

Ofcom Broadcast Bulletin

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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 objectives¹. 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 Act².

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 advertising³.
- 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.

Note to Broadcasters

Guidance to Code Section Ten: Commercial Communications in Radio Programming

In December 2010, Ofcom implemented a revised Section Ten of the Code. We also issued associated guidance. Enquiries from broadcasters have demonstrated a need for clarification in this guidance concerning the description of a 'commercial reference'. We therefore intend to add a third set of sub-bullet points to the description, which will clarify that a reference "in programming to a brand, trade mark ... and/or service that ... promotes the station/broadcaster's own ... services" does not generally include a reference to the broadcast service itself.

The revised guidance to the description of 'commercial reference' will therefore state:

- **Commercial reference** (for the purposes of Section Ten of the Code *only*) – this is a reference in programming to a brand, trade mark, product and/or service that:
 - is subject to a commercial arrangement between the broadcaster (or any agent or employee of the broadcaster) and a third party (or third parties); or
 - promotes the station/broadcaster's own products or services.

Commercial references therefore include, for example:

- sponsorship credits;
- donated prize descriptions;
- paid-for product references;
- referral of listeners to a station's website; and
- the promotion of a station event.

Commercial references do not generally include:

- promotions of the licensed service itself, through station idents/jingles etc; or
- trails for programming on the licensed service;

However, such promotions or trails may contain commercial references – for example, sponsorship credits;

Broadcasters will find this revised guidance under 'Introduction: General guidance' in 'Broadcasting Code Guidance Notes: Section Ten – Commercial Communications in Radio Programming', which is available at:

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/programme-guidance/>

The guidance will be published on 1 July 2015, when revised rules concerning controlled premium rate services come into effect and their associated (revised) guidance will also be published – see our Note to Broadcasters, 'Broadcasting Code: non-geographic numbers in programming', in Broadcast Bulletin 278, at:

http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb278/Issue_278.pdf

Standards cases

In Breach

Professia Reporter

NTV Mir Lithuania, 2 November 2014, 19:10

Introduction

NTV Mir Lithuania is a television channel broadcasting to the Russian-speaking community in Lithuania. *Professia Reporter* was a 30 minute current affairs documentary broadcast in Russian, which dealt with the elections to the Ukrainian Parliament on 26 October 2014. The licence for NTV Mir Lithuania is held by Baltic Media Alliance Limited (“BMAL” or “the Licensee”).

A complaint alerted Ofcom to this programme, which the complainant considered was not duly impartial in relation to discussion of the Ukrainian Parliamentary elections that took place on 26 October 2014.

Ofcom obtained a translation by an independent translator of the programme from the original Russian to English. On assessing the translation, we noted that this programme was presented by a reporter. The programme included interviews with various individuals, including candidates who contested the Ukrainian Parliamentary elections, making allegations that there was maladministration and malpractice in relation to those elections, especially in the south-eastern (mainly Russian-speaking) part of Ukraine. In particular, the programme implicitly criticised the detention of candidates from the opposition Communist Party by Ukrainian security forces.

Throughout the programme, we noted various statements that referred to the policies and actions of the Central Electoral Commission of Ukraine, the Ukrainian Government, and/or other relevant agencies of the Ukrainian state concerning these elections, and in particular those elections in the south-eastern (mainly Russian-speaking) part of Ukraine. These statements were:

Reporter: *“It seems that with the start of the pre-election campaign, bloody conflict in the south-east ceased to be of concern to the Kiev authorities. The main task turned out to be the promotion of the ‘right people’ to the key positions in the government and specialised committees”.*

Reporter: *“Denis Timofeev, a deputy candidate from the [Ukrainian] Communist Party, spent his pre-election campaign in a remand prison. At six in the morning, the members of the Ukrainian Security Service broke into the candidate’s house. Immediately they ‘accidentally’ found a hand grenade”.*

Reporter: *“The same type of search happened to another deputy candidate from the [Ukrainian] Communist Party, Sergey Tkachenko. He is still in a remand prison. The accusation seems to be a blueprint of Timofeev’s: illegal possession of*

weapons and encroachment on...Ukraine's territorial integrity. Apparently, investigators believe that parliamentarians planned to enter Rada¹ holding grenades in order to force their colleagues to recognise Novorossia [the self-declared republic in the south-east of Ukraine independent from Kiev, aligned with Russia]”.

Reporter: *“However, all of this is trivial compared to what happened to the south-eastern territories under Kiev’s control. Under the new rules, in order for elections to be considered accepted, it is necessary for the whole region that the elections take place at a single polling station. This significantly facilitated the task of the new power. At the offices where the ‘needed’ candidates could not reach the required number of votes through the help of representatives of the Electoral Commission [the Central Electoral Commission of Ukraine], politically savvy activists were involved in the process”.*

Konstantin Zatulin (First Deputy Chairman of the Committee of the State Duma for the Commonwealth of Independent States (“CIS”)²):

“Representatives of the National Guard, especially in parts of the Donetsk and Lugansk regions that are controlled by...Ukraine, grossly interfered with the voting procedure. They expelled members of the Electoral Commission, inserted fake ballot papers, and this happened on more than two or three occasions. During the election campaign, we know that communists were constantly subjected to defamation. The [Ukrainian] Communist Party is on the verge of being banned. The law on lustration³ was already enforced and the first lists had been made. It is also made to ‘purify’...Ukraine in a certain way”.

Reporter: *“Bereza⁴ makes no secret of the violations during the elections. But he claims to have never violated the rules like others did”.*

¹ The Rada or Verkhovna Rada is the Ukrainian Parliament.

² The CIS is a regional grouping comprising states that were formerly Soviet republics in the Union of Soviet Socialist Republics (“USSR”).

³ i.e. the purge of government officials once affiliated with the Communist system in Central and Eastern Europe. After the fall of the various European Communist governments in 1989–1991, the term came to refer to government-sanctioned policies of mass disqualification of those associated with the abuses under the prior regimes.

⁴ Borislav Bereza was identified in the programme as a “Coordinator of the Right Sector”. Ofcom understands that Right Sector was set up in late 2013 as a grouping of Ukrainian far right-wing groups, and in late March 2014 became a political party.

Borislav Bereza: *There were ‘go-arounds’, bribery of voters and the use of party symbols during the silence day, i.e. the day of elections. In...Ukraine such use is prohibited. Once again, manipulative techniques were used. We witnessed that people are ready to vote for their executives just to help them get into parliament”.*

Konstantin Zatulin: *“Early parliamentary elections in...Ukraine continue to beat records for the degree of undemocratic nature of the entire process. It could not be any different in conditions of civil war, which still continues. Moreover, it continues not only on the territory which is claimed to be a territory of an anti-terrorist operation, but in fact on the whole east of...Ukraine, where the voters are intimidated and imposed on with the candidates who express absolutely unusual and atypical points of view for this region. For example, Dmitry Yarosh⁵ became the deputy for the Dnepropetrovsk region. This would never happen if the head of the region was somebody other than the current oligarch, Gauleiter⁶, Kolomoisky⁷”.*

Reporter: *“Even such results do not disturb anyone. According to the independent observers, many voters say that their votes were given to the wrong candidates. Moreover, only a small part of the country’s population voted. But the Ukrainian media claims that the elections are absolutely legitimate”.*

Reporter: *“The results of the elections look like reports from the front: hundreds at the headquarters of the Party of Regions⁸ and checkpoints are crushed. Many people are killed, and no murderer was punished. Moreover, investigators have not even tried to initiate a case against those who stabbed and shot the representatives of the disagreeable political powers”.*

Boris Chernyshev (described in the translation as “Political expert”):

“The throwing in of fraudulent ballot papers and the falsification during the elections, plus political lynching of specific deputies and political forces – it is all another factor. And finally, the

⁵ Dmitry Yarosh won a Parliamentary seat in the Ukrainian Parliament as a Right Sector candidate.

⁶ “Gauleiter” was the term used for a regional leader in Nazi Germany or territories occupied by the Nazis during the Second World War.

⁷ Ihor Kolomoisky is reported to be one of Ukraine’s richest individuals and is Governor of the eastern region of Dnipropetrovsk.

⁸ The Party of Regions is a party in Ukraine which according to the Licensee is “more supported in regions with [a] high proportion of Russian-speaking population”.

complete control and dependency of law enforcement agencies, which, instead of protecting citizens and providing safe elections, served the Ukrainian authorities as prostitutes. They captured normal and honest deputies and deputy candidates, and locked them up in jails in order to prevent them from running normal election campaigns. They didn't have any possibility to talk on TV or radio. Their billboards and banners were bombarded with paint, painted over and covered up. Namely, due to these reasons they couldn't possibly run a normal election campaign in...Ukraine. Because of this, we got what we have now".

Reporter: *"Here we see how two employees of the Electoral Commission are taking away the documents and are just loading them in the boot of a taxi".*

A male voice: *"Here is how the ballot papers are transported without any security. They just take the ballots that will decide the destiny of our country and put them in the boot. Then what is left of them, who takes and uses the ballots next - who knows? Where does the mass insertion of fraudulent voting ballots come from?"*

Woman interviewee: *"Some polling stations have wrong numbering of ballots, i.e. instead of the polling station numbered 121630, it says 120630. They cannot use such ballots. Moreover, the polling station with such number already exists in the county in Shirokovsky district. This gives an idea of the election process that has not been that legal".*

Reporter: *"The elections to the Verkhovna Rada⁹ of...Ukraine are increasingly beginning to resemble a parody of themselves. The specifics of the yellow and blue PR company are based on the idea that if the candidate that is supported by them will pass the elections and join [Verkhovna] Rada, they cannot be afraid of any prosecution. If the candidate will not pass – they will just have to flee the country".*

Vladimir Zharikhin (Director of the CIS Centre):

"The percentage of the votes obtained by the People's Front¹⁰ is somewhat surprising. I would say that I, as a political expert, have quite serious doubts in the 'purity' of obtaining such numbers. When within a week the rating of the party doubles, it makes one think. However, the facts are there. In the end,

⁹ The Ukrainian Parliament.

¹⁰ The People's Front is a centre-right wing party in Ukraine, which is part of the governing coalition in the country.

none of the participants of this political race expressed their indignation about these official results”.

As discussed below, it was Ofcom’s view that this programme was dealing with matters of political or industrial controversy and matters relating to current public policy. We therefore considered this content raised issues warranting investigation Rule 5.5 of the Code:

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

Ofcom asked BMAL to provide comments on how the programme complied with the above rule.

Response

Application of Section Five

The Licensee said the programme did not deal either with a matter of political or industrial controversy or a matter relating to current public policy. It suggested that the programme was solely concerned with a very specific matter and “a narrow subject”, the Ukrainian Parliamentary elections in October 2014. BMAL argued that the rules in Section Five were not applicable in this case because of the lack of relevance of the matter being dealt with in the programme to the majority of the NTV Mir Lithuania audience. By way of example, the Licensee pointed to what it stated was the lack of interest in the programme’s subject matter amongst the Ukrainian population in Lithuania. To illustrate this line of argument, BMAL said that NTV Mir Lithuania is only broadcast into Lithuania and added that this programme was not dealing with a “matter” for Lithuania since “the current public policy in Lithuania has nothing to do with internal election[s] in Ukraine”. It added that the “matter” being dealt with in the programme:

- “concerns only Ukrainian citizens living in Lithuania and, to some extent, the international position of Lithuanian government, but only in a broader context of the Ukrainian situation, which per se is not a Matter of the Programme”; and
- was “an event of considerably lower importance in Lithuania than, for example, for audiences directly interested in the Matter: in Russia (as the country of the programme’s origin) and Ukraine”.

The Licensee went on to argue that in determining the applicability of Section Five the “significance of each matter of political or industrial controversy and matters relating to current public policy” should be determined “by how large are those masses of a public the Matter relates to directly or indirectly”. In support of this argument, BMAL cited data provided by the Consulate of Ukraine in Lithuania which indicated that 1,605 Ukrainians with voting rights live in Lithuania and: “Only 177 of them took part in the election to the Ukrainian Parliament on 26 October 2014”. It therefore argued that “on the whole, the Ukrainians living in Lithuania (very likely being a part of our audience...) are very indifferent to politics and overlook the Matter” of the Ukrainian Parliamentary elections. In summary, on the issue of the “significance” of the matters being discussed in the programme, the Licensee said the following about these matters: “Is it a political controversy in Lithuania? No. Is it a matter of the current public policy in Lithuania? No”.

The Licensee also argued that the issue of the Ukrainian Parliamentary elections was of less significance given that the programme was shown a few days after the elections had taken place. It added that the events referred to in the programme “were not matters of controversy per se any more”. BMAL therefore said that the programme could not have influenced those entitled to vote in the elections.

The preservation of due impartiality

If Ofcom in fact decided that the programme did engage Section Five, the Licensee went on to argue that due impartiality “was, in fact, preserved”. It said that during the programme there were “clear references to the alternative opinions of pro-official Ukrainian characters and other opinion-makers on the Matter by both inclusion of a direct speech and narration of their opinions”. It said these statements “clearly demonstrate[d] a summary of alternative viewpoints expressed in public by official Ukrainian authorities or direct participants of the elections”. For example, BMAL said that the programme referred to the alternative viewpoints of Geoffrey Pyett, the US Ambassador to Kiev; the OSCE¹¹; the Ukrainian media¹²; and Vladimir Zharikhin¹³. The Licensee also said that Rule 5.5 had been complied with in a manner “adequate or appropriate to the subject and the nature of the programme”. It provided an analysis of the various statements identified by Ofcom in the Introduction. In summary, BMAL said that these statements were “impartially represented facts” or comments. The Licensee also said this documentary was an “authored” programme and as such “it is difficult (if possible at all) to be critical and maintain impartiality at the same time”.

In arguing that the programme was not dealing with a matter of political controversy or matter relating to current public policy, the Licensee also cited various contextual¹⁴ factors that it considered helped to “justify the possible degree of partiality that the programme could contain” in this case:

- The editorial content of the programme, programmes or series: BMAL said that *Professia Reporter* is an ‘authored’ documentary series typical of the programmes broadcast on NTV Mir Lithuania which are “documentary and feature material: detectives, historical, conspiracy etc”.
- The service on which the material is broadcast: According to the Licensee, NTV Mir Lithuania is a television service broadcast in Russian for Russian-speaking residents of Lithuania in the context that “there is nearly no Russian-language media left in Lithuania”. It added that: “It is common knowledge that Russian-

¹¹ Organization for Security and Co-operation in Europe.

¹² The reporter said: “*The Ukrainian media claims that the elections are absolutely legitimate*”.

¹³ First Deputy Chairman of the Committee of the State Duma for the CIS (see footnote 2), who said: “*However, the facts are there. In the end, none of the participants of this political race expressed their indignation about these official results*”.

¹⁴ In its representations, the Licensee argued that Ofcom downgraded the significance of paragraph 1.33 of Ofcom’s published Guidance to Section Five which states: “It will not always be necessary to present an opposing view which is at odds with the established view of the majority or inconsistent with established fact in order to preserve due impartiality. Further, whether or not due impartiality has been preserved will also be dependent on a range of other factors such as: the nature of the programme; the programme’s presentation of its argument; the transparency of its agenda; the audience it is aimed at, and what the audience’s expectations are”.

speaking residents of Lithuania have opinions that differ from the official public view on a great deal of domestic and foreign issues”.

- The time of broadcast: BMAL said that the programme was broadcast on a Sunday at 19:10 and “[d]espite the prime-time positioning”, the programme’s audience amounted to “only 2.7% of watchers in that particular time slot”. In addition, 67.9% of the programme audience were “non-Lithuanian ethnics”.
- What other programmes are scheduled before and after the programme or programmes concerned: The Licensee said that the schedule of NTV Mir Lithuania “mostly includes movies and TV shows of a criminal and detective type, investigation documentaries and court’s scripted shows with real cases”. It added that such programmes were scheduled around the programme in this case.
- The degree of harm or offence likely to be caused by the inclusion of any particular sort of material in programmes generally or programmes of a particular description: The Licensee argued that the programme was not a “report” on the Ukrainian Parliamentary elections but was part of an “authored” documentary series “allowing an advancement of particular interpretation of events, with various individuals interviewed within the Programme in support (and in opposition, too) of that interpretation”. Therefore, BMAL said that its content “would do no harm or offence to our regular audience” because it was “articulating a point of view likely to be shared by most people in the ethnic Russian community”. In addition, the Licensee cited the importance of freedom of expression, which includes the audience’s right to receive information and ideas.
- The likely size and composition of the potential audience and likely expectation of the audience: BMAL said that the majority of NTV Mir Lithuania’s audience is Russian-speaking, who make up 8% of the Lithuanian population and “traditionally oppose” the Lithuanian Government “pro-Ukrainian” stance. In addition, a “noticeable part of Lithuanians desire alternative sources of information besides pro-official and mainstream media” and will watch NTV Mir Lithuania. In BMAL’s view, the audience data showed that the programme “had a very qualified and devoted audience, and...both the channel and the Programme had insignificant effect on the general audience”. It therefore argued that “neither the channel as a whole nor the Programme in particular prompted...the audience to expect bigger impartiality of the Programme than it contained, and the audience perceived its content as duly impartial”.
- The effect of the material on viewers or listeners who may come across it unawares: BMAL said that: “The probability that a viewer may have come across the Programme unawares was minimised by announcements of the Programme during the day by means of showing trailers which “contained all the major topics of the Programme” and were “sufficient to enable people to make an informed choice about whether to watch the Programme”. The Licensee added that “on the basis of our excellent knowledge of the audience profile for NTV Mir Lithuania, we were sure that expectations of our audience fully conform to the eventually controversial/partial content of the Programme and its trailers”.

In concluding on the issue of context, BMAL expressed the view that “taking note of specific circumstances in which the Programme was broadcast...there were sufficient contextual factors to justify the potential partiality even in the case if such partiality had been detected in the Programme.”

The Licensee also argued that: “The production context cannot be ignored when considering the issue of impartiality”. BMAL pointed to what it said were the particular problems of producing programmes in relation to Ukraine. In particular, it said that “it is now practically impossible for a Russian journalist/producer/media to obtain authentic alternative viewpoints of the individuals or parties being criticised or involved in the Ukrainian events or, more specifically, in [relation to the Ukrainian Parliamentary elections of October 2014]”. By way of example, BMAL said that Ukrainian officials have: banned the broadcast of various Russian television channels in Ukraine; cancelled “all journalistic accreditations of specified channels”; and, refused entry to Ukraine to Russian television journalists, such as from NTV Mir Lithuania. The Licensee added that journalists within, for example, the “the non-combatant territories under control” of the Ukrainian authorities are subject to “persecution, coercion, detention by Ukrainian law-enforcement authorities or expulsion from the country”¹⁵.

BMAL’s comments on Ofcom’s Preliminary View

The Licensee also made a number of specific comments on Ofcom’s Preliminary View in this case (which was to record a breach of Rule 5.5). Firstly, BMAL argued that the “amount and gravity of the criticism” against the subject of the programme (or related parties)...[does] not cause automatic application of Rule 5.5”. Similarly, it argued that Ofcom’s approach means that “any controversies whatever the parties are, and any current public policies of whoever they may be, a priori are of equal relevance for all and any audience and require automatic and unreserved application” of Section Five. On a related point, the Licensee expressed doubts that Ofcom would investigate a due impartiality complaint if an Ofcom licensee broadcast a “high amount...of criticism against government institutions of Syria...or North Korea”. In summary, BMAL argued that Ofcom’s approach to the application of Section Five of the Code “discourages a) uniform understanding of Ofcom principles by all licensees, and b) equal and non-discriminated application of these principles by Ofcom”.

Second, the Licensee queried “the techniques and criteria” that Ofcom used to determine the “significance” of the subject matter “to make it fall under the requirements” of Section Five in this case. In this regard, BMAL reiterated its argument that the “significance” of a matter should be determined “only by its actual or potential relevance to the audience”. The Licensee therefore argued that, as shown by the audience data it had cited in its initial representations (see above) its audience in this case “just do not see the issue as an issue”.

Third, BMAL argued that Ofcom gave undue weight “to non-audience factors such as the nature of a programme and its content and how a programme has presented its arguments or content”. In its view “in this case audience-related factors by far outweigh all the other” contextual factors.

Fourth, the Licensee said that it had provided the recording of the programme Ofcom investigated in this case to Ofcom in December 2014. However, Ofcom’s recording request referred to the complaint as being about “impartiality” (and gave no further details of possible Section Five issues). Therefore, BMAL argued that this description of the complaint provided by Ofcom set out an “unspecified range of potential

¹⁵ In its representations, the Licensee cited an OSCE Report ‘Media Freedom under Siege in Ukraine’ that detailed an “assault on journalists” and “denial of entry [into Ukraine] for Russian journalists” (see www.osce.org/fom/118990?download=true).

accusations, which makes it technically impossible to take all actions that might theoretically and reasonably be necessary for defence”. The Licensee said that Ofcom’s recording requests typically, but not in this case, state:

“You will not hear from Ofcom again about this material unless we are requesting further information about it and/or we decide to launch investigation...”

BMAL said that: “Despite the fact that [the above] paragraph was missing in Ofcom’s recording request of 4 December [2014], we assumed that Ofcom follows a consistent policy for requesting recordings and investigating those”. As a consequence, the Licensee said “it has afforded us ground to prepare and provide only the recording of the programme requested”.

The Licensee said it had only become aware of Ofcom’s concerns about the programme in relation to Rule 5.5 when Ofcom had sent its request for comments under the Code to BMAL on 19 February 2015 (i.e. 108 days after the broadcast in this case, and in excess of the 60 day period that BMAL was obliged to retain recordings under the terms of its Ofcom licence). Therefore, the Licensee said it “no longer had compliance records for the corresponding period...[and it] had no opportunity to provide audiovisual evidence of having ‘alternative viewpoints’ in other programmes of the series”. Therefore, it argued that it was “not to blame [for] not being able to provide appropriate evidence” in this case. It added that it “refrains from speculative interpretations of Licence Condition 17(2)¹⁶ [of its TLCS Licence] leading to potentially arguable expectations”.

In summary, BMAL argued that “the subject of the Programme was not a matter of political controversy or matter relating to current public policy”. It added by reference to the various contextual factors it had cited in its initial representations (see above) that the programme provided “an adequate and appropriate level of impartiality”¹⁷.

Decision

Background

Under the Communications Act 2003 (“the Act”), Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, including that the special impartiality requirements set out in section 320 of the Act are complied with. This objective is reflected in Section Five of the Code.

¹⁶ Licence Condition 17(2) states: “The Licensee shall adopt procedures and ensure that such procedures are observed by those involved in providing the Licensed Service for the purposes of ensuring that programmes included in the Licensed Service comply in all respects with the provisions of this Licence, the 1990 Act, the 1996 Act, the Communications Act, relevant international obligations and all relevant codes and guidance...”.

¹⁷ The Licensee pointed to the phrase “an adequate and appropriate level of impartiality” contained in paragraph 1.34 of Ofcom’s published Guidance to Section Five which states: “It is important to note that the broadcasting of highly critical comments concerning the policies and actions of, for example, any one state or institution, is not in itself a breach of due impartiality. It is, in fact, essential that current affairs programmes are able to explore and examine issues and take a position even if that is highly critical. However, a broadcaster must maintain an adequate and appropriate level of impartiality in its presentation of matters of political controversy. Depending on the specifics of the issue, it may be necessary, in order to fulfil the due impartiality requirements, that alternative viewpoints are broadcast”.

Broadcasters are required to comply with the rules in Section Five to ensure that the impartiality requirements of the Act are complied with, including that due impartiality is preserved on matters of political or industrial controversy and matters relating to current public policy.

When applying the requirement to preserve due impartiality, Ofcom must take into account Article 10 of the European Convention on Human Rights. This provides for the broadcaster's and audience's right to freedom of expression, which encompasses the right to hold opinions and to receive and impart information and ideas without interference by public authority. 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 requirement in the Code to preserve "due impartiality" on matters relating to political or industrial controversy or matters relating to current public policy.

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

In addition, in judging whether due impartiality has been preserved in any particular case, the Code makes clear that the term "due" means adequate or appropriate to the subject matter. Therefore "due impartiality" does not mean an equal division of time has to be given to every view, or that every argument and every facet of the argument has to be represented. Due impartiality may be preserved in a number of ways and it is an editorial decision for the broadcaster as to how it ensures due impartiality is maintained.

Rule 5.5 of the Code states that:

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

The application of Rule 5.5

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

This programme included a number of statements, as laid out in the Introduction, relating to elections to the Ukrainian Parliament on 26 October 2014. Specifically, there were a number of statements that could be interpreted as criticising the policies and actions of the Central Electoral Commission of Ukraine, the Ukrainian

Government, and/or other relevant agencies of the Ukrainian state in general. For example, the programme included claims or allegations that:

- the *“Kiev authorities”* wanted to promote *“the ‘right people’ to the key positions in the government and specialised committees”* during the election;
- Ukrainian security forces arrested an election candidate of the Communist Party because the Ukrainian security forces had *“‘accidentally’ found a hand grenade”* in the candidate’s house¹⁸;
- the Central Electoral Commission of Ukraine set up a single polling station in South Eastern Ukraine so that if *“the ‘needed’ candidates could not reach the required number of votes through the help of representatives of the Electoral Commission, politically savvy activists were involved in the process”*;
- representatives of the Ukrainian National Guard *“grossly interfered with the voting procedure”* in the Ukrainian Parliamentary elections;
- *“violations”* took place during the Ukrainian Parliamentary elections, including *“bribery of voters”*; these elections *“beat records for the degree of undemocratic nature of the entire process”*; voters were *“intimidated and imposed on”*; and *“votes were given to the wrong candidates”*;
- there was *“throwing in of fraudulent ballot papers and...falsification during the elections, plus political lynching of specific deputies and political forces”*;
- there was *“the complete control and dependency of [Ukrainian Government] law enforcement agencies, which, instead of protecting citizens and providing safe elections, served the Ukrainian authorities as prostitutes”* for example by capturing *“normal and honest deputies and deputy candidates, and lock[ing] them up in jails in order to prevent them from running normal election campaigns”*;
- employees of the Central Electoral Commission of Ukraine transported ballot papers without security which led to the allegation in the programme that there was *“the mass insertion of fraudulent voting ballots”*;
- the Ukrainian Parliamentary elections began to *“resemble a parody of themselves”*; and
- the share of votes achieved by the People’s Front in the Ukrainian Parliamentary elections was *“surprising”* and gave rise to *“quite serious doubts”*.

In considering whether Rule 5.5 was engaged in this case, we took into account the arguments made by the Licensee that the programme did not engage the due impartiality rules. Firstly, BMAL said that the issue being discussed in the programme, the Ukrainian Parliamentary elections in October 2014, concerned only “Ukrainian citizens living in Lithuania and, to some extent, the international position of Lithuanian government, but only in a broader context of the Ukrainian situation, which per se is not a Matter of the Programme”. It added that this issue was of

¹⁸ *“Denis Timofeev, a deputy candidate from the [Ukrainian] Communist Party, spent his pre-election campaign in a remand prison. At six in the morning, the members of the Ukrainian Security Service broke into the candidate’s house. Immediately they ‘accidentally’ found a hand grenade”*.

“considerably lower importance in Lithuania” than in Russia and Ukraine. We disagreed. Just because few citizens of a country to which a matter of political controversy and/or current public policy relates are in a broadcaster’s audience does not mean there is no requirement to preserve due impartiality. Any Ofcom licensee when discussing matters of political controversy and/or current public policy relating to any country will potentially have to comply with the rules in Section Five.

Second, the Licensee made a number of points about the issue of the “significance” of the matters being discussed in the programme. For example, it said that the application of Section Five depends on the “significance”¹⁹ of each matter of political or industrial controversy and matters relating to current public policy. This, BMAL suggested, should be determined “by how large are those masses of a public the Matter relates to directly or indirectly”. BMAL cited official data that, in its view, showed “on the whole, the Ukrainians living in Lithuania (very likely being a part of our audience,...) are very indifferent to politics and overlook the Matter” of the Ukrainian Parliamentary elections. The Licensee added that its audience data showed that its audience in this case “just do not see the issue as an issue”. In addition, BMAL queried “the techniques and criteria” that Ofcom used to determine the “significance” of the subject matter “to make it fall under the requirements” of Section Five in this case. The Licensee argued that the “significance” of a matter should be determined “only by its actual or potential relevance to the audience”.

