

Ofcom broadcast bulletin

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Introduction

Ofcom's Broadcasting Code took effect on 25 July 2005 (with the exception of Rule 10.17 which came into effect on 1 July 2005). This Code is used to assess the compliance of all programmes broadcast on or after 25 July 2005. The Broadcasting Code can be found at <http://www.ofcom.org.uk/tv/ifi/codes/bcode/>

The Rules on the Amount and Distribution of Advertising (RADA) apply to advertising issues within Ofcom's remit from 25 July 2005. The Rules can be found at <http://www.ofcom.org.uk/tv/ifi/codes/advertising/#content>

The Communications Act 2003 allowed for the codes of the legacy regulators to remain in force until such time as Ofcom developed its own Code. While Ofcom has now published its Broadcasting Code, the following legacy Codes apply to content broadcast before 25 July 2005.

- Advertising and Sponsorship Code (Radio Authority)
- News & Current Affairs Code and Programme Code (Radio Authority)
- Code on Standards (Broadcasting Standards Commission)
- Code on Fairness and Privacy (Broadcasting Standards Commission)
- Programme Code (Independent Television Commission)
- Programme Sponsorship Code (Independent Television Commission)
- Rules on the Amount and Distribution of Advertising

From time to time adjudications relating to advertising content may appear in the bulletin in relation to areas of advertising regulation which remain with Ofcom (including the application of statutory sanctions by Ofcom).

Standards cases

In Breach

Project Catwalk Trail

Various Sky Channels, December 2005/January 2006, various times

Introduction

Project Catwalk is a reality show which centres on the fashion industry. Hopeful designers compete for the opportunity to have their designs shown during London Fashion Week. We received four complaints from viewers who felt the trails for the series, which showed a pair of scissors flying through the air towards a tailor's dummy and becoming lodged in it, were inappropriate. Some felt children could be encouraged to imitate the scenario.

Response

Sky said that it did not believe that the trail amounted to dangerous behaviour which could be easily imitable by children. It was clearly a promotion for a programme and was filmed against a stark white background. There was no suggestion that the scissors had been thrown by anyone. The scissors were much larger than normal and this, together with the stylised nature of the sequence would have made it evident that this was a fantastical scenario.

The broadcaster said that the programme itself had not been made primarily for children. By hinting at the elimination format of the programme and the nature of the fashion industry, the trail was editorially justified.

Decision

Rule 1.13 of the Broadcasting Code states that "Dangerous behaviour, or the portrayal of dangerous behaviour, that is likely to be easily imitable by children in a manner that is harmful:

- must not be featured in programmes made primarily for children unless there is strong editorial justification;
- must not be broadcast before the watershed, or when children are particularly likely to be listening, unless there is editorial justification."

The guidance to this rule which can be found on the Ofcom website says "Areas of concern include:

- the use of accessible domestic implements, such as knives, or other offensive weapons, articles or substances portrayed in a dangerous or harmful manner..."

In its response Sky said that *Project Catwalk* was a series aimed at a family audience. We understand therefore the trail was aimed at attracting a family audience but was not a trail made primarily for children. Not all complainants specified when they saw the trail. However, where this could be ascertained, it was clear that some pre-21:00 broadcasts of the trail were at a time when there were very few children in the audience. However on at least one occasion, the trail was

broadcast early in the evening (18:00) on Sky One, between programmes that also attracted a younger audience (*Malcolm in the Middle* and *The Simpsons*) – at this time the child audience was 76,000 - 21,000 of which were in the 4 to 9 year age group.

We then considered the editorial justification for the inclusion of the scissors, but did not agree with Sky's argument that the subject of the series – the highly competitive nature of the fashion industry – provided editorial justification for including material which portrayed potentially dangerous behaviour which a younger child might imitate. The trail was stylised, but while stylisation can have a distancing effect, it could not, in this case, provide sufficient distance from the simple and imitable act of throwing scissors so that they stuck into an object – in this case the chest of a dressmaker's dummy.

We noted and accepted Sky's contentions that the scissors are not seen being thrown, and that their flight is not always consistent with having been thrown. They may also at times seem to be unrealistically large (though they are seen to be normal size by the time they pierce the tailor's dummy). As with stylisation, these points are relevant to how the trailer will have been interpreted by adults and older children. However, we did not think that younger children, in the 4-9 year range, will have made these kinds of relatively sophisticated judgement, and concluded that the portrayal was of a potentially dangerous act, with this age group. Transmission at times when they will have been viewing in large numbers - as between *Malcolm in the Middle* and *The Simpsons* - therefore contravened the Code.

Breach of Rule 1.13

The original decision to find this trail in breach was appealed by the broadcaster, leading to a review. This finding is the result of that review.

Cash House

Hollywood TV, 30 April 2006, 20:45

Introduction

A competition on this channel featured a photograph of a celebrity that had been split into nine sections and jumbled. Viewers had to identify the celebrity.

A viewer said that she participated in the competition and gave an answer of “Tyra Banks”, which she had been told was incorrect. However, she believed that the answer said by the broadcaster to be the solution – “Naomi Campbell” – was wrong and that her answer was correct.

Response

The broadcaster told us that it was unable to provide a recording of the programme, adding that “the input on the recording equipment had been mistakenly changed”, which had caused a blank signal to be recorded. It apologised for the inconvenience and confirmed that the incident had been a one-off that had been immediately identified and rectified, measures having been taken “to lock off any controls that can cause this type of problem.”

Decision

It is a condition of a Television Licensable Content Service licence that the licensee retains recordings of its output for 60 days, and provides Ofcom with any material on request. Failure to supply the recording from 30 April 2006 is a serious and significant breach of Hollywood TV’s licence. This will be held on record.

Breach of Licence Condition 11

(See also bulletin 63 - additional information page 9)

Resolved

F1: Bahrain Grand Prix

ITV 1, 12 March 2006, 10:30

Introduction

As a driver pulled out of the pit stop and re-entered the race, he could be heard saying “Fucking piece of shit” over his radio mic when experiencing technical problems with his car. Two viewers considered that the language was inappropriate for the time of broadcast. One complainant believed that a time delay should have been used to block the offensive language.

