noted that the photographs did not reveal any private or sensitive information about him other than his appearance.

We then considered how the photographs of him had been obtained. We noted the discrepancy in accounts of how the programme makers had been able to access the photographs; Mr Jones said that he had accepted the programme makers as a "friend" on Facebook which had provided them with access to the photographs, whereas the broadcaster asserted that the programme makers had accessed the photographs on a publicly accessible area of Mr Jones' Facebook account. Irrespective of exactly how the programme makers had come to be able to access the photographs in question, we noted that it was agreed by both parties that the photographs had been available to the programme makers on Mr Jones' Facebook page.

We noted that Channel 4 argued in its statement in response to the complaint that there could be no expectation of privacy in relation to the obtaining of the photographs because they were accessed from a publicly accessible area of Mr

[1] The explanation of the meaning of "warranted" under Rule 8.1 of the Code identifies revealing or detecting crime, protecting public health or safety, exposing misleading claims made by individuals or organisations, disclosing incompetence that affects the public, as examples of public interest.

Jones' Facebook account (though this was disputed by Mr Jones). Although we had no way of establishing for certain exactly how the photographs had been obtained, we note that individuals are not necessarily deprived of their right to privacy if information/images in respect of which they claim that right has been put into the public domain in the past. Each case must be considered on its own facts. In this case, we noted that Mr Jones was a private individual (i.e. he was not in the public eye) and while we accepted that the photographs had been obtained from Mr Jones' Facebook page (either because they were publicly available or because Mr Jones had accepted the programme makers as a "friend"), based on the information available to us, we did not consider it likely that even if they were publicly available these photographs had been widely disseminated.

However, in the circumstances of this case and noting the innocuous nature of the photographs, we considered that by either placing the photographs on a publicly accessible part of his Facebook page, or accepting the programme makers as a friend on Facebook, Mr Jones consented to the programme makers obtaining the photographs.

Therefore, taking all of the factors above into account, Ofcom considered that Mr Jones did not to have a legitimate expectation of privacy concerning the obtaining of the photographs of him.

Having reached this decision, Ofcom considered that it was not necessary to assess whether or not any infringement into Mr Jones' privacy in this respect was warranted.

Ofcom therefore found that Mr Jones' privacy was not unwarrantably infringed in connection with the obtaining of material included in the programme.

c) Ofcom next considered Mr Jones' complaint that his privacy was unwarrantably infringed in the programme as broadcast because photographs from his Facebook page were included in the programme without his permission. Mr Jones said that he was supplied with a separate contributor release form for the photographs, but said that he did not sign it.

In assessing whether or not Mr Jones' privacy was unwarrantably infringed in the programme as broadcast, Ofcom first considered the extent to which he had a legitimate expectation of privacy in relation to the material broadcast. In doing so, Ofcom 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, consent should be obtained before the relevant material is broadcast unless the infringement of privacy is warranted.

As explained above, the Code makes clear the meaning of "legitimate expectation of privacy".

In considering whether Mr Jones had a legitimate expectation of privacy with regards to the inclusion of the photographs of him in the programme, we considered the nature of the photographs in question. As above, we noted that the photographs included in the programme appeared to have been taken while Mr Jones was on holiday and that we considered that an individual's holiday photographs may be personal and private to them, and therefore may afford them a legitimate expectation of privacy. However, in this case, we noted that the photographs did not show Mr Jones engaged in any activity or in any situation

that could reasonably be regarded as private or sensitive in nature. We also noted that the photographs did not reveal any private or sensitive information about him. Further, as Mr Jones was a contributor to the programme viewers would have already been aware of what Mr Jones looked like.

Therefore, taking all of the factors above into account, Ofcom considered that Mr Jones did not have a legitimate expectation of privacy concerning the broadcast of the photographs of him. In any event, we note that, for the reasons set out below, Mr Jones' had consented for the photographs to be included in the programme.

Ofcom noted that Mr Jones had been provided with a "Licence for Existing Material" to authorise the programme makers to broadcast photographs of him. Mr Jones did not sign this form. As outlined in detail above at head a) of the complaint, from the information available to Ofcom, it appeared that Mr Jones did not at any point raise his concerns about the filming, including the obtaining and inclusion of the photographs in the programme, with the programme makers, or indicate his belief that the lack of his signed "Licence for Existing Material" form invalidated his consent for the photographs of him to be included in the programme, until after the filming had been completed.

However, as also outlined above under head a) of the complaint, contributor release/consent forms are not the only means of obtaining informed consent.

Channel 4 set out in detail why it considered it had Mr Jones' informed consent to include the photographs of him in the programme (see the "Summary of the complaint and the broadcaster's response" section above). In summary, it argued that Mr Jones: had verbally agreed to the photographs being used in the programme in telephone conversations with the programme makers on 14 July 2014 and 6 August 2014; was shown on 7 August 2014 the parts of the programme in which he appeared but did not raise any concerns about the use of the photographs in the programme and again verbally agreed to them being used; and, had sent a text message on 8 August 2014 which the broadcaster said demonstrated that Mr Jones had not raised any concerns about the photographs at this time.