In response to these various points, reflecting Ofcom’s published Guidance²⁰ to Section Five (“the Guidance”), Ofcom acknowledged that in the case of Ofcom licensees who are not broadcasting to the United Kingdom, the amount of due impartiality required in a particular case may differ depending on the subject matter and the original country of reception. However, the Guidance also makes clear that the due impartiality requirements still apply. In particular, if an Ofcom licensee broadcasts content about controversial policies and/or actions of governments and/or their agencies in any jurisdiction in a highly critical manner, it is likely that the rules in Section Five will apply. This is irrespective of whether these issues are an issue of particular significance amongst a broadcaster’s likely audience. It is also not the case, as argued by BMAL, that the “significance” of a matter is determined “only by its actual or potential relevance to the audience”. Similarly, we did not agree with the Licensee that “in this case audience-related factors by far outweigh all the other” contextual factors. As made clear by the Guidance²¹, the nature of the audience is just one of a number of contextual factors that broadcasters should take account of when determining whether the rules in Section Five apply in a particular case. Other key considerations would be the nature of a programme and its content and how a programme has presented its arguments or content²².

We considered that key contextual factors in this case were that this was a documentary programme presenting a serious analysis of the conduct and outcome of the Ukrainian Parliamentary elections on 26 October 2014. As such, it contained

¹⁹ We noted that on the issue of the “significance” of the matters being discussed in the programme, the Licensee said in summary: “Is it a political controversy in Lithuania? No. Is it a matter of the current public policy in Lithuania? No”.

²⁰ See <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section5.pdf>, paragraph 1.22.

²¹ *Ibid.*, paragraph 1.4.

²² *Ibid.*, paragraph 1.33.

many statements which touched on the policies and actions of the Central Electoral Commission of Ukraine, the Ukrainian Government and/or other relevant agencies of the Ukrainian state. In our view, one key reason why the due impartiality rules applied was because the possible audience expectations to this programme did not outweigh or negate other contextual factors, such as the nature of a programme and its content and how the programme presented its arguments.

Third, the Licensee argued that the issue of the Ukrainian Parliamentary elections was of less significance given that the programme was shown a few days after the elections had taken place. It added that the events referred to in the programme “were not matters of controversy per se any more”. BMAL therefore argued that the programme could not have influenced those entitled to vote in the elections. Clearly the programme could not have influenced the way people actually voted. But we disagreed that the date of broadcast reduced the significance of the programme to the extent that Section Five was not engaged. This programme was dealing with a contemporaneous matter of political controversy and current public policy, namely the policies and actions of: the Central Electoral Commission of Ukraine; the Ukrainian Government; and/or, other relevant agencies of the Ukrainian state in relation to the Ukrainian Parliamentary elections of 26 October 2015. The amount and gravity of the criticisms being made against these institutions were such that, in our view, Rule 5.5 applied in this case.

Fourth, we did not agree with BMAL’s suggestion that the “amount and gravity of the criticism” against the subject of the programme (or related parties)...[does] not cause automatic application of Rule 5.5.” In this case, the programme made a number of highly serious criticisms about the policies and actions of the Ukrainian authorities in relation to the administration and oversight of the Ukrainian Parliamentary elections. We considered that these criticisms were wide-ranging and grave (e.g. the programme included allegations that there had been electoral fraud and “*bribery of voters*”). Therefore alternative viewpoints had to be reflected appropriately or suitable context provided. On a related point, we did not agree with the Licensee’s argument that Ofcom’s approach means that “any controversies whatever the parties are, and any current public policies of whoever they may be, a priori are of equal relevance for all and any audience and require automatic and unreserved application” of Section Five.” Ofcom’s application of Section Five and the approach to due impartiality in any particular case is fact dependent. Therefore, depending on the particular matters of a case, if a broadcaster broadcast content containing (as suggested by BMAL in a hypothetical case) a “high amount...of criticism against government institutions of Syria...or North Korea”, the rules in Section Five would potentially apply. In particular, depending on the nature of the criticisms being broadcast, it may be necessary for broadcasters to reflect alternative viewpoints on the matter of political controversy and current public policy being discussed. However, as already discussed, in this case the various and highly critical statements being made of particular institutions’ policies and actions, in our view, engaged the due impartiality rules.

In summary on the application of Section Five in this case, we did not agree with the Licensee’s arguments that Ofcom’s approach to the application of Section Five of the Code “discourages a) uniform understanding of Ofcom principles by all licensees, and b) equal and non-discriminated application of these principles by Ofcom”. We apply Section Five in a transparent, consistent and non-discriminatory way. We consider that we have made clear our approach to the application of Section Five through our published decisions and also our published Guidance to Section Five of the Code. We underline, as mentioned above, that if Ofcom licensees broadcast content about controversial policies and/or actions of governments and/or their

agencies in any jurisdiction in a highly critical manner, it is likely that the rules in Section Five will be engaged.

Taking account of all the circumstances, we considered the programme dealt with matters of political controversy and matters relating to relating to current public policy. These were the policies and actions of the Central Electoral Commission of Ukraine, the Ukrainian Government and/or other relevant agencies of the Ukrainian state in general in relation to conduct and outcome of the Ukrainian Parliamentary elections on 26 October 2014. Rule 5.5 was therefore applicable.

The preservation of due impartiality

Ofcom went on to assess whether the programme preserved due impartiality.

The Code does not prevent broadcasters from criticising the policies and actions of any government or state agency. However, in doing so broadcasters must adequately reflect alternative viewpoints on the matters of political controversy and/or current public policy being discussed, or provide sufficient other context.

We set out in the Introduction a series of statements made in this programme which were illustrative of the strongly critical stance of this programme towards the policies and actions of the Central Electoral Commission of Ukraine, the Ukrainian Government, and/or other relevant agencies of the Ukrainian state in this programme concerning the conduct and outcome of the Ukrainian parliamentary elections of October 2014. In effect the programme alleged that there were very serious flaws in the conduct and therefore outcome of these elections conducted by the Ukrainian Government and its agencies, especially in the south-east of the country. As a result it was Ofcom's view that this programme, when considered alone, gave a predominantly one-sided view on the matters of political controversy and matters relating to current public policy referred to in the broadcast.

We therefore assessed whether the Licensee provided sufficient alternative viewpoints on the policies and actions of the Ukrainian government and its agencies regarding the Ukrainian Parliamentary elections on 26 October 2014 to preserve due impartiality on these matters of political controversy and/or current public policy.

We did note four statements in total in the programme that could be described as to some extent serving to counter the various criticisms being made in the programme about the policies and actions of the Central Electoral Commission of Ukraine the Ukrainian Government and/or other relevant agencies of the Ukrainian state, in relation to the Ukrainian Parliamentary elections. Two of these statements were broadcast within the first minute of the programme:

Geoffrey Pyett (US Ambassador to Ukraine):

"The international community recognises the success of these elections. During my observation I saw that they were well organised and undoubtedly carried out in accordance with the Ukrainian Constitution".

Reporter: *"The USA recognised and endorsed the Ukrainian elections. The OSCE in turn has published a report, according to which, the "Ukraine has demonstrated its strive to have democratic*

elections held in compliance with the international standards that were also respectful of fundamental freedoms”.

We noted that the third and fourth statements were made by the reporter in commentary at about nine and a half and thirteen and a half minutes in to the programme respectively:

“The Ukrainian media claims that the elections are absolutely legitimate”.

“Kiev authorities said that the calculation of votes took place in compliance with the strictest secrecy”.

We did not note any other statements in the remainder of the programme which represented an alternative (and positive) viewpoint on the policies and actions of the Central Electoral Commission of Ukraine, or the Ukrainian government and its agencies regarding the Ukrainian Parliamentary elections on 26 October 2014.

We did not consider that the four brief statements mentioned above (which lasted approximately one minute in total) were sufficient in the context of this half hour programme to ensure appropriate balance in this case, given the number and gravity of the strongly critical statements about of the Central Electoral Commission of Ukraine, the Ukrainian Government, and/or other relevant agencies of the Ukrainian state as regards the conduct and outcome of the elections.

BMAL also cited a further statement by Vladimir Zharikhin²³, who said the following:

“However, the facts are there. In the end, none of the participants of this political race expressed their indignation about these official results”.

However, we did not consider that this statement by a representative of a grouping comprising certain former Soviet republics could be described as adequately reflecting the viewpoint of the Ukrainian Government and its agencies regarding the severe criticism being made of these institutions with regard to the Ukrainian Parliamentary elections on 26 October 2014.

In reaching this view we noted that the OSCE, the leading international intergovernmental organisation, published²⁴ its preliminary report on the conduct of the elections on 27 October. The OSCE said that the elections “were characterized by many positive aspects, including an impartial and efficient Central Election Commission...competitive contests that offered voters real choice, and general respect for fundamental freedoms”. Although the OSCE identified some “procedural irregularities” during the elections it also said that: “The voting process was well-organized and orderly and was assessed positively in 99 per cent of the polling stations observed”.²⁵

²³ First Deputy Chairman of the Committee of the State Duma for the CIS (see footnote 2)..

²⁴ See www.osce.org/odihr/elections/ukraine/126041

²⁵ Ibid. In relation to south-eastern Ukraine, about which this programme was principally concerned, the OSCE said that: “Due to the efforts of the election administration to ensure voting in as much of the east as possible under extraordinary circumstances, including through simplified procedures allowing voters to temporarily transfer their voting address, voting took place in 12 out of 21 election districts in the Donetsk region, and in 5 out of 11 in the Luhansk region”.

Ofcom's view, therefore, was that the evidence of alternative viewpoints provided by the Licensee was insufficient given that this programme presented an overwhelmingly one-sided view on the matters of political controversy and matters relating to current public policy. In addition, BMAL did not provide any evidence of alternative views on this issue in a series of programmes taken as a whole (i.e. more than one programme in the same service, editorially linked, dealing with the same or related issues within an appropriate period and aimed at a like audience).

In reaching our Decision, we took account of the Licensee's various arguments that due impartiality was preserved in this case. Firstly, BMAL said the programme was "authored". Ofcom recognises that broadcasters may want to produce 'authored' or 'personal view' programmes in which a presenter will cover a matter of political or industrial controversy and matter of current public policy from a particular, and sometimes highly partial, perspective²⁶. However, as Rule 5.9²⁷ of the Code makes clear when broadcasting "personal view" and "authored" programmes alternative viewpoints must be adequately represented either in the programme, or in a series of programmes taken as a whole. We do not agree with the Licensee's assertion that "it is difficult (if possible at all) to be critical and maintain impartiality at the same time" in the case of "authored" programmes. There is a history of broadcasters producing such programmes that do comply with the due impartiality rules of the Code.

Second, we noted the Licensee's analysis of the various statements identified by Ofcom in the Introduction, which in summary BMAL argued were "impartially represented facts" or comments. In response to this point, we considered that the various statements relating to the policies and actions of the Central Electoral Commission of Ukraine, the Ukrainian Government and/or other relevant agencies of the Ukrainian state were highly critical. They also related to controversial matters about which the Central Electoral Commission of Ukraine, the Ukrainian Government, and/or other relevant agencies of the Ukrainian state were likely to have had a view. Therefore, given the controversial nature of these issues and the fact that they formed the theme of this programme, in our view, the viewpoint of the Central Electoral Commission of Ukraine, the Ukrainian Government, and/or other relevant agencies of the Ukrainian state, should have been adequately reflected.

Third, the Licensee said that Rule 5.5 had been complied with, for example, in a manner "adequate or appropriate to the subject and the nature of the programme". In

²⁶ Section Five of the Code defines "personal view" or "authored" programmes as follows: "Personal view' programmes are programmes presenting a particular view or perspective. Personal view programmes can range from the outright expression of highly partial views, for example by a person who is a member of a lobby group and is campaigning on the subject, to the considered 'authored' opinion of a journalist, commentator or academic, with professional expertise or a specialism in an area which enables her or him to express opinions which are not necessarily mainstream".

²⁷ Rule 5.9 states: "Presenters and reporters (with the exception of news presenters and reporters in news programmes), presenters of "personal view" or "authored" programmes or items, and chairs of discussion programmes may express their own views on matters of political or industrial controversy or matters relating to current public policy. However, alternative viewpoints must be adequately represented either in the programme, or in a series of programmes taken as a whole. Additionally, presenters must not use the advantage of regular appearances to promote their views in a way that compromises the requirement for due impartiality. Presenter phone-ins must encourage and must not exclude alternative views".

this regard, BMAL cited various contextual²⁸ factors which, in its view, helped to “justify the possible degree of partiality that the programme could contain” in this case. We were not persuaded by these considerations. For example, the fact that this programme was an ‘authored’ documentary series typical of the programmes broadcast on NTV Mir Lithuania or was watched by a small number of viewers did not remove the need for the Licensee to preserve due impartiality in this case. In addition, the fact that trailers²⁹ to the programme in this case “contained all the major topics” covered in the programme did not mitigate the fact that in the whole programme as broadcast in this case, BMAL did not adequately reflect alternative viewpoints on the matters of political controversy and current public policy being discussed.

Another argument put forward by BMAL was that NTV Mir Lithuania is targeted at the Russian-speaking community within Lithuania, who, the Licensee said “have opinions that differ from the official public view on a great deal of domestic and foreign issues”. It added that NTV Mir Lithuania performs an “important role” in this respect because “there is nearly no Russian-language media left in Lithuania”. In this case, BMAL said that the programme was “articulating a point of view likely to be shared by most people” in the Russian-speaking community and so the audience did not “expect bigger impartiality of the Programme that it contained, and the audience perceived its content as duly impartial”. Ofcom acknowledged that NTV Mir Lithuania, as a channel serving the Russian-speaking community in Lithuania, will want to produce current affairs programming from a Russian viewpoint. However, in doing so, it must comply with the Code. In particular, just because the majority of the audience to a service shares the same viewpoint on a contentious issue as the service, this does not mean that for example a particular matter is no longer a matter of political controversy. Nor does this lessen the requirement on that service to reflect alternative viewpoints as appropriate.

The other contextual factor raised by BMAL was the importance of freedom of expression, which includes the audience’s right to receive information and ideas. In reaching our Decision in this case we had careful regard to the broadcaster’s right to freedom of expression and the audience’s right to receive information and ideas. But, as mentioned above, when considering the application of Section Five, there are limits to the right to freedom of expression. The application of the due impartiality rules (derived directly from statute) necessarily requires broadcasters to ensure that neither side of a debate relating to matters of political or industrial controversy and matters relating to current public policy is unduly favoured.

We also noted the Licensee’s argument that it had only become aware of Ofcom’s concerns about the programme in relation to Rule 5.5 after the 60 day period during which BMAL was obliged to retain recordings under the terms of its Ofcom licence. The Licensee said that Ofcom’s recording request only referred to the relevant nature of complaint as being “impartiality”. BMAL argued that this limited description of the complaint provided by Ofcom set out an “unspecified range of potential accusations, which makes it technically impossible to take all actions that might theoretically and

²⁸ In this regard BMAL noted that the definition of “due impartiality” in Section Five specifically states that: “Context, as defined in Section Two: Harm and Offence of the Code, is important”.

²⁹ According to the Licensee: “The probability that a viewer may have come across the Programme unawares was minimised by announcements of the Programme during the day by means of showing trailers which contained all the major topics of the Programme” and were “sufficient to enable people to make an informed choice about whether to watch the Programme”.

reasonably be necessary for defence”. Because the recording request it had received from Ofcom in this case had not included more specific wording³⁰, BMAL said it had (in effect) only put them on notice in the most general way of a possible potential Section Five investigation by Ofcom, and requested it to provide a recording of the programme requested. As a result, the Licensee said it “no longer had compliance records for the corresponding period...[and it] had no opportunity to provide audiovisual evidence of having ‘alternative viewpoints’ in other programmes of the series”.

We rejected this line of argument put forward by BMAL. Broadcast licensees are obliged by their Ofcom licence to put in place arrangements to ensure compliance with the Code “in all respects” (see Licence Condition 17(2)³¹ of BMAL’s Television Licensable Content Service licence). What arrangements are needed to fulfil this condition are a matter for the individual licensee. We noted the Licensee’s comment that it “refrains from speculative interpretations of Licence Condition 17(2) [of its TLCS Licence] leading to potentially arguable expectations” about the level and nature of BMAL’s compliance arrangements. Nonetheless, Ofcom makes clear that we would expect effective compliance arrangements to include retaining relevant records or material as appropriate if it was reasonably foreseeable that a broadcaster might seek to rely on alternative viewpoints contained in a series of programmes taken as whole as a means of preserving due impartiality. Specifically, we consider that if the Licensee was seeking to preserve due impartiality by reflecting alternative viewpoints across a series of programmes as a whole³², it should, and would, have known that fact when the programme was broadcast and therefore also when Ofcom made its recording request.

On the issue of Ofcom’s recording request in this case, when Ofcom requested a recording of this programme from the Licensee on 4 December 2014, we highlighted that the complaint we had received related to “impartiality”. Ofcom put BMAL on notice approximately four weeks after the date of the original broadcast about the nature of Ofcom’s concerns. On the date of Ofcom’s recording request, the Licensee was therefore made aware that Ofcom was assessing whether the programme in this case (which dealt with the policies and actions of the Central Electoral Commission of Ukraine, the Ukrainian Government and/or other relevant agencies of the Ukrainian state in general in relation to conduct and outcome of the Ukrainian Parliamentary elections on 26 October 2014) complied with the due impartiality requirements of the Code. Given the programme was dealing with the specific issue of the Ukrainian Parliamentary elections we did not agree with BMAL’s argument that it was having to respond to “unspecified range of potential accusations, which makes it technically impossible to take all actions that might theoretically and reasonably be necessary for defence”. As a result of our request, we would have expected BMAL at that time to take any measures needed to retain any recordings or material it thought necessary to demonstrate, if required, that it preserved due impartiality through

³⁰ The Licensee said that in the past, in recording requests it had received from Ofcom, it was stated: “You will not hear from Ofcom again about this material unless we are requesting further information about it and/or we decide to launch investigation...”.

³¹ See footnote 16.

³² The Code states that in relation to Rule 5.5 a “series of programmes taken as a whole” means: “more than one programme in the same service, editorially linked, dealing with the same or related issues within an appropriate period and aimed at a like audience. A series can include, for example, a strand, or two programmes (such as a drama and a debate about the drama) or a ‘cluster’ or ‘season’ of programmes on the same subject”.

material broadcast in a series of programmes taken as a whole. Once put on notice by Ofcom of a possible investigation into an impartiality issue by a recording request, a licensee must take all measures at that time it deems necessary to protect its position to be able to explain to Ofcom (if there is an investigation) how it complied with Section Five. A licensee must take such steps irrespective of whether an Ofcom recording request contains the wording³³ cited by the Licensee.

Finally, we noted the Licensee's argument about "the particular problems of producing programmes in relation to Ukraine". BMAL cited various practical and logistical problems that Russian journalists had faced while reporting in Ukraine. We acknowledged the practical challenges associated with current affairs and news reporting that might exist for example in the "non-combatant territories under control" of the Ukrainian authorities. However, there are a number of editorial techniques³⁴ that broadcasters can use to ensure compliance with the Code and ensure alternative viewpoints are adequately reflected. As noted above, BMAL did reflect four brief alternative viewpoints in this programme. However, as explained above, we did not consider these were sufficient to preserve due impartiality in this case.

For all the reasons set out above, Ofcom therefore considered that, on balance, the programme breached Rule 5.5 of the Code.

Breach of Rule 5.5

³³ See footnote 30.

³⁴ For examples of some possible editorial techniques for reflecting alternative viewpoints, see <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section5.pdf>, paragraph 1.37.

In Breach

ARY News

ARY News, 19 January 2015, 13:50

Introduction

ARY News broadcasts international and national news and provides general entertainment programming, in Urdu and English, to the Pakistani community in the UK. The licence for ARY News is held by ARY Network Limited (“ARY” or “the Licensee”).

On 19 January 2015, ARY News reported on the murder of a factory supervisor for declining to pay extortion money in the FC Area of Gabol Town, Karachi. A complainant alerted Ofcom to the inclusion in the news item of CCTV footage showing the shooting dead of the factory supervisor, which the complainant considered to be inappropriate for broadcast during daytime.

This news report was broadcast in Urdu. Ofcom commissioned a transcript of the programme into English from the original Urdu by an independent translator. Ofcom gave the Licensee an opportunity to comment on the transcript and ARY confirmed that the translation was accurate.

We noted that this news item was presented as a breaking story by two ARY News presenters. It started at 13:53 and lasted about five and a half minutes in total. During this time the footage was broadcast several times.

The item was introduced by the first news presenter as follows:

First Presenter: *“Welcome back. We have breaking news for you from Karachi. ARY News has obtained footage of a terrible incident of [the] murder [of a man] for refusing to pay extortion money”.*

The first time the footage was broadcast it was displayed on a split screen next to the caption *“Breaking News: Teenage extortionists are active in Karachi”* with some live commentary. When the footage was shown subsequently it was broadcast full screen. In each case, the victim was shown talking to a group of young men in a workshop. After most of the young men had left the workshop the victim continued to talk to one of them. As the murderer and the victim moved towards an open door, the murderer pointed a hand gun at the victim and shot him in the chest at close range and ran out of the door. Until this point the images were not blurred or obscured in any way. As the victim collapsed backwards on to the floor the image of his body was blurred, although the outline of his body was still visible. At the same time the murderer was shown to reappear at the doorway and shoot the victim again as he lay on the floor. Although the image was blurred it was possible to see the victim lift his chest and head from the ground. As he did so, the gunman returned into the workshop and was shown to shoot the victim in the head before fleeing. It was possible to make out the victim reaching out with his hand to attempt to shield himself from the fatal gunshot. The sound of all three gunshots was the only audio that could be heard on the footage, and appeared to have been added as a sound effect.

When first shown the footage was accompanied by the following voiceover of the news presenter:

“On screen, you are watching the footage of the murder of a supervisor which took place in a factory located in the jurisdiction of FP Area Gabol Town Police Station. The footage firstly shows young extortionists speaking with the factory supervisor and demanding extortion money. Then one of the young extortionists speaks on phone. After the phone call, he shoots at the supervisor three times, kills him, and then they all escape”.

The same clip of CCTV footage of the incident was then played again full screen five more times in total. During these repeats we noted that a small caption appeared in the corner of the screen stating “PG18”. There were also minor variations in the audio and visual content of what was broadcast. In particular, in the final three broadcasts of the clip, the victim’s body remained visible until immediately after the second gunshot, while the final two broadcasts of the CCTV footage did not include the sound of the gunshots.

When repeated the footage was also accompanied by various pieces of commentary on the incident by ARY Correspondent Kamil Asif, including some remarks which commented that:

“As you see in the footage, the alarming thing is, very startling, that men of such a young age can so easily kill a person, so mercilessly shoot bullets, they show absolutely no fear, the extent to which these have been trained in using weapons, how skilled they are in this and how easily they kill a man”.

Ofcom considered the material warranted investigation under the following Code rules:

- Rule 1.3: “Children must...be protected by appropriate scheduling from material that is unsuitable for them”.
- Rule 1.11: “Violence, its after-effects and descriptions of violence, whether verbal or physical must be appropriately limited in programmes broadcast before the watershed...and must be justified by the context”.
- Rule 2.3: “In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context...Appropriate information should also be broadcast where it would assist in avoiding or minimising offence”.

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

Response

ARY apologised for the inclusion of this “breaking news story in Pakistan” in its news report on its live international news feed when broadcasting this content to the UK. It accepted that the material did not “meet generally accepted standards.” The Licensee explained that normally it receives “advance information about news reports so [it] can decide whether to suspend the feed”. However, in this case, because the item was a breaking news story it did not receive any information prior to broadcast.

ARY acknowledged that this “violent content would have been unpleasant for viewers to watch” and “should have been preceded by a warning”, but pointed out that although the news report was broadcast on a weekday during school term time, it

was of the view that it would have been unlikely that there were many children in the audience at that time. The Licensee said that to guard against a similar compliance mistake in future, ARY have produced standby material that can be broadcast to replace harmful or offensive content contained in the live international news feed and introduced a procedure for news presenters to “give a clear verbal warning before a strong breaking news story”. The Licensee added that it had “undertaken some test runs on blurring [content] to ensure [the] method can adequately protect the audience”.

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, which include ensuring that persons under the age of eighteen are protected from material that is unsuitable for them, and providing adequate protection for members of the public from harmful and/or offensive material. These objectives are reflected in Sections One and Two of the Code.

In reaching a Decision in this case, Ofcom has taken careful account of the broadcaster’s and audience’s right to freedom of expression set out in Article 10 of the European Convention on Human Rights. Ofcom must therefore seek an appropriate balance between, on the one hand, its duties to ensure that viewers are given adequate protection from offensive material and on the other the broadcaster’s and audience’s right to freedom of expression.

The Code contains no prohibition on broadcasting distressing or violent content in news programmes. It is important that news programmes shown before the 21:00 watershed are able to report freely on distressing or violent events. In doing so however they must comply with the Code. When including offensive or distressing content in the news before the watershed they must ensure that as necessary or appropriate such material must be appropriately scheduled or justified by the context. Ofcom acknowledges that this frequently involves news broadcasters making finely nuanced decisions, often under considerable time pressure.

Rule 1.3

Rule 1.3 states that children must be protected by appropriate scheduling from material that is unsuitable for them. Appropriate scheduling is judged by a number of factors including: the nature of the content, the time of the broadcast, the likely audience expectations and the availability of children to view taking into account school time, weekends and holidays.

We first considered whether the programme contained material unsuitable for children.

The clip of CCTV footage (as detailed in the Introduction) showed a defenceless man being murdered by three gunshots (which on four of the occasions the footage was shown were audible). The footage was not blurred or obscured at all when he was shot for the first time point blank in the chest and, on three occasions, the victim was not blurred as he was shot a second time. Although on each occasion the footage was shown the victim’s body was blurred when he was shot the third time, it was possible to distinguish the outline of his body and that he had held out his hand in a vain attempt to defend himself before being shot at close range in the head. At this moment viewers (including children) would have understood that they were watching the last moments of the victim’s life. In Ofcom’s view, the footage was clearly very

distressing and unsuitable for children. This was particularly true with regards to children, whose exposure to death (and their ability to understand it and place it in context) is generally more limited than that of adults. Its distressing effect would have been increased by the fact that it was shown six times in total.

We went on to assess whether the news report was appropriately scheduled.

Ofcom noted that the news item was broadcast on a Monday, at lunchtime, and during school term time. We noted ARY's comments that it would have been unlikely that there were many children in the audience at that time. Nonetheless, we were concerned that this material was broadcast when there was the potential for children to come across this distressing material.

Ofcom's guidance¹ on Section One of the Code states:

"It is accepted that it is in the public interest that, in certain circumstances, news programmes may show material which is stronger than may be expected pre-watershed in other programmes as long as clear information is given in advance so that adults may regulate the viewing of children".

We noted that during the last five repeats of the footage a small caption appeared in the corner of the screen stating "PG18". However, there was no warning about the content before this item was broadcast. As a result, viewers (and in particular parents and carers) had no advance information about the broadcast of this potentially distressing material.

Taking all these factors into account, we considered that the content was not appropriately scheduled, and Rule 1.3 was breached.

Rule 1.11

Rule 1.11 states that violence, its after-effects and descriptions of violence, whether verbal, physical, must be appropriately limited in programmes broadcast before the watershed, and must be also be justified by the context.

As detailed above, the breaking news story contained repeated clips of CCTV footage of the victim being fatally shot. Although the full impact of the fatal shot was blurred, we considered that there was sufficient detail in the repeated clips alongside the commentary of the news correspondent and the added sound effect of the gunshots, for viewers to be clear about what had taken place.

Ofcom noted that: the CCTV footage was shown six times consecutively; on four occasions the gunshots were clearly audible; and, although the body of the victim had been blurred to some extent, it was possible to make out the outline of his body and some of the victim's actions. For all these reasons, in Ofcom's view, the Licensee had not taken measures to edit and limit the footage sufficiently.

We noted that this was a breaking news story and the availability of the CCTV footage showing the crime was of public interest, particularly given that the murderer had not been apprehended at the time of broadcast². However, we considered that

¹ See: <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section1.pdf>

² See: <http://tribune.com.pk/story/827972/confessions-extortionist-accepts-he-killed-factory-supervisor/>

the repeated use of the footage showing the victim's final moments was not justified by the context

For these reasons we considered that the violence in the news item was not appropriately limited and in breach of Rule 1.11.

Rule 2.3

Rule 2.3 states that in applying generally accepted standards broadcaster must ensure that potentially offensive material is justified by the context. Context includes but is not limited to, editorial content of the programme, warnings given to viewers, the time of the broadcast and the service the material was broadcast on.

Ofcom first considered whether the material was potentially offensive.

As detailed above and for the same reasons that the broadcast of the CCTV footage was unsuitable for children, Ofcom considered that the material was capable of causing offence to viewers in general.

We went on to consider whether the broadcast of this material was justified by the context.

Images of the moment of death must be treated with extreme care. There is no absolute prohibition on broadcasting them. There may be occasions when the broadcast of such footage might be editorially justified. To show a defenceless man being gunned down at point blank range and then the moment of his death would require in Ofcom's view however exceptional justification because of its particularly challenging nature. This would be the case especially if such images were shown before the watershed.

