

OFCOM BROADCAST AND ON DEMAND BULLETIN

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Introduction

Under the Communications Act 2003 ("the Act"), Ofcom has a duty to set standards for broadcast content to secure the standards objectives¹. Ofcom also has a duty to ensure that On Demand Programme Services ("ODPS") comply with certain standards requirements set out in the Act².

Ofcom reflects these requirements in its codes and rules. The Broadcast and On Demand Bulletin reports on the outcome of Ofcom's investigations into alleged breaches of its codes and rules, as well as conditions with which broadcasters licensed by Ofcom are required to comply. The codes and rules include:

- a) [Ofcom's Broadcasting Code](#) ("the Code") for content broadcast on television and radio services licensed by Ofcom, and for content on the BBC's licence fee funded television, radio and on demand services.
- b) the [Code on the Scheduling of Television Advertising](#) ("COSTA"), containing rules on how much advertising and teleshopping may be scheduled on commercial television, how many breaks are allowed and when they may be taken.
- c) certain sections of the [BCAP Code: the UK Code of Broadcast Advertising](#), for which Ofcom retains regulatory responsibility for television and radio services. These include:
 - the prohibition on 'political' advertising;
 - 'participation TV' advertising, e.g. long-form advertising predicated on premium rate telephone services – notably chat (including 'adult' chat), 'psychic' readings and dedicated quiz TV (Call TV quiz services); and
 - gambling, dating and 'message board' material where these are broadcast as advertising³.
- d) other conditions with which Ofcom licensed services must comply, such as requirements to pay fees and submit information required for Ofcom to carry out its statutory duties. Further information can be found on Ofcom's website for [television](#) and [radio](#) licences.
- e) Ofcom's [Statutory Rules and Non-Binding Guidance for Providers of On-Demand Programme Services](#) for editorial content on ODPS (apart from BBC ODPS). Ofcom considers sanctions for advertising content on ODPS referred to it by the Advertising Standards Authority ("ASA"), the co-regulator of ODPS for advertising, or may do so as a concurrent regulator.

[Other codes and requirements](#) may also apply to broadcasters, depending on their circumstances. These include the requirements in the BBC Agreement, the Code on Television Access Services (which sets out how much subtitling, signing and audio description relevant licensees must provide), the Code on Electronic Programme Guides, the Code on Listed Events, and the Cross Promotion Code.

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

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

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

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

Broadcast Standards cases

In Breach

Steve Allen

LBC 97.3FM, 28 December 2017, 04:00

Introduction

Steve Allen presents the early weekday morning breakfast show between 04:00 and 07:00 on the speech based radio station LBC 97.3FM. The format of the programme is based on the presenter expressing his views on a range of topical issues and encouraging listeners to interact and express their opinions via text message and online. The licence for the service is held by LBC Radio Limited ("LBC Radio" or "the Licensee").

A listener complained that presenter Steve Allen made discriminatory comments about the traveller¹ community during this programme.

We noted that during the programme, the presenter, Mr Allen, made reference to a news story in which businesses in the village of Parkend, Gloucestershire, were instructed by police to close following violent disturbances from a group of visitors to a holiday village². Mr Allen said the following:

"Brawling travellers shut down a holiday village'. Why do we have to start being nice to travellers? Every time I read a story in the newspaper its either thieving, robbing or brawling. And this one was terrible, all the businesses had to close and everything else. We had them moving in to a hospital car park a short while ago, it was all very odd. What is the matter with them? What is the matter with them?"

We considered that this material raised potential issues under the following rule of the Code:

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

We therefore asked the Licensee for comments on how the programme complied with these rules.

Response

The Licensee stated that Steve Allen's programme is "personality-led" and his "daily rundown of the news at the top of the show followed his usual theme of acerbic commentary". It added that he was "typically even-handed in handing out criticism to those who featured".

LBC Radio said that Mr Allen had read the story in question which he had "believed at the time" to refer to individuals "from the travelling community". As such, the Licensee stated

¹ By virtue of the Equality Act 2010, Irish travellers and Gypsies are held to be distinct racial groups.

² <https://www.gloucestershirelive.co.uk/news/gloucester-news/violent-disorder-tourist-attraction-forced-975750>

that Steve Allen had “wanted to make a genuine observation on the number of negative stories newspapers feature on the travelling community, and convey his anger at the individuals involved in this particular story”.

The Licensee stated its belief that, in regards to offence, “listeners would have considered these comments in the context of Steve’s familiar style of fast-moving, continuous rhetoric that rarely dwells significantly on any subject”. It added that Mr Allen’s “criticism [is handed out to] many that feature” and as such “the audience would have an expectation of this approach and would have viewed the comments alongside the various critical statements made about other individuals”.

The Licensee concluded by stating that it had “reviewed the clip with Steve as it appears that his comments could be construed as straying beyond criticism of the perpetrators of this particular criminal act”. It added that Steve Allen had agreed to “take much greater care in this area going forward”.

Decision

Reflecting our duties under the Communications Act 2003³, Section two of the Code requires that generally accepted standards are applied to the content of television and radio services so as to provide adequate protection for members of the public from the inclusion of harmful or offensive material.

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

Under the Equality Act 2010, Ofcom must also have due regard to the need to eliminate unlawful discrimination, to advance equality of opportunity and to foster good relations between persons who share a relevant protected characteristic, such as race or religion, and persons who do not share it.

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

As stated in our published Guidance⁴ on offensive language, Ofcom recognises that a substantial amount of radio output is devoted to the live reporting, discussion and analysis of news and current affairs issues. We recognise that there is a rich and welcome tradition of live, hard-hitting, speech-based current affairs content, featuring presenters (e.g. ‘shock jocks’) or other contributors, which may present challenging listening to some audience members. Consistent with the right to freedom of expression, Ofcom recognises the importance of broadcast content of this type, provided that any potential offence is justified by the context.

³ <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

⁴ https://www.ofcom.org.uk/_data/assets/pdf_file/0014/40541/offensive-language.pdf

We first considered whether Steve Allen's comments had the potential to cause offence.

As stated in the Introduction above, Mr Allen was responding to a news story about violent disorder in a Gloucestershire town which, according to the Licensee, Mr Allen had "believed at the time" referred to members "from the travelling community".

As a result, Mr Allen went on to ask rhetorically:

"Why do we have to start being nice to travellers? Every time I read a story in the newspaper its either thieving, robbing or brawling...what is the matter with them? What is the matter with them?"

In Ofcom's view, these remarks could be interpreted as offering a highly pejorative and generalised view about members of the traveller community, a protected racial group under the Equality Act 2010, and as such had the potential to cause offence to listeners. The likely level of offence in this case would have been increased by Mr Allen's repeated and emphatic use of the rhetorical question *"what is the matter with them?"*. In our view, this would have served to reinforce Steve Allen's attribution of a clearly negative stereotype of certain forms of anti-social and criminal behaviour (i.e. *"thieving, robbing or brawling"*) to all members of the travelling community.

Ofcom then went on to consider whether the broadcast of these comments was justified by the context.

Firstly, we considered the editorial context. During what LBC Radio described as his "daily rundown of the news", Steve Allen referred to a news story about alleged criminal behaviour to which he took objection. Ofcom acknowledged that Mr Allen has an "acerbic" presenting style, which is well known by listeners to be opinionated and robust. We also took into account the Licensee's arguments that Steve Allen is "typically even-handed in handing out criticism to those who featured" and listeners would have viewed Steve Allen's comments about travellers "alongside the various critical statements made about other individuals". We disagreed. In our view, the presenter's references to the traveller community went further than Mr Allen's purported "acerbic" presenting style which is sometimes critical of the behaviour of individuals, because of his generalised portrayal of the whole travelling community as engaging in *"thieving, robbing or brawling"*.

Ofcom took into consideration the Licensee's statement that Mr Allen had "believed at the time" that the subjects of the news story were "from the travelling community". However, whatever the ethnic origin of the group of individuals referred to in the news story, we did not consider that an act of violent and anti-social behaviour could justify Steve Allen's characterisation of all members of the traveller community in the highly negative manner voiced. Similarly, the presenter also sought to justify his negative portrayal of the traveller community by stating *"Every time I read a story in the newspaper"* he read of members of that community undertaking forms of anti-social and criminal behaviour. However, he provided no meaningful evidence to justify the generalised and highly negative view of the traveller community that he put forward. Accordingly, we considered that this had the potential to negatively stereotype a whole community, something which could cause offence to the community in question and listeners more widely.

We also considered that Mr Allen did not return to this topic throughout the duration of the programme, and also did not voice any views from listeners on this topic. As such, listeners

were not offered any opinions, from the presenter or otherwise, that might have provided counterbalance to the general view expressed by Mr Allen regarding the traveller community. Ofcom considered Steve Allen's remarks could be construed as offering a pejorative view about a protected racial group without sufficient context, something which was likely to have exceeded audience expectations.

Ofcom had regard to the right to freedom of expression of LBC Radio, Mr Allen and of the LBC audience, and balanced this carefully against our duty to provide adequate protection for members of the public from harmful and/or offensive material. Ofcom acknowledged that it was essential that broadcasters have the editorial freedom to debate topics of public interest and to be permitted to make provocative and offensive remarks.

In reaching our decision, Ofcom took into account the Licensee's statement that Steve Allen's comments "could be construed as straying beyond criticism of the perpetrators of this particular criminal act", and that LBC radio had also made Mr Allen aware of the complaint and that he had "agreed to take much greater care in this area going forward". However, for all the reasons set out above, we did not consider that the inclusion of this offensive material was justified by the context and took the view that the Licensee failed to apply generally accepted standards. Our decision is therefore that this was a breach of Rule 2.3.

Breach of Rule 2.3

In Breach

Gem at Breakfast

Gem 106, 9 to 11 January 2018, 06:00

Introduction

Gem 106 is a commercial radio station providing a talk and popular music service in the East Midlands. The licence for Gem 106 is held by Orion Media (East Midlands) Ltd ("Orion" or "the Licensee").

Four complainants alerted Ofcom to a competition broadcast during Gem 106's breakfast show which they considered had been conducted unfairly.

A competition round was broadcast each weekday, from 9 January 2018, and a winner was announced in the third round (on 11 January 2018).

To enter the competition, listeners were invited each day to *"text the word, 'play' to [short code]"*, which was charged at a premium rate of £1.50 plus the entrant's standard network rate. Listeners were also referred to Gem 106's website for *"details and online entry"*, where they could find the competition's terms and conditions and enter without charge. In each round, the lines were frozen after they had closed (at 08:30). An entrant was then picked at random and called by the presenters. If that entrant answered the call by saying, "Morning Jo and Sparky", they won the competition. The prize started at £2,000 and, if the entrant failed to answer their call correctly, it was increased by £100 for the following day's competition round. Entrants were carried forward to each round until the prize was awarded.

During the first two rounds of the competition (on 9 and 10 January 2018), neither entrant called by the presenters answered their phone correctly. The prize therefore reached £2,200 on 11 January, when, at 08:41, the presenters called a randomly selected entrant, who answered their phone by saying, *"Good morning Jo and Sparky"*. After seeking confirmation from the programme producer that this answer was acceptable, the presenters awarded the entrant the prize.

Earlier in the broadcast on 11 January 2018, when describing to listeners how to enter the competition, the presenters had said:

Jo: *"...I saw Cat yesterday – Of course, she's on when you're driving home tonight – She was tweeting somebody who was saying, 'Oh, can I say, "Good morning"?""*

Sparky: *"No..."*

Jo: *"A bit like...Come on!"*

Sparky: *"No. Morning..."*

Jo: *"Like, you fit..."*

Sparky: *"No. Morning, morning..."*

Jo: *"...only a few words you've got to remember: 'Morning Jo and Sparky!'"*

Further, the competition's online terms and conditions stated:

"To be confirmed as the winner of the day's contest round the randomly chosen registered contestant must answer their phone by saying 'Morning Jo & Sparky'. Any other words or phrases used will be counted as invalid and the prize forfeited".