Response

ITV explained that its live transmission of Formula 1 races is supplied under a contract known as the “world feed”. Effectively, the material is collected and output by others and then packaged and presented by ITV. Part of the feed provided under the contract is output from “team radio” – the exchanges between a driver and support teams.

In this instance, when a stressed driver swore at his car, it was relayed within the “team radio” part of the feed. The producers had no prior warning and no means of removing the swearing: instead, the ITV presenter apologised immediately and professionally.

ITV explained that ‘team radio’ had become available on a regular basis only in the current season. Most of the clips are fed into the world feed with a delay of one to four seconds, having been moderated by Formula One Management (FOM) to exclude any unsuitable material (e.g. language or particularly contentious remarks). ITV said that this delay was adequate and functional most of the time, since many of the clips to which the team radio track is attached are a form of flashback or replay.

Pit-stop radio was an exception: the intention was to give the viewer a trackside “eavesdrop” on the exchanges between driver and engineer at a most critical moment. Pit-stops are obviously intense, when vital seconds can be gained or lost, and because of this impact on the race order should properly be played in absolute real-time. The radio feed therefore had to run live to match the live pictures. There was little doubt that this can add significant value to the viewing experience of F1 fans.

Ten teams were in constant radio communication with their drivers and one FOM individual listened in/ moderated for broadcast. On this occasion, and from experience to date, it wasn't anticipated that this driver was likely to swear.

The teams are warned by FOM before each weekend's racing if their radio traffic is going to be made available for broadcast in that particular event. It is the team management's responsibility to pass that warning to their individual drivers and engineers. A large red light then comes on by the team pit wall when their radio is going to air, as a final reminder.

In relation to the question of a time delay, ITV said there were technical difficulties in

inserting a delay mechanism into outside broadcasts and satellite signal chains. However, this was not the prime reason for not implementing a delay in F1 coverage. ITV's extensive experience of F1 broadcasts suggests there are very few occasions when it would be needed. Most importantly, a delay has to be of significant length to be of any value. Inserting any lengthy delay into live coverage of a sport which is determined by fractions of seconds, and is simultaneously played around the world, would not be acceptable to many F1 fans and viewers.

ITV said that it had received no complaints about the swearing and believed the apology seemed to have satisfied viewers.

Decision

We recognise the inherent difficulties faced by broadcasters when transmitting live coverage of sports event such as F1: the desire to show action 'as it happens' needs to be balanced with the requirement that unsuitable material is not transmitted.

On this occasion, we acknowledge that ITV had no reason to anticipate that offensive language was likely to be included in the live feed and welcome its immediate broadcast of an on-air apology.

In the circumstances, we consider the broadcaster acted appropriately and therefore consider the matter resolved.

Resolved

GMTV

ITV1, 26 April 2006, 06:00

Introduction

A competition for a car asked viewers: "What do two white lines on the middle of the road mean?"

The choice of answers was:

- "No Parking"
- "No Reversing"
- "No Overtaking."

Two viewers believed that "No Overtaking" – the answer provided later in the programme – was incorrect, claiming that the Highway Code actually requires drivers not to park in such circumstances.

Response

GMTV said that it had chosen "the generally understood colloquial meaning of "double white lines" as being "no overtaking". However, it agreed that it should have also accepted "no parking" as an answer, while clarifying that "neither of these answers fully express the meaning of "double white lines" in the Highway Code."

The broadcaster added that the competition winner had been selected later that morning from the entrants who had answered, "no overtaking." However, in response to viewers' queries on the matter, it had, in the next day's programme, offered free entry into other GMTV competitions to everyone who had queried the solution broadcast and had answered "no parking".

Clause 5 of GMTV's competition terms and conditions states: "All decisions of GMTV will be final and binding." The broadcaster claimed this was reasonable and that a similar term was applied widely to television competitions by other broadcasters. It also believed that it had exercised its discretion by accepting the ambiguity raised by viewers and offering reasonable recompense to those affected by its original decision.

Decision

Rule 108 of the Highway Code which relates to double white lines where the line nearest you is solid states "you MUST NOT cross or straddle it unless it is safe and you need to enter adjoining premises or a side road..."

Rule 215 states "you MUST NOT stop or park on ... a road marked with double white lines..."

However, both rules state limited circumstances in which drivers can cross or straddle double white lines and stop or park where such markings exist.

We therefore agree with the broadcaster's conclusion that it should have considered that two answers were correct. We welcome GMTV's decision to offer free entry into subsequent competitions to those affected by its original decision.

Therefore, given GMTV's actions, we consider the matter resolved.

Resolved

Fairness and Privacy Cases

Not Upheld

Complaint by Mr Don Stannard, Mrs Rosemary Stannard and Ms Kas Stannard

The Springer Show, ITV1, 8 and 27 June 2005

Summary: Ofcom has not upheld this complaint of unfair treatment and unwarranted infringement of privacy made by the Stannard family.

Mr Don Stannard, his wife Mrs Rosemary Stannard and her daughter Ms Kas Stannard appeared on the *The Springer Show* alongside his ex-wife Mrs Jones and her daughter Ms Michelle Breen.

After the first programme and in response to queries relating to Ms Breen's paternity, Mr Stannard agreed to take a DNA test. During the second programme the results of the DNA test were revealed and it was stated that Mr Stannard was Ms Breen's biological father.

Ofcom's Fairness Committee ("the Committee") found that there was no unfairness caused to the Stannard family. In particular it felt that:

- a) the persuasive tactics by programme makers were not of a nature that meant that the family was bullied and coerced into appearing in the programmes. The Stannard family voluntarily gave their consent to appear in the programmes.

However the Committee acknowledged that the complainants may not have been fully prepared for the demands of the production process. The Committee felt hardcopy information about what this would entail would be helpful when preparing participants for programmes of this nature.