Ofcom acknowledged that ARY News is a rolling news channel which typically broadcasts news and current affairs programmes with greater appeal to adults. We also took into account that the breaking news story and the availability of the CCTV footage showing the crime was of public interest at that time particularly given that the murderer was still at large³. Ofcom believes that in line with freedom of expression, it is important for news programmes to be able to choose how to report freely on events which they consider in the public interest – and audiences expect them to do so. However, broadcasters must comply with the Code, and in particular must take into account that viewers have different expectations before and after the 21:00 watershed.

We noted that the CCTV footage (as detailed in the Introduction) of the victim did not show the impact of all of the shots. However, although the images were sometimes blurred it would have been clear to viewers that the victim had been fatally wounded. For many of the same reasons detailed above (see Rule 1.3) as to why this material was not appropriately scheduled, the repeated broadcast of this material was also not justified by the context as regards Rule 2.3. We noted in particular that the repeated broadcast of this material was capable of causing considerable offence, was not preceded by any warning, showed the moment a defenceless person was fatally shot, and clearly exceeded audience expectations for a news channel broadcasting during the daytime.

³ See footnote 2.

For all these reasons we considered the broadcast of this was not justified by the context and therefore was a breach of Rule 2.3.

We noted that the Licensee admitted that broadcast of this material did not comply with the Code, apologised, and has taken some steps to prevent a recurrence of a similar compliance error. Nonetheless, for all the reasons set above, it breached Rules 1.3, 1.11 and 2.3.

Breaches of Rules 1.3, 1.11 and 2.3

In Breach

Station ident

Jack FM, 26 March 2015, 16:48

Introduction

Jack FM is a local commercial radio station covering Oxford and South Oxfordshire. The station's output consists of a variety of pop, rock and classic rock aimed at over-35s. The licence for the service is held by Passion Radio (Oxford) Ltd ("Passion Radio" or "the Licensee").

On the morning of 24 March 2015, Germanwings flight 9525 crashed into the French Alps, killing all 150 people on board. The news that the flight's co-pilot, Andreas Lubitz, had deliberately crashed the plane broke at around 11:00 two days later on the morning of 26 March 2015.

A listener alerted Ofcom to potentially offensive material in a station ident for Jack FM broadcast at 16:48 on 26 March, which consisted of the following phrase:

"Jack FM: As dependable as a Germanwings co-pilot."

This was accompanied by the theme music to television series *Ski Sunday*.

Ofcom considered that the station ident raised issues warranting investigation under Rule 2.3 of the Code, which states that:

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

We therefore requested comments from the Licensee as to how this material complied with Rule 2.3.

Response

The Licensee said that "as a brand, Jack FM is very edgy" and that it is "a station with very much an adult audience". In between songs, Passion Radio said the station broadcasts "topical quips that walk the edgy sense of humour line..." and it actively sets itself apart from easy listening and easily accessible stations. Passion Radio added that listeners not only understand this sense of humour, but listen to the station for this reason.

The Licensee stated that the plane crash was being widely discussed "in workplaces, at the pub and across social media". At the time of the broadcast of the ident, the station's news bulletins had been running the story that the Germanwings co-pilot, Andreas Lubitz, had deliberately crashed the plane, according to investigators. The station news team had already established that "no passengers on board were from Oxfordshire" and "no one involved had Oxfordshire connections". Passion Radio claimed that, while tragic, the news story did not directly affect anyone living in the area to which it broadcasts. It disputed that the ident was offensive, but highlighted that after the initial broadcast it decided that it was "in poor taste", so it acted immediately to remove it.

The Licensee said that this decision was taken before the station had received any complaints from listeners, and as soon its Chief Executive Officer had heard the content. The Licensee said that the station has since reviewed its procedure in terms of transmitting “edgy content”, and has introduced an extra layer of review as part of the process of editorial approval. It added that it was never the intention of the station to cause offence.

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 offensive and harmful material. This objective is reflected in Section Two of the Code.

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 station ident 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; the likely size and composition of the potential audience; and the likely expectation of the audience.

In applying Rule 2.3 in this case, Ofcom took into account Article 10 of the European Convention on Human Rights. This provides for the broadcaster’s and audience’s right of freedom of expression. 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, with the requirement in the Code to apply generally accepted standards.

The station ident was broadcast about six hours after the news broke that Andreas Lubitz, the co-pilot, had deliberately crashed the Germanwings plane he was flying, killing all the passengers and crew on board. The victims were from 18 countries, including Britain, but with most being Spanish and German. While the Licensee may have believed that none of the victims had Oxfordshire connections, Ofcom noted that this incident, which had happened just two days previously, resulted in the death of 150 people in horrifying circumstances. In Ofcom’s view this was a clear attempt to make humour out of the very recent murder of 150 people. We therefore concluded that the material clearly had the potential to cause offence.

Ofcom went on to consider if the broadcast of this material was justified by the context.

Ofcom noted that as part of its response Passion Radio said that Jack FM broadcasts “topical quips that walk the edgy sense of humour line”. Ofcom of course acknowledges that broadcasters are free to use humour to entertain their listeners or viewers. However, in doing so, they must always comply with the Code. In this case, we noted that this station ident attempted to create humour from a very recent tragic event – the deliberate crashing into a mountain by the co-pilot of a Germanwings plane carrying 150 passengers and crew. In these circumstances, to broadcast a station ident so soon after the crash attempting to suggest in a humorous way that the station was as reliable as a Germanwings co-pilot therefore clearly had the potential to cause considerable offence. We considered that the level of offence was increased by the fact that the station had chosen as background music to accompany the ident, the theme music to *Ski Sunday*.

As the offensive content was in a station ident, listeners would have come across it unawares. There was therefore no opportunity to place the ident in context or give listeners any form of warning or information in advance.

We noted that as part of its response Passion Radio said that Jack FM is aimed at an adult audience, and that as a result its audience was accustomed to the sort of “edgy” humour illustrated by this ident. Ofcom recognises that this might to be true to some extent. However, in light of the proximity of the broadcast of this ident to confirmation that the crash had been deliberate, we considered that the offence generated by this material was so considerable that this ident would have exceeded audience expectations for this station. This was in effect confirmed by the Licensee, which stated that it considered the ident “in poor taste” and it was therefore only played once.

We noted that the Licensee did in fact remove the ident from air shortly after the initial broadcast, and that it has as a result of this incident reviewed Jack FM’s procedure for broadcasting “edgy content”.

Nonetheless, for all the reasons set out above, our view was that on balance the Licensee did not apply generally accepted standards. Consequently, the ident breached Rule 2.3 of the Code.

Breach of Rule 2.3

In Breach

Advertisements for Sue Arnold

Ambur Radio, 17 February to 24 March 2015, various times

Introduction

Ambur Radio is a community radio service providing music, news and information for Asian communities in the Walsall area. It broadcasts in English and a range of other languages. The licence for Ambur Radio is held by Ambur Community Radio Limited (“Ambur” or “the Licensee”).

A complainant was concerned by two advertisements that promoted Sue Arnold, the local Conservative Party candidate in the UK General Election held on 7 May 2015.

One of the advertisements was in English and featured Sue Arnold. She said:

“Sue Arnold, your local Conservative candidate, including Bentley and Darlaston, selected to represent Walsall South in the General Election May 2015. Do telephone me, [telephone number], or email me, [email address]. Adverts promoted by Peter Washbrook, Walsall Conservatives, The Bridge”.

The other advertisement was broadcast in Hindi. Ofcom therefore commissioned an independent translation of the broadcast material, which stated:

“Conservative Party candidate, Sue Arnold, is contesting in the upcoming General election on 7 May 2015 for your rights. She will fight for today’s issues, such as NHS, pensions, employment, tax, immigration, crime and housing. Sue Arnold is the Deputy Commissioner of Police and Crime for Stafford & Walsall and knows you well. Please call her whenever you like by phone, on [telephone number], or email, to [email address]. Please share your views.”

Ambur Radio broadcast each advertisement on 32 occasions.

Ofcom has a statutory duty, under section 319(2)(g) of the Communications Act 2003 (“the Act”), to secure the standards objective “that advertising that contravenes the prohibition on political advertising set out in section 321(2) is not included in television or radio services.”

Political advertising is prohibited on radio and television under the terms of sections 321(2) and 321(3) of the Act and Rule 7.2 of the BCAP Code¹. It is also subject to Rule 7.1 of that Code.

For most matters, the BCAP Code is enforced by the Advertising Standards Authority (“ASA”). However, Ofcom remains responsible, under the terms of a Memorandum of Understanding between Ofcom and the ASA, for enforcing the rules on “political” advertising.

¹ The UK Code of Broadcast Advertising, available at:
<http://bcap.org.uk/The-Codes/BCAP-Code.aspx>.

In this instance, Ofcom considered that the material raised issues warranting investigation under the following rules from Section 7 (Political and controversial matters) of the BCAP Code:

- 7.1 “Radio Central Copy Clearance – Radio broadcasters must seek central clearance for advertisements that might fall under this section on the grounds of either the advertiser's objectives or the content of the advertisement”.²
- 7.2 “Advertising that contravenes the prohibition on political advertising set out below must not be included in television or radio services:
- 7.2.1 An advertisement contravenes the prohibition on political advertising if it is:
- (a) an advertisement which is inserted by or on behalf of a body whose objects are wholly or mainly of a political nature;
 - (b) an advertisement which is directed towards a political end...
- 7.2.2 For the purposes of this section objects of a political nature and political ends include each of the following:
- (a) influencing the outcome of elections or referendums, whether in the United Kingdom or elsewhere;
 - (b) bringing about changes of the law in the whole or a part of the United Kingdom or elsewhere, or otherwise influencing the legislative process in any country or territory;
 - (c) influencing the policies or decisions of local, regional or national governments, whether in the United Kingdom or elsewhere;
 - (d) influencing the policies or decisions of persons on whom public functions are conferred by or under the law of the United Kingdom or of a country or territory outside the United Kingdom;
 - (e) influencing the policies or decisions of persons on whom functions are conferred by or under international agreements;
 - (f) influencing public opinion on a matter which, in the United Kingdom, is a matter of public controversy;
 - (g) promoting the interests of a party or other group of persons organised, in the United Kingdom or elsewhere, for political ends”.

By virtue of Rule 7.2.3, the prohibition does not apply to, and is not to be construed as prohibiting the inclusion in a programme service of, (a) an advertisement of a public service nature inserted by, or on behalf of, a government department; or (b) a party political or referendum campaign broadcast the inclusion of which is required by

² The Radio Advertising Clearance Centre (<http://www.racc.co.uk>) provides central copy clearance to radio broadcasters. In this instance, the RACC confirmed to Ofcom that no approval for the advertisement had been sought in this instance.

a condition imposed under certain provisions of the Act. Ofcom did not consider that these exceptions to the prohibition were relevant in this case.

Ofcom therefore asked the Licensee for its comments, and for the comments of the advertisers, on how the advertisements had complied with the above rules.

Response

The Licensee said “the campaign was paid for by Peter Washbrook, on behalf of Sue Arnold, both of Walsall Conservative Association...”.

It added that the advertisements noted Sue Arnold was a Conservative candidate, as this was generally how she introduced herself. Ambur considered the advertisements to be “an introduction of herself and her career in Walsall relevant to the topics of discussion” covered in contemporary editorial on Ambur Radio, which “was heavily focused [on] her position as Deputy Police & Crime Commissioner” and in which “topics that helped to create awareness of the new local businesses, charities, and events current in Walsall” were discussed.

Ambur did not therefore consider the advertisements were in breach of Rule 7.1 or Rule 7.2 of the BCAP Code. The advertiser did not comment.

Decision

Under the Communications Act 2003 (“the Act”), 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 advertising that contravenes the prohibition on political advertising set out in section 321(2) of the Act is not included in television or radio services”.

Section 321(2) and Section 321(3) – which provides an inclusive, non-exhaustive list of examples of what “political nature” and “political ends” include under Section 321(2) – are replicated at paragraphs 7.2.1 and 7.2.2 of BCAP Code Rule 7.2, from which material relevant in this instance is quoted in the ‘Introduction’, above.

Further, to assist Ofcom’s radio licensees’ compliance in this area, Rule 7.1 requires that, prior to broadcast, they seek central copy clearance of advertisements that may fall under Section 7 (Political and controversial matters) of the BCAP Code.

BCAP Code Rule 7.1: Central Copy Clearance

Radio broadcasters must seek central copy clearance of “special category” advertisements from the Radio Advertising Clearance Centre (RACC).³ “Matters of public controversy including matters of a political or industrial nature” comprise such a category. Any advertisement that refers to a political party may fall under Section 7 (Political and controversial matters) of the BCAP Code. Ambur admitted that it had not sought central clearance in this instance prior to broadcasting the advertisements. The Licensee therefore failed to seek central copy clearance of an advertisement that may fall under Section 7, in breach of Rule 7.1 of the BCAP Code.

BCAP Code Rule 7.2: Content of the Advertisements

Ofcom noted that the Licensee considered the advertisements complied with Section 7 of the BCAP Code, as they were broadcast with contemporary Ambur Radio

³ Full details of “special category” advertisements can be found in Section 1 (Compliance) of the BCAP Code, at: <http://www.cap.org.uk/Advertising-Codes/Broadcast.aspx>.

programming on local issues that had featured Sue Arnold in her capacity as a Deputy Police and Crime Commissioner. However, political advertising is prohibited by statute, and the broadcast of other material cannot serve to make it acceptable for broadcast. In this instance, the advertisements referred to Sue Arnold as an election candidate for the Conservative Party. Although referring to a political party in an advertisement may not itself breach Rule 7.2 of the BCAP Code (e.g. if it consists of a passing reference to a political party in a broadcast advertisement for a newspaper), Ofcom considered Rule 7.2 was breached in the following ways:

The adverts were inserted by or on behalf of a political party

Ofcom noted that the advertisements were placed by Walsall Conservative Association, a constituency association of the Conservative Party. As a UK political party, the Conservative Party is “a body whose objects are wholly or mainly of a political nature” (where “political nature” includes any of (a) to (g), in paragraph 7.2.2 of BCAP Code Rule 7.2 – see ‘Introduction’, above).

Since the advertisements were placed by Walsall Conservative Association, it was in breach of Rule 7.2 of the BCAP Code, which prohibits, among other things, “an advertisement which is inserted by or on behalf of a body whose objects are wholly or mainly of a political nature.”

The adverts promoted a Conservative Party general election candidate

Both advertisements identified Sue Arnold as a Conservative Party parliamentary candidate in the forthcoming (2015) General Election. Further, the advertisement broadcast in Hindi listed a range of “issues” she would “fight for”, which were matters of political controversy – namely, “NHS, pensions, employment, tax, immigration, crime and housing”. Ofcom considered the advertisements served primarily to solicit listeners’ support for the Conservative Party in the forthcoming election and were therefore “directed towards a political end”, where “political end” includes “promoting the interests of a party ... in the United Kingdom ... for political ends” and “influencing the outcome of elections ... in the United Kingdom...” (i.e. sub-paragraphs (g) and (a) in paragraph 7.2.2 of BCAP Code Rule 7.2 – see ‘Introduction’, above).

Ofcom’s preliminary view is therefore that the advertisements were therefore in breach of Rule 7.2 of the BCAP Code, which prohibits, among other things, “an advertisement which is directed towards a political end.”

The adverts were not outside the prohibition

We noted that the advertisements were neither of a public service nature inserted by, or on behalf of, a government department nor party political or referendum campaign broadcasts the inclusion of which is required by a condition imposed under certain provisions of the Act. Rule 7.2.3 of the BCAP Code therefore does not apply so as to take the advertisements outside the prohibition in Rule 7.2.

Ofcom was concerned that the Licensee’s response in this case indicated a lack of understanding about its responsibilities under the BCAP Code. Breaches of this nature are particularly significant – a specific statutory prohibition on political advertising exists because of the effect that such advertising is considered to have on the democratic process. Ofcom therefore puts Ambur on notice that, in the event of a similar incident, we may consider further regulatory action.

Breaches of BCAP Code Rules 7.1 and 7.2

In Breach

Total Tone Up

Made in Tyne and Wear, 2 April 2015, 19:30

Introduction

Made in Tyne and Wear is a local television channel which provides programming to the Newcastle area. The licence for Made in Tyne and Wear is held by Made Television Ltd (“Made Television” or “the Licensee”).

Total Tone Up is a health and fitness programme filmed in a gym in which a presenter demonstrates and develops an exercise programme for a range of participants. Ofcom noted that during the edition of *Total Tone Up* broadcast on 2 April 2015, two banners visible on either side of the exercise area used throughout the programme provided information about Xercise4Less gym services including pricing information and contact details:

“Want to get qualified? Reps level 2 & 3. PT Courses from £999. Further courses available. Indoor Cycling £99. Circuits & Bootcamp £99. Kettlebells £99. First aid at work £99.”

“Peak membership £9.99”.

“[telephone number given]” and “[website address given]”.

We also noted that the credits displayed at the end of the programme stated *“With special thanks to [...] Xercise4Less”*.

Made Television told us that it had received no payment or other consideration from Xercise4Less for the inclusion of references to the latter company’s products, services or trade marks.

We considered that the references to Xercise4Less during the programme raised issues warranting investigation under Rule 9.4 of the Code, which states:

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

We asked Made Television for its comments on how it believed the programme complied with Rule 9.4.

Response

Made Television explained that the programme was a pilot episode created to attract interest from a commercial sponsor for the series. It added: “[a]t no stage did we come to an agreement with Xercise4Less gym. They were kind enough to allow us to film at their venue and we simply gave them a thank you credit at the end of the show. This was not a demand on their part and required no contractual agreement”.

With reference to Rule 9.4, the Licensee explained that it “did not aim to promote any products or services by using the billboards”. It explained instead that “the billboards were used to mask an untidy set”, and “to cover areas of the set that appeared damaged and worn on screen”. It added that since the programme was filmed in an

Xercise4Less gym, it was “natural that some branding would be evident” and that the programme makers had been “careful that the camera never focused on the information contained in [the banners]”.

Although it accepted that it had been “a poor decision to use the Xercise4Less gym banners to dress the set”, the Licensee emphasised its decision had been “based on production values rather than commercial relationships”. Nevertheless, Made Television stated it would exercise “extreme caution” with regard to brands featured in future programmes.

Decision

Under the Communications Act 2003 (the “Act”), Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure specific standards objectives, including “that the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with”. These obligations include ensuring compliance with the Audiovisual Media Services (“AVMS”) Directive.

The AVMS Directive requires, among other things, that television advertising is kept visually and/or audibly distinct from programming. The purpose of this is to prevent programmes becoming vehicles for advertising and to protect viewers from surreptitious advertising.

The requirements of the AVMS Directive and the Act are reflected in Section Nine of the Code, which limits the extent to which references to products, services and trade marks can feature in programming.

In this case, we considered whether the information provided regarding Xercise4Less’s gym services was promotional under Rule 9.4. Ofcom’s published Guidance¹ on this rule states that “where a reference to a service features in a programme for purely editorial reasons, the extent to which a reference will be considered promotional will be judged by the context in which it appears. In general... prices and availability should not be discussed.”

As noted above, the programme featured two banners on either side of the exercise room which provided information about Xercise4Less’s services. We noted that in various shots during the exercise segments of the programme the Xercise4Less logo on the banners was clearly visible, as was the information regarding prices, availability and contact details:

“Want to get qualified? Reps level 2 & 3. PT Courses from £999. Further courses available. Indoor Cycling £99. Circuits & Bootcamp £99. Kettlebells £99. First aid at work £99.”

“Peak membership £9.99”

“[telephone number given]” and “[website address given]”

In evaluating whether the information provided on the banners was promotional, we further considered the Licensee’s submissions that some level of visible branding of

¹ The guidance is available at <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section9.pdf>.

the gym would be “natural”; that the banners were not intended to be promotional, but to “mask an untidy set”; and that the camera did not focus on them.

In this regard, Ofcom noted that the purpose of the programme was for the presenter to develop an exercise regime for the participants in the show. As such, we accepted that there were sound editorial reasons to film the programme in a real gym where appropriately limited references to the gym brand could be expected.

Nonetheless, we considered that the nature and extent of the visible information provided on the banners went beyond any natural level of visible branding which we would expect to see in an exercise room. Further, even if it was necessary to use banners to “mask an untidy set”, unbranded materials could have been used to control the level of branding directly visible to the audience. Instead, the banners used clearly displayed information regarding available services, prices, and contact details. Although we acknowledged the Licensee’s argument that it had not intended to promote Xercise4Less’s services, in our view the presence of such detailed information about the company in the programme could not be justified by editorial requirements.

In view of the above, we concluded that the programme breached Rule 9.4.

Breach of Rule 9.4

Advertising Scheduling cases

In Breach

Advertising minutage

Geo TV, various dates and times

Geo Tez, 11 March 2015, 20:00

Introduction

Geo TV and Geo Tez are news and entertainment channels that broadcast in Urdu, serving the Pakistani community in the UK and Europe. The licences for these services are held by Geo TV Limited (“Geo TV” or “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 compliance with COSTA, Ofcom identified 11 instances when the Licensee had broadcast more than the permitted advertising allowance:

| Date | Channel | Clock hour | Amount of Advertising (minutes and seconds) |
|------------|---------|------------|---------------------------------------------|
| 27/02/2015 | Geo TV | 20 | 12:16 |
| 06/03/2015 | Geo TV | 19 | 12:10 |
| 07/03/2015 | Geo TV | 19 | 12:13 |
| 07/03/2015 | Geo TV | 21 | 12:20 |
| 11/03/2015 | Geo Tez | 20 | 15:30 |
| 13/03/2015 | Geo TV | 19 | 12:39 |
| 14/03/2015 | Geo TV | 19 | 12:32 |
| 20/03/2015 | Geo TV | 20 | 12:35 |
| 09/04/2015 | Geo TV | 20 | 12:18 |
| 10/04/2015 | Geo TV | 21 | 12:14 |
| 12/04/2015 | Geo TV | 20 | 12:53 |

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 it conducted an internal investigation into the matter and found that the issues were caused by human errors on the part of its Transmission Team.

Geo TV explained that it operates a four stage process when planning advertising breaks and that compliance checks are made following any stage that involves the insertion of advertising into the schedule. However, it discovered that the Transmission Team, which was responsible for loading the finalised schedule onto the playout server, was overloading the affected clock hours by adding advertising intended for broadcast in the subsequent clock hour. The Licensee said this was done to accommodate timing issues caused by earlier advertising breaks.

Geo TV said that as a result of these incidents, it intended to introduce compliance training for the Transmission Team and implement an additional check once the schedule has been loaded onto the playout server.

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 11 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 taken by the Licensee to improve compliance in this area. However, we were concerned that members of the Licensee’s own staff appeared to be unaware of the potential compliance implications of inserting additional advertising into a finalised schedule. We were also concerned that the Licensee was unaware, until informed by Ofcom, that it had breached COSTA repeatedly over a six week period.

Ofcom will therefore continue to monitor Geo TV and Geo Tez’s compliance with Rule 4 of COSTA.

Breaches of Rule 4 of COSTA

In Breach

Advertising minutage

PTV Global, 15 February to 9 March 2015, various times

Introduction

PTV Global is a general entertainment service which broadcasts a range of programmes originally shown in Pakistan to an international audience. The licence for PTV Global is held by Pakistan Television Corporation Limited (“PTC” or “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 monitoring of licensees’ compliance with COSTA, Ofcom noted that there were eight instances where the amount of advertising in a single clock hour exceeded the permitted allowance:

| Date | Clock hour | Amount of advertising (minutes and seconds) |
|----------|------------|---------------------------------------------|
| 15/02/15 | 22:00 | 12:16 |
| 18/02/15 | 22:00 | 12:16 |
| 26/02/15 | 19:00 | 12:09 |
| 28/02/15 | 19:00 | 12:09 |
| 28/02/15 | 22:00 | 12:12 |
| 06/03/15 | 19:00 | 12:09 |
| 07/03/15 | 20:00 | 12:20 |
| 08/03/15 | 21:00 | 12:13 |
| 09/03/15 | 21:00 | 12:13 |

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 did not respond to Ofcom’s request for comments.

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 undertakes routine monitoring its licensees’ compliance with COSTA.

In this case, the amount of advertising broadcast on PTC exceeded the permitted allowance on eight occasions. Ofcom will continue to monitor PTV Global's advertising minutage.

Breaches of Rule 4 of COSTA

Note to Broadcasters

Community radio annual reporting

Over 200 community radio stations now broadcast around the UK, bringing community-focused output, opportunities for volunteering, and community benefits such as training to the communities they serve. Each of these stations has promised to serve its community in a number of ways set out in its licence in the form of 'Key Commitments' which it must deliver. These include a description of the broadcast service and any community activities the station will carry out behind the scenes.

Ofcom checks whether stations are delivering the agreed service and Key Commitments through an annual report process. This also involves a check of whether stations have stayed within their financial limits on on-air advertising and sponsorship income, as set out in their licences. As well as looking at how well stations are serving their communities and meeting the requirements of their licences, Ofcom also uses the information in its annual Communications Market Report and to inform its overall policy on community radio.

In this Bulletin, we are recording a number of licence condition breaches which came to light during our annual reporting process in 2014 (for the calendar year 2013). These cases have involved failures by community radio stations to meet their Key Commitments or the financial restrictions set out in their licences.

We think the commitments community stations have made to serving their target audiences and communities are a key part of the role this radio sector plays. There are also important statutory criteria that community radio stations must meet. However we also understand that stations in the community sector are operating on very limited and tight budgets and can be faced with a number of challenges and changing circumstances such as volunteer shortages, losses of grants or the use of free facilities.

As a result, we have been considering whether requiring community radio stations to comply with a relatively high number of very detailed Key Commitments is a pragmatic or proportionate way for Ofcom to regulate the community radio sector. Our initial view is that a more streamlined and targeted approach may be more appropriate. We intend to consider this further during 2015 and will update the radio sector in due course. All community radio stations must continue to comply with their current Key Commitments. We will, however, take into account the specific nature of this sector and the challenges it faces in our approach to enforcement.

Community Radio Annual Reports 2013 – Key Commitment and other licence breaches

Every community radio station is required to complete an Annual Report. This is so that Ofcom can:

- check whether stations are delivering the Key Commitments¹ set out in their licence;
- check whether stations have stayed within the financial limits set out in their licence in relation to on-air advertisement and sponsorship income;
- consider stations' compliance with Licence Condition 2(4) contained in Part 2 of the Schedule to their Broadcasting Act licence²; and
- use the information collected in Ofcom's annual Communications Market Report. The data will also be used to help inform Ofcom's community radio policy.

In 2014, Ofcom asked the 200 relevant community radio licensees³ to provide us with their 2013 Annual Report. As Ofcom has previously made it clear to the community radio sector on a number of occasions, we stated in this request that if licensees consider they are unable to meet a Key Commitment due to changing circumstances, they should contact Ofcom as soon as possible to submit a Key Commitment change request.

Based on the information each station provided on whether they had met their Key Commitments during 2013, and stayed within the financial limits set out in their licence relating to on-air advertisement and sponsorship income, Ofcom then launched investigations into any potential licence breaches.

Following these investigations, we are now recording licence breaches for the non-delivery or under-delivery of Key Commitments in the case of 38 stations. We concluded that 15 stations were not in breach of their licence (these stations are listed on page 71).

¹ The 'Key Commitments' set out how the station will serve its target community and include a description of the programme service, as well as any activities the station will carry out behind the scenes.

² This licence condition requires that: "the Licensee shall ensure that the Licensed service accords with the proposals set out in the Annex so as to maintain the character of the Licensed service throughout the licence period".

³ Only stations that were already broadcasting at the start of 2013 were required to submit an Annual Report for 2013.

In Breach

Providing a service in accordance with ‘Key Commitments’

Cross Rhythms Teesside (Stockton-on-Tees), Annual Report 2013

Introduction

Cross Rhythms Teesside is a community radio station licensed to provide a service for “the Christian Community in Stockton-on-Tees and Middlesbrough in the 16-35 age group”. The licence is held by Tees Valley Christian Media (or “the Licensee”).

Like other community radio stations, Tees Valley Christian Media is required to deliver the ‘Key Commitments’ which form part of its licence.¹ These set out how the station will serve its target community and include a description of the programme service; social gain (community benefit) objectives such as training provision; arrangements for access for members of the target community; opportunities to participate in the operation and management of the service; and accountability to the community.