We considered that the broadcast competition raised issues under the following rule of the Code:

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

We asked the Licensee for its comments about how the broadcast competition complied with this rule.

Response

Orion said it had "stringent and extensive compliance procedures in place to ensure that all of [its] competitions are conducted fairly", which included "a full legal compliance check prior to broadcast and regular compliance checks during broadcast". It added that it also provided "extensive training for [its] presenters and producers around broadcasting codes and legal compliance".

The Licensee acknowledged that "when a competition is executed in a manner that deviates in any way from the terms and conditions ... this can result in the competition being run unfairly". It added that, in this instance, it was "aware of this risk as soon as [it] realised [it] had deviated from the competition terms and conditions". Orion said it had therefore "promptly held a briefing with the on-air production team to determine how ... best [to] ensure that all listeners involved were treated as fairly as possible, adding that "in respect of the contestant that was announced as a winner on-air ... it was fairest to honour the prize".

Orion acknowledged that neither entrant brought to air in the two previous rounds of the competition had been awarded the prize. Each had answered their calls wrongly, saying *"Good morning"* and *"Hello...hello..."*, respectively. The Licensee added that, "given how important fairness is to [it], [it had] contacted [all] entrants [who] had entered up to the time that the 11th January winner was awarded the prize, and offered them the option of a refund or free entry to a separate draw to win £2,200". Orion explained that "the latter option was included to ensure that those who entered online were not disadvantaged", adding that 5,439 listeners had entered by text, and 3,007 listeners had entered online. The Licensee said it believed it had "achieved the fairest possible outcome in these circumstances", noting that listeners had not been financially disadvantaged.

The Licensee said that "Gem conducts numerous competitions on air every year, on a weekly basis, and has an unblemished track record in executing these types of competitions fairly and effectively". It added that this competition "deviated from its terms and conditions due to human error but [Orion had] taken immediate and swift remedial action as a result, both ensuring that listeners were compensated for the error and improving training and compliance knowledge with [its] presenters and producers".

Preliminary View

Reflecting our duties under the Communications Act 2003¹, Section Two of the Code requires that generally accepted standards are applied to provide adequate protection for members of the public from the inclusion of harmful and/or offensive material.

This is reflected in, among other things, Rule 2.13, which requires that broadcast competitions are conducted fairly.

In this instance, the presenters made clear to listeners during the third round of the competition that, to win the prize, the required response to their phone call was, "Morning Jo and Sparky", and that answering with the response, "Good morning Jo and Sparky" was unacceptable. Further, the terms and conditions of the competition, to which listeners were referred, clarified this. Nevertheless, the prize was ultimately awarded in the third round of the competition to an entrant who had responded to the presenters' call incorrectly, when they said:

"Good morning Jo and Sparky".

We took into account both the action taken by Orion to ensure entrants had not been disadvantaged by the "human error" that occurred and the Licensee's belief that such action had "achieved the fairest possible outcome in these circumstances". However, the prize was awarded to an entrant contrary both to the competition's terms and conditions, and to comments made by the presenters in the programme. Further, the competition had ended earlier than it should.

Ofcom accepted that all competition entrants were compensated fully, by entry into a draw for a further prize of £2,200 or, for text entrants, an optional refund of costs incurred. Nevertheless, had the competition continued, there would have been at least one further round, when the prize of £2,200 would have been carried over and increased by £100. As the broadcast competition was ended early, all Gem 106 listeners, including those who had already entered and would have been carried forward from its third round, were prevented from the opportunity to participate in its fourth round, and possibly further rounds, when they would have been able to compete for a chance to win at least £2,300.

Ofcom therefore considered the broadcast competition was not conducted fairly, in breach of Rule 2.13 of the Code.

Breach of Rule 2.13

¹ <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

In Breach/Not in Breach

Today

BBC Radio 4, 10 August 2017, 06:00

Introduction

Radio 4 is the BBC's national news, current affairs and factual radio network. *Today* is Radio 4's early morning news and current affairs programme, which is broadcast six days a week.

Ofcom received two complaints about aspects of the content broadcast in an edition of the *Today* programme on 10 August 2017. Both complainants had previously raised their concerns with the BBC in accordance with Ofcom's published procedures¹. The BBC had partially upheld the complaints at the final stage of its own complaints process and published a finding². However, the complainants were not satisfied with the BBC's response and brought their complaints to Ofcom.

The complainants objected to the handling of an interview in the programme with Lord Lawson, former Chancellor of the Exchequer and head of the Global Warming Policy Foundation³. The complainants said Lord Lawson was not sufficiently challenged on his views about the science and economics of climate change.

One complainant disputed the BBC's reasoning for inviting Lord Lawson onto the programme. They also objected to the BBC's conclusion, in its response to the complaint, that some of the statements he made on the science of climate change were "at the least contestable", when the complainant viewed them as "lies".

The second complainant provided evidence to dispute four of the specific statements Lord Lawson made: two on the science of climate change and two on the economics of the government's energy policy.

This programme featured a series of discussions about climate change. This was prompted by the release of a new film presented and produced by former US Vice-President Al Gore, "An Inconvenient Sequel", which was due to premiere in London that night. The film was a follow-up to a previous film, "An Inconvenient Truth", which was released in 2006. *Today* featured five interviews on the subject of climate change as well as references in news bulletins and headlines throughout the three-hour broadcast. Each of the five discussions was led by the same presenter, Justin Webb. They consisted of interviews with:

¹ Ofcom's Procedures for investigating breaches of content standards on BBC Broadcasting services and BBC ODPS, available at https://www.ofcom.org.uk/_data/assets/pdf_file/0002/100100/Procedures-for-investigating-breaches-of-content-standards-on-BBC-broadcasting-services-and-BBC-on-demand-programme-services.pdf

² This is available at <http://www.bbc.co.uk/complaints/comp-reports/ecu/>

³ The Global Warming Policy Foundation is an all-party think tank and registered charity which its website describes as being "open-minded on the contested science of global warming [but] deeply concerned about the costs and other implications of many of the policies currently being advocated". More information is available at <https://www.thegwpf.org/who-we-are/>.

- Abigail Herron, Head of Responsible Investors and Engagement at Aviva Investors, talking about green investment;
- Roger Harrabin, the BBC's Environment Analyst, talking about the forthcoming film premiere;
- Former US Vice-President Al Gore about his film;
- Fisher Stephens, Director and Producer of "Before the Flood", another film on climate change; and
- Lord Lawson, talking about the economics of renewable energies, the film premiere and related matters.

The section featuring Lord Lawson began at 08:33. During the interview, the presenter asked him a series of questions regarding his views on Mr Gore's opinions on climate change and the economics of renewable energies, which were central to Mr Gore's new film.

The interview ran as follows:

Presenter: *"We heard earlier in the programme from Al Gore, who's in Britain plugging his latest climate change films. And one of the points he makes, in that film, and made to us, is that the economics of climate change are changing. Never mind how convinced you are about the need for altered behaviour and reductions in emissions of greenhouse gases, actually it just makes sense to be on the front edge of solar power, he was claiming in particular. Lord Lawson is on the line, Conservative former Chancellor of course, and chair of the Global Warming Policy Foundation. Lord Lawson, good morning".*

Lord Lawson: *"Good morning".*

Presenter: *"What do you make of that point? That people like you, who have been saying the costs are too great, are now on the back foot, because the costs of doing what Al Gore wants us to do are fast reducing?"*

Lord Lawson: *"Well, look, the point is not just the costs, although we do have in this country, in England, one of the highest energy costs in the world, which is very hard on the poor and hard on business and industry. Which is because of our absurd climate-driven energy policy. The energy, the renewable energy, so-called, is heavily subsidised, and if they say it's economic, well, then let's get rid of the subsidies!"*

Presenter: *"The point Al Gore makes is that we subsidise all energy, including fossil fuel energy".*

Lord Lawson: *"No we don't. That's not true. We tax fossil fuel energy. Anyway, we subsidise renewable energy. But the main point is that the conventional energy is reliable and cheaper, and that is important. And what is the reason for, Al Gore, I listened to the interview you had with him, and he was talking*

complete nonsense. I'm not surprised that his new film has bombed completely, it's been a complete fiasco at the American box office".

Presenter: *"Which bit? Which bit of it was nonsense?"*

Lord Lawson: *"For example, for example he said that there has been a growing, increase which is continuing, in extreme weather events. There hasn't been. All the experts say there hasn't been. The IPCC, the Inter-Governmental Panel on Climate Change, which is the sort of voice of the consensus, concedes that there has been no increase in extreme weather events. Extreme weather events have always happened. They come and go. And some kinds of extreme weather events, there's a particular time increase, whereas others, like tropical storms, diminish".*

Presenter: *"Yeah, he was interesting on that because I challenged him on that and he said no, actually, the thinking now among scientists who look at this, and he uses the phrase in the film 'join the dots', that actually, when we look at, I dunno, Hurricane Sandy, when we look at the terrible hurricane that there was in the Philippines, when we look at other individual world events, we are simply kidding ourselves if we don't join them together and say what is causing it".*

Lord Lawson: *"No, it's not happening! The reputable scientists, reputable experts like Professor Pielke, and as I said the IPCC, have confirmed that there has been no increase in extreme weather events. And as for the temperature itself, it is striking that he made his previous film ten years ago. And, according again to the official figures, during this past ten years, if anything, mean global temperature, average world temperature, has slightly declined".*

Presenter: *"Well, which is an argument on both sides. I just want to stick on his general advice and in a sense get back to this point about the economics of it. He makes a particular point about solar power and he talks in the film about battery technology – the ability, our ability. And he goes to a conservative Republican in a place in Georgia, I think it is, in the United States. And the conservative Republican says, well why wouldn't we do this? If it's becoming cheaper, if we're not putting stuff into the atmosphere that probably isn't good for it, why not do it?"*

Lord Lawson: *"Look, two things. First of all of course, Al Gore has a substantial commercial interest in renewable energy. But secondly, the, if it is fully economic, why on earth do we subsidise it and support it by all sorts of government policies? Which are driving up the costs of energy, particularly in the United Kingdom!"*

Presenter: *"You going to go and see the film?"*

Lord Lawson: *"Er, I don't think so. I've heard what Al Gore has to say and it's the same old claptrap. People often fail to change, and he certainly hasn't changed. He's like the man who goes around saying the end of the world is nigh on a big placard! To begin with you might be a little bit scared, but after ten years of him doing that and the end of the world isn't nigh, then you think, well*

maybe we should forget that and concentrate on real problems. Like North Korea, which you've been talking about, like world poverty, like disease, and all these other issues which we should be devoting our attention to. And international terrorism, Islamic fundamentalism. These are real problems. The world is not short of problems. And to devote resources and energy to non-problems is really ridiculous".

Presenter: "Lord Lawson, thank you".

Ofcom considered that the material raised potential issues under the following rules of the Code:

- Rule 5.1 "News, in whatever form, must be reported with due accuracy and presented with due impartiality".
- Rule 5.2 "Significant mistakes in news should normally be acknowledged and corrected on air quickly.... Corrections should be appropriately scheduled..."