As discussed in detail above at head a), on balance, Ofcom considered that:

- It was reasonable for the programme makers to consider that they had Mr Jones' informed consent throughout the filming process to film him and include footage of him in the programme (at least up until the week commencing 11 August 2014). We considered that this included the footage of the photographs.
- The fact that the programme makers included footage of him, including footage of photographs of him, in the programme despite him later withdrawing that consent was not unfair to him for the purposes of Rule 7.1.

Having reached this decision, Ofcom considered that it was not necessary to assess whether or not any infringement into Mr Jones' privacy in this respect was warranted.

Ofcom therefore found that Mr Jones' privacy was not unwarrantably infringed in the programme as broadcast.

Ofcom has not upheld Mr Jones' complaint made on his own behalf and on behalf of, Ms Hart, Mrs Jones, and her son of unjust or unfair treatment. Ofcom has also not upheld Mr Jones' complaint of unwarranted infringement of privacy in connection with the obtaining of material included in the programme and in the programme as broadcast.

Not upheld

Complaint by Mrs Jennette Holden

Granada News, ITV, 19 December 2014

Summary

Ofcom has not upheld this complaint by Mrs Jennette Holden of unwarranted infringement of privacy in the programme as broadcast.

The programme reported on a fight which had occurred during a meeting of the Briercliffe Parish Council in Lancashire. Mrs Holden's face was shown partially unobscured but she was not named or otherwise identified in the programme.

Ofcom found that, in the particular circumstances of this case, Mrs Holden did not have a legitimate expectation of her privacy with regard to the inclusion of the footage of her in the programme as broadcast. Therefore, Mrs Holden's privacy was not unwarrantably infringed in the programme as broadcast.

Introduction and programme summary

On 19 December 2014, ITV broadcast an edition of its regional news programme, *Granada Reports*, which included a report about an incident that had been recorded at a meeting of the Briercliffe Parish Council ("the Parish Council") in Lancashire.

One of the studio presenters introduced the stories to be covered in the programme and said of one story:

> *"Punch up at the Parish Council: the extraordinary scenes when tempers flared in a village hall in Lancashire".*

Footage was then shown of the complainant, Mrs Holden. She was shown among a group of people who appeared to be involved in a fight as they were filmed shouting at each other and grabbing each other's clothes. Mrs Holden's back was visible, but her face could not be seen.

Later in the programme, the presenter introduced the report about the Parish Council meeting:

> *"Next, to the extraordinary scenes which followed a row at a Parish Council Meeting in Lancashire"*

A second studio presenter then explained that:

> *"Councillors were debating allotments at the meeting in the village of Briercliffe near Burnley, when tempers flared somewhat. Our correspondent Rob Smith has this report".*

A pre-recorded report was then shown. It included footage of the Parish Council meeting that had been filmed by Mr Paul Prince, a former Parish Councillor. The footage shown focused on four Parish Councillors presiding over the meeting when the reporter explained:

"An exchange of views over allotments was about to spark something far less civilised".

A commotion and raised voices were heard out of camera shot. Mr Prince, who was filming the Parish Councillors, turned the camera to film the scene unfolding behind him. The reporter said:

"*Talk of tending land swapped for landing punches. The Brawl at Briercliffe Parish Council near Burnley stunned those who witnessed it".*

The report then showed footage of a fight that had broken out in the public area of the meeting hall. Mrs Holden was shown in the footage and appeared to step in between the people involved in the fight to stop it. Mrs Holden's face could be seen for a couple of seconds, after which only the back of her was visible for a few seconds.

Footage was then shown of Mr Prince and the reporter watching the footage of the incident at the Parish Council meeting on a laptop. The following exchange took place:

Reporter: "*You must have thought, I'm seeing things here*.

Mr Prince: *I thought I was dreaming. You just do not see that"*.

The reporter explained:

"Paul Prince was filming questions being put to Councillors when fists started flying".

Further footage of the incident was then shown. This footage was filmed at a much closer range than that previously shown and showed two men fighting. Mrs Holden appeared again, her profile was shown very briefly, and then the back of her was shown for a few seconds, as she appeared to shield one of the men from being punched by putting her hands in a protective manner over his face.

Mr Prince said:

"I've been a Parish Councillor myself and I was flabbergasted that you see fighting at a Parish Council. I mean you tune into this kind of stuff on Sky Sports and stuff, you know at the boxing matches, you just don't see that at Parish Council meetings. These are usually quiet affairs".

The reporter then explained:

"Quiet was eventually restored, after it had spilled into the Parish Council car park. Police were called. The meeting was cancelled".

Another short extract of footage of the incident was shown. However, the complainant was not seen in this footage.