Each year, Ofcom requires its community radio licensees to complete and return an Annual Report². In its Annual Report for the calendar year 2013, submitted to Ofcom in April 2014, Tees Valley Christian Media indicated that it had not been meeting the majority of its Key Commitments. These Key Commitments were as follows:

- Weekday daytime output typically comprises 80% music and 20% speech (‘speech’ excludes advertising, programme / promotional trails and sponsor credits). A lesser proportion of speech output is generally broadcast in daytime at weekends and during the evenings and overnight period.
- Speech output includes interviews, presenter-led features, news bulletins, Christian content such as ‘pause for thought’ slots, local travel and weather.
- The station broadcasts 24 hours a day. Original locally-produced programming, including live output, makes up 5 hours per day on weekdays, and at least two hours per day during daytime at weekends. The station may take selected programming from Cross Rhythms Stoke on Trent that has content relevant to the local audience. Generally these shows would be in the evenings and at weekends.
- The station invites a varied cross section of people from our local community for interview on the phone or in the studio to discuss issues and share their views and present various opinions to our listeners.
- The station seeks audience responses through telephone, SMS and email, with the opportunity to share these through the radio programmes.

¹ The Key Commitments are contained in an annex to Tees Valley Christian Media’s licence. They can be viewed in full at:
<http://www.ofcom.org.uk/static/radiolicensing/Community/commitments/cr000098.pdf>

² See page 6 of this Broadcast Bulletin for full details of the Annual Reporting process for community radio stations.

- Cross Rhythms Teesside engages with local educational establishments at a variety of levels. It provides access to the radio station for students.
- Station volunteers are trained in skills including presenting; production; interviewing; preparing and researching local news and events scripts for voicing. The station trains at least 10 volunteers each year, working with core staff.
- The station works with other local community organisations sympathetic to its ethos, to provide and develop work experience and training opportunities for young people.
- The station promotes events which unify the local Christian community.
- Through programming opportunities it raises the profile of what local churches and Christian groups are doing to support their communities.
- Members of the community who are willing to abide by the station's ethos may be invited to join the management committee.
- The station broadcasts on-air promotions to invite involvement from members of the community. The station follows up any interest of offered time with an informal interview at its studios to gauge interest and to reach an agreement over what would be the most appropriate way for them to become involved, including any training required.
- The station gives opportunities for individuals and local community groups to have access and involvement such as by providing appropriate programme material.
- The station actively invites feedback from its listeners; it does this through a number of avenues including on air promotions, mailshots, and email. The station actively logs any comments received via any of these methods.
- All this feedback is presented to the management team for action. The management team will report to the station board of trustees and the Tees Valley Christian Charities Forum.

The station also reported that the average number per week of live hours and original programming hours during 2013 was zero; that it not trained anyone during the year; and that it had just one volunteer involved, offering one hour per week of their time.

Ofcom considered that the above issues warranted investigation under Condition 2 2(4) in Part 2 of the Schedule to Tees Valley Christian Media's licence. This states that:

"The Licensee shall ensure that the Licensed Service accords with the proposals set out in the Annex so as to maintain the character of the Licensed Service throughout the licence period." (Section 106(1) of the Broadcasting Act 1990).

We therefore wrote to the Licensee to request its comments on how it was complying with this condition, with reference to the specific Key Commitments set out above.

Response

The Licensee reported that, since spring 2014, it had been working towards improving its Key Commitment compliance. It said that the station was now delivering more original local programming, which it expected to increase through working with local churches, community groups and schools. Tees Valley Christian Media also stated that programming and technical managers had recently been appointed, and that the number of volunteers had risen. The Licensee also highlighted that since September 2014, a new station manager and administrator had been appointed.

Decision

Ofcom has a number of duties in relation to radio broadcasting, including securing a diverse range of local radio services which are calculated to appeal to a variety of tastes and interests, along with the optimal use of the radio spectrum. These matters are reflected in the licence condition requiring the provision of the specified licensed service. Provision by a licensee of its licensed service on the frequency assigned to it is the fundamental purpose for which a community radio licence is granted.

Ofcom was particularly concerned that, by its own admission, during 2013, Tees Valley Christian Media did not meet the majority of the Key Commitments required by its licence. A number of the Key Commitments in question – such as the requirement to produce original, locally-produced programming, and the requirement to have active volunteers – are fundamental to the provision of any community radio service.

Ofcom acknowledged that the Licensee has appointed new volunteers and a new manager, and is now working towards improving its Key Commitment compliance.

Due to the number and significance of the undelivered Key Commitments in this case, Ofcom will monitor Tees Valley Christian Media's current compliance with its Key Commitments in the near future.

Breach of Licence Condition 2(4) in Part 2 of the Schedule to the community radio licence held by Tees Valley Christian Media (licence number CR000098BA).

In Breach

Providing a service in accordance with ‘Key Commitments’ *Castledown Radio (Tidworth), Annual Report 2013*

Introduction

Castledown Radio is a community radio station licensed to provide a service for “people who live and work in the Tidworth community area”. The licence is held by Castledown Radio Limited (“Castledown Radio” or “the Licensee”).

Like other community radio stations, Castledown Radio is required to deliver the ‘Key Commitments’ which form part of its licence.¹ These set out how the station will serve its target community and include a description of the programme service; social gain (community benefit) objectives such as training provision; arrangements for access for members of the target community; opportunities to participate in the operation and management of the service; and accountability to the community.

Each year, Ofcom requires its community radio licensees to complete and return an Annual Report², which details, among other information, the station’s Key Commitments and whether or not they are being met. In its Annual Report for the calendar year 2013, Castledown Radio indicated that it had not been meeting a significant number of its Key Commitments (approximately half). These Key Commitments were as follows:

- The aim is that by the end of year one output will typically comprise 60% music and 40% speech (‘speech’ excludes advertising, programme/promotional trails and sponsor credits).
- Two other target groups are women that are dependants of soldiers and those women with children that live in the more rurally isolated villages with few facilities. The station will engage with these groups and develop programming around their needs and interests, leading to at least one show per day (in total) for them and with their involvement.
- The radio station will facilitate discussion and the expression of opinion by giving the community access to the radio in various ways: local issue based phone-ins, live discussion programmes, recording relevant local meetings and facilitating studio discussions with all concerned parties.
- A professional broadcaster will control this type of output in the first instance. Members of the volunteer broadcast team will be trained to a sufficient level of understanding and professionalism to allow them to control live phone-ins and debate.
- The station will aim to provide, annually, the following training opportunities:

¹ The Key Commitments are contained in an annex to Castledown Radio’s licence. They can be viewed in full at:
<http://www.ofcom.org.uk/static/radiolicensing/Community/commitments/cr000093.pdf>

² See page 6 of this Broadcast Bulletin for full details of the Annual Reporting process for community radio stations.

- 6 x 10 hour training courses (minimum of 5 people on each)
- 6 'A Day in Radio' 6 hour taster sessions with 60 people attending in total in the year
- 3 work placements at the radio station.

- Information concerning educational and training courses available at the various establishments in and around the area will be broadcast as information spots.

- The better understanding of the particular community and the strengthening of the links within it. Such initiatives will include:
 - 8 projects involving community groups
 - The promotion of employment opportunities. There will be a regular 'Jobspot' and appropriate expert advice.
 - The promotion of work experience placement opportunities available at local businesses and organisations.
 - The promotion of cultural and linguistic diversity. The station will promote any functions held by members of the community from diverse cultural and/or linguistic backgrounds and also develop features on their culture.

- Members of the community will be able to become members of Castledown Radio Sub-committee of the Board, which will produce an annual report for the Board and Ofcom that covers the Key Commitments and other related matters. The report will be published on the website and sent to members of Tidworth Development Trust with AGM papers each year.

- Members of the community will be able to become members of the independent advisory group, a group not associated with Tidworth Development Trust and therefore able to give independent advice and guidance. This group will not make decisions, that being the responsibility of the Sub-committee of the Board.

- Tidworth Development Trust has a junior membership that elects a member to the Board, this will be promoted with a view to gaining a wider membership and involvement of young people in projects.

- The radio station will hold weekly editorial meetings to ensure that all local issues are addressed 'on-air'.

- Community views will be sought and taken into account through:
 - The assessment of reaction from debates, discussions and log
 - Gathering information from website feedback
 - Obtaining views of the independent advisory group, at least once prior to formal quarterly review

Ofcom considered that these issues warranted investigation under Condition 2(4) in Part 2 of the Schedule to Castledown Radio's licence. This states:

"The Licensee shall ensure that the Licensed Service accords with the proposals set out in the Annex so as to maintain the character of the Licensed

Service throughout the licence period.” (Section 106(1) of the Broadcasting Act 1990).

We therefore wrote to the Licensee to request its comments on how it was complying with this condition, with reference to the specific Key Commitments set out above.

Response

The Licensee stated that at the end of 2012 it had released its employed members of staff due to financial difficulties, and as such 2013 was its first full year as a 100% volunteer-run station. It also said that Tidworth Development Trust (which was once an umbrella organisation for the station) had ceased to exist “some time ago”, and that this meant that it could no longer deliver some of Castledown Radio’s Key Commitments. The Licensee noted that the needs of its community have changed over time, which has led to the station “developing different ways of achieving” some of its Key Commitments.

The Licensee also provided the following more detailed comments on specific Key Commitments:

Programming

The Licensee said that on average the station’s programming comprised 26% speech, rather than the 40% required by its Key Commitments. It said that it was finding this target difficult to meet, but that it planned to produce a current affairs programme which would help to address this discrepancy, as well as some spoken word material and more regular plays.

Social gain

Castledown Radio confirmed that it had been unable to provide programming for women who are dependants of soldiers, or for women with children who live in rural villages. It said that it had previously produced two regular programmes with the aim of engaging these groups, but these programmes had ceased for a variety of reasons.

The Licensee said that it was not able to hold live discussion programmes, record relevant local meetings or facilitate studio discussions due to the lack of participation and general low turnout for these type of events. Despite this, it said that volunteers had attended significant local meetings, recording interviews and taking photographs for the website.

Castledown Radio confirmed that it had not been in a position to provide the required training courses, ‘taster’ sessions or work placements, although it had trained 140 people through other means, and it provided examples of this.

It stated that it had been unable to broadcast information regarding educational and training courses available at local establishments, although education and training events were regularly covered by station promotions. The station said that although it had not been able to broadcast the required regular ‘jobs spots’, job opportunities had been promoted by the station on an ad hoc basis.

The Licensee said that it had not been able to promote cultural and linguistic diversity because its licence area “is very much a rural environment with very little linguistic diversity.” It had instead focused on the cultural diversity provided by one of the

country's largest army garrisons, with which the station has "a very strong and positive relationship...and regularly work with their welfare team to promote their activities."

Access and participation

Castledown Radio reported that references to the Tidworth Development Trust in its Key Commitments were out of date, as this organisation no longer exists.

The Licensee said it does not have an independent advisory group, and there was not a sub-committee of the board comprising members of the local community. Rather, Castledown Radio stated that members of the community were the station's "volunteer force", which makes up its "extended management team" along with board members and directors. It stated that the station has "a mixture of advisory input ranging from local councils through to the community area board".

Regarding the involvement of young people in the service, it said that it has a focus on junior membership, and that there are some young people with significant roles at the station who provide regular input.

Accountability to the target community

Castledown Radio explained that the organisation of weekly editorial meetings had become problematic without a full time station manager. However, it did hold monthly presenter meetings, and has a dedicated local news team that produces local content for broadcast and for the website.

With regard to the solicitation of views from the wider community, the Licensee stated that while it had not met its Key Commitments, it had invited guests on live shows and discussed key local events, attended local council and community meetings and sought feedback via social media and direct phone calls. It said it was not able to gather information via website feedback, due to technical problems with its website during 2013.

The Licensee also reported that it had appointed a new Chairman since the 2013 Annual Report, and was in the process of recruiting new directors.

Decision

Ofcom has a number of duties in relation to radio broadcasting, including securing a diverse range of local radio services which are calculated to appeal to a variety of tastes and interests, along with the optimal use of the radio spectrum. These matters are reflected in the licence condition requiring the provision of the specified licensed service. Provision by a licensee of its licensed service on the frequency assigned to it is the fundamental purpose for which a community radio licence is granted.

Ofcom acknowledged that Castledown Radio had faced a number of significant challenges during 2013, most notably the loss of a full-time station manager, and had tried to meet the spirit of many of its Key Commitments through alternative means.

However, it failed to tell Ofcom about these changes, and the difficulties it was experiencing in meeting its Key Commitments. We note that the Licensee is in the process of recruiting a new management committee, and is now working towards meeting some of its previously unmet Key Commitments.

Breach of Licence Condition 2(4) in Part 2 of the Schedule to the community radio licence held by Castledown Radio Limited (licence number CR000093BA).

In Breach

Providing a service in accordance with 'Key Commitments'

Halton Community Radio, Annual Report 2013

Introduction

Halton Community Radio is a community radio station licensed to provide a service for "people living in, working in, or undergoing training or education in the borough of Halton". The licence is held by Halton Community Radio (or "the Licensee").

Like other community radio stations, Halton Community Radio is required to deliver the 'Key Commitments' which form part of its licence.¹ These set out how the station will serve its target community and include a description of the programme service; social gain (community benefit) objectives such as training provision; arrangements for access for members of the target community; opportunities to participate in the operation and management of the service; and accountability to the community.

Each year, Ofcom requires its community radio licensees to complete and return an Annual Report². In its Annual Report for the calendar year 2013, submitted to Ofcom in April 2014, Halton Community Radio indicated that it had not been meeting a significant number of its Key Commitments. These Key Commitments were as follows:

- Daytime output will typically comprise 40% music and 60% speech ('speech' excludes advertising, programme/promotional trails and sponsor credits). Evening output will vary depending on the programming.
- The service will typically be live for at least 14 hours per day. (Live programming may include pre-recorded inserts, if applicable.) The majority of the output will be locally produced.
- The station will produce Saturday morning programming for younger listeners.
- Schools' programming will give students an opportunity to air their views.
- The station will run broadcast training courses teaching basic skills through to radio production and media issues to around 120 young people per year.
- The station's management training programme aims to train 10 people per year.
- The station intends forging links with the Polish community in Halton and encouraging its involvement in the local radio service and plans to include a series of radio lessons in Polish.

¹ The Key Commitments are contained in an annex to Halton Community Radio's licence. They can be viewed in full at:
<http://www.ofcom.org.uk/static/radiolicensing/Community/commitments/cr000102.pdf>

² See page 46 of this Broadcast Bulletin for full details of the Annual Reporting process for community radio stations.

- The station will hold bi-monthly steering group meetings where the group will discuss any issues from Halton Access Media (HAM) and weekly supervisor feedback sessions. The minutes of these meetings will be accessible at the station offices. The Steering committee includes HAM staff members, HAM Executive Committee members and volunteers of HCR. The steering committee is assembled on a volunteer basis. If positions become over-subscribed the steering committee will vote on a suitable candidate.
- The station will invite feedback from all organisations involved with it, and plans to enable Halton based community groups to discuss and feedback on Halton Community Radio at independent forums.

Ofcom considered that these issues warranted investigation under Condition 2(4) in Part 2 of the Schedule to Halton Community Radio's licence. This states that:

"The Licensee shall ensure that the Licensed Service accords with the proposals set out in the Annex so as to maintain the character of the Licensed Service throughout the licence period." (Section 106(1) of the Broadcasting Act 1990).

We therefore wrote to the Licensee to request its comments on how it was complying with this condition, with reference to the specific Key Commitments set out above.

Response

With regard to the required balance between music and speech, Halton Community Radio stated that there were some programmes on its schedule which were at least 80% speech, but that there were also daytime specialist music programmes which featured only 10-15% speech.

It stated that its average number of live broadcasting hours on weekdays was 12 hours, but that over weekends this was at five hours per day, meaning that the station was significantly below the 14 hours per day required by the Key Commitments.

Halton Community Radio said it did not produce any schools programming or programming aimed at younger listeners.

The Licensee did not provide broadcast training courses in 2013 for any of the "around 120 young people per year" required by its Key Commitments, nor did it meet its commitment to train ten people as part of its management training programme.

Halton Community Radio said it did not forge any links with Halton's Polish community, and did not provide a series of "radio lessons" in Polish in 2013.

Halton Community Radio reported that it failed to hold bi-monthly steering group meetings. It said that until October 2013, all decisions about the station were taken by its Executive Committee, which then reported back to the presenters by email and via occasional presenter meetings.

The Licensee stated that a new set of directors had joined the company in December 2013, and it listed the improvements that had been made to its delivery of the Key Commitments since these appointments.

Decision

Ofcom has a number of duties in relation to radio broadcasting, including securing a diverse range of local radio services which are calculated to appeal to a variety of tastes and interests, along with the optimal use of the radio spectrum. These matters are reflected in the licence condition requiring the provision of the specified licensed service. Provision by a licensee of its licensed service on the frequency assigned to it is the fundamental purpose for which a community radio licence is granted.

While we acknowledge that, following the appointment of new directors, Halton Community Radio is working towards improving its Key Commitment compliance, during 2013 Halton Community Radio did not meet a significant number of the Key Commitments required by its licence. These span all the aspects of what all community radio licensees are required to provide (i.e. appropriate programming, social gain, access and participation and accountability).

Breach of Licence Conditions 2(4) in Part 2 of the Schedule to the community radio licence held by Halton Community Radio (licence number CR000102BA).

Following investigations arising from their 2013 Annual Reports, Ofcom has found the Community Radio licensees below in breach of their licence conditions for compliance with their Key Commitments:

| Licensee (Service name and licence area) | Decision |
|----------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1 Ummah FM Community Interest Company (1 Ummah FM, Reading) | <p>1 Ummah FM Community Interest Company reported that it had failed to provide more speech than music during daytime output, and had failed to deliver the required eight hours per day of original and live local output.</p> <p>It stated that:</p> <ul style="list-style-type: none"> • owing to a studio move, some volunteers were unable to get to the new studios to present their shows, which impacted on the amount of live and original content; and • the station manager left during 2013, which led to a number of volunteers also leaving. <p>While we acknowledged that the Licensee’s studio move caused some difficulties, it failed to tell Ofcom about these problems at the time.</p> <p>Breach of Licence Condition 2(4)</p> |
| Afro Caribbean Millennium Centre (New Style Radio, Birmingham) | <p>Afro Caribbean Millennium Centre (“ACMC”) reported that it had failed to offer Open College Network radio training; four customised radio courses; or an Access to Print and Broadcast Journalism Course. The Licensee also reported that it did not have an advisory panel and had not been undertaking market research at least once a year.</p> <p>It stated that:</p> <ul style="list-style-type: none"> • it had found the Key Commitments on formal training difficult to meet due to financial and resourcing constraints; • it nevertheless provided training sessions in 2013 for new volunteers, as well as work experience placements and two summer playschemes; and • it seeks feedback on its output from listeners through phone-ins and Facebook comments. <p>We acknowledged that ACMC tried to fulfil its Key Commitments through alternative arrangements, but it failed to tell Ofcom about these changes.</p> <p>Breach of Licence Condition 2(4)</p> |
| Alive Christian Media Ltd (Alive Radio, Dumfries) | <p>Alive Christian Media Ltd reported that it had failed to appoint a Board of Reference during 2013 to monitor the station’s activities and output. It stated that it has subsequently put a Board of Reference in place to monitor the station.</p> <p>Breach of Licence Condition 2(4)</p> |

| | |
|--------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>Awaz FM Ltd (Awaz FM, Glasgow) (see also below)</p> | <p>Awaz FM Ltd reported that it had failed to run courses in partnership with Reid Kerr College; it had not undertaken an annual survey of listeners; and it had not formally compiled regular feedback to be reviewed on a bi-annual basis.</p> <p>It stated that:</p> <ul style="list-style-type: none"> • the college was unable to commit to the training for logistical reasons; • surveys were discontinued after 2009 because of the station’s target community not being “online aware”; and • any feedback calls to the office are reviewed by the management team. <p>Breach of Licence Condition 2(4)</p> |
| <p>BCB Radio (BCB 106.6FM, Bradford)</p> | <p>BCB Radio reported that it had not created a Steering Group of community representatives to provide feedback directly to the Management Committee, but that it had informed Ofcom of this in previous Annual Reports.</p> <p>It stated that:</p> <ul style="list-style-type: none"> • the station has been seeking feedback from members of groups and communities in which BCB Radio already works; • membership of the station’s Management Committee has widened, and is a group of democratically elected individuals who reflect the community groups the station serves; and • the station has created a Programming Group comprised of staff and volunteers at the station, which considers any programme proposals from the community. The station aims to open this group to include other community members. <p>While we acknowledged that BCB Radio has tried to fulfil this Key Commitment through alternative arrangements, it failed to tell Ofcom about these changes.</p> <p>We recognised that BCB Radio has previously informed Ofcom that it was not meeting this Key Commitment. Ofcom has made it clear through correspondence with community radio licensees on a number of occasions that if they are unable to meet their Key Commitments then they should submit a Key Commitment Change Request.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>BFBS Aldershot Ltd (BFBS Aldershot)</p> | <p>BFBS Aldershot reported that it had failed to run a live and local programme service for at least four hours per day. It noted that it took over this licence from Garrison Radio during the course of 2013. It has now submitted a Key Commitment change request, and in the meantime it has increased local</p> |

| | |
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| | <p>programming to the required minimum of four hours per day.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>BFBS Catterick Ltd (BFBS Catterick)</p> | <p>BFBS Catterick Ltd (“the Licensee”) reported that it had failed to provide at least five hours per day of live and locally-produced programming, and failed to broadcast any programmes for Nepali-speaking listeners.</p> <p>It stated that:</p> <ul style="list-style-type: none"> • it took over this licence from Garrison Radio during the course of 2013. It has now submitted a Key Commitment change request to Ofcom, and in the meantime it has increased local programming to the required minimum of five hours per day; and • BFBS broadcasts a bespoke 24-hour Gurkha service on 1134 KHz in the Catterick Garrison area under a long-term RSL licence, which is regularly promoted on BFBS Catterick. <p>Ofcom cannot take account of any content that may be provided by the Licensee on other radio licences it owns, even if the content is cross-promoted. Therefore, the Licensee should have applied to Ofcom for a Key Commitment change if it no longer wished to broadcast Nepali language programming.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>BFBS Edinburgh Limited (BFBS Edinburgh)</p> | <p>BFBS Edinburgh reported that it had failed to meet the five hours per day of live and locally produced content. It stated that it now has a volunteer presenting a regular show once a week, and this, combined with the training of a new presenter, will enable it to meet the live and local hours required by its Key Commitments going forward.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>BFBS Salisbury Plain Limited (BFBS Salisbury Plain)</p> | <p>BFBS Salisbury Plain Limited reported that it had failed to meet the required four hours per day of live and locally produced content. It noted that it took over this licence from Garrison Radio during the course of 2013, and that due to operational commitments volunteers who had been trained to go on air early in 2014 were unable to do so.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>Big City Radio CIC (Big City Radio, Aston, Birmingham)</p> | <p>Big City Radio CIC reported that it had failed to provide phone-ins to supplement discussions and debates on the station’s evening programming. It had not developed a magazine programme featuring interviews and discussions aimed at the Aston Community, nor had it provided “student-led programming” which “invites professionals to create interesting and informative debates and response within the community.”</p> |

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| | <p>It stated that:</p> <ul style="list-style-type: none"> • while it had some phone-ins on its music-based evening programmes, the calls were usually from individuals requesting songs and discussing bands; • it found that there was not enough fresh information available to produce a magazine programme each week; and • it ran student-led programming featuring guest speakers, but the guests were unwilling to contribute free of charge on a regular basis. <p>While we acknowledged that some listeners were able to call the station to make music requests, Big City Radio CIC provided little evidence to suggest that it had been trying to deliver the specific types of speech programming required by its Key Commitments.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>BRFM Bridge Radio Ltd (BRFM, Sheerness)</p> | <p>BRFM Bridge Radio Ltd reported that it failed to deliver various educational partnerships with local schools and colleges, and did not operate a listeners’ Steering Committee, as required by its Key Commitments.</p> <p>It stated that:</p> <ul style="list-style-type: none"> • all its Key Commitments related to education were affected by losing contacts and contracts to rival organisations in their area; and • its Independent Listeners Steering Committee has been replaced by a “Listeners’ Survey”. <p>Following Ofcom’s investigation, BRFM Bridge Radio Ltd is submitting a Key Commitments change request to resolve these issues. While we acknowledge this, BRFM Bridge Radio Ltd failed to tell Ofcom at the time that it was having difficulties in meeting its Key Commitments.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>Canterbury Youth and Student Media Limited (CSR 97.4 FM, Canterbury)</p> | <p>Canterbury Youth and Student Media Limited (“the Licensee”) reported that it had failed to reach its required average speech levels of 50% (typically 30% in the daytime and 70% after 16:00). It had also not held focus groups with schools, colleges and community groups; nor with school staff and pupils to encourage involvement.</p> <p>It stated that:</p> <ul style="list-style-type: none"> • it had met its daytime target of 30% speech, but had not met the 70% required after 16:00; and • it had used alternative methods, such as social media, surveys and polls, to encourage feedback from listeners. <p>We noted that the Licensee tried to fulfil its Key Commitments on accountability and feedback through alternative</p> |

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| | <p>arrangements, but it failed to tell Ofcom about these changes.</p> <p>We acknowledged that, in November 2014, the Licensee submitted a Key Commitment Change Request relating to these requirements which was approved by Ofcom.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>Corby FM Ltd (Corby Radio)</p> | <p>Corby FM Ltd reported that it had failed to hold regular meetings with its Listener Panel.</p> <p>It stated that 2013 was a difficult year due to a number of events happening beyond its control and, as a result, it struggled to keep the Listener Panel running. It said that, since 2013, it has set up a new Listener Panel.</p> <p>We acknowledged that Corby FM Ltd experienced some difficulties during 2013, but the station failed to notify Ofcom at the time.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>Down Community Radio Limited (Down FM, Downpatrick)</p> | <p>Down Community Radio Ltd reported that it had failed to meet the required ten hours per day of original output.</p> <p>It said that:</p> <ul style="list-style-type: none"> • during 2013 two long-standing volunteers left the station in quick succession, who had produced ten hours per week of original content between them; • a partnership with a local youth club did not deliver the amount of content that was expected. This content was expected to deliver four hours per month of original output; and • it has subsequently recruited and trained new volunteers who are now contributing positively to the station's volume of original output. <p>Breach of Licence Condition 2(4)</p> |
| <p>Drive 105FM (Community Radio) Ltd (Drive 105, Derry/Londonderry)</p> | <p>Drive 105 (Community Radio) Ltd reported that it had failed to run community forum meetings and an AGM in 2013.</p> <p>It stated that:</p> <ul style="list-style-type: none"> • it sought the views of the local community through a variety of alternative mechanisms; and • in lieu of an AGM has published audited accounts on its website. <p>While we acknowledged that the station tried to fulfil its Key Commitments through alternative arrangements, it failed to tell Ofcom about these changes.</p> <p>Breach of Licence Condition 2(4)</p> |

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| <p>Glastonbury FM CIC (Glastonbury FM)</p> | <p>Glastonbury FM CIC reported that it had failed to deliver the required quota of speech output (30%) and the required amount of locally-originated programming (six hours per day). It also failed to provide an accessible training studio during 2013 and to share its training events and facilities with other radio stations.</p> <p>It stated that:</p> <ul style="list-style-type: none"> • achieving 30% speech quota remains a continuing goal; • the number of original programming hours has already increased; • the building of new premises was not conducive to sharing facilities with other stations, with building work impacting upon on the available studio time; and • while the station’s previous portacabin was not accessible to wheelchair users, the new studios that are now in operation are accessible to all. <p>Breach of Licence Condition 2(4)</p> |
| <p>Huntingdon Community Radio (Media) Ltd (HCR FM)</p> | <p>Huntingdon Community Radio (Media) Ltd reported that it had failed to set up a listener panel, required to consist of around 10 members.</p> <p>It stated that it had problems recruiting members of the public to become involved with a listener panel, and that it has a variety of other ways in which it obtains feedback from listeners.</p> <p>While we acknowledged that Huntingdon Community Radio (Media) Ltd tried to fulfil this Key Commitment through alternative arrangements, it failed to tell Ofcom about these changes.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>Ipswich Community Radio (Ipswich Community Radio)</p> | <p>Ipswich Community Radio reported that it had failed to build “a solid and developing network of partners within the Ipswich community”, and that it did not organise any roadshows or open days during 2013.</p> <p>It stated that it had attempted to fulfil its Key Commitments in this area, but it had not made the progress it had hoped for.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>Kane FM Ltd (Kane FM, Guildford)</p> | <p>Kane FM Ltd reported that it had failed to broadcast phone-in and discussion programmes.</p> <p>It stated that:</p> <ul style="list-style-type: none"> • it intended, during the course of 2015, to establish a weekly programme using SMS, social media and possibly live telephone calls for listeners to comment and interact with the station; and |