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

Ofcom also asked the BBC what consideration it had given to a previous complaint upheld by the BBC about a similar appearance by Lord Lawson on the *Today* programme on 13 February 2014⁴. On that occasion, the programme had interviewed Lord Lawson alongside Sir Brian Hoskins, Professor of Meteorology at Reading University and Director of the Grantham Institute for Climate Change at Imperial College London. In its investigation into that complaint, the BBC had found that the handling of that item had given the impression that Lord Lawson's views on the science of climate change stood on the same footing as those of Professor Hoskins. The BBC had also found that introducing Lord Lawson in that programme as "the founding chairman of the Global Warming Policy Foundation which is an all-party think tank" had not made sufficiently clear that he represented a minority viewpoint on the science of climate change.

Response

The BBC emphasised that it was committed to achieving due impartiality and due accuracy in all its news and current affairs programmes. However, it acknowledged that there are occasions when it fails to meet the standards set out in its own Editorial Guidelines and, as a result, may also fail to comply with the Ofcom Broadcasting Code⁵. The BBC said it had publicly acknowledged there were aspects of the coverage during the programme on 10 August 2017 which did not meet those standards. It had already taken action to address this

⁴ The details of the previously upheld complaint are available on the BBC website at <http://www.bbc.co.uk/complaints/comp-reports/ecu/today13022014>

⁵ The BBC's Editorial Complaints Procedure (contained within the BBC Complaints Framework, available at https://ssl.bbc.co.uk/complaints/forms/assets/complaintsnew/resources/BBC_Complaints_Framework_k.pdf) explains that the BBC assesses complaints to determine whether a particular item broadcast or published on the BBC's services has fallen below the standards expressed in the BBC's Editorial Guidelines, available at <http://www.bbc.co.uk/editorialguidelines/>.

lapse in standards which, it argued, were adequate, appropriate and proportionate in the circumstances. In summary the BBC said it had:

- published a report on the BBC News website on 10 August 2017 which highlighted criticisms of the interview with Lord Lawson and identified the inaccuracy of certain aspects of his contribution⁶;
- examined some of the more contentious claims made by Mr Gore and Lord Lawson in an item on the *Today* programme the following day (11 August 2017), and highlighted inaccurate comments made by Lord Lawson;
- published a response to complaints on the BBC Complaints website⁷;
- incorporated contributions from several complainants in the edition of Radio 4's *Feedback* programme⁸ broadcast on 20 August 2017, including a statement from the programme;
- followed the established process⁹ for responding to individual complainants who raised concerns about the programme and upheld aspects of the complaints;
- published a summary of the finding on the BBC Complaints website, including a note of the action taken as a result (thus ensuring the breach of editorial standards was acknowledged as a matter of public record); and
- reported its upheld finding to the BBC News Group Board and to the Editorial Standards and Complaints Committee so that it could be passed down to individual departments and programmes.

The BBC said there is general agreement that scientific evidence shows global climate is changing, and the change is predominantly man-made. Therefore, it seeks to give "due weight" to the range of views and perspectives on this aspect of the debate. Programme-makers must make a distinction between well-established fact and opinion in science coverage and ensure the distinction is clear to the audience. The BBC emphasised it does not exclude minority views from its content but aims to ensure such sceptical opinions are not treated as if they are on an equal footing with the scientific consensus.

The BBC argued that while the science on anthropogenic climate change is largely settled, the policy implications of global warming remain a legitimate part of the news agenda. The BBC said the coverage of climate change on 10 August 2017 was prompted by the release of Mr Gore's film. He was interviewed live on the programme and spoke about various aspects of climate change, including the frequency of extreme weather events and the changing

⁶ "BBC Defends Lord Lawson climate change interview", 10 August 2017, available at <http://www.bbc.co.uk/news/uk-politics-40889563>. This report sets out evidence which refutes some of the statements made by Lord Lawson in the interview.

⁷ Available at <http://www.bbc.co.uk/complaints/complaint/lordlawsontodayclimatechange>

⁸ *Feedback* is a regular programme on Radio 4 which features comments, queries, criticisms and congratulations regarding BBC content.

⁹ See footnote 5

economics of renewable energy. On that topic, Mr Gore had asserted that the cost of generating electricity from renewable sources has declined significantly and there is a strong economic argument for using renewable sources of energy, regardless of the benefit this will have in tackling the effects of climate change.

The BBC said the economic argument for using renewable sources of energy forms part of the wider debate about what governments can or should do to tackle the effects of climate change. The programme-makers therefore sought to ensure the programme achieved due impartiality by giving appropriate weight to other perspectives. The programme invited Lord Lawson to contribute to the programme on this specific issue, with the intention that he would provide an alternative policy and economics perspective to the one offered by Mr Gore. The BBC pointed out that Lord Lawson has argued publicly that the UK should stop trying to decarbonise the economy because it would have little effect on the total global emissions and put the UK at an economic disadvantage to the rest of the world.¹⁰ The BBC explained Lord Lawson was specifically invited onto the programme on 10 August 2017 to discuss this aspect of the policy of climate change and not the science of the subject. It said this demonstrated the programme's awareness of the requirement for due impartiality on the policy implications of global warming. It rejected any suggestion Lord Lawson should not, on principle, have been invited to contribute to a programme, explaining he represents a point of view on the economics of climate change which is broadly shared by the current US administration.

The BBC said it believed the basis for Lord Lawson's contribution was made clear to listeners in the programme on 10 August 2017, as follows:

Presenter: *"We heard earlier in the programme from Al Gore, who's in Britain plugging his latest climate change films. One of the points he makes, in that film, and made to us, is that the economics of climate change are changing. Never mind how convinced you are about the need for altered behaviour and reductions in emissions of greenhouse gases, actually it just makes sense to be on the front edge of solar power, he was claiming in particular. Lord Lawson is on the line, Conservative former chancellor of course, and chair of the Global Warming Policy Foundation. Lord Lawson, good morning".*

Lord Lawson: *"Good morning".*

Presenter: *"What do you make of that point? That people like you, who have been saying the costs are too great, are now on the back foot, because the costs of doing what Al Gore wants us to do are fast reducing".*

The BBC also referred Ofcom to specific statements made by Lord Lawson in the programme on 10 August 2017. One complainant had raised concerns regarding the accuracy and impartiality of two of Lord Lawson's statements on the economics of climate change, which were:

- *"we do have in this country, in England, one of the highest energy costs in the world";*
and

¹⁰ The BBC provided source material for this.

- [in response to the presenter's comment, *"The point Al Gore makes is that we subsidise all energy, including fossil fuel energy"*] *"No we don't. That's not true. We tax fossil fuel energy. Anyway, we subsidise renewable energy"*.

In response to those concerns, the BBC emphasised that any judgement on due accuracy must be made in light of the particular context. It argued that "[d]ue accuracy can be achieved by considering relevant opinion as well as incontrovertible facts". In this case, it submitted the audience would have understood Lord Lawson to be offering an opinion contrary to Mr Gore's, "making the most of such evidence as he could marshal in support of it, much as Mr Gore had done during his interview".

The BBC acknowledged data submitted by the complainant which the complainant said demonstrated the inaccuracy of the statements¹¹. However, the BBC used different data sets provided by the same source¹² to demonstrate that Lord Lawson's arguments regarding energy costs were "an arguable position, involving matters of judgement and the relative weight to be assigned to the various metrics".

On the matter of energy subsidies and taxation, the BBC argued that the body of information was "even more complex and susceptible to interpretation (particularly in relation to what counts as subsidy)". It submitted that, in any event, this issue was addressed in the following day's programme by Roger Harrabin, the BBC's Environment Analyst, who concluded that, while Mr Gore had been correct in relation to the global position, Lord Lawson had been correct in relation to the position in the UK.

In addition, the BBC argued that, even if Ofcom were to take a more stringent view on the accuracy of Lord Lawson's comments, it would not follow that the presenter was at fault for not challenging them. It said which statements should be challenged by presenters when covering controversial issues is a matter for judgement. Suggesting due accuracy required a "forensic examination" of the premise of each competing viewpoint would represent a "disservice to audiences as well as a radical abridgement of broadcasters' freedom of speech".

In relation to two statements on the science of climate change, the BBC informed Ofcom it had stated, in its own published upheld complaints findings, that these *"were, at the least, contestable and should have been challenged"*¹³. These statements were:

- that *"all the experts say there hasn't been"* an increase in extreme weather events and that the Independent Panel on Climate Change *"concedes"* this fact; and

¹¹ <https://www.gov.uk/government/statistical-data-sets/international-domestic-energy-prices>

¹² The BBC concluded that *"The Government statistics show UK energy prices relative to IEA, G7 and EU countries vary depending on whether the comparison is with electricity or gas, domestic or industrial, and whether the cost includes or excludes taxes"* on the basis of tables at <https://www.gov.uk/government/statistical-data-sets/international-domestic-energy-prices> and <https://www.gov.uk/government/statistical-data-sets/international-industrial-energy-prices>

¹³ The BBC later changed this statement in January 2018 to read *"were wrong (as the Global Warming Policy Foundation subsequently acknowledged) and should have been challenged"*.

- that, according to the official figures, *“during this past 10 years... average world temperature has slightly declined”*.

The BBC said it could not control the accuracy of comments made by interviewees but emphasised that it has publicly acknowledged some of Lord Lawson's statements went beyond the intended scope of the interview and he was allowed to make inaccurate assertions which should have been challenged. Therefore the BBC had upheld this aspect of the complaints.

Regarding the scheduling of the follow-up item on the programme on 11 August 2017¹⁴, the BBC explained that the running orders for a news programme such as *Today* are determined by a number of factors including the news stories of the day, the mix of stories in any particular section of the programme and the availability of guests. The programme-makers chose to schedule the follow up item at 06:50 because this guaranteed enough time to allow a full discussion of the issues. The BBC explained that items scheduled between 06:30 and 07:00 on *Today* are less likely to be dropped or truncated because of breaking news or reaction to news events. The BBC said the programme-makers also took into account the fact that the follow-up item was intended to analyse a range of issues and assertions broadcast the previous day, including some raised in the interview with Mr Gore which had taken place at 07:09.

The BBC also told Ofcom it had given consideration to a previous complaint upheld by the BBC regarding a similar appearance by Lord Lawson on the *Today* programme on 13 February 2014. It explained that the primary concern of the 2014 finding had centred on Lord Lawson having been in discussion with an eminent climate scientist, which gave listeners the impression of parity between their views. The BBC argued no such issue arose from the 10 August 2017 item where the programme-makers had chosen not to engage Lord Lawson in discussion with a scientist.

The BBC added that the 2014 finding had been reported to its senior management, in the expectation that it would be passed down to editors and programme teams as appropriate. The BBC confirmed that the August 2017 *Today* programme team was aware of the 2014 decision and had taken steps to ensure the focus of the interview with Lord Lawson was on the economics of renewable energy and not a discussion about the scientific evidence for anthropogenic climate change.

In conclusion, the BBC accepted the programme on 10 August 2017 should have made it sufficiently clear Lord Lawson represented a minority view on the science of climate change, so the audience could judge his contribution accordingly. The BBC said it was a matter of regret that this did not happen but the error was the result of an oversight, rather than a failure to take due account of the previous BBC finding of 2014 in the preparation of the item.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View in this case that there had been a breach of Rule 5.1 but no breach of Rule 5.2. The BBC was given the opportunity to make representations on the Preliminary View and confirmed to Ofcom that it had no comments to make.

¹⁴ The interview with Lord Lawson on the programme on 10 August 2017 was broadcast just after 08:30. The follow-up discussion between Roger Harrabin and Peter Stott on the programme on 11 August 2017 was broadcast at 06:50.

Decision

Reflecting our duties under the Communications Act 2003, Section Five of the Code requires that accuracy and impartiality requirements are met.

