

Ofcom Broadcast Bulletin

**Issue number 261
8 September 2014**

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Introduction

Under the Communications Act 2003 (“the Act”), Ofcom has a duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives¹. Ofcom must include these standards in a code or codes. These are listed below. Ofcom also has a duty to secure that every provider of a notifiable On Demand Programme Services (“ODPS”) complies with certain standards requirements as set out in the Act².

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

- a) [Ofcom’s Broadcasting Code](#) (“the Code”).
- b) the [Code on the Scheduling of Television Advertising](#) (“COSTA”) which contains rules on how much advertising and teleshopping may be scheduled in programmes, how many breaks are allowed and when they may be taken.
- c) certain sections of the [BCAP Code: the UK Code of Broadcast Advertising](#), which relate to those areas of the BCAP Code for which Ofcom retains regulatory responsibility. These include:
 - the prohibition on ‘political’ advertising;
 - sponsorship and product placement on television (see Rules 9.13, 9.16 and 9.17 of the Code) and all commercial communications in radio programming (see Rules 10.6 to 10.8 of the Code);
 - ‘participation TV’ advertising. This includes long-form advertising predicated on premium rate telephone services – most notably chat (including ‘adult’ chat), ‘psychic’ readings and dedicated quiz TV (Call TV quiz services). Ofcom is also responsible for regulating gambling, dating and ‘message board’ material where these are broadcast as advertising³.
- d) other licence conditions which broadcasters must comply with, such as requirements to pay fees and submit information which enables Ofcom to carry out its statutory duties. Further information can be found on Ofcom’s website for [television](#) and [radio](#) licences.
- e) rules and guidance for both [editorial content and advertising content on ODPS](#). Ofcom considers sanctions in relation to ODPS on referral by the Authority for Television On-Demand (“ATVOD”) or the Advertising Standards Authority (“ASA”), co-regulators of ODPS for editorial content and advertising respectively, or may do so as a concurrent regulator.

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

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

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

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

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

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

Standards cases

In Breach

Europar Shangbad

NTV, 6 May 2014, 22:15

Introduction

NTV is a news and general entertainment channel broadcast in Bangla and serving a Bangladeshi community in the UK and Europe. The licence for NTV is held by International Television Channel Europe Limited ("ITCE" or "the Licensee").

A complainant alerted Ofcom to a news programme that reported on the visit to Tower Hamlets by Ed Miliband, the leader of the Labour Party, during the Tower Hamlets Mayoral election held on 22 May 2014. The complainant considered that the news report favoured the Labour Party in respect of that election.

We noted that this programme featured a news item about Ed Miliband's visit to Tower Hamlets on 6 May 2014. The news item included footage of John Biggs, the Labour Party candidate in the Tower Hamlets Mayoral election that took place on 22 May 2014. The content was in Bangla. Ofcom therefore commissioned an independent translation and transcript of the relevant output. The news item was introduced as follows by the newsreader:

"Labour leader Ed Miliband somewhat suddenly appeared in Brick Lane to join the election campaign of John Biggs. During this time he exchanged views with the local people along with two local MPs, Rushanara Ali¹ and Jim Fitzpatrick². He commented that to address the on-going problems in Tower Hamlets including housing, there was no alternative to John Biggs".

The news item then began with the following said in voiceover, whilst footage was broadcast, lasting approximately 35 seconds, showing Ed Miliband walking down a street with John Biggs, Rushanara Ali and Jim Fitzpatrick:

"This visit of Ed Miliband in Tower Hamlets is somewhat sudden. But the participation of the top leader of the opposition party in the election campaign of John Biggs gives the information, how importantly the Labour Party is considering this mayoral election at Tower Hamlets. On Tuesday, the Labour leader participated in the election campaign in Buxton Street near Brick Lane with two local MPs Rushanara Ali and John Fitzpatrick and other Labour leaders. Other people present this time including Tower Hamlets Labour Leader Serajul Islam, ex-council leader Helal Abbas and councillor Joshua Pack. In response to a question, Ed Miliband informed NTV Europe that competent politician's like John Biggs are necessary to address the problems of Tower Hamlets which has a mentionable track record".

The remainder of the news item consisted of Ed Miliband saying statements to camera, which were interspersed with statements said in voiceover:

¹ Labour Party MP for Bethnal Green and Bow.

² Labour Party MP for Poplar and Limehouse.

Ed Miliband:

"I am incredibly proud to be here supporting John as Labour Mayoral candidate. John has an incredible track record of fighting for social justice. He has an incredible manifesto for the people of Tower Hamlets putting forward free school meals for primary schools, which will make a huge difference to the children of Tower Hamlets, a promise that has not been delivered by the current Mayor; building more affordable housing here, which is absolutely crucial for families and cracking down big problems for so many people across the Borough, which is crime and anti-social behaviour. So John has an incredibly proud record fighting for Labour values, fighting for the Labour party and fighting for the people of London. I know he can do a fantastic job if the people of Tower Hamlets choose to elect him as Mayor".

Voiceover:

"In response to a question, whether the results of the Tower Hamlets council election will have an impact on national politics, Ed Miliband gave a very strategic answer".

Ed Miliband:

"I think the significance of this election is the people of the Borough. It is their decision as to who they want as Mayor. If they vote for John, they vote for somebody with deep roots in the community. Somebody who is part of a diverged field of Labour candidates at this election, here in this borough. And somebody who is determined to deliver his promises; at transparency, accountability and clear promises. Clear promises will be kept. Because I think it is so important that we restore faith in politics. The only way to restore faith in politics is politicians making promises and keeping promises. And I know John Biggs is somebody who will do that".

Voiceover:

"Ed Miliband also gave a firm answer to the question why the British people would vote for Labour in the next national election".

Ed Miliband:

"Because we know that we have huge problems and challenges in the society such as inequality, whether our country works for few people in the top or for most people. Only Labour has the answers to that. Labour has been leading the way on jobs for young people, on taking actions on wages, the living wage, on freezing energy prices, and on making difference on one of the biggest issues that this borough faces, that is housing; we've got to build more houses. And only a national Labour government with John [Biggs] working as Mayor can make that happen".

Rule 6.1 of the Code requires that programmes dealing with elections must comply with the due impartiality rules set out in Section Five of the Code. In addition, Rules 6.2 to 6.13 of the Code apply to programmes broadcast during the designated period running up to the date of elections in the UK known as the 'election period'. In the case of the 2014 Tower Hamlets Mayoral election, the 'election period' ran from the last date for the publication of the notice of elections on 14 April 2014 to the close of polling on 22 May 2014. Section Six of the Code under the heading 'Meaning of

“election” makes clear that for the purpose of this section “elections include...[a] mayoral election...”.

For the reasons explained in this Decision, Ofcom considered that the news item was an electoral area report and discussion and Rules 6.8 to 6.13 of the Code were engaged. In particular, we considered the material raised issues warranting an investigation under the following rules of the Code:

- Rule 6.8: “Due impartiality must be strictly maintained in a constituency report or discussion and in an electoral area report or discussion”.
- Rule 6.9: “If a candidate takes part in an item about his/her particular constituency, or electoral area, then candidates of each of the major parties must be offered the opportunity to take part. (However, if they refuse or are unable to participate, the item may nevertheless go ahead.)”.
- Rule 6.10: “In addition to Rule 6.9, broadcasters must offer the opportunity to take part in constituency or electoral area reports and discussions, to all candidates within the constituency or electoral area representing parties with previous significant electoral support or where there is evidence of significant current support. This also applies to independent candidates. (However, if a candidate refuses or is unable to participate, the item may nevertheless go ahead.)”.
- Rule 6.11: “Any constituency or electoral area report or discussion after the close of nominations must include a list of all candidates standing, giving first names, surnames and the name of the party they represent or, if they are standing independently, the fact that they are an independent candidate. This must be conveyed in sound and/or vision...”.

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

Response

ITCE said that it had given “a good treatment” to the visit of Ed Miliband to Tower Hamlets because it had “a symbolic significance” given that he had arrived: “at the heart of [the] Bengali community”. The Licensee added, however that it was: “committed to offer the same treatment to David Cameron or Nick Clegg if they are likely to support their candidates in any election”.

In summary, ITCE said that it had: “produced quite a few stories on Tower Hamlets elections where we did accommodate all major candidates while they were available”. For example, it said that: “NTV has covered [Lutfur] Rahman³ attending public meetings as part of his election campaign but no other party/candidate was available to offer our coverage”.

In relation to this specific news item, ITCE said that it had attempted to contact Lutfur Rahman but he and: “his representative(s) didn’t bother to respond to our several efforts to accommodate his views in this regard”. In addition, the Licensee said it had “put [its] best efforts on that specific day to cover” the campaign of Christopher Wilford, the Conservative Party candidate in the Tower Hamlets Mayoral election. It

³ Lutfur Rahman was the candidate for Tower Hamlets First in the Tower Hamlets Mayoral election that took place on 22 May 2014.

said that its reporter had waited for Christopher Wilford for: “about an hour or so at the given location but he didn’t turn up at the end”.

In summary, ITCE said that: “all candidates were not available for media to cover the electoral campaign”. Therefore it added, in relation to Rules 6.9 and 6.10, that “we did not have any choice other than moving forward on a number of occasions” in relation to its election reports. However, the Licensee added that: “[d]espite experiencing all these difficulties” it had: “offered an impartial treatment towards the main political groups/candidates”.

Decision

Under the Communications Act 2003 (“the Act”), Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, one of which is that the special impartiality requirements set out in section 320 of the Act are complied with. This objective is reflected in Section Five of the Code. Broadcasters are required to comply with the rules in Section Five of the Code to ensure that the due impartiality requirements of the Act are complied with. In addition, Section Six of the Code reflects the specific requirements relating to broadcasters covering elections, as laid out in the Representation of the People Act 1983 (as amended).

Ofcom’s Guidance to Section Six (Elections and Referendums) of the Code (“the Guidance”)⁴ states that there is no obligation on broadcasters to provide any election coverage. However, if broadcasters choose to cover election campaigns, they must comply with the rules set out in Section Six of the Code, and in particular the constituency and electoral area reporting rules laid out in Rules 6.8 to 6.13 of the Code. These specific rules apply when a broadcaster is broadcasting a particular constituency and electoral area report or discussion during an election period.

Rule 6.8 obliges broadcasters to ensure that due impartiality is strictly maintained in a constituency report or discussion and in an electoral area report or discussion. Paragraph 1.37 of the accompanying Ofcom Guidance states that: “There is a range of editorial techniques by which broadcasters can comply with Rule 6.8, but broadcasters should ensure that they reflect the viewpoints of candidates...”.

Rule 6.9 requires that if a candidate takes part in an item about his/her particular constituency, or electoral area, then candidates of each of the major parties must be offered the opportunity to take part. However, if a candidate refuses or is unable to participate, the item may nevertheless go ahead. The major parties for any given election are listed in the Ofcom list of major parties⁵. For the 2014 Tower Hamlets Mayoral election, the major parties were: the Conservative Party; the Labour Party; and the Liberal Democrats.