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| | <ul style="list-style-type: none"> the programme would focus on younger listeners and invite them to take part in discussions on issues which affect them. <p>Breach of Licence Condition 2(4)</p> |
| <p>Lionheart Radio & Media Community Interest Company (Lionheart Radio, Alnwick)</p> | <p>Lionheart Radio & Media Community Interest Company reported that it had failed to develop long-term courses for two or three people per year, and that it did not have a regular listeners' forum to gather feedback from the community.</p> <p>It stated that:</p> <ul style="list-style-type: none"> the station is now entirely run by volunteers, so it cannot commit to providing long-term courses on a routine basis; and its listeners prefer more immediate forms of feedback and would rather use social media than attend a listeners' forum. <p>We recognised that sometimes circumstances change and some Key Commitments may no longer be achievable. In situations such as this, the Licensee should have informed Ofcom of the situation and/or considered making a Key Commitments change request.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>Lisburn Community Radio Ltd (Lisburn City Radio)</p> | <p>Lisburn City Radio Ltd reported that it had failed to broadcast live for the required eight hours per day on weekdays.</p> <p>It stated that it was finding it difficult to produce more than 32 hours of live broadcasting per week, and was therefore considering submitting a Key Commitments change request to Ofcom.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>Llandudno Community Radio Ltd (Tudno FM, Llandudno)</p> | <p>Llandudno Community Radio Ltd ("the Licensee") reported that it had failed to deliver around one third of broadcast speech output in Welsh.</p> <p>It stated that:</p> <ul style="list-style-type: none"> the Welsh-speaking presenters are no longer volunteers at the station and although replacements have been sought, this has proved difficult; as a coastal town, Llandudno has a large population of people that have retired to the area from other parts of the UK, resulting in a reduction in the number of local Welsh speakers; and it hoped to be able to recruit more Welsh-speakers in the near future, however it has found this difficult to date. <p>While we acknowledged that the Licensee had attempted to recruit replacement presenters, it should have informed Ofcom</p> |

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| | <p>of the situation at the time. We noted that the Welsh language should account for a third of Tudno FM's total speech output, and is therefore a significant issue for the Licensee to address.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>Radio Asian Fever CIC (Radio Asian Fever, Leeds)</p> | <p>Radio Asian Fever CIC reported that it had failed to provide workshops within the community to aid access for those who are unable to attend studio-based workshops, and that it had not held the required Advisory Group meetings.</p> <p>It stated that:</p> <ul style="list-style-type: none"> • it had had financial difficulties, but had held some workshops in its studios; • it no longer holds its Advisory Group meetings due to low or non-attendance, and that it has replaced this with an on-air Advisory Group; and • it had intended to request a change to these Key Commitments in 2012, but had been “sidetracked” by other matters. <p>Breach of Licence Condition 2(4)</p> |
| <p>Radio Fiza Limited (Radio Faza, Nottingham)</p> | <p>Radio Fiza Limited reported that it had not met its quota of eight live hours per weekday, and had not been producing programming in collaboration with the local education authority. The station failed to operate an advice line for school leavers in collaboration with local training providers and had not developed accredited courses to deliver training and skills. Radio Faza did not work with local schools to broadcast educational-based projects, and did not offer six week long work experience placements.</p> <p>It stated that:</p> <ul style="list-style-type: none"> • it was only able to deliver six hours of live programming on some days in 2013 due to a lack of volunteers and funding; • it is currently delivering non-accredited training programmes; • it produced programming designed to raise awareness for school-leavers; • it is working with child agencies to produce programmes on issues such as bullying and school governance; and • it is no longer funded to offer opportunities for children from local schools to broadcast on the station. The station did not work directly with the local schools in 2013, but did offer opportunities to some local children to work on various projects at the station. <p>While we acknowledged that Radio Fiza Limited tried to fulfil its Key Commitments through alternative arrangements, it failed to tell Ofcom about these changes.</p> <p>We also acknowledged that Radio Fiza Limited sought to</p> |

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| | <p>change its Key Commitments, but that the station did not respond to our requests for further information about the proposed changes, and these changes were therefore not approved by Ofcom.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>Radio Ikhlas Limited (Radio Ikhlas, Derby)</p> | <p>Radio Ikhlas Limited reported that it had failed to provide an internet forum and regular online questionnaires, and had not been working with the Connexions employment agency to promote learning opportunities for young people.</p> <p>It stated that:</p> <ul style="list-style-type: none"> • its internet forum was hacked several times; • similar problems had caused it to stop running regular online questionnaires; • Connexions is now more focused on career guidance and has stopped referring people to the station; and • it has instead been providing work placements for local educational establishments. <p>While we acknowledged that Radio Ikhlas Limited tried to fulfil its Key Commitments through alternative arrangements, it failed to tell Ofcom about these changes.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>Sittingbourne Community Radio Ltd (106.9 SFM, Sittingbourne)</p> | <p>Sittingbourne Community Radio Ltd reported that it had found it difficult to establish a Listener Panel featuring members co-opted from local community groups and organisations.</p> <p>It stated that:</p> <ul style="list-style-type: none"> • it had, in 2013, introduced a Listener Response Line instead, to garner listeners' opinions on the station's delivery; and • since that time, the station has now set up a Listener Panel having over time built up close working relationships with local organisations. <p>We acknowledged that the Sittingbourne Community Radio Ltd tried to fulfil its Key Commitments through alternative arrangements, but it failed to tell Ofcom about these changes.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>Speysound Radio Ltd (Speysound Radio, Badenoch & Strathsprey)</p> | <p>Speysound Radio Ltd reported that it had failed to broadcast the required minimum of 45 live hours per week.</p> <p>It stated that it was currently only broadcasting 40 hours per week of live output, but this would be increasing to 55 hours per week.</p> <p>Breach of Licence Condition 2(4)</p> |

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| <p>Sunny Govan Community Media Group (Sunny Govan Radio)</p> | <p>Sunny Govan Community Media Group reported it had delivered an average of 72 hours per week of live programming during 2013, rather than the required 84. It also had not been subject to the monitoring and evaluation mechanisms of the 'Investors In People' process.</p> <p>It explained that:</p> <ul style="list-style-type: none"> • it had experienced significant difficulties in 2013, including the relocation of its transmitter site; and • it would have been a financial burden to renew its status with 'Investors In People'. However, it felt it could continue to work within the parameters required as part of its own quality assurance. <p>We acknowledged that Sunny Govan experienced significant difficulties during 2013. While it had alerted Ofcom to the issues concerning its transmitter site, it had not told Ofcom that it was unable to meet its Key Commitment on live programming over an extended period. We acknowledged that Sunny Govan tried to fulfil its Key Commitment on the 'Investors In People' process through alternative arrangements, but it failed to tell Ofcom about these changes.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>Tulip Radio Limited (Tulip Radio, Spalding)</p> | <p>Tulip Radio Ltd reported that it had failed to provide one hour per week of programming for migrant communities.</p> <p>It stated that it had not been able to attract volunteers from the migrant communities to provide such programming. The station said it was now looking to secure student volunteers from the migrant community.</p> <p>We acknowledged that Tulip Radio Ltd experienced difficulties in finding volunteers to produce this programming, but it failed to notify Ofcom of this at the time.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>Uckfield Community Radio Ltd (Uckfield FM) (see also below)</p> | <p>Uckfield Community Radio Ltd reported that: it had failed to deliver discussion and live quiz programmes; and it had not offered training to around 12 new members annually.</p> <p>It stated that:</p> <ul style="list-style-type: none"> • discussion programmes have been incorporated into daily programming output as interviews; • live quiz programmes were not broadcast due to sound quality and content considerations; and • its training programme relied heavily on one member whose availability became more limited. <p>Breach of Licence Condition 2(4)</p> |
| <p>Ujima Radio CIC</p> | <p>Ujima Radio CIC reported that, while it had broadcast in Polish,</p> |

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| <p>(Ujima Radio, St Pauls & Easton, Bristol)</p> | <p>Somali and Urdu and the majority of its output was in English, it did not broadcast any French or Portuguese programming during 2013.</p> <p>It stated that French and Portuguese programming had been broadcast by the station in the past. The Licensee said that it intended to submit a Key Commitment change request to remove this particular obligation.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>Verulam Community Radio Ltd (Radio Verulam, St Albans)</p> | <p>Verulam Community Radio Ltd reported that it had not met the 25% speech requirement during daytime output, or the requirement to broadcast content in Asian languages such as Bengali, Urdu, Hindi or Punjab.</p> <p>It said that:</p> <ul style="list-style-type: none"> • it had lost some volunteers during 2013 which had led to it not meeting the 25% speech quota; and • it had not been able to attract any volunteers fluent in the required Asian languages. <p>Ofcom acknowledges that volunteers can often fluctuate in number, which can impact upon on the station’s programming. In situations such as this, the Licensee should have informed Ofcom of the situation and/or considered making a Key Commitments change request.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>The Vibe Watford Ltd (Vibe 107.6, Watford)</p> | <p>The Vibe Watford Ltd reported non- or under-delivery of a number of Key Commitments relating to the availability of training, the operation of its Advisory Panel and a requirement that volunteers and staff over the age of 18 will be required to pass a CRB check.</p> <p>It stated that:</p> <ul style="list-style-type: none"> • The requirement to offer training placements and sessions for local organisations was partially met; • young people are represented on the station’s Advisory Panel, but through relevant organisations rather than directly; • availability of stakeholders has made the required quarterly meetings of the Advisory Panel an unrealistic objective; and • currently 50% of the volunteers have passed a Disclosure and Barring Service check (previously known as a CRB check), which it considered to be adequate given that all volunteers under the age of 18 either work with their parents present, or as part of formal activities overseen by appropriate youth organisations. <p>We noted that The Vibe Watford Ltd submitted requests to change its Key Commitments at the end of 2013 and in May</p> |

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| | <p>2014. On both occasions, Ofcom considered the proposed changes to be substantial and therefore requiring public consultation. To date, the Licensee has not taken the most recent (May 2014) request forward, or submitted a revised change request to Ofcom.</p> <p>Breach of Licence Condition 2(4)</p> |
| <p>Voice of Africa Radio (Voice of Africa, Newham, London)</p> | <p>Voice of Africa Radio reported that, while it continued to work with locally-based educational institutions, it had not delivered accredited training courses for a minimum of 24 people, and did not publish an annual plan or have a published complaints procedure.</p> <p>It stated that:</p> <ul style="list-style-type: none"> • it did not meet its accredited training target because there were not enough students from the institutions concerned who had expressed an interest in the courses; and • volunteers can voice their concerns or complaints at the station’s regular general meetings. If required, complaints can then be escalated to the station’s CEO. <p>Breach of Licence Condition 2(4)</p> |
| <p>West Hull Community Radio Limited (West Hull Community Radio)</p> | <p>West Hull Community Radio Limited reported that it had failed to meet the required average speech level of 40%. It had also not provided a forum or a message board on its website, or conducted monthly surveys to obtain feedback from its listeners.</p> <p>It stated that:</p> <ul style="list-style-type: none"> • due to a change in management and many volunteers leaving the station during 2013, the station’s speech output suffered; • its website experienced many technical issues in 2013, and the change in management meant that access became a problem, and the website became unusable; and • its “Volunteer Army” initiative to conduct regular monthly surveys was put on hold due to reduced volunteer numbers. <p>Breach of Licence Condition 2(4)</p> |

Following investigations arising from their 2013 Annual Reports, Ofcom found the licensees below to have breached their licence conditions for failure to comply during 2013 with the financial restrictions contained in their licences:

| Licensee (Service name) | Summary of Decision on non-compliance with financial restrictions |
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| Awaz FM Ltd (Awaz FM, Glasgow) (see also above) | <p>Awaz FM Ltd reported that, in 2013, 58% of its income came from on-air advertising and sponsorship. Under the terms of its licence, the Licensee is only permitted to obtain 50% of its income from these sources.</p> <p>It stated that it failed to secure two grant funding applications (one was rejected, the other delayed). These had been budgeted for in advance, and therefore led to the station breaching the 50% limit on income from advertising and sponsorship.</p> <p>Breach of Licence Conditions 6(5) and 6(6)</p> |
| Uckfield Community Radio Ltd (Uckfield FM) (see also above) | <p>Uckfield Community Radio Ltd reported that, in 2013, 54% of its income came from on-air advertising and sponsorship. Under the terms of its licence, the Licensee is only permitted to obtain 50% of its income from these sources.</p> <p>It stated that, during 2013, it failed to secure grant funding at the level expected. Had this been successful, the proportion of the station's income accounted for by advertising and sponsorship revenue would have fallen sharply.</p> <p>Breach of Licence Conditions 6(5) and 6(6)</p> |

Following investigations arising from their 2013 Annual Reports, Ofcom found that the licensees below did not breach their licence conditions for compliance with their Key Commitments:

| Licensee | Station name |
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| Angel Radio Limited | Angel Radio Havant |
| Community Broadcast Initiative Tyneside Ltd | NE1 FM |
| Coventry & Warwickshire Media Community Ltd | Radio Plus |
| Crescent Community Radio Ltd | Crescent Radio |
| Eclectic Productions UK | Reprezent 107.3 FM |
| Fantasy Radio Ltd | Fantasy Radio |
| In2beats | In2beats FM |
| Leisure FM Ltd | Leisure FM |
| Mearns Community Radio Ltd | Mearns FM |
| Meridian FM Radio | Meridian FM |
| Radio Winchcombe Limited | Radio Winchcombe |
| Shine FM | Shine FM |
| Soundart Radio Ltd | Soundart Radio |
| Wirral Christian Media Ltd | Flame CCR |
| Wythenshawe Community Media | Wythenshawe FM |

Note for Licensees

Community radio broadcasters should see the note on p46 of this Bulletin about Ofcom's plans to re-consider its approach to Key Commitments.

In Breach

Providing a service in accordance with ‘Key Commitments’

Unity FM (Birmingham), 27 to 29 November 2014 and 15 to 17 April 2015

Introduction

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

Like other community radio stations, BCL is required to deliver the ‘Key Commitments’ which form part of its licence.¹ These set out how the station will serve its target community and include a description of the programme service; social gain (community benefit) objectives such as training provision; arrangements for access for members of the target community; opportunities to participate in the operation and management of the service; and accountability to the community.

Ofcom received a complaint that Unity FM’s output did not contain any of the following content, as required by its Key Commitments: news and current affairs; local and community news; features on various topics, such as health, education, social, spiritual and cultural matters; debates and discussions; interviews and panel discussions; stories and plays; and, quizzes.

We requested recordings of three days of Unity FM’s output, covering Thursday 27, Friday 28 and Saturday 29 November 2014. Based on the audio provided, we were broadly satisfied that the content required by the Key Commitments was being delivered, with the exception of local and community news. One of BCL’s Key Commitments requires that:

- “Speech output will typically include...local and community news...”.

Ofcom considered that this issue warranted investigation under Conditions 2(1) and 2(4) in Part 2 of the Schedule to BCL’s licence. These state, respectively:

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

“The Licensee shall ensure that the Licensed Service accords with the proposals set out in the Annex so as to maintain the character of the Licensed Service throughout the licence period.” (Section 106(1) of the Broadcasting Act 1990).

We therefore wrote to BCL to request its comments on how it was complying with these conditions, with reference to the specific Key Commitment set out above.

Response

The Licensee stated that it did feature local news items and community interest stories regularly in its programming. However, since the station broadcasts to the Muslim community, it focuses on news stories that are relevant to its target audience,

¹ The Key Commitments are contained in an annex to BCL’s licence. They can be viewed in full at: <http://www.ofcom.org.uk/static/radiolicensing/Community/commitments/cr000039.pdf>

and it explained that local news which is relevant to the Muslim community does not necessarily occur on a daily basis.

Further, the Licensee explained that due to staffing problems during Ofcom's monitoring period, its programming was disrupted and as such was not a true reflection of Unity FM's regular output. It argued that it would be difficult for Ofcom to fairly gauge its delivery of this Key Commitment over this time period.

In light of these representations submitted by BCL, we decided to give the Licensee a further opportunity to provide us with examples of its output that might be more representative of its regular programming. We therefore asked BCL to supply audio output for Wednesday 15, Thursday 16 and Friday 17 April 2015. We asked the Licensee to signpost any examples of local and community news within the audio.

The Licensee sent us the requested audio but was unable to indicate any examples of local or community news. It said that "since the station manager has not been able to 'push' the local news there may not be any local news stories over this time period".

BCL maintained its position that "if a broader 'snapshot' [of the station's output] were taken...you would find evidence to support the fact that we have indeed met our key commitment sufficiently." However, the Licensee accepted that it needed to provide "more clearly identifiable local news" and reported that, since Ofcom launched its investigation into this matter, it intended to ensure that a round-up of news and items of local community interest would be broadcast at least once each day.

Decision

Ofcom has a number of duties in relation to radio broadcasting, including securing a diverse range of local radio services which are calculated to appeal to a variety of tastes and interests, along with the optimal use of the radio spectrum. These matters are reflected in the licence condition requiring the provision of the specified licensed service. Provision by a licensee of its licensed service on the frequency assigned to it is the fundamental purpose for which a community radio licence is granted.

Based on the evidence of two separate monitoring periods, it was clear that BCL had not been delivering the local and community news required by the Key Commitments set out in its licence. Ofcom considers that local and community news are important aspects of community radio, ensuring that the station's target community (in this case, the local Muslim community) is kept informed of local issues and forming a key part of its locally-relevant content.

We welcome the steps now being taken by the Licensee to ensure that "updates of news and items of local community interest" will be broadcast on a daily basis on Unity FM.

However, should similar issues arise in future, we may consider taking further regulatory action.

Breaches of Licence Conditions 2(1) and 2(4) in Part 2 of the Schedule to the community radio licence held by Birmingham Cedars Limited (licence number CR000039BA).

In Breach

Providing a service in accordance with ‘Key Commitments’

Radio West Suffolk, 12 to 14 February 2015

Introduction

Radio West Suffolk is a community radio station licensed to provide a service for people in Bury St Edmunds. The licence is held by Radio West Suffolk Limited (“Radio West Suffolk” or “the Licensee”).

Like other community radio stations, Radio West Suffolk is required to deliver the ‘Key Commitments’ which form part of its licence.⁵⁵ These set out how the station will serve its target community and include a description of the programme service; social gain (community benefit) objectives such as training provision; arrangements for access for members of the target community; opportunities to participate in the operation and management of the service; and accountability to the community.

Ofcom received a complaint alleging that Radio West Suffolk’s output featured “few live shows”, instead featuring “non-stop automated music most of the time.”

We requested recordings of three days of Radio West Suffolk’s output, covering Thursday 12 February, Friday 13 February and Saturday 14 February 2015. After monitoring this output we identified some potential issues with Radio West Suffolk’s delivery of the following Key Commitments:

- “Output typically comprises 80% music and 20% speech (‘speech’ excludes advertising, programme/promotional trails and sponsor credits).”
- “Speech output comprises local news...”.

In particular, we noted that the majority of programmes we heard during the monitoring days contained very little speech content. For example, on Friday 13 February, aside from hourly national and international news bulletins from Sky News, there was no speech content at all between 12:00 and 16:00.

We also noted that there was no local news provided during the three days we monitored.

Ofcom considered that these issues warranted investigation under Conditions 2(1) and 2(4) in Part 2 of the Schedule to Radio West Suffolk’s licence. These state, respectively:

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

⁵⁵ The Key Commitments are contained in an annex to Radio West Suffolk’s licence. They can be viewed in full at:

<http://www.ofcom.org.uk/static/radiolicensing/Community/commitments/cr000189.pdf>

“The Licensee shall ensure that the Licensed Service accords with the proposals set out in the Annex so as to maintain the character of the Licensed Service throughout the licence period.” (Section 106(1) of the Broadcasting Act 1990).

We therefore requested Radio West Suffolk’s comments on how it was complying with these conditions, with reference to the specific Key Commitments set out above.

Response

The Licensee clarified that it had previously believed that the requirement for 20% speech was only applicable to the hours of output that were broadcast live. Following clarification on this point from Ofcom, it accepted that it had “clearly fallen short” of the required speech content.

With regard to the delivery of local news, the Licensee stated that it had endeavoured to “communicate local news throughout programming” when it was available, however it said that this was not always possible.

Radio West Suffolk highlighted that, since Ofcom had begun considering this case, the station had introduced a local news bulletin during its drivetime programming and intended to roll this out to other daytime shows, where possible, from June. It said it would also be broadcasting a new speech-based programme from the summer to increase its speech output.

Decision

Ofcom has a number of duties in relation to radio broadcasting, including securing a diverse range of local radio services which are calculated to appeal to a variety of tastes and interests, along with the optimal use of the radio spectrum. These matters are reflected in the licence condition requiring the provision of the specified licensed service. Provision by a licensee of its licensed service on the frequency assigned to it is the fundamental purpose for which a community radio licence is granted.

Ofcom has traditionally regulated speech output on all stations on the basis of an average percentage, rather than requiring licensees to meet the percentage speech requirement in every single clock hour. This is because we recognise that licensees may legitimately wish to over-deliver on speech content during some hours, but place a greater emphasis upon music during other hours.

However, our view was that, even when calculated on this averaged-out basis, Radio West Suffolk was not delivering the 20% required level of speech content. We noted that the Licensee had believed that its speech quota applied to live programming only, rather than to the station’s output as a whole.

We also noted that Radio West Suffolk was not able to provide any examples of the “local news” required by its Key Commitments, and stated that sometimes it was not possible for the station to provide this content. Ofcom considers that local news is an important aspect of Community Radio, ensuring that the station’s target community is kept informed of local issues affecting residents and forming a key part of its locally-relevant content.

We welcomed the steps the Licensee described to increase its speech output, and its efforts to introduce more local news content into its programming. However, it was clear that, during our monitoring period, Radio West Suffolk had failed to meet two significant Key Commitments relating to its speech output, therefore breaching the

Licence Conditions 2(1) and 2(4), as set out above. We are putting the Licensee on notice that, should similar issues arise in future, we may consider taking further regulatory action.

Breaches of Licence Conditions 2(1) and 2(4) in Part 2 of the Schedule to the community radio licence held by Radio West Suffolk Limited (licence number CR000189BA).

Fairness and Privacy cases

Not Upheld

Complaint by Mr Christian Kitoko

Can't Pay? We'll Take it Away: Eviction Special, Channel 5, 19 November 2014

Summary

Ofcom has not upheld this complaint of unfair or unjust treatment in the programme as broadcast and of unwarranted infringement of privacy in connection with the obtaining of material included in the programme, and in the programme as broadcast made by Mr Christian Kitoko.

The programme included footage of Mr Kitoko being evicted from a property, along with other tenants, by two High Court Enforcement Officers (“HCEOs”) as they enforced a High Court Writ for the repossession of the property. Mr Kitoko was not named in the programme although his face was shown unobscured. His voice was audible as he answered questions from the HCEOs and the programme makers.

In the particular circumstances of this case, Ofcom found that:

- The broadcaster had taken reasonable care to satisfy itself that material facts were not presented, disregarded or omitted in a way that portrayed Mr Kitoko unjustly or unfairly in the programme as broadcast and, in particular, that viewers were unlikely to have inferred from the programme that he was “insolvent” and therefore “untrustworthy”.
- While Mr Kitoko had a limited legitimate expectation of privacy with regard to the filming of him and the subsequent broadcast of the footage, Ofcom considered that, on balance, the broadcaster’s right to freedom of expression and the public interest in filming and broadcasting the footage of Mr Kitoko outweighed his limited legitimate expectation of privacy. Therefore, Mr Kitoko’s privacy was not unwarrantably infringed in connection with the obtaining of the footage of him and its subsequent inclusion in the programme as broadcast.

Introduction and programme summary

On 19 November 2014, Channel 5 broadcast an episode of *Can't Pay, We'll Take it Away*, a series which followed HCEOs as they attempted to resolve debt disputes through negotiated settlements and asset seizures. The programme was introduced:

“What happens when you get into debt? And you can't or won't pay it back? In this series we meet the people who are losing their homes...Their cars...And their possessions...We meet the people who are owed money...And the people whose job it is to collect it...Because when you can't pay, they'll take it away”.

This particular episode, titled *Eviction Special*, included tenants who were being evicted for rent arrears or, as in the case of Mr Kitoko, the complainant, because they had not vacated the property after being given notice to end their tenancies by their landlord.

In the part of the programme in which Mr Kitoko was featured, two HCEOs were shown visiting a house in Thornton Heath, south London to evict the tenants. The programme's narrator explained:

"A number of separate families live in the property, but the landlord wants to refurbish. He's been through the County Court and given them notice to end their tenancies".

The programme showed the first tenant coming home to the house. The narrator then explained:

"Some residents have already moved out, but two sets of tenants remain. Now the landlord has been to the High Court to have them evicted, today".

The programme showed the HCEOs, explaining to the tenant and his family why they needed to move out of the property that day and trying to help them to make alternative accommodation arrangements.

The programme then showed another of the property's tenants (the complainant, Mr Kitoko) arriving at the property. The narrator explained:

"The second remaining tenant arrives to clear out his room".

Mr Kitoko's face could be seen clearly as one of the HCEOs showed him into the house. Mr Kitoko was then shown being given a repossession order.

Later, footage of Mr Kitoko's car parked on the street was shown in the programme. As this footage was shown, one of the HCEOs was heard saying: *"He [Mr Kitoko] is okay, he drives a BMW"*. The other HCEO replied: *"Yes, he's fine"*. Mr Kitoko was shown getting out of the BMW and walking back towards the house. The narrator said: *"The tenant with the BMW has somewhere else to go"*.

The programme then showed footage of Mr Kitoko's upper body, his face not shown. Unlike the other footage of Mr Kitoko shown in the programme which was filmed by the programme makers, this footage was filmed by a body camera worn on the chest of the HCEO. Mr Kitoko could be heard talking to one of the HCEOs and the following exchange took place:

Mr Kitoko: *"Pay day is today, I even called a new landlord today so I can move my stuff tonight."*

HCEO: *Where are you from originally?*

Mr Kitoko: *Congo, but I was born in France. I am French.*

HCEO: *Oh right, so you are actually entitled to be here, and all the things that go with it.*

Mr Kitoko: *I work. I am the manager of a company".*

The narrator then said: *"The family are not so fortunate, they have no home, and nowhere to stay tonight"*.

Later in the programme, Mr Kitoko was shown sat at the wheel of his car, with the door open, talking to the programme makers about the family being evicted from the property. Mr Kitoko's face was not obscured. He said: "*That's kind of sad but though because it seems like right now they don't have nowhere to go because it seems to be and I can see the bailiffs just changed all the lock[s], but they're still stuck in there. Yeah hopefully they'll find a solution for them. Fingers crossed*". Mr Kitoko was then shown driving away in his car.

No further footage of Mr Kitoko was included in the programme. Mr Kitoko was not named in the programme.

Summary of the complaint and the broadcaster's response

Unjust or unfair treatment

The complaint

- a) Mr Kitoko complained that he was treated unjustly or unfairly in the programme as broadcast because he was portrayed as being "insolvent" and therefore "untrustworthy".

By way of background, Mr Kitoko explained that he worked for a finance company and provided Ofcom with a letter from his employer telling him that the company had chosen to "put on hold" its consideration of Mr Kitoko for a managerial position because "as a finance firm, we don't expect our management team to be seen on TV for an insolvency issue".

Channel 5's response

In its response, Channel 5 said that Mr Kitoko was not at any point in the programme described or portrayed as insolvent. The broadcaster pointed out that the programme stated that Mr Kitoko was employed, and had just been paid, and it was made clear in the programme's commentary that the landlord wanted to refurbish the property. The broadcaster added that there was no inference that Mr Kitoko had been evicted from the property due to his outstanding debts.

Channel 5 explained that following the broadcast of the programme, on 21 November 2014, Mr Kitoko had spoken to the programme's producer. The broadcaster said that Mr Kitoko had agreed that he had "come across well in the programme" and that he had been shown to be empathetic to his neighbour. However, the broadcaster also acknowledged that Mr Kitoko had said that he was "not happy" and had been "embarrassed" by the broadcast. Mr Kitoko had asked the producer to speak with his work manager about the programme, which she did. Channel 5 said that in the course of this conversation, Mr Kitoko's manager had confirmed that Mr Kitoko had been upset, but also said that his job was not under any threat. Channel 5 also said that it had contacted Mr Kitoko's employer and asked to speak with the person who it understood had written a letter included with Mr Kitoko's supporting documents. Channel 5 said that it was told the person was not listed as an employee of that company with a company email account.

The broadcaster said that Mr Kitoko's situation contrasted that of the other tenants facing eviction and he was portrayed as someone sympathetic to his neighbours' plight.

Channel 5 said that in these circumstances, there had been no unjust or unfair treatment of Mr Kitoko and that the programme had accurately conveyed the facts surrounding his eviction.

Unwarranted infringement of privacy

The complaint

- b) Mr Kitoko complained that his privacy was unwarrantably infringed in connection with the obtaining of material included in the programme because he was unaware that he was being filmed with a “hidden” camera (i.e. the body camera worn by the HCEO) while being asked questions relating to his nationality and immigration status.
- c) Mr Kitoko also complained that his privacy was unwarrantably infringed in the broadcast of the programme because:
- Footage of him filmed with a “hidden” camera while being asked questions relating to his nationality and immigration status was shown in the programme; and,
 - His face was shown unobscured in the programme despite the programme makers agreeing with his request for his face to be obscured in the broadcast.