Ofcom takes account of the audience's and the broadcaster's right to freedom of expression set out in Article 10 of the European Convention on Human Rights. Ofcom must seek to balance broadcasters' freedom to discuss any controversial subject or point of view in their programming and compliance with Section Five.

Rule 5.1 requires that "news, in whatever form, must be reported with due accuracy and presented with due impartiality". Rule 5.2 states that "significant mistakes in news should normally be acknowledged and corrected on air quickly ... corrections should be appropriately scheduled".

Section Five makes clear that "due" means adequate or appropriate to the subject and nature of the programme. The approach may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content, and the extent to which the content and approach is signalled to the audience. Context, as defined in Section Two of the Code, is important. Ofcom's published Guidance to Rule 5.1 explains that, for example, where a matter is of particular public interest, the requirement to present that matter with due accuracy will be correspondingly higher. The rule is primarily intended to ensure that listeners can trust news broadcasters to report the facts of events, and the background to them, with appropriate accuracy. It goes to the heart of the relationship of trust between a news broadcaster and its audience.

Rule 5.1

Ofcom was mindful of the context in which the interview with Lord Lawson was broadcast in this edition of the *Today* programme. It featured as part of a series of interviews on the programme which centred on the debate surrounding climate change ahead of the London premiere of "An Inconvenient Sequel". The film was a highly-anticipated follow-up to a previous film, "An Inconvenient Truth", which had won the Academy Award for Best Documentary Feature in 2006. Its presenter and producer, Mr Gore, had also jointly won the Nobel Peace Prize in 2007 for his efforts to bring international focus to the topic of global warming. The release of the second film in August 2017 came two months after President Donald Trump announced that the U.S. would cease all participation in the 2015 Paris Agreement on climate change mitigation¹⁵, which was a matter of international political concern¹⁶. Ofcom was also aware that the 2017 film slightly differed in its editorial focus from the first film. In the second, more attention was given to the falling costs of renewable energies and how that might affect international climate change policies.

¹⁵ The announcement was contained in President Trump's speech of 1 June 2017 on this issue, available at <https://www.whitehouse.gov/briefings-statements/statement-president-trump-paris-climate-accord/>

¹⁶ See <http://www.telegraph.co.uk/news/2017/07/08/theresa-may-dismayed-donald-trumps-decision-pull-paris-climate/> and <http://edition.cnn.com/2017/07/08/europe/g20-merkel-trump-communique/index.html>.

In this context, we considered there was clear editorial justification for the topic of climate change to be covered in the *Today* programme on 10 August 2017 and for the programme to pay particular attention to the economics of the topic. However, in doing so the BBC needed to ensure that the topic was reported with due accuracy and due impartiality.

Ofcom first investigated the two statements on the economics of climate change (that *"we do have in this country, in England, one of the highest energy costs in the world"* and that *"we don't [subsidise all energy]. That's not true. We tax fossil fuel energy. Anyway, we subsidise renewable energy"*). We paid close attention to the data sets on energy prices provided by both the complainant and the BBC. Ofcom acknowledged the BBC's argument that Lord Lawson's statements represented an arguable position and took into account that the presenter had put Mr Gore's opposing position to Lord Lawson. We were also mindful of the BBC's argument that an examination of Lord Lawson's statement on energy subsidies and tax had been included in the programme the following day. We listened to that programme and gave careful consideration to the BBC Environment Analyst's conclusion that while Mr Gore had been correct on the global position, Lord Lawson had been correct on the position in the UK. We therefore concluded that these specific statements were duly accurate.

We had greater concerns about Lord Lawson's comments on the science of climate change. He said:

- *"all the experts say there hasn't been"* an increase in extreme weather events and that the IPCC *"concedes"* this fact; and
- according to the official figures, *"during this past 10 years... average world temperature has slightly declined"*.

Neither statement was correct, or sufficiently challenged during the interview or subsequently during the programme.

Ofcom took into account the BBC's explanation for why Lord Lawson was invited on to the programme on 10 August 2017. The broadcaster does not exclude minority views from its content but aims to ensure such minority and sceptical opinions are not treated as if they are on an equal footing with the scientific consensus. We were also mindful of the programme's intended focus of the interview with Lord Lawson, which was the economics of renewable energies. Ofcom is clear that the editorial agenda of a programme, and its selection of contributors, is a matter for the broadcaster.

Ofcom also took into consideration that the BBC had partially upheld the complaints about the 10 August 2017 programme as breaches of the BBC's own Editorial Guidelines and apologised to the complainants. The BBC had taken a number of actions to address the breaches, as outlined in its response to Ofcom above.

However, Ofcom's most significant concern was that the BBC had identified a second breach of standards in an item involving the same contributor, discussing the same topic in the same programme as had occurred in 2014. These similarities to the previous BBC finding were a key factor in our decision to investigate this case, following the BBC's decision to partially uphold the recent complaints as breaches of the BBC's Editorial Guidelines. The BBC outlined to Ofcom its view on why the two breaches were substantively different. It argued that the primary concern of the 2014 finding had been with the impression of parity between the views of Lord Lawson and a leading climate scientist, whereas in the item on 10 August 2017

the programme-makers had chosen not to engage Lord Lawson in discussion with a scientist. However, crucial to our consideration in this case was that both programmes included introductions to Lord Lawson which lacked clarity about the minority position of his views on the science of climate change.

In our view, in introducing Lord Lawson at the start of the interview on 10 August 2017, the programme did not clearly signal to listeners that his view on the science of climate change ran counter to the weight of scientific opinion in this field. This omission meant listeners were not given the full facts about Lord Lawson's stance on climate change. This was significant as his contribution appeared in the context of wide-ranging discussions on climate change throughout the programme.

The BBC gave Ofcom assurances about the consideration it had given to the 2014 finding and argued that the 2017 programming team had been aware of its relevance. However, in our view, not enough importance had been placed on the possibility that a repeat of the 2014 breach might occur. We acknowledge an editorial decision was taken not to interview Lord Lawson alongside a scientist, and the efforts made in the planning of the 10 August 2017 interview to tightly focus the discussion on the economics of climate change. However, given Lord Lawson's well known sceptical stance on the broader science of climate change, and the fact these issues were addressed in earlier interviews on the programme, the editorial team could have reasonably anticipated there was a risk that Lord Lawson might raise these arguments. In our view, the BBC should have planned for that eventuality and the presenter should have been prepared to provide challenge and context to Lord Lawson's views as appropriate. The BBC's failure to do this led to significant inaccuracies being broadcast in the interview with Lord Lawson in the programme on 10 August 2017. Critically, these inaccuracies were allowed to stand without challenge or clarification during that broadcast.

For the reasons set out above, Ofcom concluded that the programme was not duly accurate in relation to the coverage of the statements made by Lord Lawson on the science of climate change and was in breach of Rule 5.1.

Rule 5.2

Ofcom acknowledged the actions taken by the programme team (outlined above) once doubts around the due accuracy of some of the statements made by Lord Lawson during the interview arose. These included examining some of the more contentious claims and inaccurate comments in an item on the programme the following day.

The follow-up item was broadcast at 06:50 on 11 August 2017, whereas the original interview with Lord Lawson was broadcast just after 08:30 the previous day. The BBC told Ofcom the item on 11 August 2017 was scheduled to allow enough time for a full discussion of the issues raised by both the Lord Lawson interview and the discussion with Mr Gore which had taken place at 07:09 the previous day.

Ofcom considered the difference in scheduling between the interview with Lord Lawson on 10 August 2017 and the item the following day was not ideal. The regular audience for a programme such as *Today* is likely to listen to brief sections of the broadcast at similar times each day. A difference in transmission times inevitably carried a risk that listeners who had heard the Lord Lawson interview would not necessarily have heard the item the following day. In our view, it would have been helpful if the BBC had scheduled the follow-up item as close as possible to the time of the original broadcast.

Nevertheless, we acknowledged that the BBC had already made attempts to address the issues on other platforms, such as the BBC News website. We also accepted the BBC's argument that it had intended the follow-up discussion on 11 August 2017 to address a range of issues and assertions broadcast the previous day, including points made in the interview with Al Gore which had been broadcast earlier, at 07:09.

Therefore, Ofcom concluded that the BBC did not breach Rule 5.2.

Breach of Rule 5.1

Not in Breach of Rule 5.2

Resolved

Peston on Sunday **ITV, 14 January 2018, 10:00**

Introduction

Peston on Sunday is a weekly political programme presented by Robert Peston and broadcast on Sunday mornings. It is compiled by ITV Broadcasting Limited ("ITV" or "the Licensee").

During an interview with actor Miriam Margolyes, in which Robert Peston asked for her views on the #Me Too campaign¹, Ms Margolyes recounted an experience with the actor Warren Beatty, in his trailer on the set of the film "Reds", when she was auditioning for a part in the film.

At 10:51 she said:

Miriam: *"I'm going to use a bad word now. Can I use that in the morning on a Sunday?"*.

Robert: *"Yes, yes, it's you"*.

Miriam: *"...So I knocked at the door – in the lunch hour – and he said 'come in', opened the door, he looked me up, down, up, and said, 'do you fuck?'"*

Robert: *"[Gasps, pauses briefly and laughs]...apparently we can't say that, I've just been told, anyway you've said it, we know what you've said, anyway".*
[gesticulates to Miriam to continue her anecdote].

Miriam: *"Oh well there you go, and I said, 'yes, but not you'. And he said, 'why is that?' and I said, 'because I'm a lesbian' and he said, 'can I watch?' and I said, 'now pull yourself together and get on with the interview...'"*.

Robert: *"...Striking, and you have just got me sacked but, there we go..."*

Miriam: *"...I didn't mean to do that"*.

Robert: *"...which is a public service"*.

At 10:54 Robert Peston said:

Robert: *"Unfortunately, we are almost out of time. I have got to apologise for – it's my fault that – that word was said. I'm awfully sorry. But, anyway, my thanks to Jeremy, Miriam, Andrew and Sarah..."*.

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

¹ #Me Too is the social media campaign set up to highlight widespread sexual harassment in the workplace following the allegations about film producer Harvey Weinstein.

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

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

Response

ITV sincerely apologised for this instance of offensive language. It said it had taken steps to mitigate the risk of offensive language being used in the programme. Miriam Margolyes had been briefed, before her appearance on the programme, that it was a live broadcast. The production team also had briefed her on the segment she was due to appear in and the areas of questioning expected. The Licensee said that during this briefing, Ms Margolyes did not mention her anecdote regarding Warren Beatty or her intention to use any offensive language. ITV said that: "The production team therefore did not foresee any significant risks relating to her appearance" in the programme.

ITV said that during the interview, Miriam Margolyes asked Robert Peston whether she could "use a bad word" and he replied that she could. It added that: "Given Ms Margolyes was aware it was a live programme being broadcast on Sunday morning, [Mr Peston] did not think that the word she intended to use would be... *"fuck"*. The Licensee further added that Robert Peston and the other guests "were clearly taken aback when that word was used".

ITV argued that the use of the most offensive language would have been mitigated by the fact that Robert Peston apologised shortly after the interview and "accepted that he was to blame for its use". It added that Mr Peston's "immediate reaction and comment that *"we can't say that"* would also have helped to mitigate offence, and to avoid Miriam Margolyes repeating such language. The Licensee also noted that Ofcom appeared to have received only one complaint about this incident, which, in ITV's view, indicated that the offence caused was "not widespread".

The Licensee said it had taken a number of further steps to avoid the language being repeated. The word was removed from the versions of the programme on: broadcast on ITV+1; repeated on ITV on Sunday night; and on the ITV Hub on-demand service.