Rule 6.10 states that, in addition to Rule 6.9, independent candidates or candidates representing parties with previous significant electoral support or where there is evidence of significant current support must also be offered the opportunity to take part in an item about their particular constituency, or electoral area. However, if a candidate refuses or is unable to participate, the item may nevertheless go ahead.

⁴ See <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section6.pdf>

⁵ See <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/major-parties.pdf>

Rule 6.11 requires that if broadcasters include constituency reports in their programming, then the constituency reports must include a list of all candidates standing, giving first names, surnames and their party labels.

To determine whether the electoral area reporting rules (Rules 6.8 to 6.13) applied in this case, we first had to determine whether the programmes contained an electoral area report or discussion. In this context, we were mindful of paragraph 1.35 of the Guidance:

“During election periods, if a broadcaster transmits a report or discussion featuring candidates standing in a constituency or electoral area, this may qualify as a ‘constituency report or discussion’ or ‘electoral area report or discussion’ (see Rule 6.8 of the Code). Rules 6.8 to 6.13 then apply. A constituency/electoral area report or discussion might be in the form of: a programme; programme item or segment; report; or interview, which raises or covers issues about a candidate’s electoral area, or raises the profile of the candidate in connection with his/her electoral area. A useful test for broadcasters is to ask whether a report or discussion could be seen as promotional for a candidate within his/her electoral area”.

In this case, we noted that the news item featured various statements (see Introduction) by Ed Miliband, the Labour Party leader, in which he endorsed the candidature of John Biggs as the Labour Party candidate for the Tower Mayoral election taking place on 22 May 2014. Although John Biggs did not make any statements within the news item, he was also prominently featured in vision during the item. We considered that the likely net effect of this news item would have been to raise the profile of John Biggs and promote his candidature as the Labour Party candidate for the Tower Hamlets Mayoral election taking place on 22 May 2014. We therefore considered that Rules 6.8 to 6.13 applied.

Rule 6.8

We took into account the Licensee’s representation that “despite experiencing...difficulties” with including various candidates in the electoral area report or discussion in this case, it had: “offered an impartial treatment towards the main political groups/candidates”.

We disagreed. We considered that at no point during this news item were the viewpoints reflected of: the Conservative Party candidate, Alexander Hall; the Liberal Democrat candidate, Reetendra Nath Banerji; and the Tower Hamlets First candidate, Lutfur Rahman. Nor were the policies of any these three parties more generally reflected. We therefore concluded that due impartiality in this electoral area report or discussion was not strictly maintained, and considered the material breached Rule 6.8 of the Code.

Rule 6.9

To comply with Rule 6.9 of the Code, the Code makes clear that if a candidate is given an opportunity to discuss matters relating to their electoral area then broadcasters must ensure that other candidates from the major parties should also be offered an opportunity to take part. In this case this meant that, as well as featuring the Labour Party candidate standing in the Tower Hamlets Mayoral election as they did, the Licensee was required to offer the opportunity to take part in this electoral area report or discussion to both Christopher Wilford, the Conservative Party candidate, and, Reetendra Nath Banerji, the Liberal Democrat candidate.

We noted that ITCE said that it had “put [its] best efforts on that specific day to cover” the campaign of Christopher Wilford, the Conservative Party candidate in the Tower Hamlets Mayoral election; and that its reporter had waited for Christopher Wilford for “about an hour or so at the given location but he didn’t turn up at the end”. It was not clear to us from the Licensee’s representations whether the channel had contacted Christopher Wilford, or his representatives, to offer him the opportunity to take part in this electoral area report or discussion. In addition, we noted that the Licensee did not make clear to the audience of the news programme in this case that the broadcaster it had attempted to include the Conservative Party candidate in this electoral area report or discussion. We remind broadcasters of Paragraph 1.46 of the Guidance, which states that: “Where candidates have been offered a chance to take part in a constituency/electoral area report or discussion, and have declined to take part, this should normally be made clear to the audience”.

Despite the attempts made by the Licensee to include the Conservative Party candidate in this electoral area report or discussion, we noted that ITCE did not provide any evidence whether it had offered Reetendra Nath Banerji, the Liberal Democrat candidate, the opportunity to take part in this electoral area report or discussion about the 2014 Tower Hamlets Mayoral election.

For all these reasons we considered the material breached Rule 6.9 of the Code.

Rule 6.10

Lutfur Rahman was contesting the 2014 Tower Hamlets Mayoral election as a candidate of the party, Tower Hamlets First. As the incumbent, who had won the October 2010 Tower Hamlets Mayoral election (i.e. the preceding election to May 2014) as an independent candidate, we considered that Lutfur Rahman clearly had previous significant electoral support. We therefore considered, in line with Rule 6.10, it was incumbent on the Licensee to offer Lutfur Rahman the opportunity to take part in this electoral area report or discussion. We noted that ITCE said that it had attempted to contact Lutfur Rahman but he and: “his representative(s) didn’t bother to respond to our several efforts to accommodate his views in this regard”. On the information available to Ofcom, we considered that the Licensee did make several attempts to offer Lutfur Rahman the opportunity to take part in this electoral area report or discussion. We therefore considered that Rule 6.10 had been complied with. However, we noted that the Licensee did not act in accordance with Paragraph 1.46 of the Guidance referred to above because it did not make clear to the audience of the news programme in this case that it had attempted to include Lutfur Rahman in this electoral area report or discussion.

Rule 6.11

Although this electoral area report or discussion was broadcast after the close of nominations⁶ it did not provide in sound and/or vision a list of all candidates standing in the Tower Hamlets Mayoral election, giving first names, surnames and their party labels. We therefore also considered the material breached Rule 6.11 of the Code.

This issue of the Broadcast Bulletin contains a number of other Findings of breaches of the Code by ITCE. Ofcom is already investigating the sufficiency of the Licensee’s

⁶ The close of nominations in this case was 24 April 2014.

compliance arrangements (Licence Condition 17(2)) and will take account of these cases in reaching a decision in that investigation.

Breaches of Rules 6.8, 6.9 and 6.11
Not in Breach of Rule 6.10

In Breach

Aey Shomoy

NTV, 8 April 2014, 23:00

Introduction

NTV is a news and general entertainment channel broadcast in Bangla and serving a Bangladeshi community in the UK and Europe. The licence for NTV is held by International Television Channel Europe Limited ("ITCE" or "the Licensee").

Aey Shomoy is a talk show in which a presenter and guest discuss various current issues. In the episode broadcast on 8 April 2014, topics discussed included: the current political situation in Bangladesh (including recent sub-district elections); the economic situation in Bangladesh and, the national election in India and the potential impact on Bangladesh-India relationships.

Ofcom received a complaint about branding for Hotel Oasis¹ that appeared throughout the programme. Ofcom viewed the programme and noted that the Hotel Oasis logo was integrated into the programme's opening title sequence and the programme 'bumpers' that led into and out of advertising breaks. The logo was also built into the programme set: it was included directly behind and to the side of both the presenter and the guest, as well as forming the base of a table between the two. Consequently, the logo was visible on screen throughout the programme.

During the programme's opening credits, and throughout the programme, the product placement logo was displayed in a black box in a corner at the top of the screen.

The Licensee confirmed that the Hotel Oasis branding had resulted from a sponsorship arrangement with NTV Bangladesh. NTV Bangladesh is operated by International Television Channel Ltd, ITCE's parent company². Section Nine of the Code makes clear that, with the exception of sponsorship credits, any reference to a sponsor that appears in a sponsored programme as a result of a commercial arrangement with the broadcaster, the programme maker or a connected person³ will be treated as product placement, and must comply with the relevant Code rules.

Ofcom considered the programme raised issues under the following Code rule:

Rule 9.12: "Product placement is not permitted in the following:

c) current affairs programmes [produced under UK jurisdiction]".

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

¹ A hotel due to be built in Bangladesh.

² NTV Europe (ITCE) is identified as a subsidiary of International Television Channel Limited on its website at <http://www.ntveurope.net/history.php>. International Television Channel Limited operates NTV Bangladesh (see http://www.ntvbd.tv/index.php?option=com_content&view=article&id=39&Itemid=50)

³ See footnote 4.

Response

As noted above, ITCE informed Ofcom that the programme was produced by NTV Bangladesh and that Hotel Oasis was NTV Bangladesh's title sponsor. The Licensee said that, as a result of this sponsorship agreement, references to Hotel Oasis appeared on screen before the start of the programme and around advertising breaks. The Licensee stated that it had not promoted Hotel Oasis as the programme sponsor on its channel. The Licensee continued that Hotel Oasis is not a British company/product.

In light of Ofcom rules, ITCE said that its editors had tried to remove the branding that appeared during the programme but had experienced problems as the hotel's name and logo appeared constantly on screen during the entire programme and because of the "quick movement of the camera".

The Licensee asked Ofcom to take into account the circumstances surrounding the inclusion of the branding. It also stated that it had ceased to transmit the programme but was keen to broadcast it in future as the programme was popular with its audience.

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives. These include that: "the product placement requirements...are met in relation to programmes included in a television service". The product placement requirements set out in the Act prohibit product placement in current affairs programmes produced under UK jurisdiction.

These requirements are reflected in Section Nine of the Code. Rule 9.12(c) prohibits product placement in current affairs programmes made under UK jurisdiction. The Code defines a programme produced under UK jurisdiction as one produced or commissioned by either:

- a) the provider of the television programme service or any person connected⁴ with that provider (except in the case of a film made for cinema); or
- b) any other person with a view to its first showing taking place in a television programme service under the jurisdiction of the United Kingdom (for the purposes of the AVMS Directive).

Ofcom recognises the difficulties faced by broadcasters when transmitting content originally produced for broadcast in a territory where the regulatory requirements differ to those enforced by Ofcom. However, the fact that a programme is popular with a particular audience does not permit broadcasters to disapply the rules when transmitting content on an Ofcom licensed service.

⁴ The Code states that a "Connected person has the same meaning as it has in section 202 of the Broadcasting Act 1990 (paragraph 3 in Part 1 of Schedule 2). The full definition is reproduced in Appendix 1 of the Code (Relevant UK legislation). In summary, the following persons are connected with a particular person ('person' includes an individual as well as a body corporate and other incorporated and unincorporated legal entities):

- (a) a person who controls that person;
- (b) an associate of that person or the person in (a); and
- (c) a body which is controlled by that person or an associate of that person.

In this case, Ofcom noted that NTV broadcast a current affairs programme which included a number of references to Hotel Oasis. These references were broadcast around and during the programme as a result of a sponsorship arrangement between the hotel and NTV Bangladesh. Ofcom further noted that NTV Bangladesh was operated by International Television Channel Ltd, ITCE's parent company.⁵

Ofcom accepted that the sponsorship arrangement may not have been intended to cover the European broadcast of the programme. We took into account that ITCE said that it did not promote Hotel Oasis as the programme sponsor and had tried to remove references to the hotel during the programme.