The reporter was then shown standing outside the meeting hall and said that Parish Council officials would not comment on the incident and preferred to wait until the conclusion of the police investigation. He also said that the police had stated that they did not expect to charge anyone as no arrests were made and that they believed a peaceful resolution had been reached between those involved.

Mrs Holden did not appear again in the programme. She was not named, or otherwise identified in the programme.

Summary of the complaint and the broadcaster's response

In summary, Mrs Holden complained that her privacy was unwarrantably infringed in the programme as broadcast because footage of her was broadcast without her consent.

By way of background, Mrs Holden said that she first knew of the news coverage in which footage of her was included when she saw it on *Granada News* and that it had caused her a great deal of distress and had affected her everyday life. She said she had to explain the situation to her employer which she found very upsetting. Mrs Holden also said that she felt that she could not go out locally, as on several occasions since the broadcast, people had approached her to talk about the news coverage.

Before responding specifically to the complaint, ITV said that it had broadcast two reports about the incident at the "Council meeting. The broadcaster said that the meeting had been filmed by Mr Prince in order to record the democratic process of the Council.

ITV said that it apologised to Mrs Holden for any distress and upset caused by the inclusion of the footage featuring her in the reports. However, the broadcaster said that the inclusion of footage did not result in an unwarranted infringement of her privacy.

In response to the complaint itself, ITV said that Mrs Holden did not have a legitimate expectation of privacy in relation to the broadcast of the footage of her.

The broadcaster stated that the footage was filmed at a public meeting of the Parish Council and that Mrs Holden and the other attendees at the meeting were filmed openly by Mr Prince, who was entitled to film the meeting. ITV said that the relevant legislation provides that where parish council meetings were open to members of the public, the council has no power to exclude members of the public or the media from attending for the purpose of reporting (i.e. filming) the proceedings, and that any person attending was permitted to report on the meeting. The broadcaster added that a person attending the meeting for the purpose of reporting can use any communication methods to publish, post or otherwise share the results of their reporting activities. ITV said that the Parish Council's own "Protocol on the Filming and Recording of Parish Council Meetings" reflected the legislation, and stated that members of the public were permitted to film or record the Council's meetings.

The broadcaster also explained that the Parish Council's Protocol, part of which was displayed at its meetings, recognised the right to record and broadcast meetings and the right of the press and public to attend such meetings. Further, those attending the meetings are deemed to have consented to the filming, recording or broadcast of the meetings. ITV added that the Council does not require those filming their meetings to only film councillors and not other attendees. Therefore, ITV said that Mrs Holden should not have had any expectation that her presence or actions at the Parish Council meeting would be private.

In addition, ITV said that Mrs Holden was not named in the reports, and was featured only incidentally in the footage it used. ITV said that in the lunchtime news bulletin, her face had been visible in one shot for approximately one second, and she had

been visible from behind in two shots for approximately six seconds, as she attempted to break up the fight. The broadcaster said that in the evening news bulletin her face had been visible in four shots for approximately seven seconds and that she had been visible from behind in six shots for a total of approximately twenty seconds. It further said that the reports had not disclosed any private information about Mrs Holden, or depicted her engaged in any private activity. ITV acknowledged that Mrs Holden did not commit any criminal offence, and that her incidental appearance in the footage was simply because she sought to break up the fight. However, given the nature and circumstances of the fight, the broadcaster said that Mrs Holden should not have had any expectation that the footage would not be made public or that, if broadcast, it would not feature her.

ITV also stated that the footage featuring Mrs Holden was already in the public domain before it was broadcast on ITV Granada. The broadcaster provided Ofcom with examples of where the story and footage of the incident had been published which included BBC News, Sky News and The Daily Mail. It said that, therefore, even if Mrs Holden was found to have had any legitimate expectation of privacy at the outset regarding the footage, by the time *Granada News* broadcast the footage, that expectation had effectively been extinguished by the previous wide publication of the footage.

ITV also said it did not consider that Mrs Holden had any legitimate expectation that her identity would be obscured in the footage when used. In any event, ITV said that obscuring her identity in the footage would not have protected her privacy, given the previous wide dissemination of that footage.

ITV said that if Ofcom were to conclude that Mrs Holden had a legitimate expectation of privacy in relation to the broadcast of the footage featuring her, this expectation would be extremely limited by virtue of the circumstances stated above. Further, the broadcaster said that it did not consider it necessary to have obtained Mrs Holden's consent prior to the broadcast of the footage of her and that it was warranted to broadcast the parts of the footage featuring her without her consent. ITV considered that there was a strong public interest in broadcasting the proceedings of local government bodies such as the Parish Council, and especially where controversial issues were being discussed (such as the grazing rights on public land in this case). The broadcaster said that this was because it informed the public about the work and decision-making of those local government bodies, enhanced the openness and transparency of local government, and ensured that local government bodies were properly accountable to the people they served and the taxpayers who helped fund them.