ITV added that the *Peston on Sunday* team had also enhanced its compliance processes. Guests would now be specifically briefed that the programme was broadcast both live and pre-watershed and that their language needed to be appropriate for the time of broadcast. Furthermore, should a guest express an intention to use bad language either before or during the programme, they would be told not to.

On the basis of the above, ITV considered the matter resolved.

Decision

Reflecting our duties under the Communications Act 2003², Section One of the Code requires that people under eighteen are protected from unsuitable material in programmes.

² <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

Rule 1.14

This rule states that the most offensive language must not be broadcast before the watershed on television.

The programme included one use of the word "fuck" broadcast before the watershed. Ofcom's 2016 research³ on offensive language clearly indicates that the word "fuck" and variations of it, are considered by audiences to be amongst the most offensive language and should not be broadcast before the watershed.

Robert Peston had been forewarned by Miriam Margolyes that she was intending to use "*a bad word*" because she asked him: "*Can I use that in the morning on a Sunday?*". Ofcom accepted that Mr Peston was clearly unaware what the "*bad word*" would be and therefore he sanctioned his guest to use it without offering any note of caution first. After the word was used, he gasped, paused briefly, laughed and then said: "*...apparently we can't say that, I've just been told...anyway you've said it, we know what you've said, anyway...*" and then gesticulated for Ms Margolyes to continue her anecdote.

We took into account that the word "fuck" was used in a live interview and that the production team had briefed Miriam Margolyes before going on-air and had reminded her that it was a live show. Robert Peston accepted responsibility and apologised for the language immediately after the interview and before the end of the programme. We also acknowledged the steps taken by the Licensee to ensure the most offensive language was removed from any repeats of the programme, and that it said it would improve its compliance in this area in future.

In the circumstances, Ofcom considered that sufficient steps were taken to prevent, and to adequately mitigate, the use of the most offensive language during this live broadcast.

Ofcom's Decision therefore is that this matter be resolved.

Resolved

³ On 30 September 2016, Ofcom published updated research in this area – *Attitudes to potentially offensive language and gestures on television and on radio* – which is available at: https://www.ofcom.org.uk/_data/assets/pdf_file/0022/91624/OfcomOffensiveLanguage.pdf

Resolved

Max Rushden (filling in for Jim White)

Talksport, 8 January 2018, 12:00

Introduction

Talksport is a national radio station providing a 24-hour speech service that primarily features programming about sport as well as regular news bulletins. The licence for Talksport is held by Talksport Limited ("Talksport Ltd" or "the Licensee").

Jim White is a weekday radio programme broadcast on Talksport between 10:00 and 13:00. On this occasion the programme was presented by Max Rushden.

Ofcom received a complaint about comments made by Max Rushden ("Max") and co-presenter Danny Murphy ("Danny"), which appeared to refer to the use of 'date rape' drugs. The listener considered the comments unacceptable, particularly because of the inferred reference to rape and sexual assault.

The presenters made the following comments about Max's previous relationships with women:

- Danny: *"...were you a babe magnet?"*
- Max: *"Not always, I'd say, a late bloomer...in that department...21 year old Max was a bit tubby, a bit spotty and a bit tubby".*
- Danny: *"No, can't say that next line".*
- Max: *"What were you going to say?"*
- Danny: *"Can't say it".*
- Max: *"You can say it, we're all friends here".*
- Danny: *"No, I'll get dumped".*
- Max: *"You can say it in a break. Erm, the producer's saying say it, and if it's wrong he'll press the dump button".*
- Danny: *"I was going to say, were your—".*
- Max: *"See, there's a way of saying it, without saying it".*
- Danny: *"Was your, good times with the female population".*
- Max: *"After I got on telly?"*
- Danny: *"No, was it, did it coincide with, erm, certain medication that became available?" [laughter could be heard].*

Max: *"What?"*

Danny: *"The one that makes people forget where they are and who they're with".*

Max: *"Oh, I see [laughter]. Right yeah, he has done that one".*

The discussion moved on to football and the subject was not referred to again in the programme.

We considered this raised potential issues under the following rule of the Code:

Rule 2.3: *"In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context (see meaning of "context" below). Such material may include, but is not limited to, offensive language, violence, sex, sexual violence, humiliation, distress, violation of human dignity, discriminatory treatment or language (for example on the grounds of age, disability, gender, race, religion, beliefs and sexual orientation). Appropriate information should also be broadcast where it would assist in avoiding or minimising offence".*

Ofcom requested comments from the Licensee on how the programme complied with this rule.

Response

The Licensee said that it *"deeply regrets that the potentially offensive comments made by Danny Murphy...were broadcast"*.

The Licensee explained its approach to the 'dump' button, which it said could be used by the production team to *"delete words/opinion"* from its live broadcast by inserting a short delay. It provided Ofcom with a transcript, this highlighted the material which had been removed (by the dump button) and the comments broadcast.

Broadcast material

Danny: *"Was your, good times with the female population..."*

Max: *"After I got on telly?"*

Danny: *"No, was it, did it coincide with, erm, certain medication that became available?"*

Max: *"What?"*

Material removed from Broadcast

Max: *"No, I'm not using Viagra yet".*

Danny: *"I didn't mean Viagra".*

Max: *"What, some illicit drugs? No, I didn't do that either".*

Broadcast material

Danny: *"The one that makes people forget where they are and who they're with".*

Max: *"Oh, I see [laughter]. Right yeah, he has done that one".*

Talksport Ltd said that "due to human error" the dump button "...was used successfully to delete [earlier] comments about Viagra but failed to prevent the comments that are the subject of the complaint from going to air".

The Licensee said that:

- The comments broadcast were "extremely oblique" and the words "drug" and "date rape" were not used. It said it would have "required a mature adult listener" to make the connection between the comments and the suggestion that the presenters were referring to a date rape drug.
- The matter was not subsequently discussed because Max Rushden believed that "the dump button had prevented any potentially offensive remarks from being broadcast".
- If the production team had realised the comments had been broadcast "they would have apologised to the listeners immediately" and "an internal investigation would have been held".
- The unscripted, impromptu chat ended immediately after the button was used and the presenter moved the conversation to the planned discussion about football.

As a result of the complaint, Talksport Ltd said it had undertaken a thorough investigation and that:

- The presenters and producer of the show had been made aware of the seriousness of the complaint and the "need to be fully aware of and compliant with the Broadcasting Code's rules, with particular regard to Harm and Offence".
- The Compliance Officer had spoken to Max Rushden and the programme producer about encouraging Danny Murphy to say something that he did not initially want to say and that "[t]he only responsible thing to do" would have been to "tell him not to say it and to move on".
- It had removed the audio file of the entire half-hour from 12:00 to 12:30 from the server to prevent it becoming available to listeners online.

In addition, it added that it conducted "regular seminars for production staff on compliance with the Ofcom Broadcasting Code" and guidance on how to use the dump button was published last year.

Decision

Reflecting our duties under the Communications Act 2003¹, Section Two of the Code requires that generally accepted standards are applied so as to provide adequate protection for members of the public from the inclusion of harmful or offensive material.

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

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

We considered whether the exchange between Danny Murphy and Max Rushden had the potential to cause offence. Danny asked whether Max's *"good times with the female population...did they coincide with certain medications that became available...the one that makes people forget where they are and who they're with"*. Max replied *"Oh I see"*. Laughter could be heard and he continued *"Right yeah, he has done that one"*.

The implication of these statements was that Max Rushden had used 'date rape' drugs to have sex with women. Although we did not consider that listeners were likely to have taken these statements literally, we took the view that the presenters' banter on such a serious subject was capable of causing offence – particularly, given the current public and media debate on the issue of sexual assault.

In addition, Max Rushden's encouragement of Danny Murphy to go ahead with the comments, even though Danny appeared reluctant to do so at first, acted as an implicit endorsement of them. We also considered that the laughter of the presenters, which could be heard in reaction to these comments, was likely to have compounded the offence.

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

We acknowledged that listeners to a talk radio show, the primary focus of which was football, would be likely to expect to hear a variety of topics discussed alongside sport. Listeners to Talksport would also be likely to expect a degree of irreverent banter between presenters. In addition, the comments made by Danny Murphy were brief and required a series of assumptions for the listener to understand their meaning, rather than being an explicit reference to 'date rape' drugs. However, we considered that listeners would still not have expected to hear such content in a day time discussion where no challenge or criticism was provided. We therefore did not consider these contextual factors were sufficient to mitigate the offence in this instance.

We took account of the various actions taken by the Licensee, which included: speaking to the presenters and producer about the seriousness of the complaint; the removal of the material from the online programme; and, that the production team believed at the time

¹ <http://www.legislation.gov.uk/ukpga/2003/21/section/319>.

that the offensive comments had not been broadcast. In the circumstances, Ofcom considered that sufficient steps had been taken and our Decision is therefore that this matter is resolved.

Ofcom previously published a resolved decision regarding Talksport Ltd's compliance with Rule 1.14 on 18 December 2017.² We are requesting the Licensee to attend a meeting to discuss its approach to compliance in live programming.

Resolved

² https://www.ofcom.org.uk/data/assets/pdf_file/0024/108915/issue-344-broadcast-on-demand-bulletin.pdf.

Broadcast Licence Conditions Cases

In Breach/Resolved

Provision of information: Diversity in Broadcasting *Various licensees*

Introduction

Ofcom has a statutory duty under the Communications Act 2003 to take all such steps, as we consider appropriate, for promoting equality of opportunity in relation to employment and training by broadcasters, in terms of three of the 'protected characteristics' in the Equality Act 2010: gender, racial group and disability.

We wrote to all radio licensees in November 2017 requiring them to submit information to Ofcom in relation to the number of people employed in connection with the provision of their broadcast service, the numbers of freelancers working for them and the number of days per year for which they are licenced to broadcast. This information was to determine if the licensees met the threshold¹ requiring them to complete a more detailed questionnaire on their employees and equal opportunities arrangements.

We requested this information in accordance with the Licence Condition "General provision of information to Ofcom"² which states:

"The Licensee shall furnish to Ofcom in such manner and at such times as Ofcom may reasonably require such documents, accounts, returns, estimates, reports, notices or other information as Ofcom may require for the purpose of exercising the functions assigned to it by or under the 1990 Act, the 1996 Act, or the Communications Act..."

Failure by a licensee to submit this information when required represents a breach of a broadcast licence, as it means that Ofcom may be unable properly to carry out its regulatory duties. Licensees were given a final deadline of 24 November 2017 to submit the required information.

In Breach

The following licensees failed to submit the required information. These licensees have therefore been found in breach of Licence Condition 8(1) of their Local Digital Sound Programme licence.

¹ Licensees employing more than 20 people in connection with the provision of their licensed services and authorised to broadcast for more than 31 days a year.

² Licence Condition 8(1) in Local Digital Sound Programme licences and National Digital Sound Programme licences and Licence Condition 9(1) in Community Radio licences, Local Sound Broadcasting licences and Radio Licensable Content Service licences.

Licensee	Service Name	Licence Number
Antenna Media Limited	Antenna Radio	DP101590
Cheesy FM Limited	Cheesy FM	DP101531
Likwid London Limited	Likwid Radio	DP102110
Love London Radio Limited	ZoneOneRadio	DP101880
Manchester Business Radio Limited	Manchester Business Radio	DP101959
Ujima Radio CIC	Ujima Radio	DP101168

The following licensees failed to submit the required information. These licensees have therefore been found in breach of Licence Condition 9(1) of their Community Radio licence or Radio Licensable Content Service licence.