However, Ofcom considered that because of the relationship between ITCE and International Channel Ltd (which operates NTV Bangladesh), ITCE and NTV Bangladesh met the statutory definition of "connected persons"⁶. Therefore the programme was produced by a "person connected" with the Licensee, and met the Code's definition of a programme produced under UK jurisdiction. As such, the references to Hotel Oasis amounted to product placement in a current affairs programme produced under UK jurisdiction. The programme was therefore in breach of Rule 9.12(c).

This issue of the Broadcast Bulletin contains a number of other Findings of breaches of the Code by ITCE. Ofcom is already investigating the sufficiency of the Licensee's compliance arrangements (Licence Condition 17(2)) and will take account of these cases in reaching a decision in that investigation.

Breach of Rule 9.12(c)

⁵ NTV Europe (ITCE) is identified as a subsidiary of NTV Bangladesh on its website at <http://www.ntveurope.net/history.php>.

⁶ See Appendix 1 to the Code; Schedule 2 (Part 1), Broadcasting Act 1990 (as amended) (provisions related to definition of 'connected person'): 1(1A)(b): "a body corporate and another body corporate shall be regarded as associates of each other if one controls the other or if the same person controls both".

In Breach

Icche Ghuri

NTV, 6 May 2014, 22:30

Introduction

NTV is a news and general entertainment channel broadcast in Bangla and serving a Bangladeshi community in the UK and Europe. The licence for NTV is held by International Television Channel Europe Limited ("ITCE" or "the Licensee").

Ofcom was alerted to the broadcast of sponsorship credits around the drama series, *Icche Ghuri*. The programme was sponsored by three companies, including Victorstone Financial Management.

Ofcom noted that the credit for Victorstone Financial Management included on-screen text stating "*Victorstone Financial Management. Please phone for professional support and advice*" followed by a telephone number.

Ofcom considered that this sponsorship credit raised issues warranting investigation under Rule 9.22(a) of the Code, which states:

Rule 9.22: "Sponsorship credits must be distinct from advertising. In particular:

- (a) Sponsorship credits broadcast around sponsored programmes must not contain advertising messages or calls to action. Credits must not encourage the purchases or rental of the products or services of the sponsor or a third party. The focus of the credit must be the sponsorship arrangement itself. Such credits may include explicit reference to the sponsor's products, services or trade marks for the sole purpose of helping to identify the sponsor and/or the sponsorship arrangement."

We therefore asked the Licensee how the sponsorship credit complied with this rule.

Response

ITCE did not comment on the content of the sponsorship credit.

Decision

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

The AVMS Directive limits the amount of advertising a broadcaster can transmit and requires that advertising is kept distinct from other parts of the programme service. Sponsorship credits are treated as part of the sponsored content and do not count towards the amount of airtime a broadcaster is allowed to use for advertising. To prevent credits effectively becoming advertisements, and therefore increasing the

amount of advertising transmitted, broadcasters are required to ensure that sponsorship credits do not contain advertising messages or calls to action.

Rule 9.22(a) of the Code reflects this requirement. Among other things, Rule 9.22(a) requires that sponsorship credits broadcast around sponsored programmes must not contain advertising messages or calls to action. The focus of the credit must be the sponsorship arrangement itself and references to the sponsor's products, services or trade marks should be for the sole purpose of helping identify the sponsor and/or the sponsorship arrangement.

Ofcom's guidance¹ on sponsorship credits makes clear that "credits that contain direct invitations to the audience to contact the sponsor are likely to breach the Code."

Ofcom considered that the text *"Please phone for professional support and advice"* included in the credit was a direct invitation to viewers to contact the programme sponsor. We therefore concluded that the sponsorship credit was in breach of 9.22(a) of the Code.

This issue of the Broadcast Bulletin contains a number of other Findings of breaches of the Code by ITCE. Ofcom is already investigating the sufficiency of the Licensee's compliance arrangements (Licence Condition 17(2)) and will take account of these cases in reaching a decision in that investigation.

Breach of Rule 9.22(a)

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

In Breach

Nil Ronger Golpo

NTV, 3 June 2014, 21:00

Introduction

NTV is a news and general entertainment channel broadcast in Bangla and serving a Bangladeshi community in the UK and Europe. The licence for NTV is held by International Television Channel Europe Limited ("ITCE" or "the Licensee").

Ofcom was alerted to the broadcast of sponsorship credits around the drama series, *Nil Ronger Golpo*. The programme was sponsored by two companies, including A Way To Makkah, a travel agency.

Ofcom noted that the credit for A Way To Makkah included on-screen text stating "*Worldwide Travel, Tickets and Tours, Sylhet £495 & Dhaka £435*" followed by a telephone number.

Ofcom considered that this sponsorship credit raised issues warranting investigation under Rule 9.22(a) of the Code, which states:

Rule 9.22: "Sponsorship credits must be distinct from advertising. In particular:

- (a) Sponsorship credits broadcast around sponsored programmes must not contain advertising messages or calls to action. Credits must not encourage the purchases or rental of the products or services of the sponsor or a third party. The focus of the credit must be the sponsorship arrangement itself. Such credits may include explicit reference to the sponsor's products, services or trade marks for the sole purpose of helping to identify the sponsor and/or the sponsorship arrangement."

We therefore asked the Licensee how the sponsorship credit complied with this rule.

Response

ITCE did not comment on the content of the sponsorship credit.

Decision

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

The AVMS Directive limits the amount of advertising a broadcaster can transmit and requires that advertising is kept distinct from other parts of the programme service. Sponsorship credits are treated as part of the sponsored content and do not count towards the amount of airtime a broadcaster is allowed to use for advertising. To prevent credits effectively becoming advertisements, and therefore increasing the

amount of advertising transmitted, broadcasters are required to ensure that sponsorship credits do not contain advertising messages or calls to action.

Rule 9.22(a) of the Code reflects this requirement. Among other things, Rule 9.22(a) requires that sponsorship credits broadcast around sponsored programmes must not contain advertising messages or calls to action. The focus of the credit must be the sponsorship arrangement itself and references to the sponsor's products, services or trade marks should be for the sole purpose of helping identify the sponsor and/or the sponsorship arrangement.

Ofcom's guidance¹ on sponsorship credits makes clear that "any price information [in credits] that is not mandatory will normally be considered an advertising message." Ofcom therefore concluded that the inclusion of prices in the sponsorship credit amounted to an advertising message and the credit was in breach of 9.22(a) of the Code.

This issue of the Broadcast Bulletin contains a number of other Findings of breaches of the Code by ITCE. Ofcom is already investigating the sufficiency of the Licensee's compliance arrangements (Licence Condition 17(2)) and will take account of these cases in reaching a decision in that investigation.

Breach of Rule 9.22(a)

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

In Breach

Young and Gifted

ATN Bangla UK, 4 May 2014, 20:30

Introduction

ATN Bangla UK is a news and general entertainment channel broadcast in Bangla and serving a Bangladeshi audience. The licence for ATN Bangla UK is held by ATN Bangla UK Limited (“ATN Bangla” or “the Licensee”).

A complainant alerted Ofcom to this programme which featured Conservative Party candidates standing in the London Borough of Newham in the local elections that took place on 22 May 2014. The complainant considered that the programme favoured the Conservative Party in respect of those elections.

The content was in Bangla and English. Ofcom therefore commissioned an independent translation and transcript of the relevant output. We noted that this programme was of 50 minutes duration, and presented by Asif Choudhury and Mahboob Ahmed. These individuals were both Conservative Party candidates in the Forest Gate South Ward in Newham during the local government elections held on 22 May 2014. The programme also featured two guests: Professor Muhammad Farmer; and Syed Ahmed, the Conservative Party candidate in the Beckton Ward in Newham during the local government elections held on 22 May 2014. The programme consisted of a discussion between the two presenters and their two guests. In addition, audience members were able to ask questions by telephone.

We noted that in his introduction to the programme, one of the presenters, Asif Choudhury said the following:

“May the 22nd, the day where most of us, if not all of us, will probably be going to vote for our next councillor and our next Mayor to look after our affairs for the next four years...How many of us actually think about who we’re going to vote for, because when I was growing up, and I’m sure a lot of you guys watching here, it’s a Bengali thing unfortunately that we must vote for Labour, because if we don’t vote for Labour, our benefits are going to stop. Now we’re going to talk about all of these things, because these are some myths we really have got to get out of ourselves, get out of our system. And we’ve got to be objective and subjective when it comes to picking the right candidate because like we said for the next four years, it’s these people, it’s these group of people who have run our affairs”.

This was then followed by the second presenter, Mahboob Ahmed, saying the following:

“Everything that’s going on in Newham is Labour. So today we’re here to discuss, basically, what is going on in Newham. Why is Newham no further forward now than it was essentially twenty years ago?”

We also noted that the programme included a number of statements, which either criticised the record of the Labour Party administration in Newham, or expressed support for the Conservative Party in the local elections taking place in Newham,

including the contest for the elected Mayor¹ of Newham, which was also taking place on 22 May 2014:

Mahboob Ahmed:

"So we've established there's lots of problems here. How did we let it get to this point? How did we let Newham decline to this point and why has there not been change, and why are Labour consistently still voted in?"

Syed Ahmed:

"The only reason is this, because we have one party ruling at this moment. We have 60 councillors and a Mayor for 20 years. It's like I said before: there is no assurance; there is no accountability; there is no transparency; and there is no trust".

Mahboob Ahmed:

"Why do you think that is? It seems to be nobody is voting for anybody else other than the Labour. If Labour is consistently doing a bad job, why are people still voting for them?"

Syed Ahmed:

"Their vote is granted by the residents. As you said, the Bangladeshi community thinks if they don't vote for Labour, our benefits will be cut. So these are the things that [are] hitting our community largely. And I think this is where we need to wake up".

Syed Ahmed:

"It's time we have a change in Newham. Maybe as a Conservative, I believe in Conservative policies, and I think it's very important that our viewers need to understand that".

Syed Ahmed:

"The Mayor runs the local affairs with his councillors. The Mayor controls the budget that is given to him. He distributes it, how much will go to which section. In Newham we have a huge budget there, but we don't have good service there".

Syed Ahmed:

"I think Newham has shifted 500 families to Bradford and Birmingham. Nothing to do with benefit. 500 families have been moved from Newham to Bradford and Birmingham. The current administration has done it. If you work in the borough,

¹ Newham has had an elected Mayor since 2002. This post has been held since its inception by Sir Robin Wales for the Labour Party.

you can have social housing. Otherwise bye, bye. It is unfair. It is not right...22nd May's election is local election. Please think before you vote. We have been voting for one party for last 20 years. This year we [i.e. the Conservative Party] have given good and young candidates. We want our community to make some changes. It's up to you. When you turn on the switch, it will be turned on, or it will be off. The key is on your hand. My request to fellow Bangladeshis, brothers and sisters and the elderly, please vote in this election carefully. Think about what is happening locally. Why are other boroughs doing so well?"

Syed Ahmed:

"We are selling houses. Newham should do better. We get 100,000 pounds more as it is a poor borough. For education, think about how we can secure the future of our children. Think hard before you vote this time".