ITV said in its response that it would be an unreasonable and unnecessary restriction on broadcasters' freedom to disseminate information about local government proceedings, and the audience's right to receive such information, if broadcasters were required to seek consent from individual attendees before broadcasting footage of the proceedings, and especially from those attendees who featured only incidentally in the footage, and whose private information and activities were not disclosed by it (as was the case with Mrs Holden), or to obscure the identities of such attendees. Further, in this particular case, ITV said that there had been a strong public interest in broadcasting the footage of this particular Parish Council meeting, because there had been an allegation of criminal conduct regarding the fight, which the police had been investigating. It said that seeing how the fight had taken place was important to contributing to the audience's understanding of the proceedings of the meeting, the dispute and the subsequent police investigation.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View on this case that the complaint should not be upheld. Both parties were given the opportunity to make representations on the Preliminary View, but neither chose to do so.

Decision

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

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

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

In Ofcom's view, the individual's right to privacy has to be balanced against the competing right of the broadcaster to freedom of expression. Neither right as such has precedence over the other and where there is a conflict between the two, it is necessary to intensely focus on the comparative importance of the specific rights. Any justification for interfering with or restricting each right must be taken into account and any interference or restriction must be proportionate. This is reflected in how Ofcom applies Rule 8.1of the Code which states that any infringement of privacy in programmes, or in connection with obtaining material included in programmes must be warranted.

In considering whether or not Mrs Holden's privacy was unwarrantably infringed in the programme as broadcast because footage of her was broadcast without her consent, Ofcom 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, consent should be obtained before the relevant material is broadcast, unless the infringement of privacy is warranted. We also had regard to Practices 8.3 and 8.4. Practice 8.3 provides that when people are caught up in events which are covered in the news they still have a right to privacy in both the making and the broadcast of a programme, unless it is warranted to infringe it. Practice 8.4 states that broadcasters should ensure that actions filmed or recorded in, or broadcast from, a public place, are not so private that prior consent is required before broadcast from the individual concerned, unless broadcasting without their consent is warranted.

In assessing whether Mrs Holden's privacy was unwarrantably infringed in the programme as broadcast, Ofcom first considered the extent to which Mrs Holden had a legitimate expectation of privacy in relation to footage of her being included in the programme as broadcast.

As set out in the "Introduction and programme summary" section above, Ofcom noted that the programme included unobscured footage of Mrs Holden as she attempted to break up a fight that had broken out at a Parish Council meeting.

In assessing whether or not Mrs Holden had a legitimate expectation of privacy we took into account all the relevant circumstances. We noted that the footage of Mrs Holden had been filmed openly in a public place. Although it was not clear from the footage that Mrs Holden had been aware that she was being filmed by Mr Prince when the fight broke out, she would have been aware that Mr Prince was filming the proceedings at the Parish Council meeting prior to the incident and that he had permission to do so. We also observed that the footage of Mrs Holden was brief and did not focus in particular on her. Further, in our view, Mrs Holden was not shown engaged in any activities which were particularly private or sensitive in nature to her. In particular, it was clear from the footage that Mrs Holden was not involved in the fight, other than to attempt to break it up. We also noted that the programme did not reveal anything particularly private or sensitive about Mrs Holden.

Further, we had regard to ITV's response in which it said that the footage of Mrs Holden had already been widely disseminated prior to the broadcast of the programme, for example by way of publication on various news websites such as BBC, Sky News and Daily Mail. Therefore, the footage of Mrs Holden was already in the public domain.

We also considered whether Mrs Holden was identifiable in the programme as broadcast. As noted in the "Introduction and programme summary" section above, Mrs Holden's face was shown partially obscured. However, she was not named nor referred to specifically in the programme. Nevertheless, we considered that Mrs Holden was identifiable from the footage included in the programme.

However, taking all the factors above into account, we considered that Mrs Holden did not have a legitimate expectation of privacy in relation to the broadcast of footage of her. It was therefore not necessary to consider further whether any intrusion into the privacy of Mrs Holden was warranted.

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

Ofcom has not upheld Mrs Holden's complaint of unwarranted infringement of her privacy in the programme as broadcast.

Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 19 May and 1 June 2015 and decided that the broadcaster did not breach Ofcom's codes, licence conditions or other regulatory requirements.

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

Programme	Broadcaster	Transmission date	Categories
The 100	E4	07/03/2015	Violence and dangerous behaviour
Good Morning Britain	ITV	01/05/2015	Elections/Referendums

For more information about how Ofcom conducts investigations about content standards, go to: http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/.

Complaints Assessed, Not Investigated

Here are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 19 May and 1 June 2015 because they did not raise issues warranting investigation.

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

For more information about how Ofcom assesses conducts investigations about content standards, go to: http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/.