Mr Kitoko explained that he had been willing to speak to the camera (i.e. the programme makers’ camera), but only if his face was not shown because of his occupation in the financial sector. As a result of being identifiable in the programme, Mr Kitoko said that not only had his employment been jeopardised, he had also received a number of emails from people mocking him.

Channel 5’s response

Before addressing the specific elements of Mr Kitoko’s complaint, Channel 5 said that it was not the law in the UK that people have a right not to be on television nor was it the law that footage of people could not be filmed and then broadcast without their consent.

The broadcaster said that what mattered in every case was whether or not an individual’s right to privacy had been infringed. It said that this required the balancing of the individual’s right to privacy (Article 8 of the European Convention of Human Rights (“ECHR”)) against the right to freely broadcast matters of public interest (Article 10 of the ECHR).

With regards to the specific circumstances of this case, Channel 5 explained that it was important to note that Mr Kitoko was not a bystander or a witness to the actions of the HCEOs. The broadcaster said that Mr Kitoko was the defendant in High Court proceedings and that an order was made against him requiring him, amongst other requirements, to give up possession of the property he rented. The broadcaster said that the execution of a Writ issued by the High Court was a public matter, not a private one. It said that in this particular case, the execution of the Writ was not a matter connected with Mr Kitoko’s private life, protected by Article 8 of the HCHR, but a public matter that involved Mr Kitoko. It acknowledged that Mr Kitoko did not consent to being filmed, however, given that the HCEOs were engaged in official court business, Channel 5 said it was not necessary to obtain Mr Kitoko’s consent in relation to the filming.

The broadcaster said that in any case, any right to privacy claimed by Mr Kitoko would be outweighed by Channel 5's right to communicate, and the public's right to receive information, concerning matters of public interest, including the activities of HCEOs carrying out their duties.

In response specifically to head b) of Mr Kitoko's complaint, Channel 5 said that, as a matter of usual policy, HCEOs wear body cameras which record their interactions with members of the public while they are carrying out their official court duties. It explained that this was for their safety and in case of complaint or inquiry.

The broadcaster said that there was no breach of Mr Kitoko's privacy with regards to the HCEOs recording their activities by using these body cameras, which were not hidden.

Channel 5 said that, in any case, as argued above, there was a clear public interest in the filming of the activities of the HCEOs in the course of executing their official duties. The broadcaster said that the public interest outweighed any right to privacy Mr Kitoko may have in relation to such activities.

In response specifically to head c) of Mr Kitoko's complaint, Channel 5 stated that the discussion between the HCEOs and Mr Kitoko was amicable, and there was no interrogation of him. It also said that his situation was very different from the other tenants being evicted at the same time. The broadcaster said that the inclusion of the discussion of Mr Kitoko's nationality and immigration status was relevant because it contrasted with the situation of the other tenants. It pointed out that he was employed, was a manager for a company, drove a BMW, had been paid that day and had secured new premises. His situation was vastly different from the other tenants who were homeless, lacking recourse to public funds, and in a desperate situation.

It was Channel 5's view that the programme had made clear that:

"A number of separate families live in the property but the landlord wants to refurbish. He's been through the County Court and given them notice to end their tenancies...Some residents have already moved out, but two sets of tenants remain. Now the landlord has been to the High Court to have them evicted, today".

Channel 5 explained that Mr Kitoko was one of two sets of remaining tenants. It said that the County Court had ordered Mr Kitoko to relinquish possession of his room at the premises. When Mr Kitoko failed to comply with that Court Order, the matter was referred to the High Court. Given the High Court Writ, Mr Kitoko had no right to remain in possession of the property.

Channel 5 said that while Mr Kitoko had indicated to the programme makers at the time of filming that he did not want his unobscured face to appear in the programme, no undertaking or agreement was given to him that his face would be obscured in any broadcast. The broadcaster noted that, rather, Mr Kitoko had been told, more than once, that the decision about whether he would appear in the programme, either with his identity obscured or otherwise, would not be made by those filming the programme, but by Channel 5.

Channel 5 added that the broadcast did not contain any information private to Mr Kitoko. It said that no privacy right was infringed by the broadcast. The broadcaster said that even if it were otherwise, any right to privacy Mr Kitoko might have claimed would have been outweighed by Channel 5's right to communicate, and the public's right to receive, information concerning matters of public interest, including the activities of HCEOs carrying out official court duties.

Channel 5 said that notwithstanding the above, in light of Mr Kitoko's complaint to Ofcom, it had taken steps since the programme was broadcast, to ensure that any future broadcast of the programme would not feature unobscured images of Mr Kitoko.

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. Ofcom has summarised the main points made by Mr Kitoko in his representations on the Preliminary View that were directly relevant to the complaint responded to by the broadcaster and considered by Ofcom.

In summary, Mr Kitoko said that the programme was about people "who can't or won't pay" their debts, but that he was not himself in debt nor had been in arrears or insolvent. He provided Ofcom with documents supporting that he was a social tenant legally living in the property until the landlord decided to evict the tenants and that he had legitimately paid his rent to his landlord through different rent collecting agencies. In conclusion, Mr Kitoko maintained that the programme presented an inaccurate and unfair portrayal of him and that while he had agreed to talk to the camera, it was on the condition that his face would not be shown.

Channel 5 chose not to make any representations on the Preliminary View.

Decision

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

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

In reaching this decision, Ofcom carefully considered all the relevant material 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. We also examined the unedited footage of Mr Kitoko.

Unjust or unfair treatment

- a) Mr Kitoko complained that he was treated unjustly or unfairly in the programme as broadcast because he was portrayed as being "insolvent" and therefore "untrustworthy".

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

In considering this head of the complaint, Ofcom also had particular regard to Practice 7.9 of the Code. This states that before broadcasting a factual programme, broadcasters should take reasonable care to satisfy themselves that material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation. Ofcom therefore considered whether the portrayal of Mr Kitoko was consistent with this.

In doing so, we examined the programme in order to take account of Mr Kitoko's contribution to it and the context in which this was shown. The programme followed HCEOs as they attempted to resolve debt disputes through negotiated settlements and asset recovery. It showed individuals being evicted from their homes and engaging in financial discussions with the HCEOs (as detailed above in the "Introduction and programme summary" section). One of the tenants shown being evicted was the complainant, Mr Kitoko. We noted that the title of the programme was *Can't Pay? We'll Take it Away: Eviction Special* and that the programme was introduced:

"What happens when you get into debt? And you can't pay it back? In this series we meet the people who are losing their homes..."

We also noted that many of the contributors to the programme were shown to be suffering severe financial difficulties, and that this had ultimately led to them losing their home. We therefore considered that it was clear that the main premise of the programme was to show the consequences of getting into debt. However, with regards to Mr Kitoko's portrayal in the programme, we noted that the programme:

- did not state that he was in debt;
- did not state that he was being evicted because he had not paid his rent, but because *"the landlord wants to refurbish"*;
- made it clear that Mr Kitoko was employed as the *"manager of a company"* and that he was due to be paid that day; explained that Mr Kitoko had already found alternative accommodation and that he was in a good situation compared to some of the other tenants being evicted from the same building; and,
- showed him to own an expensive car. One of the HCEO's commented: *"He [Mr Kitoko] is okay, he drives a BMW"*.

Therefore, given the above factors, although Ofcom acknowledged that the wider context of the programme revolved largely around people in financial difficulties, we considered it unlikely that viewers would infer from the programme that Mr Kitoko was "insolvent" and therefore "untrustworthy". In these circumstances, we took the view that the broadcaster had taken reasonable care to ensure that the programme did not present, disregard or omit material facts in the programme in a way that was unfair to Mr Kitoko.

Ofcom noted the comments made by Mr Kitoko in his representations on the Preliminary View regarding his portrayal in the programme, but considered that it

had taken account of all the relevant factors concerning this issue in the Preliminary View. Therefore, we were not persuaded by Mr Kitoko's representations that our decision not to uphold should be changed.

Therefore, Ofcom's decision is that Mr Kitoko had not been treated unjustly or unfairly in the programme as broadcast.

Unwarranted infringement of privacy

- b) Ofcom then considered Mr Kitoko's complaint that his privacy was unwarrantably infringed in connection with the obtaining of material included in the programme as broadcast because he was unaware that he was being filmed with a "hidden" camera (i.e. the body camera worn by the HCEO) while being asked questions relating to his nationality and immigration status.

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

In considering this head of the complaint, Ofcom had regard to Practices 8.5 and 8.9 of the Code. Practice 8.5 states that any infringement in the making of a programme should be with the person's consent or otherwise be warranted. Practice 8.9 provides that the means of obtaining material must be proportionate in all the circumstances and in particular to the subject matter of the programme.

However, before assessing whether Mr Kitoko's privacy was unwarrantably infringed in connection with the obtaining of material included in the programme complained of, Ofcom first considered whether Mr Kitoko had been filmed surreptitiously by the camera worn by the HCEO for the purposes of Practice 8.13, which states that "surreptitious filming or recording should only be used where it is warranted. Normally, any infringement will only be warranted if: there is a *prima facie* evidence of a story in the public interest; there are reasonable grounds to suspect that further material evidence could be obtained; and, it is necessary to the credibility and authenticity of the programme".

The Code defines the meaning of "surreptitious filming and recording" as including "the use of long lenses or recording devices, as well as leaving an unattended camera or recording device on private property without the full and informed consent of the occupiers or their agent. It may also include recording telephone conversations without the knowledge of the other party, or deliberately continuing with a recording whether the other party thinks that it has come to an end".

It was Ofcom's understanding, from Channel 5's statement, that HCEOs routinely wore body cameras in order to record their interaction with members of the public while they are carrying out their official duties. This is for personal safety reasons and in case of a complaint or inquiry. Ofcom acknowledged that Mr Kitoko had complained that he had been unaware that he was being filmed by the HCEO with whom he had had a conversation with (as detailed in the "Introduction and

programme summary” above). We also noted from viewing the programme as broadcast and the unedited footage of Mr Kitoko’s contribution that the HCEO did not expressly inform Mr Kitoko of the fact that he was being filmed by a body camera. We also observed that the body cameras worn by the HCEOs, while small in size, were not concealed in any way, and were mounted prominently on the chest of their anti-stab vests. Ofcom therefore took the view that the cameras were not being worn in a way as to deceive Mr Kitoko to their presence or to capture the interaction between him and the HCEOs as they carried out their duties in a surreptitious manner.

Given the above, we therefore did not consider the footage filmed of Mr Kitoko by the body camera to have been obtained surreptitiously for the purposes of Practice 8.13 and, as such, we did not find it necessary to go on to consider whether such filming was warranted in the circumstances.

Ofcom then considered whether or not Mr Kitoko had a legitimate expectation of privacy with regard to the circumstances in which the footage of him being asked questions relating to his nationality and immigration status was filmed by the HCEO. In doing so, we had regard to the Code which states that “legitimate expectations of privacy will vary according to the place and nature of the information, activity or condition in question”.

The test applied by Ofcom as to whether a legitimate expectation of privacy arises is objective: it is fact sensitive and must always be judged in light of the circumstances in which the individual concerned finds him or herself. Ofcom will therefore continue to approach each case on its facts.

Ofcom noted the following exchange filmed between Mr Kitoko and the HCEO:

Mr Kitoko: *“Pay day is today, I even called a new landlord today so I can move my stuff tonight.*

HCEO: *Where are you from originally?*

Mr Kitoko: *Congo, but I was born in France. I am French.*

HCEO: *Alright, so you are actually entitled to be here, and all the things that go with it.*

Mr Kitoko: *I work. I am the manager of a company”.*

Mr Kitoko was filmed discussing his nationality, immigration status, and his work and we considered that this type of information could reasonably be considered as personal and sensitive in nature. We noted too that the conversation had occurred in the midst of Mr Kitoko being evicted, a potentially distressing situation. Given these factors, Ofcom took the view that Mr Kitoko had a legitimate expectation of privacy with regard to the filming of this footage.

However, we also considered that a number of specific factors limited Mr Kitoko’s expectation of privacy in the particular circumstances of this case. In particular, the conversation between Mr Kitoko and the HCEO took place in a public place, namely a public street. However, we recognised that there may be circumstances where an individual may have a legitimate expectation of privacy in relation to filming in a public place, when some activities and conditions may be of such a private nature that filming or recording could involve an infringement of privacy.

Whether an individual has an expectation of privacy will depend on the circumstances of the case. We also noted that Mr Kitoko had chosen to divulge information about his nationality and immigration status willingly to the HCEO, a person who was not known to Mr Kitoko previously. We understood that at the time of being filmed, Mr Kitoko was not being interviewed formally by the HCEO in carrying out his official duties, but had freely engaged in an informal conversation with him. Mr Kitoko was therefore not under an obligation to disclose this information. As such, we considered that Mr Kitoko could not expect the same level of confidentiality as he would if he had been being formally interviewed by the HCEO or speaking to someone he knew and trusted or had a relationship of confidentiality with, for instance, a solicitor or a doctor.

Having come to the view that Mr Kitoko had a legitimate expectation of privacy, albeit limited, in relation to the filming of this footage of him by the HCEO, and given that it was obtained without his consent, we considered that his privacy was infringed in the circumstances. Therefore, Ofcom went on to consider whether the infringement of Mr Kitoko's privacy was warranted in the circumstances.

The Code states that "warranted" has a particular meaning which is that where broadcasters wish to justify an infringement of privacy as warranted, they should be able to demonstrate why, in the particular circumstances of the case, it is warranted. If the reason is that it is in the public interest, then the broadcaster should be able to demonstrate that the public interest outweighs the right to privacy. Examples of public interest could include revealing or detecting crime, protecting public health and safety, exposing misleading claims by individuals or organisations or disclosing incompetence that affects the public.

In this case, Ofcom considered that there was a genuine public interest in the making of observational programmes of this nature and in the filming of the HCEOs as they executed their official duties with the aim of conveying to viewers an understanding of the work they do in recovering outstanding debts, the often lengthy negotiating between the HCEOs and those they come into contact with, and the impact the repossession of goods to satisfy an outstanding debt can have on individuals. In our view, the filming of Mr Kitoko by the HCEO was important as it enabled the broadcaster to use an actual example to illustrate the type of interaction HCEOs routinely engage in with members of the public in carrying out their duties. On this basis, and notwithstanding the fact that Mr Kitoko did not consent to the original filming or the subsequent obtaining of the footage by Channel 5 with a view of its being broadcast, Ofcom concluded that any infringement of his legitimate, but limited, expectation of privacy in connection with the obtaining of this material was warranted and proportionate in the circumstances of this particular case.

Having taken all the above factors into account, Ofcom considered that, on balance, the broadcaster's right to freedom of expression and the public interest in obtaining the footage of Mr Kitoko filmed by the HCEO's body camera outweighed his limited expectation of privacy in the circumstances of this case. Therefore, we found that there was no unwarranted infringement of privacy in connection with the obtaining of footage of Mr Kitoko for inclusion in the programme.

- c) Ofcom next considered Mr Kitoko's complaint that his privacy was unwarrantably infringed in the programme as broadcast because:

- Footage of him filmed with a “hidden” camera while being asked questions relating to his nationality and immigration status was shown in the programme; and,
- His face was shown unobscured in the programme despite the programme makers agreeing with his request for his face to be obscured in the broadcast.

In considering whether or not Mr Kitoko’s privacy was unwarrantably infringed in the programme as broadcast, 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 Practice 8.4 which 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.

We also had regard to Practice 8.14 which states that material gained by surreptitious filming should only be broadcast where it is warranted. However, given our conclusion in head b) of the decision above, i.e. that the footage of Mr Kitoko taken by the HCEO’s body camera was not obtained surreptitiously, Ofcom was not required to consider further whether its broadcast in the programme was warranted for the purposes of Practice 8.14.

We then assessed whether Mr Kitoko had a legitimate expectation of privacy in the footage of him included in the programme as broadcast (i.e. the material filmed by both the programme makers’ camera and the HCEO’s body camera). As noted above, the test applied by Ofcom as to whether a legitimate expectation of privacy arises is objective and fact sensitive and must always be judged in light of the specific circumstances

In this case, Ofcom considered that Mr Kitoko had a legitimate expectation of privacy with regard to the footage included in the programme as broadcast. This was because Mr Kitoko was filmed being evicted, a situation Ofcom viewed as sensitive and private in nature, and that, notwithstanding the High Court Writ was one which could reasonably be considered as attracting an expectation of privacy. However, as outlined above, we considered that in Mr Kitoko’s case, his expectation of privacy was limited by a number of factors, for example, the fact that the footage was filmed in a public street, and that he willingly divulged the information pertaining to his nationality and immigration status to the HCEO in an informal conversation with him.

Having come to the view that Mr Kitoko had a legitimate expectation of privacy, albeit limited, in relation to the broadcast of the footage of him included in the programme, and given that it was included without his consent, we considered that his privacy was infringed in the circumstances. Therefore, Ofcom went on to consider whether the infringement of Mr Kitoko’s privacy was warranted in the circumstances.

As also already set out above, at head b), the individual’s right to privacy has to be balanced against the competing rights of the broadcaster’s to freedom of expression. We carefully balanced Mr Kitoko’s right to privacy in the broadcast of the footage of him included in the programme with the broadcaster’s right to freedom of expression and the audience’s right to receive the information broadcast without unnecessary interference.

As set out above, Mr Kitoko's expectation of privacy was limited. Ofcom also recognised that there is a genuine public interest in creating and broadcasting observational programmes of this nature; in this case, a series about the work of HCEOs (as discussed in detail at head b)). On this basis, therefore, and notwithstanding that Mr Kitoko did not give his consent, Ofcom concluded that the infringement of his limited legitimate expectation of privacy was warranted in the circumstances.

Given all the factors above therefore, on balance, we considered that, in the particular circumstances of this case, the broadcaster's right to freedom of expression and the public interest in broadcasting an observational programme about the work of HCEOs, outweighed Mr Kitoko's limited expectation of privacy in relation to the footage of him included in the programme. Therefore, Ofcom found that there was no unwarranted infringement of Mr Kitoko's privacy in the inclusion of the footage of him in the programme as broadcast.

Ofcom noted the comments made by Mr Kitoko in his representations on the Preliminary View, regarding speaking to the camera on condition he would not be shown in the programme. However we considered that this point had been addressed in the Preliminary View and we were not persuaded by Mr Kitoko's representations that our decision not to uphold should be changed.

Ofcom has not upheld Mr Kitoko's complaint of unjust or unfair treatment in the programme as broadcast and 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 The Liverpool Housing Trust

Benefits Britain: Life on the Dole, Channel 5, 26 November 2014

Summary

Ofcom has not upheld this complaint of unjust or unfair treatment in the programme as broadcast made by the Liverpool Housing Trust (“the LHT”).

The programme included the story of Ms Lorna Bowers, a social housing tenant, who was experiencing difficulty in paying the “bedroom tax”⁵⁶ and who owed rent arrears to the LHT, the housing association from which she rented her flat. The programme explained that Ms Bowers had wanted a move from her three bedroom flat to a one bedroom flat, but that the housing association had none available. While the housing association was not named in the programme, its logo and its initials “LHT” were visible on letters that was being handled by Ms Bowers.

Ofcom found that:

- The programme did not portray the LHT as being “uncaring and unsupportive” of Ms Bowers and that the comments made in it about Ms Bower’s circumstances were unlikely to have materially and adversely affected viewers’ perception of the LHT in a way that was unfair to it.
- The programme did not contain any allegations of wrongdoings or incompetence or any other significant allegations about the LHT and its dealings with Ms Bowers. Therefore, the broadcaster was not required to give the LHT an appropriate and timely opportunity to respond to the comments made in the programme.

Introduction and programme summary

On 26 November 2014, Channel 5 broadcast an edition of *Benefits Britain: Life on the Dole*, a six-part documentary series exploring the experiences of people in the UK who relied on benefits as their main source of income. This edition followed three social housing tenants in Liverpool and examined how the “bedroom tax” had affected their lives. In particular, it looked at what happened when the tenants were unable to pay the full rent on their properties due to the reduction in their housing benefit after the “bedroom tax” was introduced. The programme cut back and forth between footage of each of the three tenants.

The programme’s narrator introduced Ms Lorna Bowers, who was renting a three bedroom flat from the LHT, as a forty-five year old mum who was in the middle of a “*bedroom tax battle*”. The narrator said:

“Lorna’s been out of work for four years. She does get housing benefit but she hasn’t been paying the bedroom tax on two spare rooms. And she’s two and a half grand behind on her rent”.

⁵⁶ The under-occupancy penalty, or “bedroom tax”, is a provision of the Welfare Reform Act 2012, aimed at reducing the amount of housing benefit paid to claimants who are deemed to have too much living space in the property they rent.

Ms Bowers said that it was hard to cope with all the bills she had to pay and that there was no money left because: *“I’m paying so much to the housing”*.

The narrator then said that Ms Bowers believed that her biggest problem was paranormal activity in her home and she was shown talking about what she considered to be her paranormal experiences and how they had affected her. Footage was also shown of Ms Bowers calling the housing association (the LHT) apparently to discuss the alleged paranormal activity. While she was on the telephone, the narrator said:

“To escape the bedroom tax, she wants a cheaper one bed flat. But they’re in short supply, and the housing association doesn’t appear to believe in ghosts”.

Following this telephone call, Ms Bowers said:

“Now as it stands they’re saying paranormal activity doesn’t hold any grades for moving up the ladder higher, which is unfair”.

Later in the programme, the narrator said:

“But someone who does want to move out of her housing association home is mum of two Lorna Bowers. And it’s not just because she’s convinced it’s haunted. Her two spare rooms mean double bedroom tax, and she’s far from happy”.

Ms Bowers then said:

“I shouldn’t be having to pay bedroom tax anyway, it’s disgusting. I’m stuck there now paying bedroom tax on two rooms, when I’m crying out for a one bedroom flat”.

Ms Bowers and her friend were then filmed at a cash machine while Ms Bowers was withdrawing her fortnightly benefit allowance of £140. Ms Bowers said that once the electricity and gas bills were paid, she had nothing left to live on.

Later in the programme, Ms Bowers spoke again about the paranormal activity she said she had experienced in her home. In particular, she said:

“My sister came to borrow a dress off me, and she was trying the dress on I just...took a picture and then we noticed there was a demon on the bed.”

A photograph of the bed with a grey shape on top of the counterpane was shown in the programme at this point.

The narrator then added:

“Lorna also says she found this mystery video on a long lost mobile”.

The programme then included footage of Ms Bowers showing the video to one of the programme makers and saying:

“You can see where me legs are getting all marked and indentations...my legs just happened to go in the air and that’s how I can recall waking up...”.

Immediately after Ms Bower’s description of this alleged activity, the narrator said:

“And there is another reason Lorna wants out, all too real bedroom tax debts. Maybe that’s why the housing association isn’t listening”.

Ms Bowers was then shown saying:

“Even if it [the paranormal activity] would have been in me imagination, which it weren’t, we’ve got all the proofs and everything else it wasn’t in me imagination, why didn’t anyone from the housing come out and ask me was I alright? They already knew, I complained it months ago and I’d be out of here”.

The narrator then said: *“But for now she is stuck here. So Lorna has a night time routine to keep her safe”.* Ms Bowers was then shown putting salt around her bed. Ms Bowers said she had been told by a psychic to do so and she followed this advice every night, but that this was *“no way for any human being to live”.* A short while later, the narrator said that Ms Bowers felt that further paranormal activity had taken place in her house, and that the salt circles around her bed had not made her feel safe, *“so yet again, Lorna is going to sleep in a neighbour’s campervan”.* Ms Bowers was then shown walking towards and getting into a small motorhome. She said:

“There is sometimes when I really do get scared and that, I can’t cope in there and no more so there’s nothing worse than being on your own home and feeling [pause] petrified [pause] I come here. It’s not a very cosy place to sleep of a night, especially when you’re paying [pause] money that I should be in a double bed, but [pause] it’s the way things are [pause] so [pause] till it gets sorted.”

The programme also included footage of Ms Bowers going to a tattoo parlour with a friend to get a tattoo. The narrator said that the tattoo would cost £50, but that Ms Bowers’ friend, who was also on benefits, would pay for her.

Footage was then shown of a team of people in Ms Bowers’ house at night conducting what they claimed was an exorcism to remove *“Lorna’s ghost”.* The narrator said: *“Lorna may well want to move to a one bed benefit’s flat to escape the bedroom tax, but she’s got huge rent arrears to sort out first”*, before adding that there was no charge for the team or its gadgets. After the team had finished, the narrator said that Ms Bowers thought the exorcism had worked and Ms Bowers was shown saying that she no longer had *“to sleep out...[and would] be comfortable [staying] in my own home for the length of time that I’ve got to stay here”.*

Later in the programme, Ms Bowers was shown picking up and reading several letters sent to her by the housing association from which she rented her home. The narrator said *“the ‘bedroom tax’ has left her with a huge benefit debt [of] two and a half grand”* and *“now she faces eviction”.* Ms Bowers was then shown saying to her friend:

“From what they are saying to me: you’re in a three bedroomed house now [pause] there’s not many one bedroom flats available. So [pause] that’s not my fault, that’s their fault. So [pause] I’m left to pay bedroom tax on two bedrooms because they have got no flats to give me”.

During this footage, the letters were shown a number of times. The complainant’s logo (a triangle with the letters “LHT” underneath), or part of it, was visible fleetingly on a number of occasions as they were read and handled by Ms Bowers.

At the end of this section of the programme, the narrator said that *“the real demons in Lorna’s life, debts and eviction [were] all becoming a bit too much [for Ms Bowers] to cope with”*. The programme then showed footage of Ms Bowers crying as she said:

“I feel as if I’m just in a vicious circle that I don’t seem to be getting out of. I feel as if it’s just taking weeks and weeks and weeks. And then you just don’t know how long it’s gonna take after the court date. And it’s just, I can’t keep. I’m running all the time”.

Subsequently, the programme showed footage of Ms Bowers and her friend on the day of the court hearing. The narrator said that Ms Bowers was appearing in court *“because of rent arrears of two and a half grand caused mainly by the bedroom tax”* and that she wanted the housing association to move her to a smaller home, but that it was *“threatening to kick her out altogether”*. Ms Bowers said that while Ms Bowers was nervous about appearing in court, she was looking forward to it because *“I’ve had enough of them. I’m sick of all the rubbish now. So, surely today they’ve got to try and do something about it and try and make moves about getting me out”*.

After the hearing, Ms Bowers and her friend were shown leaving the court. The narrator said that the court had decided that Ms Bowers would not be evicted and that her weekly debt repayment would be reduced. Ms Bowers was shown saying: *“Instead of forty pounds [a week] it’s gone to six”*. The narrator then explained that Ms Bowers *“will still have to pay off the debt and now, that will take eight long years, but it’s still a benefits victory that’s well worth celebrating”*. Ms Bowers was shown walking away from the courthouse with her friend smiling.

No further footage in relation to Ms Bowers or material relating to the LHT was shown in the programme. The LHT was not named in the programme.

Summary of the complaint and the broadcaster’s response

In summary, the LHT complained that it was treated unjustly or unfairly in the programme as broadcast because:

- a) Material facts were presented, disregarded or omitted in the programme in a way that was unfair to the LHT. In particular, the LHT said that the programme included critical comments about the LHT which portrayed it as an organisation that was unsupportive and uncaring and that had failed Ms Bowers. In fact, the LHT said that it provided and continued to provide Ms Bowers with support towards a wide range of benefits.

The LHT said that social housing providers have a duty to support their tenants, many of whom face very challenging circumstances. It said that being regarded as a helpful, caring landlord was crucial to both the reputation of a housing association and its ability to attract customers and to compete in the marketplace. It also said that the programme presented Ms Bowers as somebody who was a victim of the *“bedroom tax”* and was stuck in a home that was no longer suitable for her and that, to suggest inaccurately that nobody from the LHT had visited Ms Bowers or been prepared to listen to her concerns, portrayed the LHT as unsupportive and uncaring, which was unfair to it. The LHT said that it was clearly identified as the landlord of Ms Bowers’ house because the programme showed letters sent to Ms Bowers in which its logo and branding were visible.

In response, Channel 5 explained that the programme was part of a series of observational programmes looking at the hardships faced by people in the UK

who relied upon benefits as their main source of income. It said that the programmes aimed at educating the public on the obligations imposed on people receiving benefits to ensure that the system was not mismanaged or abused and that these matters were clearly in the public interest. Channel 5 said that the programme focused on the stories of its contributors and that the contributors voiced their own opinions.