Syed Ahmed:

"[Concerning Newham's parking policy:] What sort of policy is this? Are we not being caged in our own community, in our own village? Is this not prisonised [sic]? I don't know, I want viewers to know that".

Caller:

"I just wanted to say, you know, you're doing an excellent job, and I hope every resident in Newham supports [the] Conservative[s]. It's about time we should have a change and give [the] Conservative[s] a chance to show what they can give and show. And God willing, you know, it's really good because we've had [the] Labour Party for too long".

Syed Ahmed:

"We've [i.e. the Conservative Party] put 36 Muslim candidates all over Newham...And we have a Mayoral [candidate]² God willing. He is young, energetic, active, handsome, and he is the Mayor we would like to see in power".

Rule 6.1 of the Code requires that programmes dealing with elections must comply with the due impartiality rules set out in Section Five of the Code. In addition, Rules 6.2 to 6.13 of the Code apply to programmes broadcast during the designated period running up to the date of elections in the UK known as the 'election period'. In the case of the 2014 local elections (including the Mayoral election) taking place in Newham, the 'election period' ran from the last date for the publication of the notice of elections on 14 April 2014 to the close of polling on 22 May 2014. Section Six of the Code under the heading 'Meaning of "election"' makes clear that for the purpose of this section: "elections include...[a] local government election, mayoral election...".

² The Conservative Party candidate in the 2014 Mayoral election for Newham was Stefan Mrozinski.

Although this programme featured three candidates standing in the English local elections taking place on 22 May 2014, we noted that at no point were their candidacies referred to in the programme. Therefore, on the specific facts of this case we did not investigate the content in relation to the electoral area report and discussion rules contained in Rules 6.8 to 6.13 of the Code. However, we did consider that the material raised issues warranting an investigation under Rule 6.1 of the Code which states:

“The rules in Section Five, in particular the rules relating to matters of major political or industrial controversy and major matters relating to current public policy, apply to the coverage of elections and referendums”.

By virtue of Rule 6.1, we therefore considered that the programme also raised issues warranting investigation under the following rules:

Rule 5.11: “In addition to the rules above, due impartiality must be preserved on matters of major political and industrial controversy and major matters relating to current public policy by the person providing a service (listed above) in each programme or in clearly linked and timely programmes”.

Rule 5.12: “In dealing with matters of major political and industrial controversy and major matters relating to current public policy an appropriately wide range of significant views must be included and given due weight in each programme or in clearly linked and timely programmes. Views and facts must not be misrepresented”.

In addition, we also considered that the material raised issues warranting an investigation under the following other rules of the Code:

Rule 6.2: “Due weight must be given to the coverage of major parties during the election period. Broadcasters must also consider giving appropriate coverage to other parties and independent candidates with significant views and perspectives”.

Rule 6.6: “Candidates in UK elections, and representatives of permitted participants in UK referendums, must not act as news presenters, interviewers or presenters of any type of programme during the election period”.

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

Response

The Licensee admitted that there were a “few statements in supportive of the Conservative Party at the beginning of the programme but this lasted only few minutes and the rest of the recording will show that this did not occur any further”. It added that the two presenters in this case: “remained impartial throughout after the first few minutes of the show”. In addition, ATN Bangla said that only one of the guests, Syed Ahmed: “put through his points of view in support of the Conservative Party”. By contrast, it said that the other guest, Professor Muhammad Farmer: “did not represent any political party”.

In relation to Rule 6.6, the Licensee said that it: “certainly did not know that Mr Mahboob Ahmed and Mr Asif Choudhury were standing in the local elections”. However, ATN Bangla said that: “Notwithstanding, the presenters continuously told

their viewer's to vote for the party which best served their interests and the presenters were not biased in either way".

In conclusion, the Licensee said that: "Irrespective of the show the result of the Election [in Newham] was that Labour won in a landslide and took every seat in Newham. It is therefore evident that the show did not influence or persuade viewers in a certain way".

Decision

Under the Communications Act 2003 ("the Act"), Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, one of which is that the special impartiality requirements set out in section 320 of the Act are complied with. This objective is reflected in Section Five of the Code. Broadcasters are required to comply with the rules in Section Five of the Code to ensure that the due impartiality requirements of the Act are complied with. In addition, Section Six of the Code reflects the specific requirements relating to broadcasters covering elections, as laid out in the Representation of the People Act 1983 (as amended) ("the RPA").

When applying the requirement to preserve due impartiality, Ofcom recognises the importance to the right to freedom of expression, as contained in Article 10 of the European Convention on Human Rights. This provides for the broadcaster's and audience's right to freedom of expression, which encompasses the right to hold opinions and to receive and impart information and ideas without undue interference by public authority. However, UK legislation requires broadcasters to preserve due impartiality on major matters of political controversy. This requirement is considered to be particularly important at the time of elections. This means that broadcasters in covering election issues must ensure that, during the election period, they preserve due impartiality and due weight is given to all the major parties³ (and other parties where appropriate).

Ofcom's Guidance to Section Six (Elections and Referendums) of the Code ("the Guidance")⁴ states that there is no obligation on broadcasters to provide any election coverage. However, if broadcasters choose to cover election campaigns, they must comply with the rules set out in Section Six of the Code.

Rules 6.1, 5.11 and 5.12

Rule 6.1 states: "The rules in Section Five, in particular the rules relating to matters of major political or industrial controversy and major matters relating to current public policy, apply to the coverage of elections and referendums".

The effect of Rule 6.1 is to ensure that broadcasters apply the "due impartiality" rules (as set out in Section Five of the Code) at the time of elections, and in particular the rules relating to major political or industrial controversy and major matters relating to current public policy (i.e. Rules 5.11 and 5.12 of the Code).

³ The major parties for any given election are listed in the Ofcom list of major parties (see <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/major-parties.pdf>).

⁴ See <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section6.pdf>

Rule 5.11 states that: “due impartiality must be preserved on matters of major political and industrial controversy and major matters relating to current public policy by the person providing a service...in each programme or in clearly linked and timely programmes”.

In addition, Rule 5.12 states that: “dealing with matters of major political and industrial controversy and major matters relating to current public policy an appropriately wide range of significant views must be included and given due weight in each programme or in clearly linked and timely programmes. Views and facts must not be misrepresented”.

In this case, a programme had been broadcast which focused on the local elections (including the Mayoral election) taking place in Newham on 22 May 2014, and this programme had been broadcast during the election period, as defined by Section Six of the Code. The programme included a range of statements, as outlined in the Introduction, which either criticised the record of the Labour Party administration in Newham, or expressed support for the Conservative Party in the local elections taking place in Newham, including the contest for the elected Mayor of Newham, which was also taking place on 22 May 2014. In this regard, we took into account the Licensee’s argument that the two presenters “remained impartial throughout after the first few minutes of the show”, and “continuously told their viewers to vote for the party which best served their interests and the presenters were not biased in either way”. However, the programme included a large number statements that were supportive of the Conservative Party. In particular we noted those made by one of the programme guests, Syed Ahmed, and also by a caller to the programme who actively encouraged viewers to vote for Conservative Party candidates in the forthcoming elections.

Under Rule 6.1, ATN Bangla was obliged to preserve due impartiality in relation to these statements. In particular, Rule 5.12 required that the Licensee include in the programme, or clearly linked programmes an appropriately wide range of significant views, and give those views due weight. However, we noted that the programme did not include any viewpoints within the programme which could be reasonably described as, for example: either defending the record of the Labour Party administration in Newham; and/or challenging the views of the Conservative Party, and specifically that party’s policies in relation to the local and Mayoral elections taking place in Newham on 22 May 2014. Further, ATN Bangla did not provide any evidence of how it had achieved due impartiality in any clearly linked programmes. We therefore recorded a breach of Rule 6.1 (and Rules 5.11 and 5.12).

Rule 6.2

Rule 6.2 states that: “Due weight must be given to the coverage of major parties⁵ during the election period. Broadcasters must also consider giving appropriate coverage to other parties and independent candidates with significant views and perspectives”.

The major parties for any given election are listed in the Ofcom list of major parties⁶. For the 2014 English local elections, the major parties were: the Conservative Party; the Labour Party; and the Liberal Democrats. How due weight is achieved is an

⁵ See footnote 3.

⁶ See <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/major-parties.pdf>

editorial matter for the broadcaster. For example, impartiality can be achieved within a particular programme or over time through a series of programmes.

As mentioned above, this programme contained various statements that were critical of the Labour Party and supportive of the Conservative Party. No reference was made to the views and policies of the Liberal Democrats. Under Rule 6.2, the Licensee was under an obligation during the election period to ensure that due impartiality was preserved by giving due weight to all the relevant major parties. In the case of general coverage of the election (as opposed to the specifics of an electoral area or constituency report) the Licensee was required to give coverage to the three major parties in the English local elections.

We noted that the programme only contained critical references to the Labour Party and its policies and made no reference to the Liberal Democrats and its policies at all. In addition, the Licensee did not provide any evidence of how it may have covered these two parties in other programming. We therefore considered that ATN Bangla's failure to cover the Labour Party's or Liberal Democrats during the election period resulted in a breach of Rule 6.2 of the Code.

Rule 6.6

Rule 6.6 of the Code states that: "Candidates in UK elections, and representatives of permitted participants in UK referendums, must not act as news presenters, interviewers or presenters of any type of programme during the election period".

As Ofcom's Guidance⁷ to Section Six of the Code makes clear, Rule 6.6 is concerned not just with preventing electoral issues from being reported in a partial manner. The rule is designed to help secure the integrity of the democratic process, and the public's trust in that integrity, through preventing any unfair electoral advantage being afforded to a particular candidate, through their appearance on licensed services.

In this case, the Licensee had included as co-presenters in a programme, two Conservative Party Candidates standing in the English local elections taking place on 22 May 2014 in Newham. Rule 6.6 applies to presenters in "any type of programme" and irrespective of whether, as argued by the Licensee, the two candidates (who were presenting this programme): "continuously told their viewer's to vote for the party which best served their interests".

In reaching our Decision, we took into account the Licensee's representation that it: "certainly did not know that Mr Mahboob Ahmed and Mr Asif Choudhury were standing in the local elections". However, given the above, there was a clear breach of Rule 6.6 of the Code in this case.

We noted ATN Bangla's argument that: "Irrespective of the show the result of the Election [in Newham] was that Labour won in a landslide and took every seat in Newham. It is therefore evident that the show did not influence or persuade viewers in a certain way". The rules in Sections Five, and in particular Six, of the Code reflect the specific legislative requirements relating to broadcasters covering elections. These are important rules designed to protect the integrity of elections in the United Kingdom, and prevent harm being caused to the democratic process by conferring an unfair electoral advantage on particular candidates or political parties.

⁷ See footnote 4.

Ofcom is concerned about ATN Bangla's apparent lack of understanding about the Code's rules relating to elections. We are therefore requesting the Licensee to attend a meeting to explain its compliance processes in this area.