- b) the programme did not appear to prevent the Stannard family from addressing criticisms made about them by Mrs Jones and Ms Breen;
- c) on the evidence before the Committee, the programme makers did not mislead the family about the likely nature and content of the programmes:
- d) failure to edit out a reference, by an audience member, to the whereabouts of Ms Kas Stannard's biological father was not unfair. The Stannard family complained that the programme makers assured them that this would be removed. The Stannard family had been unable to show that they had made the programme makers aware that the circumstances of Ms Kas Stannard's relationship with her biological father were so sensitive that a reference alone would cause distress to the family. Further, the Committee considered that it was unlikely that viewers would have been left with an unfair impression of the Stannard family as a result of the comment;
- e) the audience reference relating to Ms Kas Stannard's biological father did not infringe the Stannard's privacy. Given the context of these programmes, it did not reveal information about the Stannard family that was of an inherently sensitive or private nature. In addition the complainants were unable to show that they had made the programme makers aware of the sensitivity of Ms Kas Stannard's

relationship with her biological father. In the circumstances, while the Committee sympathised with Ms Kas Stannard, and appreciated that her relationship with her father meant that a reference to him could cause distress, the Committee concluded that there had been no infringement of the Stannard family's privacy.

Introduction

Two editions of The Springer Show broadcast in June 2005 featured Mr Don Stannard, and his current family, Mrs Rosemary Stannard and Ms Kas Stannard. Mr Stannard's ex-wife Mrs Margaret Jones and her daughter Ms Michelle Breen also appeared in both programmes.

Mr Stannard was asked to appear on the first programme - entitled 'I hate my step family – they stole my dad!' broadcast on 8 June 2005, by Ms Breen to answer questions relating to their relationship. During the programme the question of Ms Breen's paternity was raised. It was agreed that both families would take part in a follow-up programme once Mr Stannard and Ms Breen had taken a DNA test, to prove whether he was the biological father of Ms Breen.

In the programme, an audience member asked Ms Kas Stannard where her biological father was, and she responded "Dead".

In the second programme, broadcast on 27 June 2005 and entitled 'Your ex was sleeping around/ DNA results', Jerry Springer revealed the results of Mr Stannard's DNA test, and announced that Mr Stannard was the biological father of Ms Breen.

The Stannard family complained they were treated unfairly and their privacy was unwarrantably infringed in the programme as broadcast.

Ofcom held a hearing to consider the complaint which was attended by Mr Stannard, Mrs Stannard, and representatives of ITV.

The Complaint

The Stannard family's case

Fairness

In summary, the Stannard family complained that they were treated unfairly in the programme as broadcast in that:

- a) the production team bullied and coerced them to appear and continue to appear in the programmes. The family said the programme makers first contacted them on 3 May 2005, to ask them to appear on the programme. The Stannard family said they initially refused to take part, however the programme makers continued to telephone throughout the day and would not stop until the family finally agreed to appear on the programme. The family said that after they agreed to participate, on the afternoon of 3 May 2005, they were driven to Manchester, to appear in a programme scheduled to be filmed the next day. The family arrived in Manchester very late at night and were required to stay awake until the early morning to answer the programme makers' questions. The family said they were then advised to be ready by 7am on the morning of 4 May 2005 so they could be taken to the studio for the taping of the first programme;
- b) Mrs Stannard and Ms Kas Stannard were advised not to address Mr Stannard's

- ex-wife, Mrs Jones and her daughter Ms Michelle Breen during the show;
- c) they were misled about the nature and likely content of the programme in so far as:
- i) the programme producer told Mr Stannard that he was not the father of Ms Michelle Breen prior to the taping of the second programme;
 - ii) the Stannard family were not advised it was to be a 'DNA show'. Mr and Mrs Stannard said that they had been asked to appear on the first programme because Ms Breen wanted to "sort out" her relationship with Mr Stannard. The topic of paternity was not raised until the family was at the studios for the taping of the first programme;
 - iii) the programme makers told the participants that they could not mention anyone who was not present on the show or on the end of the studio telephone. However Mrs Jones and Ms Breen spoke of Mr Stannard's relationship with his other children. Mr Stannard said this was unfair as his children were not present to state whether Ms Breen and Mrs Jones were telling the truth, and it was embarrassing for him;
- d) the programme makers failed to remove an audience member's remark, which the Stannard family asked to be removed. An audience member asked where Ms Kas Stannard's biological father was. For family reasons the family did not want this reference included in the programme. During the hearing Mrs Stannard stated that she had asked a member of the production team to have the remark removed after the taping of the first programme.

Privacy

- e) In summary, the Stannard family complained that their privacy was unwarrantably infringed by the inclusion of the audience member's reference to Ms Kas Stannard's biological father.

ITV's case

In summary ITV responded to the complaint as follows:

Fairness

- a) ITV said the programme makers responsible for the show were the most experienced team in Britain working in this programme genre. They maintained that the Stannard family had not been bullied or coerced but rather had been responsibly, respectfully and sensitively treated.

The programme makers confirmed that the Stannard family had been initially surprised by the invitation to appear on the show, which was not unusual in this type of programme. When advised of recording dates, Mrs Stannard spoke to the programme makers of her concerns about the short notice, domestic commitments and travel arrangements. The programme makers then made special arrangements to best accommodate the family's needs.

The family had arrived in Manchester later than expected because the taxi driver became lost. The family were tired and stressed, the assistant producers needed to complete the pre-production tasks which formed the cornerstone of the

production for this style of programme. This meant getting answers to questions. These documents had to be produced to ensure the programme was accurate and fair.

At the hearing, the Committee enquired about the hurried pre-production period and short notice given to participants. The assistant producer stated that it was not uncommon for programmes of this nature to be pulled together at the last minute and that the production of the Jerry Springer series had particular time constraints as the host was only available for two weeks. The Committee asked the programme makers if the participants were ever provided with written guidelines or information about the production process. The programme makers said that though no hardcopy information is given to participants, the production team remained in contact with all participants during the production period and were always available to provide verbal information or assurance.