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Trending! Your Afternoon Hitlist	4Music	12/05/2015	Scheduling	1
Advertisement	4oD	N/A	Advertising content	2
Benefits Britain: Life on the Dole	5*	18/05/2015	Race discrimination/offence	1
Benefits House: Me and My 26 Kids	5*	25/05/2015	Offensive language	1
Programming	5*	23/05/2015	Materially misleading	1
Top 20 Funniest	5*	21/05/2015	Under 18s in programmes	1
Kismat Cards	Aaj Tak	26/04/2015	Advertising/editorial distinction	1
The Frank Skinner Show	Absolute Radio	16/05/2015	Disability discrimination/offence	1
Bollywood Tarka	Ambur Radio	28/02/2015	Generally accepted standards	1
Life and Beauty	ATN Bangla	17/03/2015	Product placement	1
Racing News	attheraces	31/03/2015	Product placement	1
Atlantis	BBC 1	16/05/2015	Scheduling	1
BBC News at Six	BBC 1	22/05/2015	Fairness	1
BBC News at Ten	BBC 1	12/05/2015	Race discrimination/offence	1
Breakfast	BBC 1	25/04/2015	Generally accepted standards	1
Countryfile	BBC 1	03/05/2015	Materially misleading	1
Countryfile	BBC 1	10/05/2015	Scheduling	1
EastEnders	BBC 1	08/05/2015	Scheduling	1
EastEnders	BBC 1	12/05/2015	Offensive language	1
EastEnders	BBC 1	19/05/2015	Generally accepted standards	1
EastEnders	BBC 1	21/05/2015	Generally accepted standards	1
EastEnders	BBC 1	22/05/2015	Generally accepted standards	2
Eurovision's Greatest Hits	BBC 1	03/04/2015	Generally accepted standards	1
Holby City	BBC 1	19/05/2015	Offensive language	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Inspector George Gently	BBC 1	29/04/2015	Scheduling	1
Peter Kay's Car Share	BBC 1	13/05/2015	Race discrimination/offence	8
Question Time	BBC 1	22/05/2015	Due impartiality/bias	5
Regional News and Weather	BBC 1	19/05/2015	Outside of remit	1
SunTrap (trailer)	BBC 1	19/05/2015	Scheduling	1
The Andrew Marr Show	BBC 1	24/05/2015	Due accuracy	1
The British Academy Television Awards	BBC 1	10/05/2015	Generally accepted standards	2
The British Academy Television Awards	BBC 1	10/05/2015	Violence and dangerous behaviour	1
The C-Word	BBC 1	03/05/2015	Offensive language	3
The Eurovision Song Contest	BBC 1	23/05/2015	Generally accepted standards	1
The Housing Enforcers	BBC 1	20/05/2015	Generally accepted standards	1
The Leader Interviews	BBC 1	22/04/2015	Elections/Referendums	1
The One Show	BBC 1	19/05/2015	Transgender discrimination/offence	1
VE Day 70: A Party to Remember	BBC 1	09/05/2015	Materially misleading	1
Watchdog	BBC 1	21/05/2015	Outside of remit	1
BBC News	BBC 2	14/05/2015	Offensive language	2
Churchill: When Britain Said No	BBC 2	25/05/2015	Due impartiality/bias	2
Churchill: When Britain Said No	BBC 2	25/05/2015	Fairness	1
Hi-de-Hi!	BBC 2	23/03/2015	Offensive language	1
RHS Chelsea Flower Show	BBC 2	22/05/2015	Outside of remit	1
Rory Bremner's Election Report	BBC 2	13/05/2015	Generally accepted standards	1
Victoria Derbyshire	BBC 2	22/05/2015	Generally accepted standards	1
BBC News	BBC Channels	Various	Due impartiality/bias	1
Big Weekend	BBC iPlayer	N/A	Outside of remit	1
Frankie Boyle's Election Autopsy	BBC iPlayer	N/A	Due impartiality/bias	1
News	BBC News Channel	11/05/2015	Due impartiality/bias	1
Mark and Lard	BBC Radio 1	20/05/2000	Outside of remit	1
Graham Norton	BBC Radio 2	09/05/2015	Crime	1
Drags to Riches	BBC Radio 4	11/05/2015	Sexual material	1
File on 4: Targetting the Vulnerable	BBC Radio 4	05/05/2015	Generally accepted standards	1
Just a Minute	BBC Radio 4	25/05/2015	Generally accepted standards	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
The Today Programme	BBC Radio 4	15/05/2015	Offensive language	1
The Vote Now Show	BBC Radio 4	01/05/2015	Generally accepted standards	4
Ben and Brendan: Herb is the Word	Blast Radio (Ealing)	23/04/2015	Drugs, smoking, solvents or alcohol	1
Live Gloucester v Connaught	BT Sport 1	24/05/2015	Outside of remit	1
Marrying Mum and Dad	CBBC	18/05/2015	Generally accepted standards	1
Bing	CBeebies	21/05/2015	Scheduling	1
Rastamouse	CBeebies	23/05/2015	Scheduling	1
Dog and Beth: On the Hunt	CBS Reality	25/04/2015	Offensive language	1
Play Your Cards Right	Challenge	17/05/2015	Transgender discrimination/offence	1
Advertisement	Channel 4	19/05/2015	Advertising content	1
Benchmark (Trailer)	Channel 4	29/05/2015	Generally accepted standards	1
Benefits Street	Channel 4	11/05/2015	Disability discrimination/offence	1
Benefits Street	Channel 4	11/05/2015	Drugs, smoking, solvents or alcohol	4
Benefits Street	Channel 4	11/05/2015	Generally accepted standards	3
Benefits Street	Channel 4	11/05/2015	Materially misleading	1
Benefits Street	Channel 4	12/05/2015	Drugs, smoking, solvents or alcohol	1
Benefits Street	Channel 4	12/05/2015	Violence and dangerous behaviour	1
Benefits Street	Channel 4	18/05/2015	Crime	1
Benefits Street	Channel 4	18/05/2015	Generally accepted standards	2
Benefits Street	Channel 4	25/05/2015	Generally accepted standards	1
Born Naughty?	Channel 4	14/05/2015	Animal welfare	1
Born Naughty? (trailer)	Channel 4	14/05/2015	Disability discrimination/offence	3
Channel 4 News	Channel 4	14/05/2015	Violence and dangerous behaviour	3
Channel 4 News	Channel 4	18/05/2015	Due impartiality/bias	1
Channel 4's Alternative Election Night	Channel 4	07/05/2015	Elections/Referendums	2
Channel 4's Alternative Election Night	Channel 4	07/05/2015	Generally accepted standards	1
Come Dine with Me	Channel 4	28/05/2015	Animal welfare	1
Food Unwrapped	Channel 4	04/05/2015	Generally accepted standards	1
Gogglebox	Channel 4	01/05/2015	Animal welfare	13
Gogglebox	Channel 4	01/05/2015	Generally accepted standards	2