We remind all broadcasters to ensure they have adequate procedures in place to check whether presenters and interviewers in programmes broadcast during an election period are standing as candidates in relevant forthcoming elections.

Breaches of Rules 6.1 (and 5.11 and 5.12), 6.2 and 6.6

In Breach

News

RT, 22 May 2014, 07:00

Introduction

RT (formerly Russia Today) is a global news and current affairs television channel produced in Russia, and funded by the Federal Agency for Press and Mass Communications of the Russian Federation¹. In the UK, the channel broadcasts on satellite and digital terrestrial platforms. The licence for RT is held by Autonomous Non-profit Organisation TV Novosti ("TV Novosti" or "the Licensee").

On 22 May 2014, the Licensee alerted Ofcom to a news bulletin that it had broadcast at 07:00 that day, which was the polling day for various elections including the 2014 European Parliamentary elections. TV Novosti said that it had "inadvertently" broadcast a news item dealing with election issues just after polling stations had opened in the UK².

We noted that the headlines of the 07:00 bulletin included the following statement:

"The UK Independence Party takes a narrow lead in the final opinion polls ahead of the EU Parliamentary election, with Britain's traditional political powers resorting to a smear campaign to battle their new opponent."

We further noted that at 07:10 there was a news item about the European Parliamentary elections taking place that day, which commenced as follows:

"Meanwhile today, UK citizens will be given the chance to have their say over who will represent them in the European Parliament. Opinion polls have outlined there's likely to be a neck-and-neck race with the very latest giving the UK Independence Party a narrow lead. However, the traditional titans of British politics aren't taking the battle lying down."

As this statement was being made, the news presenter was featured standing in front of a graphic showing the results of an opinion poll by a leading UK polling organisation. This showed the support (expressed as a percentage) for various political parties contesting the European Parliamentary elections in the UK. There was then a three minute pre-recorded news report which focused on the reaction of various political parties to the reported growing strength of the UK Independence Party ("UKIP") during the preceding election campaign. During this news report the reporter said: "According to the latest polls UKIP are on track to win the highest share of the vote".

¹ See the description of RT in *Television News Channels in Europe (Based on a Report prepared by the European Audiovisual Observatory for the European Commission – DG COMM)*, October 2013, <http://www.obs.coe.int/documents/205595/264629/European+news+Market+2013+FINAL.pdf/116afdf3-758b-4572-af0f-61297651ae80> Section 5.4.6 of this report states that Russia Today: "can be considered as a state funded or public media service".

² On 22 May 2014, polling stations were open between 07:00 and 22:00.

Rule 6.1 of the Code requires that programmes dealing with elections must comply with the due impartiality rules set out in Section Five of the Code. In addition, Rules 6.2 to 6.13 of the Code apply to programmes broadcast during the designated period running up to the date of elections in the UK known as the ‘election period’³. Section Six of the Code under the heading ‘Meaning of “election”’ makes clear that for the purpose of this section: “elections include...[a] European parliamentary election”.

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

Rule 6.4: “Discussion and analysis of election and referendum issues must finish when the poll opens. (This refers to the opening of actual polling stations. This rule does not apply to any poll conducted entirely by post.)”

Rule 6.5: “Broadcasters may not publish the results of any opinion poll on polling day itself until the election or referendum poll closes. (For European Parliamentary elections, this applies until all polls throughout the European Union have closed.)”

We therefore sought the Licensee’s comments as to how this material complied with these rules.

Response

The Licensee accepted that the content in this case did not comply with the Code and regretted and apologised for the incident. By way of background, it said that the news item had been broadcast as a result of an “administrative error”, and despite the fact that “[r]egulatory guidance had been circulated to those concerned within RT well in advance of” the election period.

TV Novosti also said that when the matter was discovered following the broadcast of the 07:00 news bulletin, the news item in question was “immediately pulled” from further news bulletins. It considered that: “the responsible course of action was to inform Ofcom immediately of what had happened so that [Ofcom] would know that the problem had been identified and had been immediately fixed”. The Licensee said that following an internal investigation, it had taken steps to avoid any repetition of such incidents and: “in particular to ensure that processes involving technical staff are more robust”.

In conclusion, TV Novosti said that: “Whilst it may be that any harm done was very limited because the audience at that early hour would have been small, RT accepts without hesitation the importance of compliance in any event and will strive to avoid any further incidents of this kind in the future”.

Decision

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

³ In the case of the 2014 European Parliamentary election, the ‘election period’ ran from the last date for the publication of the notice of elections on 14 April 2014 (or 10 April 2014 in the case of the South West electoral region) to the close of polling (i.e. 22:00) on 22 May 2014.

of the Code. Broadcasters are required to comply with the rules in Section Five of the Code to ensure that the due impartiality requirements of the Act are complied with. In addition, Section Six of the Code reflects the specific requirements relating to broadcasters covering elections, as laid out in the Representation of the People Act 1983 (as amended).

Ofcom's Guidance to Section Six (Elections and Referendums) of the Code ("the Guidance")⁴ states that there is no obligation on broadcasters to provide any election coverage. However, if broadcasters choose to cover election campaigns, they must comply with the rules set out in Section Six of the Code.

Rule 6.4 requires that discussion of election issues must finish when the polls open (at 07:00 in the UK). This programme however was broadcast after the polls had opened and prior to the polls closing at 22:00.

Rule 6.5 requires that broadcasters must not publish the results of any opinion poll on polling day itself until polling closes. In the case of European Parliamentary elections, this rule applies until all polls throughout the European Union have closed.

We noted that the news item in this case commented on the contest for the European Parliamentary elections taking place that day, noted the position of UKIP in the latest opinion polls and reported on the reaction of various political parties to UKIP's performance in those opinion polls. We also took into account that the news presenter, when introducing this news item, was featured standing in front of a graphic showing the results of an opinion poll by a leading UK polling organisation. This showed the support (expressed as a percentage) for various political parties contesting the European Parliamentary elections in the UK.

As the news bulletin was broadcast just after polling stations had opened in the UK, we considered that the news bulletin dealt with election issues relating to the European Parliamentary elections, while polls for that election were open. Also it was clear that the news bulletin had published the results of an opinion poll on the European Parliamentary elections while polls for that election were open.

In reaching its Decision, Ofcom took into account: that TV Novosti had immediately and proactively alerted Ofcom to this matter and taken steps to ensure that the news item in question was not shown again on polling day; the Licensee's regret and apology for this incident; and, that the Licensee had taken steps to improve compliance in this area. We also noted the Licensee's argument that in this case: "It may be that any harm done was very limited because the audience at that early hour would have been small". However, the purpose of Rule 6.4 is to ensure that broadcast coverage on the day of an election does not directly affect voters' decisions. In addition, Rule 6.5 directly reflects a requirement of UK election legislation⁵ that forbids the publication "in whatever form and by whatever means" of opinion polls about European Parliamentary elections before the close of the polling in the Member State whose electors are the last to vote in those elections.

⁴ See <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section6.pdf>

⁵ See The European Parliamentary Elections Regulations 2004, Regulation 30, http://www.legislation.gov.uk/ukxi/2004/293/pdfs/ukxi_20040293_en.pdf

Therefore, given all the above, we considered this was a clear breach of Rules 6.4 and 6.5.

Breaches of Rules 6.4 and 6.5

In Breach

Backchat

Reprezent 107.3 FM, 22 May 2014, 21:00

Introduction

Reprezent 107.3 FM is a community radio station that serves the Lewisham area of London. The licence is held by Eclectic Productions UK ("Eclectic Productions" or "the Licensee").

A complainant alerted Ofcom to a programme that was broadcast on 22 May 2014, the polling day for various elections including the European Parliamentary elections. The complainant objected to the programme including "biased" comments about the UK Independence party ("UKIP") while the polls were still open¹.

We noted that *Backchat* was a current affairs programme, during which the presenter said the following:

"It's election day. If you didn't know then shame on you! I won't lie. I did kinda forget until I got to my sister's school, and the school was actually closed. So yeah that was my morning messed up. I hope you guys knew better. It is election day, and everywhere across London and all seats are up for grabs. And also it's the European Parliament election and this week's edition of 'Rift of the Week' is 'The World versus UKIP'. That's right; the UK Independence Party thought they were so smart with their little PR stunt on Twitter with hash tag 'Why I'm voting UKIP'. It quickly descended and got really, really messy actually. Absolutely blew up in their faces...Let me know if you voted, if you voted today. Definitely let us know who you voted for and why you voted. If you voted UKIP, then we won't be too hard on you. You know, everyone's entitled to vote for who you want to. But, really? UKIP? Nah, nah, nah, nah."

Rule 6.1 of the Code requires that programmes dealing with elections must comply with the due impartiality rules set out in Section Five of the Code. In addition, Rules 6.2 to 6.13 of the Code apply to programmes broadcast during the designated period running up to the date of elections in the UK known as the 'election period'². Section Six of the Code under the heading 'Meaning of "election"' makes clear that for the purpose of this section: "elections include...[a] European parliamentary election".

Ofcom considered the material raised issues warranting investigation under Rule 6.4 of the Code, which states:

Rule 6.4: "Discussion and analysis of election and referendum issues must finish when the poll opens. (This refers to the opening of actual polling stations. This rule does not apply to any poll conducted entirely by post.)"

We therefore sought the Licensee's comments as to how this material complied with this rule.

¹ On 22 May 2014, polling stations were open between 07:00 and 22:00.

² In the case of the 2014 European Parliamentary elections, the 'election period' ran from the last date for the publication of the notice of elections on 14 April 2014 (or 10 April 2014 in the case of the South West electoral region) to the close of polling (i.e. 22:00) on 22 May 2014.

Response

Eclectic Productions accepted that this matter clearly constituted a breach of Rule 6.4 of the Code. The Licensee said it took this matter “very seriously indeed” and that the presenter in this case was “very contrite” for what had been said on air. By way of background it said that its main remit is to: “engage and train young people aged between 13 and 25, to provide a platform for them to discuss issues that affect them”. All its “young volunteers” are trained to work according to the Code, but to guard against the risks posed by their inexperience Eclectic Productions said that a staff member was part of the production team to “guide and supervise” live content.

Eclectic Productions said that the programme presenter had referred to “a news piece of the day about a contentious UK Independence Party PR campaign on Twitter” that had been widely covered in mainstream media broadcasts. It added that this feature had been due to be broadcast after the polls had closed at 22:00 “but had been brought forward by the presenter to an earlier segment of the show, unfortunately when the polls were still open” and “demonstrated a considerable lack of judgment and awareness on the presenter’s part”. The Licensee said that while “it is our general policy for senior staff to monitor broadcast output at all times to mitigate such risks, clearly this did not happen in this instance” because: “the staff member assigned to the show had been out of the room at the time”. As a consequence “an apology and an immediate retraction of the comment” had been broadcast.

As a result of this incident, Eclectic Productions said that it had taken various steps. These included suspending the presenter “from leading any show” until they had received further training, and implementing: “specific election coverage training which will be mandatory for all presenters / producers”.