- b) ITV said the Stannard family's complaint, that Mrs and Ms Kas Stannard had been prevented from addressing the other participants, was implausible. ITV said to do this would be to fly in the face of the dynamic and everyday content of the series, format and genre.
- c) In relation to the complaint that the Stannard family was misled about the nature and likely content of the programme, ITV responded as follows:
 - i) ITV said that the producer emphatically denied that he told Mr Stannard he could not be Ms Michelle Breen's father. ITV explained the programme makers were very experienced in the sensitive handling of DNA results and followed a clear protocol which prevented such a disclosure.
 - ii) ITV said that the first programme was never planned or envisaged as a 'DNA show', and for that reason the programme makers did not describe it in that way to the Stannard family. ITV maintained that it had been made clear to the family from the outset that DNA testing was not the key issue and it was not the intention to make it a focal point of the programme. However, on the day of recording an audience member had made the suggestion of a DNA test. After the recording, Mr Stannard was asked how he wished to proceed with regards to a DNA test. It was made abundantly clear to the family that he was under no pressure to take a test, however upon consideration, Mr Stannard agreed and provided DNA swabs. The participants understood that they would receive the test results during the second programme, to be recorded the following week.
 - iii) In relation to the Stannard family's complaint that they were told they could not mention other family members on the show, ITV suggested that there had been a misunderstanding which led to the belief that the family had been treated unfairly in comparison to Mr Stannard's ex-wife Mrs Jones and her daughter Ms Michelle Breen. ITV explained that all guests are routinely told, before the start of recording, that they must not make claims about third parties who are not present. ITV apologised if a misunderstanding had arisen but did not believe that the Stannard family had been treated unfairly as a result.

During the hearing ITV acknowledged that Mrs Jones and Ms Breen had alleged that Mr Stannard was no longer in contact with his other children. ITV said that this did not result in unfairness to Mr Stannard as on-air, he was provided with an opportunity to respond, and clearly stated that he remained

in contact with all of his children.

- d) The production team had no record or recollection of giving the Stannard family assurances to edit out audience references to Ms Kas Stannard's biological father. Nor do they recall such a request being made by the Stannard family. ITV said had such a request been made, it would have been honoured during editing. In addition, ITV maintained that such a reference would not in itself have constituted unfairness towards the family.

At the hearing ITV said that if they had been aware that the subject of Ms Kas Stannard's biological father was particularly sensitive, they would have taken it into consideration during editing. However, in the circumstances, the programme makers said they were not aware that the reference alone would cause distress to the family.

Privacy

- e) As stated above, the production team had no record or recollection of giving the Stannard family assurances, to edit out references to Ms Kas Stannard's biological father. Nor do they recall such a request being made by the Stannard family. ITV contended that such a reference would not in itself have constituted an unwarranted infringement of the family's privacy.

Decision

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

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

Fairness

- a) The Stannard family complained that they had been bullied and coerced to appear and continue to appear in the programmes. Though it was clear to the Committee that the production team keenly sought the Stannard family's involvement in the programme, in the Committee's opinion the persuasion tactics of the programme makers were not of such a nature that it could be said that the Stannard family was actually coerced into appearing. It was clear to the Committee from the facts reported by both parties that it remained open to the Stannard family to have refused the offer. However, the family did not do so and it was evident that the Stannard family had voluntarily consented to their participation in the programme.

The Committee therefore found that the Stannard family had not been bullied or coerced to appear in the first programme.

In relation to the complaint that the family had been bullied into their continued appearance, Ofcom noted during the hearing that this did not, in fact, appear to be the complainants' primary concern. Rather, the complainants explained how they had felt pressured by the production process and, in particular, the lead-up to the taping of the first programme.

The Fairness Committee heard submissions from the broadcaster about the production process in general. From these submissions it was clear to the Committee that production teams, in a series such as *The Springer Show*, are under significant pressure to ensure each episode is booked and sufficient information has been gathered from the participants prior to recording. In the case of this programme, the Committee acknowledged that the production process was demanding of both the Stannard family and the programme makers. In particular there was a very short time frame in which to organise the programme; the Stannard family was required to travel a considerable distance at short notice; it was necessary for both the production team and the Stannard family to work on pre-production tasks late into the night; and the family had been required to be ready early the following morning for recording of the programme.

Whilst the Committee considered that the programme makers did not unfairly pressure the participants to take part in the programme, it did acknowledge that the Stannard family may not have been fully prepared for such a demanding production process. In particular, the Committee felt that for programmes of this nature, which generally centre on emotional and potentially distressing issues, it is important that clear information is provided to participants to help them prepare in advance for their appearance on the programme.

As noted above (under ITV's case), information about the production process was provided orally by members of the production team, but nothing was provided in writing. The Committee understood this process and accepted that the production team had kept in constant contact with the participants during the process. Nevertheless, the Committee considered, given the tight timescales and pressured environment, that hardcopy information about the production process, the production schedule, and what was expected of the participants once taping of the programme had begun; might have prevented some of the confusion that was evident from the Stannard family's complaint and submissions to Ofcom.

However, on the grounds of the actual complaint (that the Stannard family felt they had been unfairly bullied and coerced), as set out above, the Fairness Committee had not seen or heard any persuasive evidence that this had been the case and therefore found that the matters complained of under this head of the complaint did not result in any unfair treatment in the programme as broadcast.

- b) Mrs and Ms Kas Stannard complained that they were advised not to address Mrs Jones and Ms Michelle Breen. ITV maintained that such a complaint was implausible as to do so would prevent the programme from 'working'.

In cases where there are differing accounts of events between the complainant and broadcaster, it is important to note that Ofcom does not have remit to act as a fact finding tribunal. Rather, Ofcom is responsible for determining whether a particular broadcast has resulted in unfairness to an individual or organisation.

In the circumstances of this case, the Committee noted that in the programme as broadcast, both Mrs and Ms Kas Stannard engaged in verbal dialogue with Ms Breen and Mrs Jones. The Committee considered that during the programme the Stannard family did not appear disadvantaged by the format of the programme and were able successfully to put their views forward. The Committee also noted that the format of such programmes is for parties on stage to address each other.

As a result, the Fairness Committee found there had been no unfair treatment of

the Stannard family in this respect in the programme as broadcast.

c) In relation to the complaint that the Stannard family was misled about the nature and likely content of the programme, the Committee found as follows:

i) The Stannard family complained that they had been misled about the likely content of the second programme by the producer. Mr Stannard claimed the producer had told him that he could not be the father of Ms Michelle Breen prior to the taping of the second show. In both their written and oral submissions to Ofcom, ITV and the programme makers denied that the producer had made such a comment.