Channel 5 said that the complainant did not suggest that any of the matters stated in the programme were substantially untrue. The broadcaster said that the programme did not suggest that the LHT was an unsupportive or uncaring organisation, but presented the facts, including, that:

- Ms Bowers felt that her paranormal concerns entitled her to priority treatment, but the LHT did not agree;
- she had asked the LHT to be moved to a one bedroom flat but the LHT did not have any smaller flats available and could not accommodate her request;
- she owed about £2,500 in arrears to the LHT including the amounts she knew she was required to pay under the “bedroom tax”;
- she was making no effort to save money or offer any sensible solution to the LHT in relation to the arrears. The programme showed that she was prepared to have her friend pay £50 for a new tattoo rather than use that money to seek to reduce her debts; and,
- at the court hearing, the LHT agreed to a repayment plan rather than an eviction, so that Ms Bowers could repay her debt over eight years.

In particular, Channel 5 referred to Ms Bowers’ statement that *“Even if it would have been in my imagination, which it weren’t, we’ve got all the proofs and everything else it wasn’t in my imagination, why didn’t anyone from the housing come out and ask me was I alright? They already knew, I complained months ago and I’d be out of here”*. The broadcaster said that no reasonable viewers would have assumed from that statement that the LHT had been uncaring or heartless towards Ms Bowers for not “coming out” because she complained that there was paranormal activity in the house. Rather, it said that it would have been clear to viewers that the LHT did not accept that Ms Bowers’ allegations of paranormal activity were legitimate.

Channel 5 referred to the following statement from the narrator in the programme, which was included after Ms Bowers discussed her concerns about paranormal activity: *“and there is another reason Lorna wants out. All too real bedroom tax debts. Maybe that’s why the housing association is not listening”*. The broadcaster said that reasonable viewers would have understood this statement to mean that the LHT was not listening to Ms Bowers’ allegations of paranormal activity, not that the LHT was not listening to the reasonable concerns of its tenant, or that it had never visited Ms Bowers on any occasion. The broadcaster said that the context had made clear to viewers that Ms Bowers’ claims about paranormal activity were unreasonable and may have been a tactic aimed at ensuring she received priority for a one bedroom to avoid having to pay the “bedroom tax”.

The broadcaster argued that the programme did not portray the LHT as unsupportive and uncaring and that reasonable viewers would have inferred from the programme that the LHT was behaving fairly and reasonably given Ms Bowers’ claims of paranormal activity and her behaviour in the circumstances of

this case. Channel 5 said that the LHT was therefore not treated unfairly in the programme as broadcast.

- b) The LHT was not offered the opportunity to contribute to the programme and was not given an appropriate and timely opportunity to respond to criticisms made against it.

The LHT said that its request to provide a statement in response to the programme was ignored by the programme makers which resulted in it being unfairly portrayed. The LHT said that, had it been allowed to contribute to the programme, it would have explained that a number of teams had and continued to provide support and help to Ms Bowers. Additionally, it would have explained that it had made contact with Ms Bowers on dozens of occasions including via home visits, meetings, letters and telephone calls.

In response, Channel 5 said the programme did not include any serious allegation about misconduct, corruption or improper performance of public obligations against the LHT, and therefore, there was no occasion for Channel 5 to ask the LHT to comment about the content of the programme.

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 documentation.

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

- a) Ofcom considered the LHT's complaint that the programme included critical comments which portrayed it as an organisation that was unsupportive and uncaring when in fact, it provided and continued to provide Ms Bowers with support towards a wide range of benefits.

In considering this head of the complaint, we had particular regard to Practice 7.9 of the Code. This states that before broadcasting a factual programme, broadcasters should take reasonable care to satisfy themselves that material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation.

Ofcom first considered whether the LHT was identifiable in the programme despite that it was not named. As set out in the “Introduction and Programme Summary section” above, the LHT logo was clearly visible, albeit fleetingly, on letters shown in the programme that had been sent to Ms Bowers by the housing association. Therefore, we considered that the LHT was identifiable in the programme as the housing association from which Ms Bowers rented her flat.

We next assessed the content of the programme, and in particular the comments made by Ms Bowers and the narrator, in relation to the LHT. As set out in the “Introduction and programme summary” section above, the programme introduced Ms Bowers as being in a *“bedroom tax battle”* with her housing association and that she had asked to be rehoused to a one bedroom flat. The programme made it clear that Ms Bowers was not only in arrears with her rent and her “bedroom tax” payments, but also claimed that she was experiencing paranormal activity in her flat and that she believed this should entitle her to priority rehousing. In particular, we noted that the narrator said: *“To escape the bedroom tax, she wants a cheaper one bed flat. But they’re in short supply, and the housing association doesn’t appear to believe in ghosts”*. This was followed by Ms Bowers saying, after a telephone conversation with the housing association, that: *“Now as it stands they’re saying paranormal activity doesn’t hold any grades for moving up the ladder higher, which is unfair”*.

We noted too that later in the programme, following Ms Bower’s description of paranormal activity in her flat, the narrator said: *“And there is another reason Lorna [Ms Bowers] wants out, all too real bedroom tax debts. Maybe that’s why the housing association isn’t listening”*, after which Ms Bowers said: *“even if it would have been in my imagination [i.e. the alleged paranormal activity]...why didn’t anyone from the housing come out and asked me was I alright? They already knew, I complained eight months ago and I’d be out of here”*. Later in the programme, Ms Bowers was shown reading letters from the housing association and complaining that it was the housing association’s fault and not hers that a one bedroom flat was not available for her and that: *“I’m left to pay bedroom tax on two bedrooms because they have got no flats to give me”*. Towards the end of the section of the programme featuring Ms Bowers, Ofcom noted that in reference to why Ms Bowers was appearing in court, the narrator said: *“Lorna wants the housing association to move her to a smaller home. But its threatening to kick her out altogether and it’s just an hour till the hearing”*.

It is important to note here that it is not Ofcom’s role to establish whether the substance of those comments included in the programme were correct or not, but to determine whether in broadcasting those comments, the broadcaster took reasonable care not to present, disregard or omit material facts in a way that was unfair to the LHT. In doing so, Ofcom considered the context of Ms Bowers’ comments and those of the narrator as expressed in the programme and whether the way they were presented resulted in unfairness to the LHT.

We noted that the focus of this programme was the impact the “bedroom tax” was having on people who relied on benefits as their main source of income and that Ms Bowers was one of three contributors to the programme who were suffering

financial difficulties as a result of the introduction of the “bedroom tax”. Ms Bowers was in arrears with her rent and “bedroom tax” payments to the sum of £2,500 and it was unlikely that she would be able to clear her arrears on the benefits she received. Given her situation, Ofcom considered Ms Bowers’ contribution was important to the programme in reflecting her individual experience of the impact that the “bedroom tax” had on her life and understanding the role the housing association played in those experiences. We considered, therefore, that the broadcaster was entitled to include her views about her personal and financial circumstances.

Ofcom recognised that Ms Bower’s comments about the “bedroom tax” and the housing association were one-sided and we considered that viewers would have understood that Ms Bowers was expressing her own opinions about who she saw as being responsible for her situation. In relation to Ms Bower’s complaint about the housing association not visiting her to see if she was “*alright*” following her complaints about experiencing paranormal activity and the narrator’s comment that the housing association “*doesn’t appear to believe in ghosts*”, we considered that it was unlikely that viewers would have understood from the programme that the LHT was uncaring or had in some way failed in its duty towards Ms Bowers by not coming out to see her. Rather, in our view, viewers were likely to have understood that the housing association did not consider her claims about paranormal activity to be legitimate and that it was not a factor that would prioritise her request for a smaller flat.

We also considered that the narrator’s comment: “*maybe that is why the housing association is not listening*” was made during the programme’s exploration of Ms Bower’s claims of paranormal activity. In our view, given the context in which this comment was made, it would have been clear to viewers that the housing association was not prepared to entertain her claims about paranormal activity, rather than it not listening to any reasonable concerns she had. The programme also made it clear to viewers on a number of occasions that the housing association had told Ms Bowers that it did not have any one bedroom flats available to her. We considered that viewers would have understood that the reason that Ms Bowers was not able to move from her flat was not because the housing association was being unreasonable or unsupportive to her situation, but that it did not have any one bedroom flats available.

In relation to the narrator’s comment that the housing association was “*threatening to kick her out altogether*”, we considered that while the particular phrasing of the comment may, in itself, give the impression that the housing association had got “tough” in its approach to Ms Bowers, it was clear from the programme that the court case was the culmination of months of dealings between Ms Bowers and the housing association. We also considered that viewers would have understood too that, given that Ms Bowers was in arrears and that there was no realistic prospect that her situation would improve and the debt be paid, it was reasonable for the housing association to instigate eviction proceedings in the circumstances.

Taking into account of all the factors set out above, we took the view that viewers were given sufficient information to draw their own conclusions about Ms Bowers’ situation and her belief that she was a “victim” of the “bedroom tax” and the actions of the housing association in response to them. We therefore considered that, in the particular circumstances of this case, it was unlikely that the viewers’ perception of the LHT would have been materially and adversely affected by the comments made in the programme in a way that portrayed it unfairly.

Consequently, we considered that the broadcaster took reasonable care to satisfy itself that the programme did not present, disregard or omit material facts with regard to the LHT in a way that resulted in unfairness to it.

Therefore, Ofcom's decision is that there was no unfairness to the LHT in this respect.

- b) Ofcom next considered the LHT's complaint that it had not been given an opportunity to contribute to the programme and an appropriate and timely opportunity to respond to criticisms made against it.

In considering the LHT's complaint that it should have been offered an opportunity to respond to criticism made against it, Ofcom had regard to Practice 7.11 of the Code which states that if a programme alleges wrongdoing or incompetence or makes other significant allegations, those concerned should normally be given an appropriate and timely opportunity to respond.

Ofcom noted again the comments Ms Bowers and the narrator made about LHT and considered whether the nature of those comments amounted to significant allegations that would place a requirement on the broadcaster to give the LHT an opportunity to respond or to contribute to the programme. As already set out in our decision under head a) above, we considered that Ms Bowers' comments were expressed as her own views and were not presented as an authoritative critique of the LHT. Given this, and taking into account the context in which these comments were made, we did not consider that the comments about LHT included in the programme (both those made by Ms Bower's herself and those made by the narrator) amounted to allegations of wrongdoing or incompetence or any other significant allegations, about the LHT and its dealings with Ms Bowers.

We noted that the LHT had asked to submit a statement to the programme makers. However, in light of the above, we considered that the decision whether or not to accept this offer and/or include part or all of that statement in the programme was solely an editorial matter for the broadcaster.

Given the above, we considered that in the circumstances of this case, it was not incumbent upon the programme makers or the broadcaster to have offered the LHT an appropriate and timely opportunity to respond to comments made in the programme or to contribute to it.

Therefore, Ofcom found that there was no unfairness to the LHT in this respect.

Ofcom has not upheld the LHT's complaint of unjust or unfair treatment in the programme as broadcast.

Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 2 and 19 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 Romanians Are Coming | Channel 4 | Various | Materially misleading |
| The Paul O'Grady Show | ITV | 20/04/2015 | Violence and dangerous behaviour |
| First Group's sponsorship of the Breakfast Show | Original 106 | 26/03/2015 | Commercial communications on radio |
| Crosstalk | RT | 23/12/2014 | Due impartiality/bias |

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 2 and 19 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 |
|---------------------------------------------|-------------------|-------------------|------------------------------------------|----------------------|
| UKHot40 | 4Music | 02/06/2015 | Violence and dangerous behaviour | 1 |
| The Tribe (trailer) | 4Seven | 08/06/2015 | Nudity | 1 |
| Advertisement | 5* | 15/06/2015 | Advertising content | 1 |
| Big Brother | 5* | 18/05/2015 | Scheduling | 1 |
| Big Brother | 5* | 29/05/2015 | Nudity | 1 |
| Big Brother | 5* | 02/06/2015 | Scheduling | 1 |
| Born to Kill (trailer) | 5* | 26/05/2015 | Materially misleading | 1 |
| Winner Bingo's sponsorship of Home and Away | 5* | 12/05/2015 | Generally accepted standards | 1 |
| Chicago PD (trailer) | 5USA | 22/04/2015 | Violence and dangerous behaviour | 1 |
| Immigration Advice | AKAAL Channel | 29/05/2015 | Materially misleading | 1 |
| Programming | all | n/a | Outside of remit / other | 1 |
| Programming | Asian Sound Radio | 11/05/2015 | Religious/Beliefs discrimination/offence | 1 |
| Life and Beauty | ATN Bangla | 05/05/2015 | Product placement | 1 |
| Atlantis | BBC 1 | 16/05/2015 | Sexual material | 1 |
| BBC News | BBC 1 | 23/05/2015 | Generally accepted standards | 1 |
| BBC News | BBC 1 | 30/05/2015 | Due impartiality/bias | 1 |
| BBC News | BBC 1 | 08/06/2015 | Outside of remit / other | 1 |
| BBC News | BBC 1 | 17/06/2015 | Outside of remit / other | 1 |
| BBC News at One | BBC 1 | 08/05/2015 | Television Access Services | 1 |
| BBC News at Ten | BBC 1 | 01/06/2015 | Generally accepted standards | 2 |
| BBC News at Ten | BBC 1 | 02/06/2015 | Outside of remit / other | 1 |
| BBC News at Ten | BBC 1 | 16/06/2015 | Outside of remit / other | 1 |
| Breakfast | BBC 1 | 03/06/2015 | Fairness | 1 |
| Breakfast | BBC 1 | 13/06/2015 | Due impartiality/bias | 1 |
| Casualty | BBC 1 | 06/06/2015 | Generally accepted standards | 1 |
| EastEnders | BBC 1 | 25/05/2015 | Disability discrimination/offence | 1 |

| Programme | Broadcaster | Transmission Date | Categories | Number of complaints |
|------------------------------------|--------------------|--------------------------|-------------------------------------------|-----------------------------|
| EastEnders | BBC 1 | 28/05/2015 | Offensive language | 2 |
| EastEnders | BBC 1 | 01/06/2015 | Outside of remit / other | 1 |
| EastEnders | BBC 1 | 01/06/2015 | Sexual material | 23 |
| EastEnders | BBC 1 | 05/06/2015 | Generally accepted standards | 1 |
| GM Food – Cultivating Fear | BBC 1 | 08/06/2015 | Due impartiality/bias | 2 |
| Have I Got a Bit More News for You | BBC 1 | 25/05/2015 | Sexual orientation discrimination/offence | 1 |
| Have I Got News For You | BBC 1 | 22/05/2015 | Generally accepted standards | 2 |
| Holby City | BBC 1 | 02/06/2015 | Television Access Services | 1 |
| Inspector George Gently | BBC 1 | 20/05/2015 | Offensive language | 1 |
| Panorama | BBC 1 | 01/06/2015 | Generally accepted standards | 1 |
| Peter Kay's Car Share | BBC 1 | 22/05/2015 | Disability discrimination/offence | 1 |
| Question Time | BBC 1 | 21/05/2015 | Sexual orientation discrimination/offence | 1 |
| Regional News and Weather | BBC 1 | 03/06/2015 | Generally accepted standards | 1 |
| Saturday Kitchen Live | BBC 1 | 16/05/2015 | Gender discrimination/offence | 1 |
| Saturday Kitchen Live | BBC 1 | 16/05/2015 | Offensive language | 1 |
| Sunday Politics | BBC 1 | 07/06/2015 | Due impartiality/bias | 1 |
| The Apprentice | BBC 1 | n/a | Outside of remit / other | 1 |
| The C Word | BBC 1 | 03/05/2015 | Offensive language | 1 |
| The Dog Factory | BBC 1 | 19/05/2015 | Race discrimination/offence | 1 |
| The Eurovision Song Contest | BBC 1 | 23/05/2015 | Generally accepted standards | 1 |
| The Eurovision Song Contest | BBC 1 | 23/05/2015 | Race discrimination/offence | 1 |
| The Graham Norton Show | BBC 1 | 29/05/2015 | Offensive language | 1 |
| The John Bishop Show | BBC 1 | 30/05/2015 | Race discrimination/offence | 1 |
| The John Bishop Show | BBC 1 | 30/05/2015 | Religious/Beliefs discrimination/offence | 1 |
| The John Bishop Show | BBC 1 | 06/06/2015 | Race discrimination/offence | 2 |
| The John Bishop Show | BBC 1 | 06/06/2015 | Sexual material | 1 |
| The John Bishop Show | BBC 1 | 06/06/2015 | Violence and dangerous behaviour | 1 |
| The One Show | BBC 1 | 15/05/2015 | Scheduling | 2 |
| The One Show | BBC 1 | 21/05/2015 | Scheduling | 1 |
| The Woman Who Woke Up Chinese | BBC 1 | 02/06/2015 | Race discrimination/offence | 5 |
| Watchdog | BBC 1 | 04/06/2015 | Product placement | 1 |

| Programme | Broadcaster | Transmission Date | Categories | Number of complaints |
|---------------------------------------|--------------------|--------------------------|----------------------------------------------|-----------------------------|
| BBC News at Six | BBC 1 | 02/06/2015 | Generally accepted standards | 1 |
| The Casual Vacancy / Wolf Hall | BBC 1 / BBC 2 | Various | Offensive language | 1 |
| 1945 | BBC 2 | 24/05/2015 | Generally accepted standards | 1 |
| A Very British Airline | BBC 2 | 31/05/2015 | Race discrimination/offence | 1 |
| 'Allo, 'Allo! | BBC 2 | 28/05/2015 | Offensive language | 1 |
| Dances with Wolves | BBC 2 | 25/05/2015 | Violence and dangerous behaviour | 1 |
| FA Cup's 50 Greatest Moments | BBC 2 | 30/05/2015 | Scheduling | 1 |
| Just Good Friends | BBC 2 | 19/05/2015 | Offensive language | 1 |
| Just Good Friends | BBC 2 | 28/05/2015 | Offensive language | 1 |
| Newsnight | BBC 2 | 17/06/2015 | Due impartiality/bias | 1 |
| Rev | BBC 2 | 16/06/2015 | Generally accepted standards | 1 |
| Springwatch | BBC 2 | 27/05/2015 | Due impartiality/bias | 1 |
| Springwatch Unsprung | BBC 2 | 10/06/2015 | Scheduling | 1 |
| The Daily Politics | BBC 2 | 04/06/2015 | Disability discrimination/offence | 1 |
| The Ladykillers: Pest Detectives | BBC 2 | 08/04/2015 | Animal welfare | 1 |
| Victoria Derbyshire | BBC 2 | 11/06/2015 | Disability discrimination/offence | 1 |
| Victoria Derbyshire | BBC 2 | 11/06/2015 | Generally accepted standards | 1 |
| Women's World Cup | BBC 2 | 08/06/2015 | Due impartiality/bias | 1 |
| Eurovision Song Contest 2015 | BBC 3 | 19/05/2015 | Flashing images/risk to viewers who have PSE | 1 |
| Festivals, Sex and Suspicious Parents | BBC 3 | 26/05/2015 | Gender discrimination/offence | 1 |
| How to Win Eurovision | BBC 3 | 16/05/2015 | Offensive language | 1 |
| Nick Helm's Heavy Entertainment | BBC 3 | 09/06/2015 | Outside of remit / other | 1 |
| 1864 | BBC 4 | 16/05/2015 | Generally accepted standards | 1 |
| The Dark Charisma of Adolf Hitler | BBC 4 | 14/05/2015 | Nudity | 1 |
| Wild Arabia | BBC 4 | 06/06/2015 | Materially misleading | 1 |
| BBC News | BBC channels | n/a | Elections/Referendums | 1 |
| BBC Springwatch - Unsprung | BBC Digital | n/a | Generally accepted standards | 1 |
| BBC News | BBC News Channel | 15/06/2015 | Outside of remit / other | 1 |
| BBC News at Five | BBC News Channel | 02/06/2015 | Generally accepted standards | 1 |
| Greg James | BBC Radio 1 | 02/06/2015 | Offensive language | 1 |
| Graham Norton | BBC Radio 2 | 04/04/2015 | Generally accepted standards | 1 |

| Programme | Broadcaster | Transmission Date | Categories | Number of complaints |
|----------------------------------------------|-----------------------------------|-------------------|------------------------------------------|----------------------|
| Jeremy Vine | BBC Radio 2 | 28/05/2015 | Race discrimination/offence | 1 |
| Dilemma | BBC Radio 4 | 11/05/2015 | Disability discrimination/offence | 1 |
| Mark Steel's in Town | BBC Radio 4 | 02/06/2015 | Generally accepted standards | 1 |
| You and Yours | BBC Radio 4 | 26/05/2015 | Generally accepted standards | 1 |
| No Commitment | BBC Radio 4 Extra | 11/06/2015 | Offensive language | 1 |
| 5 Live Daily | BBC Radio 5 Live | 10/04/2015 | Generally accepted standards | 1 |
| Fighting Talk | BBC Radio 5 Live | 23/05/2015 | Transgender discrimination/offence | 1 |
| The Stephen Nolan Show | BBC Radio Foyle | 04/06/2015 | Religious/Beliefs discrimination/offence | 1 |
| Business News | Ben TV | 07/02/2015 | Advertising/editorial distinction | 1 |
| NTA News | Ben TV | 24/03/2015 | Due impartiality/bias | 1 |
| Advertisement | Boomerang | 23/05/2015 | Advertising content | 1 |
| Programming | British Muslim TV / Islam TV Urdu | n/a | Appeals for funds | 1 |
| Clarence | Cartoon Network | 21/05/2015 | Scheduling | 1 |
| MOTD Kickabout Premier League Schools Finals | CBBC | 23/05/2015 | Gender discrimination/offence | 1 |
| Fort Boyard | Challenge | 28/05/2015 | Animal welfare | 1 |
| 8 Out of 10 Cats Does Countdown | Channel 4 | 03/05/2015 | Gender discrimination/offence | 1 |
| 999: What's Your Emergency? | Channel 4 | 04/06/2015 | Generally accepted standards | 2 |
| Advertisement | Channel 4 | 01/06/2015 | Advertising content | 3 |
| Advertisement | Channel 4 | 03/06/2015 | Advertising content | 1 |
| Alan Carr: Chatty Man | Channel 4 | 15/05/2015 | Drugs, smoking, solvents or alcohol | 2 |
| An Immigrant's Guide to Britain | Channel 4 | 03/05/2015 | Race discrimination/offence | 2 |
| Born Naughty? | Channel 4 | 28/05/2015 | Disability discrimination/offence | 1 |
| Born Survivor: Bear Grylls | Channel 4 | 21/05/2015 | Animal welfare | 1 |
| Channel 4 News | Channel 4 | 03/03/2015 | Crime | 1 |
| Channel 4 News | Channel 4 | 29/04/2015 | Elections/Referendums | 1 |
| Channel 4 News | Channel 4 | 06/05/2015 | Elections/Referendums | 1 |
| Channel 4 News | Channel 4 | 18/05/2015 | Due impartiality/bias | 1 |
| Channel 4 News | Channel 4 | 15/06/2015 | Outside of remit / other | 1 |
| Channel 4 promotion | Channel 4 | 24/05/2015 | Materially misleading | 1 |
| Channel 4 Racing | Channel 4 | 04/04/2015 | Gambling | 1 |
| Channel 4's Comedy Gala 2015 | Channel 4 | 15/06/2015 | Race discrimination/offence | 1 |
| Come Dine with Me | Channel 4 | 07/04/2015 | Offensive language | 1 |

| Programme | Broadcaster | Transmission Date | Categories | Number of complaints |
|-----------------------------|--------------------|--------------------------|-------------------------------------|-----------------------------|
| Hollyoaks | Channel 4 | 21/05/2015 | Generally accepted standards | 1 |
| Hollyoaks | Channel 4 | 03/06/2015 | Generally accepted standards | 1 |
| Hollyoaks Omnibus | Channel 4 | 24/05/2015 | Materially misleading | 1 |
| Humans (trailer) | Channel 4 | 08/06/2015 | Scheduling | 1 |
| Indian Summers | Channel 4 | 12/04/2015 | Advertising scheduling | 1 |
| Skint | Channel 4 | 13/04/2015 | Due accuracy | 1 |
| Skint | Channel 4 | n/a | Materially misleading | 1 |
| Sunday Brunch | Channel 4 | 24/05/2015 | Offensive language | 1 |
| Sunday Brunch | Channel 4 | n/a | Drugs, smoking, solvents or alcohol | 1 |
| TFI Friday | Channel 4 | 12/06/2015 | Gender discrimination/offence | 1 |
| TFI Friday | Channel 4 | 12/06/2015 | Under 18s in programmes | 2 |
| The Island with Bear Grylls | Channel 4 | 19/04/2015 | Animal welfare | 1 |
| The Island with Bear Grylls | Channel 4 | 22/04/2015 | Animal welfare | 26 |
| The Island with Bear Grylls | Channel 4 | 23/04/2015 | Animal welfare | 51 |
| The Island with Bear Grylls | Channel 4 | 29/04/2015 | Animal welfare | 6 |
| The Island with Bear Grylls | Channel 4 | 30/04/2015 | Animal welfare | 128 |
| The Island with Bear Grylls | Channel 4 | 05/05/2015 | Animal welfare | 3 |
| The Island with Bear Grylls | Channel 4 | 06/05/2015 | Animal welfare | 11 |
| The Island with Bear Grylls | Channel 4 | 08/05/2015 | Animal welfare | 1 |
| The Island with Bear Grylls | Channel 4 | 11/05/2015 | Animal welfare | 5 |
| The Island with Bear Grylls | Channel 4 | 13/05/2015 | Animal welfare | 4 |
| The Island with Bear Grylls | Channel 4 | 14/05/2015 | Animal welfare | 9 |
| The Island with Bear Grylls | Channel 4 | 20/05/2015 | Animal welfare | 3 |
| The Island with Bear Grylls | Channel 4 | 25/05/2015 | Animal welfare | 1 |
| The Night Bus | Channel 4 | 25/05/2015 | Transgender discrimination/offence | 1 |
| The Romanians are Coming | Channel 4 | 17/02/2015 | Due impartiality/bias | 1 |
| The Romanians are Coming | Channel 4 | 24/02/2015 | Offensive language | 1 |
| The Simpsons | Channel 4 | 11/06/2015 | Scheduling | 1 |
| The Tribe (trailer) | Channel 4 | 07/06/2015 | Scheduling | 1 |
| Weekend Kitchen | Channel 4 | Various | Advertising/editorial distinction | 1 |
| Advertisement | Channel 5 | 07/06/2015 | Advertising content | 1 |
| Advertisement | Channel 5 | 14/06/2015 | Advertising content | 1 |

| Programme | Broadcaster | Transmission Date | Categories | Number of complaints |
|-------------------------------------------|--------------------|--------------------------|------------------------------------------|-----------------------------|
| Advertisement | Channel 5 | 15/06/2015 | Advertising content | 1 |
| Angels of Jarm | Channel 5 | 11/05/2015 | Religious/Beliefs discrimination/offence | 1 |
| Autopsy: The Last Hours of Robin Williams | Channel 5 | 22/04/2015 | Generally accepted standards | 1 |
| Benefits Britain: Big Families Special | Channel 5 | 20/05/2015 | Offensive language | 1 |
| Benefits Britain: Big Families Special | Channel 5 | 20/05/2015 | Under 18s in programmes | 1 |
| Benefits Britain: Big Families Special | Channel 5 | 22/05/2015 | Animal welfare | 1 |
| Benefits Britain: Me and My 14 Kids | Channel 5 | 27/05/2015 | Materially misleading | 1 |
| Big Brother | Channel 5 | 21/05/2015 | Age discrimination/offence | 1 |
| Big Brother | Channel 5 | 22/05/2015 | Age discrimination/offence | 1 |
| Big Brother | Channel 5 | 24/05/2015 | Generally accepted standards | 1 |
| Big Brother | Channel 5 | 25/05/2015 | Generally accepted standards | 1 |
| Big Brother | Channel 5 | 27/05/2015 | Generally accepted standards | 1 |
| Big Brother | Channel 5 | 28/05/2015 | Generally accepted standards | 3 |
| Big Brother | Channel 5 | 28/05/2015 | Outside of remit / other | 3 |
| Big Brother | Channel 5 | 29/05/2015 | Generally accepted standards | 2 |
| Big Brother | Channel 5 | 29/05/2015 | Voting | 10 |
| Big Brother | Channel 5 | 30/05/2015 | Generally accepted standards | 1 |
| Big Brother | Channel 5 | 31/05/2015 | Generally accepted standards | 8 |
| Big Brother | Channel 5 | 01/06/2015 | Age discrimination/offence | 5 |
| Big Brother | Channel 5 | 01/06/2015 | Generally accepted standards | 27 |
| Big Brother | Channel 5 | 01/06/2015 | Outside of remit / other | 1 |
| Big Brother | Channel 5 | 02/06/2015 | Age discrimination/offence | 1 |
| Big Brother | Channel 5 | 02/06/2015 | Gender discrimination/offence | 1 |
| Big Brother | Channel 5 | 02/06/2015 | Generally accepted standards | 3 |
| Big Brother | Channel 5 | 03/06/2015 | Generally accepted standards | 11 |
| Big Brother | Channel 5 | 03/06/2015 | Nudity | 1 |
| Big Brother | Channel 5 | 04/06/2015 | Generally accepted standards | 2 |
| Big Brother | Channel 5 | 04/06/2015 | Nudity | 1 |
| Big Brother | Channel 5 | 06/06/2015 | Gender discrimination/offence | 3 |
| Big Brother | Channel 5 | 06/06/2015 | Nudity | 1 |