Licensee	Service Name	Licence Number
Gravity FM CIC	Gravity FM	CR000168
Radio Khushkhabri Limited	Radio Khushkhabri	RLCS000128
St Mathews Community Solution Centre Limited	EAVA FM	CR000178
Ujima Radio CIC	Ujima Radio	CR000116

Resolved

The following licensees failed to submit the required information in accordance with the deadline, but subsequently submitted a late return. For these licensees, we therefore consider the matter resolved.

Licence Condition 8(1) of a Local Digital Sound Programme licence:

Licensee	Name of Service	Licence Number
An individual	NonStop90s Radio	DP102054
An individual	Kings on Air Radio	DP000069
An individual	The Access Channel	DP000055
An individual	Trickstar Radio	DP101675
An individual	Radio Marsden Christmas	DP101306
100 Media Operations Limited	100% Dragon Hits, 100% Hits	DP000139
Central Air Radio Limited	Radio XL (Birmingham)	DP000011
Central FM Limited	Central FM	DP000171
GGFC UK Limited	Ahomka	DP101173
Go Radio Limited	Go Radio	DP101223
Imagine FM Limited	Imagine	DP000161
Leicester Radio Broadcasting Limited	LRB DIGITAL	DP102053
London Tamil Media Limited	IBC Tamil	DP000141
MCR Live Limited	MCR Radio	DP101353
Media Ireland (Iontaobhas Na Gaeilge) Limited	Blast	DP101631
Original Aberdeen FM Limited	Original 106 (Aberdeen)	DP100320
Radio Diamond (Manchester) Limited	Radio Diamond	DP102093
Red Leisure Broadcasting Limited	Atlantic Radio	DP101572

Licensee	Name of Service	Licence Number
Rinse FM	Rinse FM	DP101096
Starpoint Radio Limited	Starpoint Radio	DP101121
University of Sussex Students' Union	University Radio Falmer	DP101318
Vinejuice Limited	Vinejuice Radio	DP102046

Licence Condition 9(1) of a Community Radio licence, Local Sound Broadcasting licence or Radio Licensable Content Service licence:

Licensee	Name of Service	Licence Number
Babcock Media Services Limited	WRN English for Europe and Asia Pacific	RLCS000077
Babcock Media Services Limited	WRN Persian (Radio Jahani)	RLCS000078
Babcock Media Services Limited	WRN Russkij for Europe	RLCS000081
Babcock Media Services Limited	WRN Arabic	RLCS000082
Bay FM Radio Limited	Bay FM Radio	CR000236
BBA Media	Westside 89.6 FM	CR000072
Bradford Community Broadcasting Limited	BCB 106.6 FM	CR000021
Celtic Music Radio Limited	Celtic Music Radio	CR000257
Central Air Radio Limited	Radio XL	AL000171
Central FM Limited	Central FM	AL000047
Down Community Radio Limited	Down FM	CR000047
Eden FM Radio Limited	Eden FM	CR100181
GGFC UK Limited	GN RADIO	RLCS000141
Harbour Radio CIC	Harbour Radio	CR100787
Imagine FM Limited	Imagine FM	AL100192
Inspiration Radio Limited	Inspiration FM	CR000184
Liberty Radio Limited	Liberty Radio	RLCS000143
Lisburn Community Radio Limited	Lisburns 98FM	CR000139
Lochbroom FM Limited	Lochbroom FM	AL100667
London Tamil Media Limited	IBC Tamil	RLCS000090
London Tamil Media Limited	IBC Asia	RLCS000092
London Tamil Media Limited	Gagana	RLCS101080
Lyca Media II Limited	Lyca Radio 1458	AL000156
Lyca Media II Limited	Lyca Dil Se 1035	AL000160
Lyca Media II Limited	Time 107.5	AL100803
MarlowFM Limited	Marlow FM	CR000209
MKFM Limited	MKFM	CR100797
Original Aberdeen FM Limited	Original 106	AL000324
Penistone Community Radio Limited	Penistone FM	CR000153
Preston Community Radio 23	City Beat Preston	CR000158
Radio Ashford Limited	Radio Ashford	CR000201
Radio Jackie Limited	Radio Jackie	AL100669
Radio Winchcombe Limited	Radio Winchcombe	CR000233
Rinse FM	Rinse FM	CR000225

Licensee	Name of Service	Licence Number
South Eastern Regional College	Bangor FM	CR000127
Tamworth Radio Broadcasting CIC	TCR FM	CR000173
The Heartland Radio Foundation Limited	Heartland FM	AL000133
The Panjabi Centre Limited	Desi Radio	CR000061
The Panjabi Centre Limited	Desi Radio	RLCS000142
Uist Radio Limited	An Radio	CR000254
Voice of Hope Radio	Hope FM	CR000086
Western Isles Community Radio Limited	Isles FM	AL100768
Wythenshawe Community Media	Wythenshawe FM	CR000024

Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 12 March and 1 April 2018 and decided that the broadcaster or service provider did not breach Ofcom's codes, rules, licence conditions or other regulatory requirements.

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

Programme	Service	Transmission date	Categories
The Christian O'Connell Breakfast Show	Absolute Radio 90s	08/02/2018	Generally accepted standards
Oli and Simon Breakfast Show	Touch FM (Stratford Upon Avon)	12/01/2018	Offensive language

For more information about how Ofcom conducts investigations about content standards on television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

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

Licensee	Licensed Service	Categories
St Peter's Studio and Community Radio Limited	Saint FM	Key Commitments

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

https://www.ofcom.org.uk/_data/assets/pdf_file/0019/31942/general-procedures.pdf

Complaints assessed, not investigated

Here are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 12 March and 1 April 2018 because they did not raise issues warranting investigation.

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

Programme	Service	Transmission Date	Categories	Number of complaints
8 Out 10 Cats Does Countdown	4Seven	03/03/2018	Generally accepted standards	1
The 80s No Repeat Guarantee	Absolute 80s	16/03/2018	Race discrimination/offence	1
The No Repeat Guarantee	Absolute Radio	07/03/2018	Race discrimination/offence	1
The Christian O'Connell Breakfast Show (trailer)	Absolute Radio 70s	23/03/2018	Race discrimination/offence	1
The Tom and Tasha Show	Beyond Radio	19/02/2018	Race discrimination/offence	1
Be Cool Scooby Doo	Boomerang TV	04/03/2018	Scheduling	1
Programming	Brit Asia TV	20/01/2018	Violence	1
Europa League Football: Arsenal vs AC Milan	BT Sport 2	08/03/2018	Generally accepted standards	1
Breakfast Show	Capital Radio North East	27/02/2018	Generally accepted standards	1
Judge Judy	CBS Reality	26/02/2018	Advertising minutage	1
24 Hours in Police Custody	Channel 4	05/03/2018	Generally accepted standards	1
24 Hours in Police Custody	Channel 4	19/03/2018	Drugs, smoking, solvents or alcohol	1
24 Hours in Police Custody	Channel 4	19/03/2018	Generally accepted standards	1
Channel ident	Channel 4	22/03/2018	Crime and disorder	1
Channel ident	Channel 4	22/03/2018	Dangerous behaviour	1
Countdown	Channel 4	02/03/2018	Religious/Beliefs discrimination/offence	1
Crufts Extra with Alan and Clare	Channel 4	10/03/2018	Sexual material	3
Dispatches: Who's Policing Your Bank?	Channel 4	12/03/2018	Due impartiality/bias	1
Dispatches: Who's Policing Your Bank?	Channel 4	12/03/2018	Materially misleading	1
Gogglebox	Channel 4	23/03/2018	Disability discrimination/offence	2

Programme	Service	Transmission Date	Categories	Number of complaints
Married at First Sight	Channel 4	08/03/2018	Generally accepted standards	2
My Baby's Life: Who Decides? (trailer)	Channel 4	11/03/2018	Scheduling	1
Seven Year Switch	Channel 4	20/03/2018	Generally accepted standards	1
Seven Year Switch (trailer)	Channel 4	03/03/2018	Offensive language	1
Sunday Brunch	Channel 4	11/03/2018	Offensive language	1
The Great Celebrity Bake Off for Stand Up to Cancer	Channel 4	13/03/2018	Generally accepted standards	1
The Last Leg	Channel 4	16/03/2018	Due impartiality/bias	1
The Last Leg	Channel 4	23/03/2018	Due impartiality/bias	1
The Last Leg	Channel 4	23/03/2018	Generally accepted standards	1
Mere Aziz Hum Watno	Channel 44	27/02/2018	Hatred and abuse	1
A Knight's Tale	Channel 5	25/03/2018	Offensive language	1
Armed and Deadly Police UK	Channel 5	19/03/2018	Generally accepted standards	1
Can't Pay? We'll Take It Away	Channel 5	23/03/2018	Offensive language	1
Elizabeth: Our Queen	Channel 5	27/03/2018	Materially misleading	1
Neighbours	Channel 5	13/03/2018	Sexual material	3
Panic at 30,000 Feet: Airline Emergency	Channel 5	19/03/2018	Generally accepted standards	1
Simon	Channel 5	17/03/2018	Offensive language	1
The Dirty Dozen	Channel 5	04/03/2018	Advertising placement	1
The Man in the Iron Mask	Channel 5	25/03/2018	Offensive language	1
The Wright Stuff	Channel 5	16/03/2018	Disability discrimination/offence	1
Traffic Cops	Channel 5	19/03/2018	Race discrimination/offence	1
Will and Grace (trailer)	Channel 5	15/03/2018	Offensive language	1
Friends	Comedy Central	23/03/2018	Offensive language	1
Cops UK: Bodycam Squad	Dave	09/03/2018	Animal welfare	1
Live At The Apollo	Dave	05/03/2018	Race discrimination/offence	1
Would I Lie to You?	Dave	17/03/2018	Offensive language	1
Would I Lie to You?	Dave	18/03/2018	Offensive language	1
Yukon Men	Discovery	06/03/2018	Offensive language	1
Daily Pop	E News	20/03/2018	Race discrimination/offence	1
Celebs Go Dating	E4	25/02/2018	Generally accepted standards	1

Programme	Service	Transmission Date	Categories	Number of complaints
Hollyoaks	E4	13/03/2018	Generally accepted standards	2
Naked Attraction	E4	06/03/2018	Nudity	2
Rude Tube	E4	01/03/2018	Animal welfare	1
News	Geo News	05/03/2018	Due impartiality/bias	5
Heart Breakfast with Ed and Gemma	Heart FM	12/03/2018	Race discrimination/offence	1
Kat Shoob	Heart FM London	08/03/2018	Sexual material	1
Scratch and Win with Jamie Lange	Heat Radio	22/10/2017	Competitions	1
PSL	Hum Masala	04/03/2018	Advertising/editorial distinction	1
Advertisement	ITV	23/03/2018	Political advertising	1
Ant and Dec's Saturday Night Takeaway	ITV	10/03/2018	Competitions	1
Ant and Dec's Saturday Night Takeaway	ITV	10/03/2018	Offensive language	1
Ant and Dec's Saturday Night Takeaway	ITV	10/03/2018	Race discrimination/offence	2
Ant and Dec's Saturday Night Takeaway	ITV	17/03/2018	Competitions	2
Comparethemarket.com's sponsorship of Coronation Street	ITV	12/03/2018	Sponsorship credits	1
Coronation Street	ITV	05/01/2018	Violence	95
Coronation Street	ITV	02/02/2018	Generally accepted standards	1
Coronation Street	ITV	26/02/2018	Drugs, smoking, solvents or alcohol	211
Coronation Street	ITV	26/02/2018	Generally accepted standards	1
Coronation Street	ITV	26/02/2018	Religious/Beliefs discrimination/offence	1
Coronation Street	ITV	28/02/2018	Generally accepted standards	33
Coronation Street	ITV	28/02/2018	Sexual material	1
Coronation Street	ITV	02/03/2018	Violence	1
Coronation Street	ITV	09/03/2018	Disability discrimination/offence	2
Coronation Street	ITV	09/03/2018	Materially misleading	1
Coronation Street	ITV	12/03/2018	Gender discrimination/offence	2
Coronation Street	ITV	12/03/2018	Sexual material	1
Coronation Street	ITV	14/03/2018	Dangerous behaviour	1
Coronation Street	ITV	14/03/2018	Violence	14