The Committee considered when the alleged conversation supposedly took place. Mr Stannard said the programme producer made the comment in Manchester the day before the taping of the second programme. However, the Committee noted that by this time the family had already agreed to participate in the second programme and had travelled to Manchester for the taping (during which the DNA results would be revealed). Under these circumstances, the Committee found that the order of events suggested that even if the producer had made the comment that the Stannard family alleged he made (that Mr Stannard could not be the father of Ms Michelle Breen) this could not have played a role in securing the family's agreement to participate in the second programme.

The Committee was satisfied that the family had not been misled about the likely content of the second programme because the family had already agreed to take part in a DNA results programme onstage during the first programme, and backstage after the first programme recording. This was before they travelled to Manchester and before the alleged conversation with the programme producer.

Accordingly, the Fairness Committee found there had been no unfair treatment of the Stannard family in this respect in the programme as broadcast.

ii) The Committee questioned ITV and the Stannard family about the genesis of the show and how the question of carrying out a DNA test first arose. Both parties' submissions confirmed the Committee's impression from having viewed the first show, that the programme largely centred on the breakdown in the relationship between Ms Breen and Mr Stannard. ITV confirmed that this was the intended focus of the show and that the production team had not planned that DNA testing would be a discussion topic within the show.

In the light of these considerations, the Committee was satisfied that the focus of the first programme was such that the programme makers were not required to describe it to the Stannard family as a "DNA show".

As regards the topic of paternity, during the hearing ITV said they were certain that before the taping of the first programme, the family had been aware that the topic of Ms Breen's paternity might be raised during the programme. The Stannard family confirmed they were aware of this before the first programme was recorded.

The Committee also noted that the Stannard family's letter of complaint to Ofcom, (dated 30 May 2005) stated that Mr Stannard had been contacted by a member of staff working on the Springer Show and had been told that his

daughter wanted to sort things out and have it proved that he was her father.

In light of this and the parties' submissions at the hearing, the Committee was satisfied that the Stannard family did have an accurate understanding of the likely content of the first programme. In particular, the Committee considered that the Stannard family had been aware, or ought to have been aware from what they had been told by the programme makers, that the topic of Ms Breen's paternity was likely to be raised.

On the basis of these considerations in relation to this element of the complaint, the Fairness Committee found no unfairness resulted to the Stannard family in the programme as broadcast.

- iii) The Stannard family complained that it was unfair for the programme makers to allow Mrs Jones and Ms Breen to mention other family members on the show when, prior to recording, they had understood that all the participants had been asked not to do so.

During the hearing ITV confirmed that participants had been emphatically told not to mention any third party in order to avoid anything being said that was potentially defamatory of anyone not present in person or over a live telephone connection. ITV explained that sometimes participants do nonetheless refer to others and that when this happens such references are checked by the compliance department and edited out if they are considered to be potentially unfair or defamatory. The Committee understood the programme makers' reasons for taking these steps and agreed that this reflected standard industry practice.

Contrary to being told not to refer to third parties who were not present, Mrs Jones and Ms Breen referred to Mr Stannard's other children during the programme, claiming that Mr Stannard was no longer in contact with his other children. During the hearing, Mr Stannard explained to the Committee that he felt this reference was unfair as the children could not respond to the allegation and it was embarrassing for him. The Committee agreed that the comment was capable of portraying Mr Stannard in a negative way as it criticised his performance as a father and was capable therefore of leading to possible unfairness in the programme.

Where a programme alleges wrongdoing or incompetence, or contains a damaging critique of an individual or organisation, those criticised should normally be given an appropriate opportunity to respond or comment. In considering whether or not the inclusion of the comment in the programme as broadcast resulted in unfairness to the Stannard family the Committee noted that Mr Stannard was offered an opportunity to respond to the allegation that he no longer kept in contact with his other children and that Mr Stannard's vigorous denial had been included in the programme as broadcast.

In the circumstances, therefore, the Fairness Committee concluded that the inclusion of Mrs Jones and Ms Breen's reference to other family members did not result in unfairness to the Stannard family. The Committee also noted that this programme was specifically about Mr Stannard's relationship with Ms Michelle Breen and his role as a father. It was therefore likely that Mr Stannard was going to be criticised in this respect, but importantly, in the Committee's view, Mr Stannard was given the opportunity to respond.

In all the circumstances, Ofcom found that the Stannard family were not misled

about the likely content of the programme. Ofcom no unfairness in this respect.

- d) The Stannard family complained that the programme makers failed to remove a reference made in the programme about Ms Kas Stannard's biological father, as the Stannard family believed ITV had promised to do. ITV stated that they had never received a request to have the reference removed and at the time of editing, were not aware that the inclusion of any reference to Ms Kas Stannard's biological father would cause distress to the family.

As mentioned above, in cases where there are varied accounts of events between the complainant and broadcaster, Ofcom is not able to act as a fact finding tribunal. On this point, the Committee could not determine conclusively whether or not the Stannard family had been told that the reference would be removed. The Committee therefore considered whether it was possible to determine whether the reference was *capable* of resulting in unfairness to the Stannard family in the programme as broadcast.

The Committee considered the nature of the reference which had been made by an audience member in the context of a question addressed to Ms Kas Stannard. Rather than being a comment about Ms Kas Stannard's father the question simply asked as to his whereabouts to which Ms Kas Stannard replied that he was "dead". This was the only reference made in the programme to her biological father.

The Committee noted that Jerry Springer had highlighted the issue of paternity at the beginning of the programme (in relation to Ms Breen) and had also made it clear that Mr Stannard was not Ms Kas Stannard's biological father. The Committee considered that viewers would have interpreted the question about the location of Ms Kas Stannard's father in light of this. The Committee also considered that the question itself would have been taken at face value by viewers.

Turning to the Stannard family's concerns about the reference, it was clear to the Committee that the family knew the programme would raise issues about parentage and that the production team had gone through a checklist with the family in an attempt to identify any potentially difficult areas that the family might want to avoid. The Committee accepted that ITV would have cut out any comment that related to an issue they had been made aware of. The Committee noted, on the evidence provided in both the written and oral submissions, that the Stannard family had been unable to show that they had made the programme makers aware that the circumstances of Ms Kas Stannard's relationship with her biological father were so sensitive that a reference alone would cause distress to the family.