| Programme | Broadcaster | Transmission Date | Categories | Number of complaints |
|---------------------------------------------|--------------------|--------------------------|-----------------------------------|-----------------------------|
| Big Brother | Channel 5 | 07/06/2015 | Gender discrimination/offence | 14 |
| Big Brother | Channel 5 | 07/06/2015 | Generally accepted standards | 1 |
| Big Brother | Channel 5 | 08/06/2015 | Generally accepted standards | 1 |
| Big Brother | Channel 5 | 08/06/2015 | Race discrimination/offence | 27 |
| Big Brother | Channel 5 | 09/06/2015 | Gender discrimination/offence | 5 |
| Big Brother | Channel 5 | 15/06/2015 | Disability discrimination/offence | 36 |
| Big Brother | Channel 5 | 15/06/2015 | Generally accepted standards | 31 |
| Big Brother | Channel 5 | 16/06/2015 | Disability discrimination/offence | 20 |
| Big Brother | Channel 5 | 16/06/2015 | Generally accepted standards | 72 |
| Big Brother | Channel 5 | 16/06/2015 | Race discrimination/offence | 1 |
| Big Brother | Channel 5 | 17/06/2015 | Generally accepted standards | 4 |
| Big Brother: Live Eviction | Channel 5 | 05/06/2015 | Age discrimination/offence | 1 |
| Big Brother: Live Eviction | Channel 5 | 05/06/2015 | Generally accepted standards | 6 |
| Big Brother: Live Eviction | Channel 5 | 12/06/2015 | Generally accepted standards | 1 |
| Big Brother: Live Eviction | Channel 5 | 12/06/2015 | Outside of remit / other | 1 |
| Big Brother's Bigger Bit on the Side | Channel 5 | 01/06/2015 | Generally accepted standards | 1 |
| Big Brother's Bigger Bit on the Side | Channel 5 | 15/06/2015 | Generally accepted standards | 1 |
| Big Brother's Bit on the Side | Channel 5 | 28/05/2015 | Gender discrimination/offence | 1 |
| Big Brother's Bit on the Side | Channel 5 | 28/05/2015 | Generally accepted standards | 2 |
| Big Brother's Bit on the Side | Channel 5 | 04/06/2015 | Outside of remit / other | 1 |
| Big Momma's House | Channel 5 | 10/05/2015 | Offensive language | 9 |
| Can't Pay? We'll Take it Away: Final Demand | Channel 5 | 04/04/2015 | Offensive language | 1 |
| Caught in the Act | Channel 5 | 17/06/2015 | Outside of remit / other | 1 |
| Celebrity Big Brother | Channel 5 | n/a | Generally accepted standards | 1 |
| Columbo | Channel 5 | 30/05/2015 | Advertising scheduling | 1 |
| Cricket on 5 | Channel 5 | 25/05/2015 | Competitions | 1 |
| Gotham | Channel 5 | 18/05/2015 | Violence and dangerous behaviour | 1 |
| Judge Geordie (trailer) | Channel 5 | 15/05/2015 | Gender discrimination/offence | 1 |
| Programme trailers | Channel 5 | 14/06/2015 | Scheduling | 1 |

| Programme | Broadcaster | Transmission Date | Categories | Number of complaints |
|-------------------------------------------------|----------------------|--------------------------|------------------------------|-----------------------------|
| Royal London's sponsorship of Cricket on 5 | Channel 5 | 14/06/2015 | Scheduling | 1 |
| The Nightmare Neighbour Next Door | Channel 5 | 29/04/2015 | Offensive language | 1 |
| The Wright Stuff | Channel 5 | 11/05/2015 | Due impartiality/bias | 1 |
| The Wright Stuff | Channel 5 | 22/05/2015 | Generally accepted standards | 1 |
| The Wright Stuff | Channel 5 | 05/06/2015 | Generally accepted standards | 1 |
| Ultimate Police Interceptors | Channel 5 | 31/05/2015 | Offensive language | 1 |
| Programming | Classic FM | 01/05/2015 | Elections/Referendums | 1 |
| Programming | Climax | 21/04/2015 | Advertising content | 1 |
| Impractical Jokers | Comedy Central | 18/05/2015 | Scheduling | 1 |
| My Parents are Aliens | Curb | 25/05/2015 | Scheduling | 1 |
| Halfords' sponsorship of Happy Motoring on Dave | Dave | 25/05/2015 | Animal welfare | 2 |
| Storage Hunters UK | Dave | 25/05/2015 | Offensive language | 1 |
| Storage Hunters UK | Dave | 25/05/2015 | Offensive language | 1 |
| Star vs the Forces of Evil | Disney XD | 01/06/2015 | Offensive language | 1 |
| Sponsorship of The Royals | E! | 15/04/2015 | Sponsorship | 1 |
| Channel ident | E4 | 27/05/2015 | Generally accepted standards | 3 |
| Hollyoaks | E4 | 19/05/2015 | Generally accepted standards | 1 |
| Hollyoaks | E4 | 21/05/2015 | Materially misleading | 1 |
| The Tribe (trailer) | E4 | 11/06/2015 | Scheduling | 1 |
| Virtually Famous | E4 | 11/05/2015 | Generally accepted standards | 1 |
| Advertisement | Film4 | 11/06/2015 | Advertising content | 1 |
| The Brave One | Film4 | 14/02/2015 | Offensive language | 1 |
| Warm Bodies (trailer) | Film4 | 25/05/2015 | Scheduling | 1 |
| News | Geo News | 08/05/2015 | Due accuracy | 1 |
| Look Who's Talking | GOLD | 23/05/2015 | Offensive language | 1 |
| Heart Breakfast | Heart FM (London) | 29/05/2015 | Race discrimination/offence | 1 |
| News | Heart FM (Yorkshire) | 08/06/2015 | Generally accepted standards | 1 |
| Programming | Hidayat TV | 14/06/2015 | Race discrimination/offence | 1 |
| Advertisement | Ideal World | n/a | Advertising content | 1 |
| Advertisement | ITV | 26/05/2015 | Outside of remit / other | 1 |
| Advertisement | ITV | 27/05/2015 | Advertising content | 1 |
| Advertisement | ITV | 29/05/2015 | Advertising content | 1 |

| Programme | Broadcaster | Transmission Date | Categories | Number of complaints |
|--------------------------------|--------------------|--------------------------|------------------------------------------|-----------------------------|
| Advertisement | ITV | 31/05/2015 | Advertising content | 1 |
| Advertisement | ITV | 03/06/2015 | Advertising content | 1 |
| Advertisement | ITV | 14/06/2015 | Advertising content | 1 |
| Advertisement | ITV | 19/06/2015 | Advertising content | 1 |
| Advertisement | ITV | 28/06/2015 | Advertising content | 1 |
| Britain's Got Talent | ITV | 23/05/2015 | Animal welfare | 2 |
| Britain's Got Talent | ITV | 25/05/2015 | Advertising scheduling | 1 |
| Britain's Got Talent | ITV | 25/05/2015 | Scheduling | 1 |
| Britain's Got Talent | ITV | 25/05/2015 | Voting | 1 |
| Britain's Got Talent | ITV | 26/05/2015 | Outside of remit / other | 1 |
| Britain's Got Talent | ITV | 27/05/2015 | Animal welfare | 1 |
| Britain's Got Talent | ITV | 27/05/2015 | Offensive language | 2 |
| Britain's Got Talent | ITV | 27/05/2015 | Product placement | 1 |
| Britain's Got Talent | ITV | 27/05/2015 | Scheduling | 35 |
| Britain's Got Talent | ITV | 27/05/2015 | Voting | 1 |
| Britain's Got Talent | ITV | 29/05/2015 | Generally accepted standards | 3 |
| Britain's Got Talent | ITV | 29/05/2015 | Offensive language | 1 |
| Britain's Got Talent | ITV | 29/05/2015 | Scheduling | 1 |
| Britain's Got Talent | ITV | 29/05/2015 | Violence and dangerous behaviour | 9 |
| Britain's Got Talent | ITV | 31/05/2015 | Advertising scheduling | 1 |
| Britain's Got Talent | ITV | 31/05/2015 | Animal welfare | 6 |
| Britain's Got Talent | ITV | 31/05/2015 | Generally accepted standards | 2 |
| Britain's Got Talent | ITV | 31/05/2015 | Materially misleading | 1 |
| Britain's Got Talent | ITV | 31/05/2015 | Offensive language | 1 |
| Britain's Got Talent | ITV | 31/05/2015 | Outside of remit / other | 3 |
| Britain's Got Talent | ITV | 31/05/2015 | Race discrimination/offence | 1 |
| Britain's Got Talent | ITV | 31/05/2015 | Scheduling | 54 |
| Britain's Got Talent | ITV | 31/05/2015 | Under 18s in programmes | 1 |
| Britain's Got Talent | ITV | 31/05/2015 | Violence and dangerous behaviour | 5 |
| Britain's Got Talent | ITV | 31/05/2015 | Voting | 4 |
| Britain's Got Talent | ITV | 02/06/2015 | Outside of remit / other | 1 |
| Britain's Got Talent | ITV | n/a | Materially misleading | 1 |
| Britain's Got Talent (trailer) | ITV | 26/05/2015 | Hypnotic and other techniques | 1 |
| Celebrity Squares | ITV | 10/05/2015 | Race discrimination/offence | 1 |
| Celebrity Squares | ITV | 31/05/2015 | Generally accepted standards | 3 |
| Coronation Street | ITV | 11/05/2015 | Religious/Beliefs discrimination/offence | 1 |
| Coronation Street | ITV | 13/05/2015 | Violence and dangerous behaviour | 2 |

| Programme | Broadcaster | Transmission Date | Categories | Number of complaints |
|--------------------------------------------|--------------------|--------------------------|------------------------------------------|-----------------------------|
| Coronation Street | ITV | 20/05/2015 | Drugs, smoking, solvents or alcohol | 1 |
| Coronation Street | ITV | 27/05/2015 | Animal welfare | 2 |
| Coronation Street | ITV | 27/05/2015 | Materially misleading | 1 |
| Coronation Street | ITV | 28/05/2015 | Materially misleading | 2 |
| Coronation Street | ITV | 05/06/2015 | Religious/Beliefs discrimination/offence | 1 |
| Coronation Street | ITV | 12/06/2015 | Religious/Beliefs discrimination/offence | 1 |
| Coronation Street | ITV | n/a | Sexual material | 1 |
| Doc Martin | ITV | 23/05/2015 | Offensive language | 1 |
| Dream Bingo's sponsorship of Tipping Point | ITV | 07/05/2015 | Advertising content | 1 |
| Emmerdale | ITV | 07/05/2015 | Generally accepted standards | 1 |
| Emmerdale | ITV | 07/05/2015 | Religious/Beliefs discrimination/offence | 1 |
| Emmerdale | ITV | 25/05/2015 | Violence and dangerous behaviour | 7 |
| Emmerdale | ITV | 26/05/2015 | Violence and dangerous behaviour | 1 |
| Emmerdale | ITV | 01/06/2015 | Materially misleading | 1 |
| Emmerdale | ITV | 01/06/2015 | Outside of remit / other | 1 |
| Emmerdale | ITV | 02/06/2015 | Outside of remit / other | 1 |
| Emmerdale | ITV | 08/06/2015 | Materially misleading | 1 |
| Euro 2016 Qualifier | ITV | 14/06/2015 | Outside of remit / other | 1 |
| French Open Tennis Live | ITV | 06/06/2015 | Offensive language | 1 |
| Good Morning Britain | ITV | 07/04/2015 | Generally accepted standards | 1 |
| Good Morning Britain | ITV | 08/05/2015 | Elections/Referendums | 1 |
| Good Morning Britain | ITV | 15/05/2015 | Competitions | 1 |
| Good Morning Britain | ITV | 02/06/2015 | Competitions | 1 |
| ITV News and Weather | ITV | 29/05/2015 | Outside of remit / other | 1 |
| ITV News and Weather | ITV | 30/05/2015 | Gender discrimination/offence | 1 |
| ITV News and Weather | ITV | 03/06/2015 | Due impartiality/bias | 1 |
| ITV News at Ten and Weather | ITV | 26/05/2015 | Materially misleading | 1 |
| ITV News London | ITV | 25/05/2015 | Due impartiality/bias | 1 |
| ITV News London | ITV | 25/05/2015 | Materially misleading | 1 |
| ITV News London | ITV | 01/06/2015 | Due impartiality/bias | 1 |
| Jordskott (trailer) | ITV | 31/05/2015 | Scheduling | 1 |
| Jurassic Park | ITV | 14/06/2015 | Offensive language | 1 |
| Long Lost Family | ITV | 03/06/2015 | Television Access Services | 1 |

| Programme | Broadcaster | Transmission Date | Categories | Number of complaints |
|------------------------------------------------|-------------|-------------------|-------------------------------------------|----------------------|
| Long Lost Family | ITV | 10/06/2015 | Violence and dangerous behaviour | 1 |
| Loose Women | ITV | 19/05/2015 | Sexual orientation discrimination/offence | 140 |
| Loose Women | ITV | 20/05/2015 | Generally accepted standards | 1 |
| Loose Women | ITV | 27/05/2015 | Age discrimination/offence | 1 |
| Loose Women | ITV | 29/05/2015 | Scheduling | 1 |
| Loose Women | ITV | 02/06/2015 | Materially misleading | 1 |
| Loose Women | ITV | 03/06/2015 | Due impartiality/bias | 1 |
| Loose Women | ITV | 03/06/2015 | Outside of remit / other | 1 |
| Lorraine | ITV | 26/05/2015 | Materially misleading | 1 |
| Love Island (trailer) | ITV | 25/05/2015 | Sexual material | 1 |
| Love Island (trailer) | ITV | 02/06/2015 | Sexual material | 1 |
| Man and Beast with Martin Clunes | ITV | 22/05/2015 | Materially misleading | 1 |
| Man and Beast with Martin Clunes | ITV | 22/05/2015 | Materially misleading | 1 |
| Man and Beast with Martin Clunes | ITV | 31/05/2015 | Materially misleading | 1 |
| Morrisons' sponsorship of Britain's Got Talent | ITV | n/a | Sponsorship credits | 1 |
| Nationwide's sponsorship of ITV documentaries | ITV | 08/05/2015 | Generally accepted standards | 1 |
| Nationwide's sponsorship of ITV documentaries | ITV | 15/05/2015 | Generally accepted standards | 1 |
| Nationwide's sponsorship of ITV documentaries | ITV | 28/05/2015 | Generally accepted standards | 1 |
| Ninja Warrior UK | ITV | 30/05/2015 | Outside of remit / other | 1 |
| Ninja Warror UK | ITV | 31/05/2015 | Outside of remit / other | 1 |
| Off Their Rockers | ITV | 12/04/2015 | Disability discrimination/offence | 1 |
| Off Their Rockers | ITV | 01/06/2015 | Disability discrimination/offence | 1 |
| Play to the Whistle | ITV | 02/05/2015 | Offensive language | 1 |
| Rebuild Our Home | ITV | 02/06/2015 | Materially misleading | 1 |
| Sunday Night at the Palladium | ITV | 10/05/2015 | Promotion of products/services | 1 |
| Sunday Night at the Palladium | ITV | 24/05/2015 | Animal welfare | 1 |
| Sunday Night at the Palladium | ITV | 24/05/2015 | Scheduling | 1 |
| The Chase | ITV | 09/06/2015 | Generally accepted standards | 1 |
| The Enforcers | ITV | 10/06/2015 | Generally accepted standards | 1 |
| The Enforcers | ITV | 16/06/2015 | Generally accepted standards | 1 |

| Programme | Broadcaster | Transmission Date | Categories | Number of complaints |
|-----------------------------------|--------------------|--------------------------|-----------------------------------|-----------------------------|
| The Hobbit: An Unexpected Journey | ITV | 13/06/2015 | Outside of remit / other | 2 |
| The ITV Leaders' Debate | ITV | 02/04/2015 | Elections/Referendums | 1 |
| The Jeremy Kyle Show | ITV | 24/04/2015 | Generally accepted standards | 2 |
| The Jeremy Kyle Show | ITV | 15/05/2015 | Generally accepted standards | 1 |
| The Jeremy Kyle Show | ITV | 16/06/2015 | Disability discrimination/offence | 1 |
| The Only Way is Marbs (trailer) | ITV | 11/06/2015 | Scheduling | 1 |
| The Paul O'Grady Show | ITV | 19/05/2015 | Disability discrimination/offence | 1 |
| The Paul O'Grady Show | ITV | 20/05/2015 | Disability discrimination/offence | 1 |
| This Morning | ITV | 31/03/2015 | Materially misleading | 1 |
| This Morning | ITV | 19/05/2015 | Generally accepted standards | 1 |
| This Morning | ITV | 21/05/2015 | Scheduling | 1 |
| This Morning | ITV | 09/06/2015 | Scheduling | 1 |
| This Morning | ITV | 10/06/2015 | Generally accepted standards | 2 |
| Tipping Point | ITV | 12/06/2015 | Outside of remit / other | 1 |
| UEFA Champions League Final | ITV | 06/06/2015 | Violence and dangerous behaviour | 1 |
| UEFA Champions League Live | ITV | 12/05/2015 | Advertising scheduling | 1 |
| Vicious | ITV | 01/06/2015 | Offensive language | 1 |
| Vicious | ITV | 15/06/2015 | Offensive language | 1 |
| Vicious (trailer) | ITV | 31/05/2015 | Scheduling | 1 |
| You've Been Framed! | ITV | 06/06/2015 | Animal welfare | 1 |
| You've Been Framed! | ITV | 06/06/2015 | Generally accepted standards | 1 |
| Advertisement | ITV2 | 09/06/2012 | Advertising content | 1 |
| Advertisement | ITV2 | 26/05/2015 | Advertising content | 1 |
| Advertisement | ITV2 | 16/06/2015 | Advertising content | 1 |
| Britain's Got More Talent | ITV2 | 23/05/2015 | Materially misleading | 1 |
| Britain's Got More Talent | ITV2 | 25/05/2015 | Generally accepted standards | 2 |
| Britain's Got More Talent | ITV2 | 30/05/2015 | Scheduling | 1 |
| Celebrity Juice | ITV2 | 21/05/2015 | Under 18s in programmes | 1 |
| Love Island | ITV2 | 08/06/2015 | Generally accepted standards | 1 |
| Advertisement | ITV2+1 | 08/06/2015 | Advertising content | 1 |
| Heartbeat | ITV3 | 20/05/2015 | Offensive language | 1 |
| Heartbeat | ITV3 | 09/06/2015 | Generally accepted standards | 1 |
| Advertisement | ITV4 | 30/05/2015 | Advertising content | 1 |

| Programme | Broadcaster | Transmission Date | Categories | Number of complaints |
|------------------------------------------|--------------------------|-------------------|-----------------------------------|----------------------|
| Advertisement | ITV4 | 05/06/2015 | Advertising content | 1 |
| French Open Tennis Live | ITV4 | 28/05/2015 | Offensive language | 1 |
| French Open Tennis Live | ITV4 | 30/05/2015 | Generally accepted standards | 2 |
| French Open Tennis Live | ITV4 | 30/05/2015 | Offensive language | 1 |
| French Open Tennis Live | ITV4 | 03/06/2015 | Outside of remit / other | 1 |
| Big Rich Texas | ITVBe | 20/04/2015 | Under 18s in programmes | 1 |
| Dinner Date | ITVBe | 16/06/2015 | Scheduling | 1 |
| The Real Housewives of Atlanta | ITVBe | 07/05/2015 | Disability discrimination/offence | 1 |
| The Real Housewives of New Jersey | ITVBe | 15/05/2015 | Scheduling | 1 |
| Advertisement | Kanal 6 | 26/05/2015 | Advertising content | 1 |
| Iain Dale | LBC 97.3 FM | 01/05/2015 | Elections/Referendums | 2 |
| James O'Brien | LBC 97.3 FM | 06/10/2014 | Due impartiality/bias | 1 |
| Programming | Lyca Radio 1458 | n/a | Competitions | 1 |
| Competition | Lynx 102.2FM | 06/05/2015 | Competitions | 1 |
| A Place in the Sun | More4 | 29/05/2015 | Nudity | 1 |
| Father Ted | More4 | 23/05/2015 | Offensive language | 1 |
| My Daughter the Teenage Nudist | More4 | 22/05/2015 | Gender discrimination/offence | 1 |
| Advertisement | More4 +1 | 24/05/2015 | Advertising content | 1 |
| Advertisement | More4+1 | 28/05/2015 | Advertising content | 1 |
| Judge Geordie | MTV | 11/06/2015 | Disability discrimination/offence | 1 |
| Teen Mom 2 | MTV | 03/04/2015 | Scheduling | 1 |
| Advertisement | MTV Dance | 07/06/2015 | Advertising content | 1 |
| Advertisement | n/a | 27/05/2015 | Advertising content | 1 |
| Advertisement | n/a | n/a | Advertising content | 1 |
| Advertisements | n/a | n/a | Advertising scheduling | 1 |
| Competitions | n/a | n/a | Competitions | 1 |
| Various | n/a | n/a | Advertising content | 1 |
| Various | n/a | n/a | Television Access Services | 1 |
| Världens Konstigaste / World's Strangest | National Geographic Wild | 24/04/2015 | Generally accepted standards | 1 |
| Advertisements | Nickelodeon | 12/04/2015 | Advertising scheduling | 1 |
| Our Land | NTV | 25/03/2015 | Product placement | 1 |
| Cherezvichanioe proishestvie | NTV Mir Lithuania | 06/11/2014 | Due impartiality/bias | 1 |
| Mir Segodnia | NTV Mir Lithuania | 03/11/2014 | Due impartiality/bias | 1 |
| Mir Segodnia | NTV Mir Lithuania | 04/11/2014 | Due impartiality/bias | 1 |

| Programme | Broadcaster | Transmission Date | Categories | Number of complaints |
|--------------------------------------|---------------------|-------------------|------------------------------------------|----------------------|
| Obzor cherezvichanieo proishestvie | NTV Mir Lithuania | 05/11/2014 | Due impartiality/bias | 1 |
| Profesia reporter | NTV Mir Lithuania | 25/10/2014 | Due impartiality/bias | 1 |
| Today | NTV Mir Lithuania | 23/11/2014 | Due impartiality/bias | 1 |
| Advertisement | Pick | 30/05/2015 | Advertising content | 1 |
| Danone's sponsorship | Pick | 09/05/2015 | Gender discrimination/offence | 1 |
| Karl Pilkington: The Moaning of Life | Pick | 07/06/2015 | Generally accepted standards | 1 |
| Most Haunted | Pick | n/a | Materially misleading | 1 |
| Programming | Planet Rock | n/a | Gender discrimination/offence | 1 |
| Programming | Planet Rock | n/a | Materially misleading | 1 |
| Programming | Pop | n/a | Scheduling | 1 |
| Radio OCNW | Radio OCNW | 30/05/2015 | Outside of remit / other | 4 |
| Ray Rose | Rock FM 2 99.9FM | 18/06/2015 | Generally accepted standards | 1 |
| Crosstalk | RT | 11/05/2015 | Due impartiality/bias | 1 |
| Advertisement | Sky Atlantic | 28/05/2015 | Advertising content | 1 |
| Advertisement | Sky Atlantic | 14/06/2015 | Advertising content | 1 |
| Blue Bloods | Sky Atlantic | 30/04/2015 | Violence and dangerous behaviour | 1 |
| Game of Thrones | Sky Atlantic | 08/06/2015 | Generally accepted standards | 1 |
| Game of Thrones | Sky Atlantic | n/a | Gender discrimination/offence | 1 |
| The British | Sky Atlantic | n/a | Materially misleading | 1 |
| The Tunnel | Sky Atlantic | 26/05/2015 | Sexual material | 1 |
| Advertisement | Sky Movies Premiere | 16/06/2015 | Advertising content | 1 |
| Ian King Live | Sky News | 04/06/2015 | Race discrimination/offence | 1 |
| Paper Review | Sky News | 06/04/2015 | Generally accepted standards | 1 |
| Paper Review | Sky News | 06/04/2015 | Race discrimination/offence | 1 |
| Programme trailers | Sky News | n/a | Generally accepted standards | 1 |
| Sky News | Sky News | 02/10/2014 | Due impartiality/bias | 1 |
| Sky News | Sky News | 02/10/2014 | Generally accepted standards | 173 |
| Sky News | Sky News | 21/05/2015 | Crime | 1 |
| Sky News | Sky News | 01/06/2015 | Religious/Beliefs discrimination/offence | 2 |
| Sky News | Sky News | 03/06/2015 | Generally accepted standards | 1 |
| Sky News at 5 with Andrew Wilson | Sky News | 23/05/2015 | Generally accepted standards | 1 |
| Sky News at 5 with Andrew Wilson | Sky News | 13/06/2015 | Outside of remit / other | 1 |

| Programme | Broadcaster | Transmission Date | Categories | Number of complaints |
|------------------------------------|----------------------------|-------------------|------------------------------------------|----------------------|
| Sky News at 6 with Andrew Wilson | Sky News | 14/06/2015 | Generally accepted standards | 1 |
| Sky News at 6 with Jeremy Thompson | Sky News | 02/06/2015 | Generally accepted standards | 1 |
| Sky News Tonight with Adam Boulton | Sky News | 26/05/2015 | Animal welfare | 1 |
| Sky News Tonight with Adam Boulton | Sky News | 28/05/2015 | Religious/Beliefs discrimination/offence | 1 |
| Sky News with Kay Burley | Sky News | 26/05/2015 | Generally accepted standards | 1 |
| Sky News with Kay Burley | Sky News | 02/06/2015 | Generally accepted standards | 1 |
| Sky News with Kay Burley | Sky News | 05/06/2015 | Generally accepted standards | 18 |
| Week in Review | Sky News | 29/05/2015 | Offensive language | 1 |
| Advertisement | Sky Sports 1 | 12/06/2015 | Advertising content | 1 |
| Football League | Sky Sports 1 | 10/05/2015 | Offensive language | 1 |
| Advertisement | Smooth Radio | n/a | Advertising content | 1 |
| Casillero Del Diablo sponsorship | Sony Movies / Movies 4 Men | n/a | Sponsorship credits | 1 |
| Teleshopping | The Jewellery Channel | n/a | Advertising content | 1 |
| Danone Sponsorship | The Primitive Channel | 23/04/2015 | Gender discrimination/offence | 1 |
| Roly Poly | Tiny Pop | 12/06/2015 | Offensive language | 1 |
| Chartity Appeal | Unity FM | n/a | Charity appeals | 1 |
| Andy Jackson | Wave 105 | 03/06/2015 | Gender discrimination/offence | 1 |
| Tony Horne Show | Wire FM | n/a | Materially misleading | 1 |
| Advertisement | XFM | 01/06/2015 | Advertising content | 1 |
| Sky News | Youtube | 05/06/2015 | Generally accepted standards | 1 |
| Advertisements | Zee TV | n/a | Advertising scheduling | 1 |

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

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

| Licensed service | Licensee | Categories |
|------------------|------------------------------------|------------------|
| TCR FM | Tamworth Radio Broadcasting CIC | Key Commitments |
| Magic 105.4 | Magic 105.4 Ltd | Outside of remit |
| Pirate FM | Pirate Fm Limited | Format |
| Planet Rock | Kerrang! Radio (West Midlands) Ltd | Format |

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 4 and 19 June 2015.

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

| Programme | Broadcaster | Transmission date |
|-----------------------------------------|--------------------------------------|-------------------|
| Advertising minutage | Aaj Tak | 18 April 2015 |
| BBC News | BBC News Channel | 19 May 2015 |
| Advertising minutage | Brit Asia TV | Various |
| News | Geo News | 7 May 2015 |
| Saturday Live | Heartland FM (Perth) | 2 May 2015 |
| Off Their Rockers: Blue Badge (trailer) | ITV | 1 June 2015 |
| Forty-Nine Days | Phoenix Chinese News & Entertainment | 12 May 2012 |
| News | Samaa | 7 May 2015 |
| Advertising minutage | Sikh Channel | 22 April 2015 |
| Sky News | Sky News | 6 May 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 General Procedures for investigating breaches of broadcast licences

| Licensee | Licensed service |
|----------------------------|-------------------------|
| French Radio London Ltd | French Radio London |
| ATN Bangla UK Ltd | ATN Bangla UK |
| Greener Technology Limited | Ben TV |

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