Decision

Under the Communications Act 2003 (“the Act”), Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, one of which is that the special impartiality requirements set out in section 320 of the Act are complied with. This objective is reflected in Section Five of the Code. Broadcasters are required to comply with the rules in Section Five of the Code to ensure that the due impartiality requirements of the Act are complied with. In addition, Section Six of the Code reflects the specific requirements relating to broadcasters covering elections, as laid out in the Representation of the People Act 1983 (as amended).

Ofcom’s Guidance to Section Six (Elections and Referendums) of the Code (“the Guidance”)³ states that there is no obligation on broadcasters to provide any election coverage. However, if broadcasters choose to cover election campaigns, they must comply with the rules set out in Section Six of the Code.

Rule 6.4 requires that discussion of election issues must finish when the poll opens. The purpose of Rule 6.4 is to ensure that broadcast coverage on the day of an election does not affect voters’ decisions. This programme was broadcast after the polls had opened (at 07:00) and prior to them closing at 22:00.

We noted that the presenter in this case referred in a critical way to a UKIP Twitter campaign labelled “*Why I’m voting UKIP*” and invited listeners who had already voted

³ See <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section6.pdf>

earlier in the day for UKIP to contact the programme. In doing so, the presenter appeared to imply that voting for UKIP was not a positive thing to have done, by stating for example, that *“we won’t be too hard on you [i.e. UKIP voters]. You know, everyone’s entitled to vote for who you want to. But, really? UKIP? Nah, nah, nah, nah”*. We therefore concluded that the presenter made critical references to a political party contesting seats, and their potential supporters, in the European Parliamentary elections, while the polls were still open.

In reaching its Decision, Ofcom took account of the steps that the Licensee had taken to improve compliance in this area as a result of this case. However, given all the above, we considered this was a clear breach of Rule 6.4.

Breach of Rule 6.4

In Breach

The Pitch

Sky Atlantic, 19 July 2014, 14:00

Introduction

The Pitch is an unscripted reality series which goes behind the scenes of American advertising agencies competing for a new account. The episodes were originally broadcast on Sky Atlantic and shown after the 21:00 watershed but they have subsequently been repeated at various times of the day.

The licence for Sky Atlantic is held by British Sky Broadcasting Limited (“Sky” or “the Licensee”).

Two complainants alerted Ofcom to the broadcast of offensive language during a pre-watershed broadcast of this episode. Having viewed the programme, Ofcom noted that during an argument, one of the participants said the following:

“You need someone to hold your fucking hand all the time”.

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

“The most offensive language must not be broadcast before the watershed...”.

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

Response

Sky said it takes the issue of offensive language in all of its programmes very seriously and apologised for any distress caused by its inclusion in this episode.

Sky explained that this episode was assessed by its compliance department prior to broadcast. Because of the strong language it contained, this episode was certified as only suitable for broadcast after 21:00, and instructions were given to create a separate version suitable for daytime broadcast.

The Licensee explained that due to human error the post-watershed version of the episode was broadcast during daytime. Sky explained that it immediately deleted the wrongly labelled version and reviewed the entire series of *The Pitch* to ensure that all episodes were correctly versioned and certified.

Decision

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

Rule 1.14 of the Code states unequivocally that “the most offensive language must not be broadcast before the watershed...”. Ofcom research on offensive language¹ notes that the word “fuck” and other variations of this word are considered by audiences to be amongst the most offensive language.

Ofcom noted that this compliance mistake resulted from human error and the measures taken by the Licensee to prevent a recurrence. However, the use of the word “fucking” in this programme broadcast before the watershed was a clear breach of Rule 1.14 of the Code.

Breach of Rule 1.14

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

Resolved

Austrian Grand Prix

Sky Sports F1, 22 June 2014, 12:18

Sky Sports F1 is owned and operated by British Sky Broadcasting Limited (“the Licensee” or “Sky”). The channel is dedicated to the Licensee's UK coverage of Formula One, broadcast on the Sky digital satellite platform.

A complainant alerted Ofcom to offensive language during live coverage of the Austrian Grand Prix when presenters Johnny Herbert and Damon Hill interviewed former racing driver Gerhard Berger.

Ofcom noted the following exchange around 12:18:

Johnny Herbert: *“I’m here with another legend – Gerhard Berger. How are you, and what do you think about what has happened here? When I came here back in the nineties it was nothing like this”.*

Gerhard Berger: *“Hello Johnny, hello Damon. First I have to tell you, you already told me, I should not use the word shit –”*

Johnny Herbert: *“– no, you’re not –”*

Gerhard Berger: *“– nor fuck –”*

Johnny Herbert: *“– my apologies for his language –”*

Gerhard Berger: *“– sorry, but I cannot behave, and I cannot do my best, so –”*

Johnny Herbert: *“– just answer the question...”.*

The interview continued, concluding around one minute later with a handover to another presenter, who said: *“Thanks, indeed, and yes, apologies again for the use of the colourful language there...”.*

Ofcom considered the broadcast of the word “fuck” raised issues warranting investigation under Rule 1.14 of the Code, which states:

“The most offensive language must not be broadcast before the watershed...”.

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

Response

Sky said it: “deeply regrets the use of inappropriate language during any of its live broadcasts and takes the issue extremely seriously indeed”.

It explained that, in line with usual procedures for live programmes, Mr Berger was extensively briefed in advance not to use any offensive language on air, and was aware that he would be part of the live presentation team. During the interview Mr Berger used offensive language that he had been explicitly briefed not to use, and for

which the presenter apologised immediately. As both presenters continued to interview Mr Berger, the production team chose to change the planned running order to remove him from the live transmission and replace him with the programme host, who apologised for a second time to viewers.

Sky said that the production team immediately edited the interview from all repeat broadcasts of the programme.

Decision

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

Rule 1.14 states that the most offensive language must not be broadcast before the watershed. Ofcom research on offensive language¹ clearly notes that the word “fuck” and other variations of this word are considered by audiences to be among the most offensive language, particularly when used in an aggressive manner.

The broadcast of the word “fuck” in this programme around 12:18 was therefore a clear example of the most offensive language being broadcast before the watershed, and so in breach of Rule 1.14.

However, Ofcom took into account that the Licensee had taken measures before the programme to minimise the risk of offensive language being broadcast, apologised on air immediately and shortly after the incident, and edited the interview from repeat broadcasts. Ofcom also noted that Gerhard Berger’s use of the most offensive language was in the context of what appeared to be a deliberately mischievous allusion to the briefing he had received before the programme, rather than in an aggressive manner.

In light of these factors, Ofcom considered the matter resolved.

Resolved

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

Not in Breach

Going to the Dogs

Channel 4, 12 June 2014, 22:00

Introduction

Going to the Dogs was an observational documentary about dog fighting broadcast on Channel 4.

Ofcom received 1,736 complaints in relation to the programme. They covered a range of issues but focused broadly on offence or concern caused by:

- scenes of dog fighting and other cruelty to animals (the programme also included footage of battery farming, horses being killed and pheasant shooting);
- contributors who were involved in dog fighting having their identities protected and not being reported to the police; and
- the possibility that contributors involved in dog fighting had been paid for their participation in the programme.

A number of complainants also considered that the programme glamorised dog fighting.

Ofcom assessed the programme, which was of 75 minutes duration. It was a documentary featuring individuals involved with dog fighting in the UK, and discussing the moral and legal issues surrounding various activities that involve animals (such as battery farming, hunting and horse racing). In particular, the programme included three pieces of footage of dog fights that the programme makers had filmed. Each was recorded in what appeared to be a disused building, and the footage clearly demonstrated both the violence of the dog fights and the injuries caused to the animals involved.

In addition, the programme also included clips from a video of a particularly bloody dog fight that had taken place in what was purported to be Kashmir.

Following our assessment, Ofcom considered that the programme raised potential issues under the following rules 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. 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”.

Rule 2.4: “Programmes must not include material (whether in individual programmes, or in programmes taken together) which, taking into account the context, condones or glamorises violent, dangerous or seriously

antisocial behaviour and is likely to encourage others to copy such behaviour”.

Rule 3.3: “No payment, promise of payment, or payment in kind, may be made to convicted or confessed criminals whether directly or indirectly for a programme contribution by the criminal (or any other person) relating to his/her crime/s. The only exception is where it is in the public interest”.

Ofcom therefore asked Channel 4 how the programme complied with these rules.

Response

Rule 2.3

Channel 4 acknowledged that the programme was potentially offensive to some viewers but said that any offence caused was fully justified by in summary the following contextual factors:

- the scenes of dog fighting and other cruelty to animals were of “essential, journalistic importance” to the programme;
- the programme was broadcast between 22:00 and 23:15 with the scenes of dog fighting featured towards the latter part of the programme; and
- the programme was preceded by the following warning:

“There’s strong language, strong violent scenes of animal blood sports, animal slaughter and cruelty which some viewers may find very distressing – as 4’s Going to the Dogs.”

Channel 4 also addressed complaints that viewers were offended that those involved in dog fighting were not reported to the police. Channel 4 stated that: “Journalistic integrity and independence is at the heart of all programming on Channel 4 and, in line with all other national broadcasters, it is not Channel 4’s policy to hand over untransmitted rushes of programmes to the authorities. The role of journalism is to inform, illuminate and to educate – it is not to police anti-social or criminal behaviour. It is essential, if journalists are able to fulfil their role, that they are not perceived as agents of the police or the authorities.”

The Licensee explained that the “extraordinary” access to be able to witness dog fighting first hand was only available on the condition that the identity of those involved was obscured and the location of the fights was undisclosed (both in the programme and to the production team who were blindfolded before being driven to the venue at which the fights took place).

Rule 2.4

Channel 4 said that it and the programme makers “do not understand how complainants considered the programme to have glamorised dog fighting”. The Licensee quoted various reviews from the press which described the scenes of dog fighting as “brutal”, “grim”, harrowing”, “savage”, “very nasty” and “horrific”. Channel 4 also provided a quote from the programme’s director, who said: “I don’t understand how anybody would find this appealing, ‘glorifying’ or encouraging this behaviour. It’s a very sad sight, the dogs are in pain”.

The Licensee also said that on many occasions in the programme, the production team were seen expressing their disapproval or abhorrence of the behaviour depicted. In particular, Channel 4 pointed to the programme's sound recordist, Cyrus Thomson, who said in the documentary that:

"this world of blood, shit and tears and whimpering dogs is not for me".

The Licensee also said that the criminal nature of dog fighting was made "abundantly clear at many points throughout the programme", including a caption at the beginning of the programme which read:

"Dog fighting was banned in 1835. In recent years enforcement agencies report a 400% increase in dog fighting".

Rule 3.3

The Licensee said it was fully aware of its regulatory obligations in respect of this rule and said that the programme makers had "expressly confirmed" that none of the contributors who was involved with dog fighting was paid.