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Gogglebox	Channel 4	08/05/2015	Gender discrimination/offence	1
Gogglebox	Channel 4	08/05/2015	Generally accepted standards	1
Gogglebox	Channel 4	08/05/2015	Race discrimination/offence	3
Gogglebox	Channel 4	13/05/2015	Race discrimination/offence	2
Humans (trailer)	Channel 4	20/05/2015	Gender discrimination/offence	1
No Offence	Channel 4	12/05/2015	Generally accepted standards	1
Shutter Island (Trailer)	Channel 4	29/05/2015	Scheduling	1
Skint	Channel 4	13/04/2015	Generally accepted standards	1
Skint	Channel 4	20/04/2015	Generally accepted standards	1
Skint	Channel 4	27/04/2015	Crime	1
Skint	Channel 4	27/04/2015	Generally accepted standards	1
Warm Bodies (trailer)	Channel 4	22/05/2015	Scheduling	1
Advertisement	Channel 5	06/05/2015	Advertising content	1
Autopsy	Channel 5	06/05/2015	Generally accepted standards	1
Autopsy: The Last Hours of Robin Williams	Channel 5	22/04/2015	Generally accepted standards	3
Autopsy: The Last Hours of Robin Williams	Channel 5	28/04/2015	Materially misleading	1
Big Brother	Channel 5	14/05/2015	Generally accepted standards	1
Big Brother	Channel 5	15/05/2015	Generally accepted standards	1
Big Brother	Channel 5	15/05/2015	Religious/Beliefs discrimination/offence	1
Big Brother	Channel 5	18/05/2015	Age discrimination/offence	8
Big Brother	Channel 5	18/05/2015	Sexual orientation discrimination/offence	1
Big Brother	Channel 5	20/05/2015	Animal welfare	1
Big Brother	Channel 5	20/05/2015	Disability discrimination/offence	4
Big Brother	Channel 5	20/05/2015	Generally accepted standards	1
Big Brother	Channel 5	22/05/2015	Fairness	1
Big Brother	Channel 5	22/05/2015	Race discrimination/offence	1
Big Brother	Channel 5	28/05/2015	Generally accepted standards	15
Big Brother (trailer)	Channel 5	16/05/2015	Scheduling	2
Big Brother's Bit on the Side	Channel 5	15/05/2015	Race discrimination/offence	12