On this basis and on the basis that it was unlikely that viewers would have been left with an unfair impression of the Stannard family as a result of the comment, the Committee concluded that the inclusion of the audience member's reference to Ms Kas Stannard's biological father did not lead to unfairness in the programme as broadcast.

The Fairness Committee found there had been no unfair treatment of the Stannard family in this respect in the programme as broadcast.

Privacy

The line to be drawn between the public's right to information and the citizen's

right to privacy can sometimes be a fine one. When considering and adjudicating on a complaint of unwarranted infringement of privacy, Ofcom must therefore address itself to two distinct questions: First, has there been an infringement of privacy? Second, if so, was it warranted?

The Committee considered whether or not the audience member's reference to Ms Kas Stannard's biological father infringed the Stannard family's privacy in the programme as broadcast. As noted above, viewers would have been aware that Mr Stannard was not Ms Kas Stannard's biological father and would have understood the question from the audience in the context of the questioner wanting to know how he fitted into the situation. Given the family's appearance on the programme, the Committee did not consider therefore that the audience reference revealed information about the Stannard family that was of an inherently sensitive or private nature.

The Committee sympathised with Ms Kas Stannard, and appreciated that her relationship with her father was such that a reference to him could cause her distress. However, the Committee also considered that for this to have amounted to an infringement of her privacy, in the context of a "confessional" show that focuses on relationships and deals inherently with matters of a private nature, ITV would have to have been aware of this fact and, being aware of it, would have to have taken a conscious decision to include the reference. Since the reference was outwardly benign and since the Stannard family had been unable to demonstrate that they had made the programme makers aware of the sensitivity of Ms Kas Stannard's relationship with her biological father, the Committee concluded that there had been no infringement of the Stannard family's privacy. Having found that there was no infringement of privacy, it was not necessary for the Committee to consider whether any infringement of privacy was warranted.

Accordingly the Fairness Committee found no unwarranted infringement of privacy in the programme as broadcast.

Other programmes not in breach/out of remit

7 June – 20 June 2006

Programme	Trans Date	Channel	Category	No of complaints
10 Years Younger	31/05/2006	Channel 4	Generally Accepted Standards	1
10 Years Younger	07/06/2006	Channel 4	Offensive language	2
8 Out of 10 Cats	09/06/2006	Channel 4	Generally Accepted Standards	2
99 Ways to Lose Your Virginity	19/05/2006	Channel 4	Generally Accepted Standards	1
Alan Brazil Sports Breakfast	25/04/2006	Talksport	Crime Incitement/Encouragement	1
Australian Princess	05/02/2006	ITV2	Offensive language	2
Bald	02/06/2006	Reality TV	Offensive language	1
BBC News	06/06/2006	BBC1	Scheduling	1
BBC News	13/06/2006	BBC1	Offensive language	1
BBC News	15/06/2006	BBC1	Due Impartiality/Bias	1
BBC Radio Manchester	04/05/2006	BBC Radio Manchester	Generally Accepted Standards	1
Big Brother 7	22/05/2006	Channel 4	Generally Accepted Standards	4
Big Brother 7	18/05/2006	Channel 4	Offensive language	1
Big Brother 7	21/05/2006	Channel 4	Generally Accepted Standards	3
Big Brother 7	25/05/2006	Channel 4	Generally Accepted Standards	1
Big Brother 7	24/05/2006	Channel 4	Generally Accepted Standards	2
Big Brother 7	26/05/2006	Channel 4	Hypnosis Subliminal	1
Big Brother 7	26/05/2006	Channel 4	Offensive language	1
Big Brother 7	30/05/2006	Channel 4	Generally Accepted Standards	2
Big Brother 7	01/06/2006	Channel 4	Generally Accepted Standards	1
Big Brother 7	29/05/2006	Channel 4	Offensive language	1
Big Brother 7	05/06/2006	Channel 4	Sex/Nudity	1
Big Brother 7	04/06/2006	E4	Generally Accepted Standards	1
Big Brother 7	04/06/2006	Channel 4	Offensive language	1
Big Brother 7	09/06/2006	Channel 4	Generally Accepted Standards	2
Big Brother 7	13/06/2006	Channel 4	Generally Accepted Standards	1
Big Brother's Big Brain	29/05/2006	Channel 4	Generally Accepted Standards	1
Big Brother's Big Mouth	18/05/2006	E4	Generally Accepted Standards	1
Big Game TV	25/05/2006	Big Game TV	Competitions	1
Brainteaser	30/05/2006	Five	Competitions	1
Brat Camp	31/03/2006	Channel 4	U18 in Programmes	1
Bratz	24/04/2006	ITV1	Generally Accepted Standards	1
Breakfast - BBC R5 Live	14/06/2006	BBC Radio 5 Live	Due Impartiality/Bias	1
Bring Back. . .One Hit Wonders	09/06/2006	Channel 4	Generally Accepted Standards	1
Cartoon Network	08/05/2006	Cartoon Network	Competitions	1