Decision

Under the Communications Act 2003, Ofcom has a duty to set standards for the content of programmes as appear to it best calculated to secure the standards objectives. One of these is that "generally accepted standards" are applied so as to provide adequate protection for members of the public from the inclusion of offensive and harmful material. Another is that material likely to encourage or incite the commission of crime or to lead to disorder must not be included in television services.

In reaching this Decision, Ofcom has taken account of the audience's and the broadcaster's right to freedom of expression. This is set out in Article 10 of the European Convention on Human Rights. Article 10 provides for the right of freedom of expression, which encompasses the right to hold opinions and to receive and impart information and ideas without interference by public authority. We also took account of Channel 4's special statutory public service remit, set out in Section 265 of the Communications Act 2003, which requires it to demonstrate "innovation, experimentation and creativity" and to include programmes of an "educative value" and with a "distinctive character".

Rule 2.3

Ofcom first assessed whether the programme breached Rule 2.3. This requires that broadcast material which may cause offence is justified by the context.

In Ofcom's opinion real-life footage contained in this programme of dog fighting as well as of cruelty to other animals was clearly capable of causing considerable offence.

We went on to consider whether, as required by Rule 2.3, the broadcast of this offensive material was justified by the context. Context includes, but is not limited to, the editorial content of the programme, warnings given to viewers, the time of broadcast and the service the material was broadcast on. Given the very distressing nature of some of the material and the level of potential offence which may have

been caused, Ofcom considered that Channel 4 needed to ensure a correspondingly high level of contextual justification.

Ofcom noted that the programme was presented as a serious television documentary which explored the highly unpleasant and unlawful world of dog fighting. The documentary also drew potentially controversial comparisons between the treatment of animals involved in illegal dog fighting and those in some legal activities such as battery farming, horse racing and pheasant shooting. Since the documentary focused on dog fighting, central to its journalistic purpose as a television programme was obtaining and broadcasting some footage of this activity.

In terms of its scheduling, Ofcom noted that the programme was broadcast well after the watershed starting at 22:00, and the most distressing sequences were shown towards the end of the programme, at a time when most viewers would appreciate that stronger material could be shown.

Further we took account of a pre-broadcast warning alerting viewers to:

“...strong violent scenes of animal blood sports, animal slaughter and cruelty which some viewers may find very distressing”.

In Ofcom’s view, this warning made it explicitly clear to viewers the nature of the potentially offensive material included in the programme that followed, helping viewers to make an informed decision about whether they wished to continue to view.

For all these reasons, while the footage of animal suffering included in the programme was shocking and distressing to some viewers, Ofcom considered that it would not have exceeded the expectations of the majority of the audience for this Channel 4 documentary.

Ofcom also assessed complaints that viewers were offended that contributors featured in the programme who were involved in dog fighting had their identities protected and were not reported to the police. We noted Channel 4’s comments that it is not its policy to hand over untransmitted rushes of programmes to the authorities. The Licensee also told Ofcom that it was a condition of the access secured by the production team that those involved in dog fighting would not have their identities disclosed.

Ofcom recognised that the protection from identification provided to the contributors involved in dog fighting may have been offensive to some viewers. However, in accordance with the right to freedom of expression, there are some circumstances in which journalists need to protect their sources to investigate and report on criminal activity. Importantly in this case, Ofcom also noted that the programme makers acted and filmed in an observational manner: at no point did it appear that any criminal activity had taken place for the specific purposes of the programme or as a direct result of the programme makers’ presence.

Taking all of the above into account, Ofcom concluded that Channel 4 applied generally accepted standards and there was no breach of Rule 2.3.

Rule 2.4

Rule 2.4 requires that programmes must not include material that condones or glamorises violent or dangerous behaviour and is likely to encourage others to copy such behaviour.

Ofcom noted that those individuals involved in dog fighting were given the opportunity to explain their reasons for being involved in the activity. However, as described in the Introduction, the sustained sequences of dog fighting included in the programme were unflinching and clearly demonstrated the grim reality of the practice. This was reflected in the descriptions used by complainants to Ofcom who described the footage variably as: “distressing”; “horrendous”; and, “sickening”. We also noted that the programme included numerous references to the criminal nature of dog fighting.

Ofcom therefore considered that the programme did not present a glamorised depiction of dog fighting and was unlikely to encourage others to copy the behaviour shown. The programme was therefore not in breach of Rule 2.4.

Rule 3.3

Rule 3.3 requires that payment may not be made to a convicted or confessed criminal for a contribution to a programme relating to their crimes unless it is in the public interest. Ofcom received confirmation from the programme makers, through Channel 4, that none of the contributors featured in the programme involved in dog fighting was paid for their contribution. We were therefore satisfied that Rule 3.3 was not breached.

Not in Breach of Rules 2.3, 2.4 and 3.3

Broadcast Licence Conditions cases

Provision of information: relevant turnover submission

Various TV licensees

Introduction

Ofcom is partly funded by the licence fees it charges television and radio licensees. In setting these fees, Ofcom has a statutory obligation to ensure that the aggregate amount of fees that are required to be paid by licensees is sufficient to meet the cost of Ofcom's regulation of broadcasting. The principles which Ofcom applies when determining what fees should be paid by licensees are set out in the Statement of Charging Principles¹. Chief among these principles is that the fees all television licensees and national and local analogue radio licensees are required to pay are based on a percentage of their turnover from related activities. This is known as Relevant Turnover.

Each licensee is required on an annual basis, to submit to Ofcom a statement of its Relevant Turnover for the previous calendar year, so that Ofcom can charge licensees the appropriate fee the following year. This provision of information is a licence requirement. As well as enabling the charging of fees, the information is used by Ofcom to fulfil its market reporting obligations. Submission of Relevant Turnover is therefore an important requirement for all relevant broadcasting licensees. Failure by a licensee to submit an annual Relevant Turnover return when required represents a serious and fundamental breach of a broadcast licence, as the absence of the information contained in the return means that Ofcom is unable properly to carry out its regulatory duties.

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

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

"The Licensee shall furnish to Ofcom in such manner and at such times as Ofcom may reasonably require such documents, accounts, estimates, returns, reports, notices or other information as Ofcom may require for the purpose of exercising the functions assigned to it by or under the 1990 Act, the 1996 Act or the Communications Act and in particular (but without prejudice to the generality of the foregoing):

- (a) a declaration as to the Licensee's corporate structure in such form and at such times as Ofcom shall specify;
- (b) such information as Ofcom may reasonably require from time to time for the purposes of determining whether the Licensee is on any ground a disqualified person by virtue of any of the provisions in Section 143 (5) of the 1996 Act and/or Schedule 2 to the 1990 Act or whether the requirements imposed by or under Schedule 14 to the Communications Act are contravened in relation to the Licensee's holding of the Licence".

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

Decision

In Breach

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

Licensee	Service Name
DM Digital Television Limited	DM Digital TV
Joint Stock Company Channel One Russia Worldwide	Channel One Russia Worldwide
MWN Entertainment Limited	Muslim World Network
Vox Africa Plc	VA TV

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

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

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

Resolved

The following licensees failed to submit their Relevant Turnover return in accordance with the original deadline, but have subsequently submitted a late return. For these licensees, we therefore consider the matter **resolved**.

Licensee	Service Name
Akaal Channel Limited	Akaal Channel
ARISE Media UK Limited	ARISE 360
ARISE Media UK Limited	Arise News
GoGetSale Limited	Trendy TV
Independent Television Limited	IT TV
Passion Broadcasting Television Services Limited	Passion TV
Prime Bangla Limited	Channel i
Up and Coming TV Limited	Samaa

In Breach

Production of recordings

Voice Of Africa Radio, 15 February 2014, 16:00

Introduction

Voice Of Africa Radio provides a community radio service to the African community in Newham, east London. The licence is held by Voice Of Africa Radio (“VOAR” or “the Licensee”).

A listener alerted Ofcom to offensive language in a music track broadcast around 16:00 on Saturday 15 February 2014.

Ofcom requested a recording to assess the complaint, at the same time requesting additional audio between 13 and 15 February 2014 in order to separately assess VOAR’s compliance with Key Commitments.

The Licensee provided a link to audio on a file share site. The link provided did not appear to match the period requested and Ofcom requested the Licensee provide the recording in full.

It did not do so by the deadline specified. Subsequently, the Licensee provided Ofcom with a disc containing a number of audio files. Due to the labelling of the files on the disc, it was not possible to identify what specific times were contained within each audio file or which of the files related to the 15 February broadcast at 16:00. Ofcom sought clarification from the Licensee on this point, but no information was provided.

Ofcom considered that this raised issues warranting investigation under Conditions 8(2)(a) and (b) of VOAR’s licence, which require the Licensee to:

- “(a) make and retain, for a period of 42 days from the date of its inclusion, a recording of every programme included in the Licensed Service...
- (b) at the request of Ofcom forthwith produce to Ofcom any...recording for examination or reproduction;...”.

Ofcom therefore asked the Licensee for its formal comments on its compliance with these licence conditions.

Response

The Licensee said that due to moving premises while it was preparing the recordings to send to Ofcom, it had “difficulty deciphering the recordings” to produce the format Ofcom required to identify the relevant material,

The Licensee apologised, acknowledged the significance of this breach, and stated that steps had been taken to ensure future compliance with Conditions 8(2)(a) and (b) of its licence.

Decision

Under the Communications Act 2003, Ofcom has a duty to ensure that in each broadcaster's licence there are conditions requiring that the licensee retains recordings of each programme broadcast in a specified form and for a specific period after broadcast, and to comply with any request by Ofcom to produce such recordings.

Conditions 8(2)(a) and (b) of a community radio licence require licensees to make and retain a recording of every programme for a period of 42 days and produce to Ofcom any such recording upon request.

In this case, VOAR did provide Ofcom with recordings, but did not provide them in a format for Ofcom to be able to identify and assess specific timed content in relation to a programme standards complaint.

The failure by VOAR to meet the requirements of Conditions 8(2)(a) and (b) are significant breaches of its licence, because they resulted in Ofcom being unable to fulfil its statutory duty properly to assess and regulate broadcast content in this case.

We will monitor the Licensee's arrangements to retain and provide recordings to Ofcom in due course. We are therefore putting VOAR on notice that, should similar compliance issues arise, Ofcom may take further regulatory action.

Breaches of Licence Conditions 8(2)(a) and (b)

In Breach

Production of recordings

Ambur Radio, 17 April 2014, 13:30

Introduction

Ambur Radio is a community radio station aimed at the Asian community of Walsall in the West Midlands. The licence for the service is held by Ambur Community Radio Limited (“Ambur Radio” or “the Licensee”).

Ofcom received a complaint about a programme broadcast at 13:30 on 17 April 2014. The complainant considered the presenter’s language towards a particular listener was offensive.

Ofcom therefore requested a recording of the programme from the Licensee to assess the complaint.

In response to Ofcom’s request for a recording, the Licensee explained that a recording was unavailable due to “the move of the station to new premises during that period”. It added that its internet service had “only been reinstalled the week commencing 12 May”. However, after considerable further correspondence, the Licensee did produce a recording of the material to Ofcom for assessment.