Programme	Service	Transmission Date	Categories	Number of complaints
Coronation Street	ITV	16/03/2018	Generally accepted standards	1
Coronation Street	ITV	17/03/2018	Generally accepted standards	2
Coronation Street	ITV	21/03/2018	Generally accepted standards	3
Coronation Street	ITV	21/03/2018	Under 18s in programmes	2
Coronation Street	ITV	21/03/2018	Violence	1
Coronation Street	ITV	22/03/2018	Generally accepted standards	1
Coronation Street	ITV	Various	Gender discrimination/offence	1
Coronation Street	ITV	Various	Generally accepted standards	1
Coronation Street	ITV	Various	Violence	1
Dancing on Ice	ITV	11/03/2018	Scheduling	1
Emmerdale	ITV	19/02/2018	Generally accepted standards	1
Emmerdale	ITV	01/03/2018	Under 18s in programmes	6
Emmerdale	ITV	02/03/2018	Under 18s in programmes	2
Emmerdale	ITV	07/03/2018	Race discrimination/offence	1
Emmerdale	ITV	09/03/2018	Materially misleading	1
Emmerdale	ITV	09/03/2018	Violence	1
Emmerdale	ITV	12/03/2018	Drugs, smoking, solvents or alcohol	3
Emmerdale	ITV	12/03/2018	Sexual material	1
Emmerdale	ITV	13/03/2018	Drugs, smoking, solvents or alcohol	8
Emmerdale	ITV	13/03/2018	Generally accepted standards	1
Emmerdale	ITV	14/03/2018	Generally accepted standards	1
Emmerdale	ITV	15/03/2018	Violence	1
Emmerdale	ITV	16/03/2018	Generally accepted standards	1
Emmerdale	ITV	22/03/2018	Generally accepted standards	2
Emmerdale	ITV	28/03/2018	Sexual material	1
Emmerdale	ITV	Various	Violence	1
Emmerdale	ITV	Various	Gender discrimination/offence	1

Programme	Service	Transmission Date	Categories	Number of complaints
Endeavour	ITV	11/03/2018	Advertising minutage	1
Good Morning Britain	ITV	27/02/2018	Generally accepted standards	1
Good Morning Britain	ITV	20/03/2018	Due impartiality/bias	1
Grizzly Tales for Gruesome Kids	ITV	18/03/2018	Generally accepted standards	1
ITV News	ITV	22/02/2018	Due impartiality/bias	1
ITV News	ITV	27/02/2018	Generally accepted standards	1
ITV News	ITV	02/03/2018	Due impartiality/bias	1
ITV News	ITV	14/03/2018	Due impartiality/bias	2
ITV News	ITV	15/03/2018	Due accuracy	1
ITV News	ITV	15/03/2018	Other	1
ITV News	ITV	20/03/2018	Due impartiality/bias	1
ITV News	ITV	23/03/2018	Due impartiality/bias	1
ITV News	ITV	27/03/2018	Due impartiality/bias	1
James Martin's Saturday Morning	ITV	10/03/2018	Generally accepted standards	1
Lethal Weapon (trailer)	ITV	27/01/2018	Materially misleading	1
Loose Women	ITV	02/03/2018	Sexual material	4
Loose Women	ITV	06/03/2018	Generally accepted standards	1
Loose Women	ITV	20/03/2018	Sexual material	1
Lorraine	ITV	14/12/2017	Gender discrimination/offence	1
Lorraine	ITV	19/03/2018	Due impartiality/bias	1
Lorraine	ITV	19/03/2018	Generally accepted standards	7
Marcella	ITV	12/03/2018	Violence	3
Marcella (trailer)	ITV	17/02/2018	Scheduling	1
Morethan Insurance's sponsorship of ITV Drama	ITV	18/03/2018	Generally accepted standards	1
Mr Bean: The Animated Series	ITV	24/02/2018	Gender discrimination/offence	1
News at Ten	ITV	27/02/2018	Generally accepted standards	1
Piers Morgan's Life Stories	ITV	10/03/2018	Gender discrimination/offence	1
Piers Morgan's Life Stories	ITV	10/03/2018	Generally accepted standards	1
Programming	ITV	12/03/2018	Sexual material	1
Programming	ITV	Various	Scheduling	1
Saturday Morning with James Martin	ITV	10/03/2018	Generally accepted standards	1

Programme	Service	Transmission Date	Categories	Number of complaints
Soak.com's sponsorship of Local Weather	ITV	21/03/2018	Sponsorship credits	1
The Chase	ITV	28/02/2018	Competitions	1
The Chase	ITV	05/03/2018	Race discrimination/offence	1
The Chase	ITV	08/03/2018	Competitions	1
The Chase	ITV	08/03/2018	Transgender discrimination/offence	1
The Chase	ITV	09/03/2018	Materially misleading	1
The Durrells	ITV	18/03/2018	Offensive language	4
The Durrells	ITV	25/03/2018	Scheduling	4
The Good Karma Hospital	ITV	18/03/2018	Generally accepted standards	1
The Jeremy Kyle Show	ITV	15/03/2018	Scheduling	1
The Kyle Files	ITV	12/03/2018	Due impartiality/bias	1
The Real Full Monty (trailer)	ITV	13/03/2018	Nudity	3
The Real Full Monty (trailer)	ITV	27/03/2018	Nudity	1
The Real Full Monty: Live	ITV	28/03/2018	Generally accepted standards	4
The Voice	ITV	17/03/2018	Generally accepted standards	1
The Voice	ITV	Various	Competitions	1
This Morning	ITV	13/03/2018	Generally accepted standards	1
This Morning	ITV	14/03/2018	Dangerous behaviour	1
This Morning	ITV	14/03/2018	Generally accepted standards	1
This Morning	ITV	16/03/2018	Competitions	3
This Morning	ITV	20/03/2018	Due impartiality/bias	2
This Morning	ITV	26/03/2018	Nudity	1
This Morning	ITV	27/03/2018	Generally accepted standards	1
Tipping Point	ITV	26/03/2018	Competitions	1
What Would Your Kid Do?	ITV	13/03/2018	Generally accepted standards	1
You've Been Framed	ITV	10/03/2018	Violence	1
You've Been Framed	ITV	24/03/2018	Offensive language	1
ITV News Anglia	ITV Anglia	07/03/2018	Due impartiality/bias	1
ITV News London	ITV London	16/03/2018	Due accuracy	1
ITV News London	ITV London	19/03/2018	Due impartiality/bias	1
ITV News London	ITV London	22/03/2018	Due accuracy	1
Celebrity Juice	ITV2	22/03/2018	Generally accepted standards	2

Programme	Service	Transmission Date	Categories	Number of complaints
You've Been Framed	ITV2	21/03/2018	Under 18s in programmes	1
A Theory of Everything	ITV3	19/03/2018	Generally accepted standards	1
ITV Racing: The Opening Show	ITV4	14/03/2018	Religious/Beliefs discrimination/offence	2
Chris and Olivia: Crackin On	ITVBe	14/03/2018	Generally accepted standards	1
Botched	Kanal 11 (Sweden)	01/03/2018	Gender discrimination/offence	1
Botched	Kanal 11 (Sweden)	02/03/2018	Gender discrimination/offence	2
Botched	Kanal 11 (Sweden)	05/03/2018	Gender discrimination/offence	1
Botched	Kanal 11 (Sweden)	09/03/2018	Gender discrimination/offence	1
Fråga Olle	Kanal 11 (Sweden)	16/02/2018	Gender discrimination/offence	1
Fråga Olle	Kanal 11 (Sweden)	17/02/2018	Gender discrimination/offence	1
Fråga Olle	Kanal 11 (Sweden)	18/02/2018	Gender discrimination/offence	1
Back to the Old School	Kiss	04/03/2018	Offensive language	1
Rickie, Melvin & Charlie in the Morning	Kiss FM	02/03/2018	Due accuracy	1
Advertisement	LBC 97.3 FM	15/03/2018	Advertising content	1
Iain Collins	LBC 97.3 FM	26/02/2018	Due impartiality/bias	1
Ian Payne	LBC 97.3 FM	10/03/2018	Materially misleading	1
James O'Brien	LBC 97.3 FM	07/03/2018	Religious/Beliefs discrimination/offence	1
James O'Brien	LBC 97.3 FM	15/03/2018	Materially misleading	1
James O'Brien	LBC 97.3 FM	21/03/2018	Gender discrimination/offence	1
James O'Brien	LBC 97.3 FM	23/03/2018	Generally accepted standards	1
Matt Stadlen	LBC 97.3 FM	15/03/2018	Due impartiality/bias	1
Nick Ferrari	LBC 97.3 FM	13/03/2018	Sexual orientation discrimination/offence	1
Shelagh Fogarty	LBC 97.3 FM	27/02/2018	Due impartiality/bias	1
Shelagh Fogarty	LBC 97.3 FM	14/03/2018	Materially misleading	2
Shelagh Fogarty	LBC 97.3 FM	26/03/2018	Race discrimination/offence	1
Steve Allen	LBC 97.3 FM	11/03/2018	Race discrimination/offence	1
Late Night Lincoln	Lincoln City Radio	22/02/2018	Crime and disorder	1

Programme	Service	Transmission Date	Categories	Number of complaints
Magic Breakfast with Harriet and Ronan	Magic	13/03/2018	Scheduling	1
Come Dine With Me	More4	01/03/2018	Disability discrimination/offence	1
Catfish	MTV	22/03/2018	Offensive language	1
Geordie Shore	MTV	20/02/2018	Violence	1
Geordie Shore	MTV	06/03/2018	Generally accepted standards	1
TFL advertisements	n/a	Various	Political advertising	1
Har lamha parjush	New Vision TV	14/03/2018	Animal welfare	1
Chardi Kalah	Panjab Radio	23/02/2018	Appeals for funds	1
Wyatt	Planet Rock	28/02/2018	Drugs, smoking, solvents or alcohol	1
PSL T20 Live: Islamabad United and Karachi Kings	Prime TV	04/03/2018	Advertising/editorial distinction	1
Q Radio News	Q Radio 96.7FM	23/02/2018	Generally accepted standards	1
Jason Anderson Breakfast Show	Radio Hartlepool	12/03/2018	Race discrimination/offence	1
Josh (trailer)	Really	28/02/2018	Generally accepted standards	1
Most Haunted	Really	02/03/2018	Materially misleading	2
Sounds of the Sixties	Sky Arts	01/03/2018	Offensive language	1
Save Me	Sky Atlantic	01/03/2018	Generally accepted standards	1
Cult of Chucky	Sky Cinema Premiere	13/03/2018	Generally accepted standards	1
All Out Politics	Sky News	28/02/2018	Due impartiality/bias	1
In The Long Run (trailer)	Sky News	21/03/2018	Scheduling	1
Press Preview	Sky News	05/03/2018	Due impartiality/bias	2
Press Preview	Sky News	07/03/2018	Due accuracy	1
Press Preview	Sky News	07/03/2018	Due impartiality/bias	1
Press Preview	Sky News	10/03/2018	Due impartiality/bias	1
Sky News	Sky News	08/02/2018	Due accuracy	1
Sky News	Sky News	26/02/2018	Due accuracy	1
Sky News	Sky News	05/03/2018	Generally accepted standards	1
Sky News	Sky News	07/03/2018	Generally accepted standards	1
Sky News	Sky News	09/03/2018	Due impartiality/bias	1
Sky News	Sky News	12/03/2018	Generally accepted standards	2
Sky News	Sky News	18/03/2018	Due accuracy	1
Sky News	Sky News	22/03/2018	Due accuracy	1