Cash House	27/05/2006	Hollywood TV	Competitions	1
Century FM	16/05/2006	Century FM	Competitions	1
Channel 4 News	23/05/2006	Channel 4	Substance Abuse	1
Channel U	05/05/2006	Channel U	Competitions	1
Christian O'Connel	02/06/2006	Virgin 105.8FM	Generally Accepted Standards	1
Colin and Justin's How Not to Decorate	23/05/2006	Five	Religious Offence	1
Coronation Street	18/05/2006	ITV1	Advertising	1
Coronation Street	29/05/2006	ITV2	Generally Accepted Standards	1
Countdown	23/05/2006	Channel 4	Offensive language	1
Deal Or No Deal	22/05/2006	Channel 4	Competitions	1
Deal Or No Deal	25/05/2006	Channel 4	Competitions	1
Deal Or No Deal	31/05/2006	Channel 4	Competitions	1
Derren Brown: Trick of the Mind	16/04/2006	Channel 4	Exorcism/Occult	1
Dil Pardesi Ho Gaya	01/01/2006	MATV	Offence	1
Dispatches - Mad About Animals	15/05/2006	Channel 4	Due Impartiality/Bias	3
Dispatches: The New Fundamentalists	06/03/2006	Channel 4	Religious Offence	3
Doctor Zhivago	20/05/2006	ITV1	Violence	1
Drivetime	15/05/2006	100.7 Heart FM	Crime Incitement/Encouragement	1
Emmerdale	28/05/2006	ITV1	Sex/Nudity	1
Emmerdale	31/05/2006	ITV1	Offensive language	1
Emmerdale	01/06/2006	ITV1	Generally Accepted Standards	1
Eurovision Song Contest	20/05/2006	BBC1	Generally Accepted Standards	1
Eurovision Song Contest	20/05/2006	BBC1	Generally Accepted Standards	1
Feedback	31/03/2006	BBC Radio 4	Generally Accepted Standards	1
Fifth Gear	15/05/2006	Five	Offensive language	1
Fifth Gear	29/05/2006	Five	Crime Incitement/Encouragement	3
Full Length and Fabulous	28/05/2006	ITV1	Religious Offence	1
GMTV	17/05/2006	ITV1	Crime Incitement/Encouragement	1
GMTV	26/05/2006	ITV1	Competitions	2
GMTV	01/06/2006	ITV1	Generally Accepted Standards	2
God's Next Army	05/06/2006	Channel 4	Religious Offence	2
Grab a Grand	28/03/2006	You Play TV	Competitions	1
Grab a Grand	05/04/2006	You Play TV	Competitions	1
Grab a Grand	05/05/2006	Reality TV	Competitions	1
Graham Stewart's Afternoon Edition	17/04/2006	Talk 107	Religious Offence	1
Hart's War	28/05/2006	Five	Dangerous behaviour	1
Holiday Hit Squad	18/05/2006	BBC1	Advertising	1
Hollyoaks	31/05/2006	E4	Advertising	1
Homechoice	30/05/2006	Homechoice	Violence	1
Human Traffic	30/05/2006	Sky One	Sex/Nudity	1
Hype Williams Directed	15/04/2006	Kiss	Religious Offence	1
I Didn't Divorce My	28/02/2006	BBC1	U18 in Programmes	1

Kids				
I'm Sorry I Haven't A Clue	15/06/2006	BBC Radio 4	Generally Accepted Standards	1
Iain Lee	17/04/2006	LBC97.3	Generally Accepted Standards	1
Iain Lee	11/05/2006	LBC97.3	Crime Incitement/Encouragement	1
Insider	09/02/2006	TV3	U18 in Programmes	1
ITV News	17/05/2006	ITV1	Generally Accepted Standards	2
ITV News	04/05/2006	ITV1	Dangerous behaviour	1
ITV News	23/05/2006	ITV1	Due Impartiality/Bias	2
ITV News	29/03/2006	ITV1	Due Impartiality/Bias	1
ITV News	31/05/2006	ITV1	Due Impartiality/Bias	1
ITV News	03/06/2006	ITV1	Due Impartiality/Bias	1
ITV News	23/05/2006	ITV1	Due Impartiality/Bias	1
James O'Brien	01/06/2006	LBC97.3	Generally Accepted Standards	2
James Whale Show	14/05/2006	Talksport	Generally Accepted Standards	1
Johnny Vaughan Breakfast Show	08/05/2006	Capital FM	Generally Accepted Standards	1
Key103FM	07/02/2006	KEY103	Competitions	1
Lip Service	13/05/2006	ITV2	Generally Accepted Standards	1
Live football	08/05/2006	Sky Sports	Offensive language	1
Lost Treasure	09/12/2005	Sky Movies	Offensive language	1
Match of the Day	03/06/2006	BBC1	Generally Accepted Standards	1
Match of the Day	30/05/2006	BBC1	Violence	1
Mike Dickin	06/05/2006	Talksport	Crime Incitement/Encouragement	2
Mike Mendoza	11/05/2006	Talksport	Crime Incitement/Encouragement	1
Miss Match	29/05/2006	Channel 4	Sex/Nudity	1
Model Talk	16/05/2006	Fashion TV	Offensive language	1
Neighbours	02/06/2006	BBC1	Inaccuracy/Misleading	1
Never Mind the Buzzcocks	10/04/2006	BBC2	Substance Abuse	1
Newsbeat	26/04/2006	BBC Radio 1	Offensive language	1
Newsbeat	11/06/2006	BBC Radio 1	Generally Accepted Standards	1
Newsnight	01/06/2006	BBC2	Due Impartiality/Bias	1
Nice House, Shame About the Garden	19/05/2006	Five	Offensive language	1
Nick Ferrari	04/04/2006	LBC97.3	Generally Accepted Standards	1
Nighty Night	11/05/2006	BBC2	Generally Accepted Standards	1
Panorama	21/05/2006	BBC1	Due Impartiality/Bias	1
Pickles - The Dog Who Won the World Cup	03/06/2006	ITV1	Offensive language	1
Popworld	27/05/2006	Channel 4	Generally Accepted Standards	1
Radio Faza Nottingham	08/01/2006	Radio Faza Nottingham	Religious Offence	1
Ramsay's F Word	12/06/2006	Channel 4	Generally Accepted Standards	1
Random Passage	06/06/2006	Five	Sex/Nudity	1
Real Football Factories	13/05/2006	Bravo	Crime Incitement/Encouragement	1
Real Football Factories	16/05/2006	Bravo	Crime Incitement/Encouragement	1
RHS Chelsea Flower Show	30/05/2006	BBC1	Advertising	1
RHS Chelsea Flower	26/05/2006	BBC2	Advertising	1