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Big Brother's Bit on the Side	Channel 5	15/05/2015	Race discrimination/offence	1
Cats Make You Laugh Out Loud	Channel 5	13/05/2015	Animal welfare	1
The Wright Stuff	Channel 5	19/05/2015	Materially misleading	1
Sunday Talk-In	Clyde 2	26/04/2015	Elections/Referendums	1
Friends	Comedy Central	24/05/2015	Offensive language	1
Dave's Election Night Special	Dave	08/05/2015	Offensive language	1
Halfords' sponsorship of Happy Motoring on Dave	Dave	10/05/2015	Generally accepted standards	1
Storage Hunters	Dave	28/05/2015	Generally accepted standards	1
Top Gear	Dave Ja Vu	31/05/2015	Generally accepted standards	1
Peppa Pig	Demand 5	17/05/2015	Violence and dangerous behaviour	1
Bear Grylls: Born Survivor	Discovery	07/05/2015	Animal welfare	1
Austin and Ally	Disney+1	07/05/2015	Scheduling	1
Sunni-Shia Debate	DM News Plus	03/03/2015	Religious/Beliefs discrimination/offence	8
Advertisement	E4	18/05/2015	Advertising content	1
Humans (trailer)	E4	10/05/2015	Generally accepted standards	1
New Girl	E4	12/05/2015	Animal welfare	1
Troy	E4	29/03/2015	Race discrimination/offence	1
Warm Blood (trailer)	E4+1	22/05/2015	Scheduling	1
Live IndyCar Motor Racing	ESPN	29/03/2015	Advertising minutage	1
Bronson	Film4	15/05/2015	Violence and dangerous behaviour	1
Runaway Jury	Film4	06/05/2015	Offensive language	1
The Brave One	Film4	14/02/2015	Offensive language	1
Drivetime	Heart Radio Yorkshire	28/05/2015	Offensive language	1
Advertisement	ITV	20/05/2015	Advertising content	1
Advertisement	ITV	26/05/2015	Advertising content	1
Britain's Got More Talent	ITV	17/05/2015	Gender discrimination/offence	1
Britain's Got Talent	ITV	16/05/2015	Materially misleading	1
Britain's Got Talent	ITV	23/05/2015	Animal welfare	1
Britain's Got Talent	ITV	25/05/2015	Animal welfare	1
Britain's Got Talent	ITV	25/05/2015	Fairness	2
Britain's Got Talent	ITV	25/05/2015	Scheduling	9
Britain's Got Talent	ITV	26/05/2015	Outside of remit	1
Britain's Got Talent	ITV	27/05/2015	Outside of remit	1
Britain's Got Talent	ITV	27/05/2015	Scheduling	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Britain's Got Talent	ITV	28/05/2015	Animal welfare	122
Britain's Got Talent	ITV	28/05/2015	Scheduling	1
Britain's Got Talent	ITV	29/05/2015	Animal welfare	11
Britain's Got Talent	ITV	29/05/2015	Generally accepted standards	7
Britain's Got Talent	ITV	31/05/2015	Scheduling	111
Britain's Got Talent	ITV	31/05/2015	Violence and dangerous behaviour	9
Britain's Got Talent	ITV	Various	Advertising scheduling	1
Britain's Got Talent	ITV	Various	Materially misleading	128
Celebrity Squares	ITV	31/05/2015	Generally accepted standards	1
Coronation Street	ITV	11/05/2015	Generally accepted standards	1
Coronation Street	ITV	18/05/2015	Generally accepted standards	1
Coronation Street	ITV	20/05/2015	Generally accepted standards	1
Coronation Street	ITV	22/05/2015	Generally accepted standards	1
Emmerdale	ITV	30/04/2015	Under 18s in programmes	1
Fraud Squad	ITV	14/05/2015	Generally accepted standards	1
ITV News and Weather	ITV	14/05/2015	Generally accepted standards	1
ITV News and Weather	ITV	23/05/2015	Generally accepted standards	1
ITV News at Ten and Weather	ITV	21/05/2015	Due impartiality/bias	1
ITV News at Ten and Weather	ITV	21/05/2015	Generally accepted standards	1
Judge Rinder	ITV	20/05/2015	Materially misleading	1
Man and Beast with Martin Clunes	ITV	15/05/2015	Animal welfare	8
Newzoids	ITV	13/05/2015	Generally accepted standards	1
Newzoids	ITV	14/05/2015	Generally accepted standards	1
Newzoids	ITV	20/05/2015	Generally accepted standards	3
The Delivery Man	ITV	06/05/2015	Gender discrimination/offence	1
The Jeremy Kyle Show	ITV	28/03/2015	Scheduling	1
The Paul O'Grady Show	ITV	06/05/2015	Elections/Referendums	4
The Paul O'Grady Show	ITV	11/05/2015	Materially misleading	1
The Paul O'Grady Show	ITV	12/05/2015	Due impartiality/bias	1
The Paul O'Grady Show	ITV	13/05/2015	Due impartiality/bias	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
The Paul O'Grady Show	ITV	20/05/2015	Offensive language	1
This Morning	ITV	07/05/2015	Generally accepted standards	1
Tipping Point	ITV	22/05/2015	Sponsorship credits	1
Viscious (trailer)	ITV	28/05/2015	Scheduling	3
You've Been Framed!	ITV	23/05/2015	Scheduling	1
ITV News Granada Reports	ITV Granada	08/05/2015	Elections/Referendums	1
ITV News London	ITV London	07/05/2015	Elections/Referendums	1
Britain's Got More Talent	ITV2	16/05/2015	Nudity	1
Britain's Got More Talent	ITV2	17/05/2015	Scheduling	1
Britain's Got More Talent	ITV2	18/05/2015	Generally accepted standards	1