Programme	Service	Transmission Date	Categories	Number of complaints
Sky News with Kay Burley	Sky News	14/03/2018	Generally accepted standards	1
Sunrise	Sky News	15/03/2018	Due accuracy	1
Premier League Live	Sky Sport Premier League	10/03/2018	Offensive language	1
Bliss	Sky1	28/02/2018	Suicide and self harm	1
Legends of Tomorrow	Sky1	28/02/2018	Offensive language	1
Runaways (trailer)	SyFy	25/03/2018	Offensive language	1
Mike Graham	Talk Radio	12/03/2018	Race discrimination/offence	1
Alan Brazil	Talksport	01/03/2018	Drugs, smoking, solvents or alcohol	1
Day Times	Town 102	21/03/2018	Offensive language	1
Morden i Midsomer	TV8 (Sweden)	18/02/2018	Advertising placement	1
AncestryDNA advertisement	Various	Various	Political advertising	4
News	Various	Various	Other	1
Rick Jackson at Breakfast	Wave 105	14/03/2018	Race discrimination/offence	1
Our Time's sponsorship The Two Ronnies	Yesterday	08/03/2018	Sponsorship credits	1

For more information about how Ofcom assesses complaints about content standards on television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

Complaints assessed under the Procedures for investigating breaches of content standards on BBC broadcasting services and BBC ODPS.

Programme	Service	Transmission Date	Categories	Number of complaints
BBC Election Debate 2017	BBC 1	31/05/2017	Elections/Referendums	1
BBC News	BBC 1	17/03/2018	Due impartiality/bias	1
Strictly Come Dancing: The Final	BBC 1	16/12/2017	Voting	1
10 Puppies and Me	BBC 2	03/08/2017	Sexual material	1
Horizon: Mars – A Traveller's Guide	BBC 2	10/10/2017	Other	1
Match of the Day 2 Extra	BBC 2	05/11/2017	Generally accepted standards	1
From Our Home Correspondent	BBC Radio 4	19/11/2017	Offensive language	1
News bulletin, BBC Radio 4	BBC Radio 4	11/08/2017	Generally accepted standards	1
The World Tonight	BBC Radio 4	15/12/2017	Due accuracy	1

For more information about how Ofcom assesses complaints about content standards on BBC broadcasting services and BBC ODPS, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0002/100100/Procedures-for-investigating-breaches-of-content-standards-on-BBC-broadcasting-services-and-BBC-on-demand-programme-services.pdf

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

Licensee	Licensed service	Categories
Global Radio Northwest Limited	Smooth Radio Lake District	Format
Governance Ministries	TBN UK	Other

For more information about how Ofcom assesses complaints about broadcast licences, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0019/31942/general-procedures.pdf

Complaints outside of remit

Here are alphabetical lists of complaints received by Ofcom that fell outside of our remit. This is because Ofcom is not responsible for regulating the issue complained about. For example, the complaints were about the content of television, radio or on demand adverts or an on demand service that does not fall within the scope of regulation.

For more information about what Ofcom's rules cover, go to: <https://www.ofcom.org.uk/tv-radio-and-on-demand/how-to-report-a-complaint/what-does-ofcom-cover>

Complaints about television or radio programmes

For more information about how Ofcom assesses complaints about television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

Programme	Service	Transmission Date	Categories	Number of complaints
Advertisement	BT Sport 2 HD	14/03/2018	Advertising content	1
Advertisement	Channel 4	08/03/2018	Advertising content	1
Advertisement	Channel 4	23/03/2018	Advertising content	1
Advertisement	Channel 4	28/03/2018	Advertising content	1
Indian Summer School	Channel 4	29/03/2018	Outside of remit	1
Advertisement	Channel 5	15/03/2018	Advertising content	1
n/a	Channel 4 HD (Freesat)	n/a	Provision of licensed service	1
Advertisement	Channel 5	28/03/2018	Advertising content	1
Celebs Go Dating	Facebook	11/03/2018	Outside of remit	1
£250,000 cash prize competition	ITV	02/03/2018	Competitions	1
Advertisement	ITV	13/02/2018	Advertising content	1
Advertisement	ITV	10/03/2018	Advertising content	2
Advertisement	ITV	16/03/2018	Advertising content	1
Advertisement	ITV	17/03/2018	Advertising content	1
Advertisement	ITV	18/03/2018	Advertising content	2
Advertisement	ITV	21/03/2018	Advertising content	1
Advertisement	ITV	24/03/2018	Advertising content	1
International Football	ITV	23/03/2018	Outside of remit	1
Programming	ITV	26/03/2018	Outside of remit	1
Advertisement	ITV2	12/03/2018	Advertising content	1
Two and a Half Men	ITV2	n/a	Outside of remit	1
Advertisement	n/a	01/01/2018	Advertising content	1
Advertisement	n/a	25/03/2018	Advertising content	1
Advertisements	n/a	11/03/2018	Advertising content	1
Advertisements	n/a	12/03/2018	Advertising content	1
Programming	Omega Radio Station 104.1	26/03/2018	Outside of remit	1

Programme	Service	Transmission Date	Categories	Number of complaints
Advertisement	Sky Sports Main Event	10/03/2018	Advertising content	1
Advertisement	UTV	24/03/2018	Advertising content	1
Advertisements	Various	17/03/2018	Race discrimination/offence	1

BBC First

The BBC Royal Charter and Agreement was published in December 2016, which made Ofcom the independent regulator of the BBC.

Under the BBC Agreement, Ofcom can normally only consider complaints about BBC programmes where the complainant has already complained to the BBC and the BBC has reached its final decision (the 'BBC First' approach).

The complaints in this table had been made to Ofcom before completing the BBC's complaints process.

Complaints about BBC television, radio or on demand programmes

Programme	Service	Transmission or Accessed Date	Categories	Number of Complaints
BBC London	BBC 1	19/03/2018	Generally accepted standards	1
BBC News	BBC 1	26/03/2018	Due impartiality/bias	1
BBC Newsline	BBC 1	01/02/2018	Due impartiality/bias	1
Breakfast	BBC 1	13/03/2018	Generally accepted standards	1
Countryfile	BBC 1	18/03/2018	Animal welfare	3
Countryfile	BBC 1	18/03/2018	Due impartiality/bias	1
EastEnders	BBC 1	01/01/2018	Generally accepted standards	1
EastEnders	BBC 1	02/02/2018	Sexual material	1
EastEnders	BBC 1	09/03/2018	Violence	1
EastEnders	BBC 1	21/03/2018	Generally accepted standards	2
Football Focus	BBC 1	10/03/2018	Generally accepted standards	1
Look North	BBC 1	21/03/2016	Due impartiality/bias	1
Match of the Day	BBC 1	10/03/2018	Generally accepted standards	1
Not Going Out	BBC 1	22/03/2018	Sexual material	1
Panorama	BBC 1	07/03/2018	Due impartiality/bias	1
Programming	BBC 1	15/03/2018	Offensive language	1
Question Time	BBC 1	01/03/2018	Due impartiality/bias	1
Question Time	BBC 1	08/03/2018	Due impartiality/bias	2
Still Game	BBC 1	15/03/2018	Generally accepted standards	2
Sunday Politics	BBC 1	Various	Due impartiality/bias	1
The Andrew Marr Show	BBC 1	18/03/2018	Due impartiality/bias	1
The Andrew Marr Show	BBC 1	25/03/2018	Generally accepted standards	1
This Week	BBC 1	22/03/2018	Due impartiality/bias	1

Programme	Service	Transmission or Accessed Date	Categories	Number of Complaints
Winter Olympics	BBC 1	22/02/2018	Gender discrimination/offence	1
Daily Politics	BBC 2	10/05/2017	Due impartiality/bias	1
Daily Politics	BBC 2	16/03/2018	Due impartiality/bias	1
Daily Politics	BBC 2	22/03/2018	Due impartiality/bias	1
Newsnight	BBC 2	15/03/2018	Due impartiality/bias	155
Newsnight	BBC 2	16/03/2018	Due impartiality/bias	2
The Funeral Murders	BBC 2	19/03/2018	Due impartiality/bias	1
BBC News	BBC channels	Various	Due impartiality/bias	2
BBC News	BBC channels	25/03/2018	Due impartiality/bias	1
BBC News	BBC channels	27/03/2018	Due impartiality/bias	1
Programming	BBC channels	Various	Due impartiality/bias	1
BBC News	BBC News Channel	07/02/2018	Due impartiality/bias	1
BBC News	BBC News Channel	15/03/2018	Due accuracy	1
BBC News	BBC News Channel	21/03/2018	Due impartiality/bias	1
BBC News	BBC News Channel	27/03/2018	Due impartiality/bias	1
The Radio 1 Breakfast Show	BBC Radio 1	20/03/2018	Gender discrimination/offence	1
Today	BBC Radio 4	14/03/2018	Disability discrimination/offence	1
Today	BBC Radio 4	28/03/2018	Religious/Beliefs discrimination/offence	1
Today – Thought for the Day	BBC Radio 4	17/01/2018	Other	1
The Kaye Adams Programme	BBC Radio Scotland	13/03/2018	Generally accepted standards	1

Investigations List

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

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

Here are alphabetical lists of new investigations launched between 12 March and 1 April 2018.

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

Programme	Service	Transmission date
35 Mins	Abu Dhabi Channel	05/02/2018
Peter Popoff Ministry	BEN TV	28/01/2018
Afternoon with Tom Fisher	Beyond Radio	12/02/2018
Peter Snodden Breakfast Show	Cool FM	22/03/2018
Flash FM Oxford	First FM 105	05/02/2018
Bible ki Nabouat – The Prophecy of the Bible	Glory TV	10/01/2018
KLFM News	KLFM (Kings Lynn)	14/02/2018
James O'Brien (trailer)	LBC 97.3 FM	Various
Saudi Vision 2030 Advertisement	Sky1	07/03/2018 and 08/03/2018
Advertisement	Starz	11/03/2018
STV News North	STV	23/02/2018

For more information about how Ofcom assesses complaints and conducts investigations about content standards on television and radio programmes, go to:

https://www.ofcom.org.uk/data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

Investigations launched under the Procedures for investigating breaches of content standards on BBC broadcasting services and BBC ODPS.

Programme	Service	Transmission date
Sunday Politics	BBC 1 Scotland	30/04/2017

For more information about how Ofcom conducts investigations about content standards on BBC broadcasting services and BBC ODPS, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0002/100100/Procedures-for-investigating-breaches-of-content-standards-on-BBC-broadcasting-services-and-BBC-on-demand-programme-services.pdf

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

Programme	Service	Transmission date
Can't Pay? We'll Take it Away	Channel 5	26/04/17
Good Morning Britain	ITV	22/01/18

For more information about how Ofcom considers and adjudicates upon Fairness and Privacy complaints about television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0031/57388/fairness-privacy-complaints.pdf

For information about how Ofcom considers and adjudicates upon Fairness and Privacy complaints on BBC Broadcasting Services and BBC ODPS, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0003/100101/Procedures-for-the-consideration-and-adjudication-of-Fairness-and-Privacy-complaints.pdf