Show				
Richard and Judy	23/02/2006	Channel 4	Crime Incitement/Encouragement	1
Robin Hood	25/05/2006	National Geographic	Inaccuracy/Misleading	1
Rovers Return Pub Quiz	02/06/2006	ITV Play	Competitions	1
Rugby	04/06/2006	BBC2	Sex/Nudity	1
Saturday Cooks	10/06/2006	ITV1	Generally Accepted Standards	1
Scott Mills	26/04/2006	BBC Radio 1	Offensive language	1
Sky High	25/05/2006	ITV1	Competitions	1
Sky News	11/04/2006	Sky News	Dangerous behaviour	1
Sky News	12/05/2006	Sky News	Generally Accepted Standards	1
Soccer Aid Live from Old Trafford	27/05/2006	ITV1	Generally Accepted Standards	1
Soccer AM	13/05/2006	Sky Sports	Offensive language	1
South Park	30/05/2006	Paramount Comedy	Generally Accepted Standards	1
Spendaholics	20/04/2006	BBC3	Animal welfare	1
Stitch Up!	21/04/2006	BBC1	Crime Incitement/Encouragement	1
Sugar Rush	06/06/2006	Channel 4	Sex/Nudity	2
Surviving	16/05/2006	Sky One	Scheduling	1
Sven: The Coach, The Cash & His Lovers	07/06/2006	Channel 4	Offensive language	1
T4	13/05/2006	Channel 4	Sex/Nudity	2
Talksport	18/05/2006	Talksport	Animal welfare	1
Talksport	30/05/2006	Talksport	Competitions	1
Tarrant on TV	18/05/2006	ITV1	U18 Sexual/Other offence	1
Test Drive My Girlfriend	07/04/2006	ITV2	Sex/Nudity	1
That Mitchell and Webb Sound	11/05/2006	BBC Radio 4	Generally Accepted Standards	1
The Armstrongs	12/04/2006	BBC2	Offensive language	3
The Best Man	20/03/2006	ITV1	Sex/Nudity	2
The Chris Moyles Show	07/06/2006	BBC Radio 1	Generally Accepted Standards	1
The Chris Moyles Show	08/06/2006	BBC Radio 1	Generally Accepted Standards	1
The Chris Moyles Show	14/06/2006	BBC Radio 1	Generally Accepted Standards	1
The Eagle 96.4FM	19/05/2006	96.4 The Eagle	Offensive language	1
The Game with Rodney Marsh	23/05/2006	Talksport	Generally Accepted Standards	1
The Geoff Show	08/06/2006	Virgin 105.8FM	Substance Abuse	1
The Hits	23/05/2006	The Hits	Offensive language	1
The Kindness of Strangers	07/06/2006	ITV1	Dangerous behaviour	1
The KNTV Show	27/01/2006	Channel 4	Violence	1
The Line of Beauty	24/05/2006	BBC2	Sex/Nudity	1
The London Debate	11/05/2006	ITV1	Signage	1
The Mummy	04/06/2006	BBC1	Scheduling	1
The New Paul O'Grady Show	30/05/2006	Channel 4	Religious Offence	1

The O'Reilly Factor	07/06/2006	Fox News	Sex/Nudity	1
The Power FM Breakfast Show	24/03/2006	103.2 Power FM	Sex/Nudity	1
The Search for Animal Farm	19/04/2006	Channel 4	Due Impartiality/Bias	2
The Simpsons	10/04/2006	Sky 3	Dangerous behaviour	1
The Simpsons	22/05/2006	Channel 4	Offensive language	1
The Simpsons	24/05/2006	Channel 4	Generally Accepted Standards	1
The Voice Hits	13/05/2006	Kanal 5 (Sweden)	Undue prominence	1
This Week	18/05/2006	BBC1	Generally Accepted Standards	1
Time 107.3FM	05/05/2006	TIME107.3 FM	Due Impartiality/Bias	1
Today	14/02/2006	BBC Radio 4	Due Impartiality/Bias	1
Today	24/05/2006	BBC Radio 4	Due Impartiality/Bias	1
Today Programme	26/05/2006	BBC Radio 4	Generally Accepted Standards	1
Tonight with Trevor McDonald	03/04/2006	ITV1	Due Impartiality/Bias	1
Tonight with Trevor McDonald	19/05/2006	ITV1	Crime Incitement/Encouragement	1
Tonight with Trevor McDonald	02/06/2006	ITV1	Inaccuracy/Misleading	1
Top Gear	08/05/2006	BBC2	Offensive language	1
Top Gear	14/05/2006	BBC2	Crime Incitement/Encouragement	2
Top Gear	21/05/2006	BBC2	Crime Incitement/Encouragement	1
Top Gear	28/05/2006	BBC2	Offensive language	1
TOTP2 World Cup Special	07/06/2006	BBC2	Generally Accepted Standards	1
Tricks From The Bible	30/05/2006	Channel 4	Religious Offence	1
Trisha Goddard	01/06/2006	Five	Sex/Nudity	1
Turn Back Your Body Clock	06/06/2006	Channel 4	Substance Abuse	1
Two and a Half Men	06/06/2006	Five	Dangerous behaviour	1
Unreported World	17/05/2006	Channel 4	Due Impartiality/Bias	1
Unreported World	26/05/2006	Channel 4	Generally Accepted Standards	1
UTV Live	18/04/2006	ITV1	Inaccuracy/Misleading	1
Wales This Week	27/02/2006	ITV1	Due Impartiality/Bias	1
Watch to Win	17/04/2006	ITV1	Competitions	1
Weakest Link	23/05/2006	BBC2	Generally Accepted Standards	1
Wife Swap	23/05/2006	Channel 4	U18 in Programmes	1
World Cup 2006	20/05/2006	BBC2	Dangerous behaviour	1
World Cup 2006	24/05/2006	BBC1	Dangerous behaviour	1
World Cup 2006	30/05/2006	BBC1	Dangerous behaviour	1
World Cup 2006	01/06/2006	BBC	Dangerous behaviour	1
World Cup 2006	02/06/2006	BBC1	Generally Accepted Standards	1
World Cup 2006	10/06/2006	ITV1	Generally Accepted Standards	1
World Cup 2006	11/06/2006	BBC1	Sex/Nudity	1
World Cup 2006	15/06/2006	Talksport	Offensive language	1
World Cup Heaven & Hell	31/05/2006	ITV1	Generally Accepted Standards	1
World Snooker	01/05/2006	BBC2	Offensive language	1
WWE Heat	09/05/2006	Sky Sports	Generally Accepted Standards	1