Britain's Got More Talent (trailer)	ITV2	01/04/2015	Scheduling	1
Celebrity Juice	ITV2	07/05/2015	Gender discrimination/offence	1
Celebrity Juice	ITV2	14/05/2015	Disability discrimination/offence	1
Hell's Kitchen	ITV2	31/03/2015	Violence and dangerous behaviour	1
Royal Pains (trailer)	ITV2	01/04/2015	Scheduling	1
The Jeremy Kyle Show	ITV2	07/05/2015	Generally accepted standards	1
The Jeremy Kyle Show	ITV2	26/05/2015	Outside of remit	1
You've Been Framed	ITV2	01/04/2015	Offensive language	1
Cristo	LBC 97.3FM	21/03/2015	Commercial communications on radio	1
Ken Livingstone and David Mellor	LBC 97.3FM	16/05/2015	Generally accepted standards	2
Advertisement	More4	20/05/2015	Advertising content	1
Father Ted	More4	02/05/2015	Offensive language	1
Father Ted	More4	09/05/2015	Scheduling	1
Advertisement	N/A	Various	Advertising content	1
African Arts and Culture Programme	New Style Radio	06/05/2015	Race discrimination/offence	1
The Raging Storm Breakfast Show	New Style Radio	27/04/2015	Crime	1
Lily's Driftwood Bay	Nick Jr	11/05/2015	Scheduling	1
Harvey Beaks	Nicktoons	11/05/2015	Scheduling	1
S66 Days	S66	07/05/2015	Generally accepted standards	1
Electronic Programme Guide	Sky	N/A	Electronic Programme Guides	1
Game of Thrones	Sky Atlantic	05/04/2015	Generally accepted standards	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Game of Thrones	Sky Atlantic	18/05/2015	Violence and dangerous behaviour	3
Penny Dreadful	Sky Atlantic	12/05/2015	Generally accepted standards	2
Penny Dreadful	Sky Atlantic	13/05/2015	Generally accepted standards	1
Penny Dreadful	Sky Atlantic	15/05/2015	Generally accepted standards	2
Penny Dreadful	Sky Atlantic	20/05/2015	Generally accepted standards	1
Penny Dreadful	Sky Atlantic	27/05/2015	Violence and dangerous behaviour	1
Mayweather Vs Pacquiao	Sky Box Office	02/05/2015	Outside of remit	1
A League of Their Own (trailer)	Sky Living	Various	Disability discrimination/offence	1
Decision Time	Sky News	07/05/2015	Elections/Referendums	1
Press Preview	Sky News	11/05/2015	Due impartiality/bias	1
Sky News with Anna Jones	Sky News	07/05/2015	Due impartiality/bias	1
Sky News with Colin Brazier	Sky News	19/05/2015	Generally accepted standards	1
Sky News with Dermot Murnaghan	Sky News	19/05/2015	Crime	1
Sky News with Kay Burley	Sky News	05/06/2015	Generally accepted standards	1,816
Sunrise	Sky News	02/04/2015	Advertising minutage	1
Sunrise	Sky News	12/05/2015	Disability discrimination/offence	1
Advertisement	Sky Sports 1	19/05/2015	Advertising content	1
Advertisement	Sky Sports 3	25/05/2015	Advertising content	1
A League of Their Own	Sky1	15/05/2015	Violence and dangerous behaviour	2
Studio 66 Nights	Studio 66 TV	25/04/2015	Nudity	1
Alan Brazil Sports Breakfast	Talksport	08/05/2015	Race discrimination/offence	1
Thats Oxford	Thats Oxford	29/04/2015	Advertising minutage	1
Shri Guru Ravidass Ji	Venus TV	15/03/2015	Due impartiality/bias	4
The Official UK Top 40	Viva	01/04/2015	Scheduling	1
XFM Breakfast Show with Jon Holmes	XFM London	02/04/2015	Religious/Beliefs discrimination/offence	1
Instruments of Death	Yesterday	20/05/2015	Animal welfare	1

Investigations List

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

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

Here are alphabetical lists of new investigations launched between 21 May and 3 June 2015.

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

Programme	Broadcaster	Transmission date
News	ARY News	7 May 2015
Safe and Sound	Corby Radio	13 April 2015
News	Dunya TV	7 May 2015
Britain's Got Talent Final	ITV	31 May 2015
Different Angelz	New Style Radio	7 May 2015
Advertising minutage	SAMAA	22 April 2015
Stephen King Week (trailer)	True Movies 2	26 April 2015

For more information about how Ofcom assesses complaints and conducts investigations about content standards, go to: http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/.

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

Programme	Broadcaster	Transmission date
Khara Sach	ARY News	9 January 2015
Sky News	Sky News	26 February 2015

For more information about how Ofcom considers and adjudicates upon Fairness and Privacy complaints, go to: http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/fairness/.

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

Licensee	Licensed Service
Pulse Media Broadcasting Limited	Pulse

For more information about how Ofcom assesses complaints and conducts investigations about broadcast licences, go to: http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/general-procedures/.