After assessment, Ofcom concluded that the material broadcast did not raise issues warranting investigation.

However, Ofcom considered that the time taken by the Licensee to provide a recording warranted investigation under Condition 8(2)(b) of Ambur Radio’s Community Radio Licence which states:

“8(2)...the Licensee shall:

...(b) at the request of Ofcom forthwith produce to Ofcom any such recording for examination or reproduction.”

We therefore asked the Licensee how it complied with Condition 8(2)(b) in this case.

Response

The Licensee apologised for the delay in providing the recording and reiterated that it was because the station moved premises during this period. It added that normally all of its output is recorded at all times.

Decision

Under the Communications Act 2003, Ofcom has a duty to ensure that in each broadcaster’s licence there are conditions requiring that the licensee retains recordings of each programme broadcast in a specified form and for a specific period after broadcast, and to comply with any request by Ofcom to produce such recordings issued by Ofcom. Community radio licences enshrine these obligations in Licence Condition 8.

Condition 8(2)(b) of a community radio licence require licensees to produce such recordings to Ofcom forthwith upon request.

Breaches of Licence Condition 8(2)(b) are significant because they impede Ofcom's ability to assess in a timely way whether a particular broadcast raises potential issues under the relevant codes. This can therefore affect Ofcom's ability to carry out its statutory duties in regulating broadcast content.

Ofcom noted that the Licensee's explanation for failing to provide a recording of the programme was that its studio moved location. Ofcom reminds the Licensee that it is not acceptable to put forward a logistical matter such as an office move, which can be foreseen and planned for, as a reason for failing to comply with licence obligations.

In this case, the Licensee took a considerable amount of time to provide Ofcom with a recording and clearly did not do so "forthwith". Ofcom is therefore recording a breach of Condition 8(2)(b) of Ambur Radio's Community Radio Licence.

Breach of Licence Condition 8(2)(b)

In Breach

Non-payment of annual licence fee

Westcom Media Ltd

Introduction

Ofcom is partly funded by the licence fees it charges television and radio licensees. Ofcom has a statutory duty to ensure that the aggregate amount of fees paid by licensees meets the cost of Ofcom's regulation of broadcasting. The principles which Ofcom applies when determining the fees to be paid by licensees are set out in the Statement of Charging Principles¹. The detailed fees and charges which are payable by broadcasting licensees are set out in Ofcom's Tariff Tables². The payment of a fee is a licence requirement.

Failure by a licensee to pay its licence fee when required represents a serious and fundamental breach of a broadcast licence, as it means that Ofcom is unable properly to carry out its regulatory duties.

Westcom Media Ltd, which holds a local digital sound programme service licence (issued for a service known as 'Nova Radio') has failed to pay its annual licence fee, despite repeated requests to do so.

Ofcom considered that this raised issues warranting investigation under Licence Conditions 3(1) and (2) which state respectively:

"The Licensee shall pay to Ofcom such fees as Ofcom may determine in accordance with the tariff fixed by it and for the time being in force under Section 43(3) of the 1996 Act as Ofcom shall from time to time publish in such manner as it considers appropriate."

and

"Payment of the fees referred to in Condition 3(1) above shall be made in such manner and at such times as Ofcom shall specify."

Ofcom therefore asked the Licensee for formal comments on its compliance with this licence condition.

Response

No response was received.

Decision

As a consequence of this serious and continuing licence breach, **Ofcom is putting Westcom Media Ltd on notice that this breach of its licence is being**

¹

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

² http://stakeholders.ofcom.org.uk/binaries/research/Tariff_Tables_2001112.pdf

considered for the imposition of a statutory sanction, which may include licence revocation.

Breaches of Licence Conditions 3(1) and 3(2) in Part 2 of the Schedule to the digital sound programme service licence held by Westcom Media Ltd (licence number DP000144BA)

Fairness and Privacy cases

Not Upheld

Complaint by The Poplars Care Home

Panorama, BBC1, 17 June 2013

Summary

Ofcom has not upheld the complaint made by The Poplars Care Home ("The Poplars") of unjust or unfair treatment in the programme as broadcast.

This edition of *Panorama* investigated concerns about poor standards of day-to-day care in two care homes. One of these was the complainant's care home, The Poplars. In particular, the programme investigated the standards of care provided to a former resident of The Poplars, Mrs Reid. Allegations that she had received poor care were made in the programme.

Ofcom found that:

- The broadcaster took reasonable care to satisfy itself that material facts were not presented, disregarded or omitted in a way that resulted in unfairness to The Poplars.
- The Poplars was given an appropriate and timely opportunity to respond to the claims made about it in the programme. Also the response of The Poplars to the claims made about it in the programme was adequately and fairly reflected in the programme. Therefore it was not treated unfairly in these respects.

Introduction and programme summary

On 17 June 2013, the BBC broadcast an edition of the current affairs programme *Panorama*. This edition of *Panorama* examined the concerns that some care homes for the elderly were not meeting the necessary standards of care for residents. The programme reported on the alleged poor quality of care given to two former residents of two different care homes. The Poplars was one of the care homes featured. Part of the programme explored the nature and quality of the care provided to Mrs Kathleen Reid while she was a resident at The Poplars. Mrs Reid was a resident from May 2008 until she was moved to a hospital in October 2011.

During the programme, two of Mrs Reid's relatives were interviewed about their knowledge of the care provided to Mrs Reid while she was a resident. The programme explained that the family had become concerned about Mrs Reid's care in the summer of 2010. Her daughter, Ms Joyce Zannoni said:

"Every time I went up, there was something not quite right, for example, her [Mrs Reid's] bed was wet, the floor was wet and then the findings [sic] of medication in her drawers and in her clothing...she wasn't having her medication obviously".

The programme said that The Poplars:

"deny there was poor care and...[said] it checked Mrs Reid was taking medicines once aware of the problems".

Later in the programme, Ms Zannoni said that in September 2011, during a joint visit with her sister-in-law, Ms Anni Reid, they discovered “*damp all over the walls*” in Mrs Reid’s room. They took photographs of the walls which were shown in the programme accompanied by the following commentary:

“the bathroom window was broken and mouldy, damp was on the walls and near the electrics [and] Kathleen’s comb was filthy”.

The programme said that The Poplars:

“[did not] accept the comb was dirty and [said that] the damp was only apparent after a downfall the night before”.

The programme also explained that Mrs Reid’s family had become concerned about Mrs Reid’s weight loss because: “*over five months she had shed more than 15% of her body weight*”. Further, the programme discussed the requirement for Mrs Reid to have liquidised or blended food and claimed that The Poplars was not consistently providing her with this diet. The programme stated that: “*some food was blended but just days later she was still being given beans on toast*”. The programme included the following response to these allegations from the care home:

“Mrs Reid was encouraged to eat by staff. She was also provided with sandwiches and finger food throughout the day”.

The programme’s reporter also interviewed a former employee of The Poplars, Ms Emma Buckler-Watson, who “*blew the whistle*” to the local authority. Ms Buckler-Watson said that she had complained to the manager and owner of the care home about “*the state she found residents in*”, but felt that her complaints had not been investigated properly. In particular, Ms Buckler-Watson said residents’ food charts were “*often filled in all at once*” [rather than at the time the food was consumed] and:

“If a resident wasn’t there for a meal or a drink, if they were in their room, they weren’t fetched, they were left so they didn’t get their meal or their drinks”

The programme also explored the death rate at The Poplars in the year 2011-12. It said there were 11 deaths recorded in that period, which accounted for more than half of the home’s residents. This figure was compared to the death rates of 500 similar homes which, like The Poplars, looked after elderly people with dementia. The programme said that The Poplars was at the very high end of the distribution curve in this regard in that: “*99% have fewer numbers of deaths per bed*”.

Summary of the complaint and the broadcaster’s response

The Poplars complained that it was treated unjustly or unfairly in the programme as broadcast because:

- a) The programme failed to investigate fully the allegations made about The Poplars which resulted in material facts being presented, disregarded or omitted in a way that was unfair to the care home. In particular:
 - The Poplars complained that a former employee, Ms Buckler-Watson, who was also a close friend of Mrs Reid’s family, was biased and had a “personal vendetta” against the care home. For example, The Poplars said that Ms Buckler-Watson had made claims about staff abuse of residents at the care home which the police had found to be unsubstantiated and which led to her

leaving the care home without giving notice. This information was not included in the programme despite the care home providing the programme makers with it prior to the broadcast.

In response, the BBC said that Ms Buckler-Watson was an experienced care worker who had given the programme a first-hand testimony about conditions and events she had witnessed while working at The Poplars. The BBC added that the programme did not rely exclusively or even predominantly on the evidence of Ms Buckler-Watson but instead on an overwhelming amount of corroborative evidence, much of which was provided by regulatory or safeguarding authorities. This evidence included:

- a safeguarding investigation by Leicestershire County Council (“LCC”) carried out after Mrs Reid’s death which categorised the care she had received as neglect;
- a monitoring visit “based on environmental concerns and issues of neglect” conducted by LCC just days after Mrs Reid had been taken to hospital;
- an unannounced inspection by the Care Quality Commission (“the CQC”)³⁸ in November 2011. The subsequent report “detailed major concerns about the care and welfare of residents” and the “safety and suitability of the premises” because many of the bedrooms were basic, in need of decoration and showed signs of damp. It also noted the CQC’s: “concerns about nutrition provided by the home”. The home was deemed not to meet the minimum standards of care;
- inspection warning notices issued to The Poplars in December 2011 which required that improvements be made;
- potential ‘safeguarding concerns’ regarding weight loss suffered by three elderly residents in 2011.
- a re-inspection by the CQC in 2013 which found that the home did not meet the minimum standard for the care and welfare of residents;
- the results of a freedom of information request which showed that twenty-two ‘safeguarding concerns’ about care provided by The Poplars were investigated between March 2011 and April 2013. Eighteen were related to neglect; and
- an email from a social worker who visited Mrs Reid in October 2011 which set out the social worker’s concerns about the poor standard of care being provided.

The BBC said that the relationship between Ms Buckler-Watson and Mrs Reid’s family (which did not develop until Ms Buckler-Watson became Mrs Reid’s key care worker) was irrelevant to the issue of whether she was a truthful witness and whether the programme dealt with her testimony fairly. It also said that Mrs Reid’s family were not aware of Ms Buckler-Watson’s

³⁸ The Care Quality Commission inspects hospitals, care homes, GPs, dentists and at home services for those who need care to ensure that they meet national standards.

concerns until after Mrs Reid was taken to hospital in October 2011. The BBC added that prior to this, Mrs Reid's family and Ms Buckler-Watson had, separately and without the other's knowledge, already made a number of complaints.

Further, the BBC said that Ms Buckler-Watson told the programme that she had made a number of complaints over a period of months to the home's manager and its owner about instances of poor quality care and she considered that the responses she received were inadequate. Following this Ms Buckler-Watson decided that she could no longer continue to work at The Poplars. The BBC acknowledged that after Ms Buckler-Watson resigned, a police investigation into an allegation she had made about the abuse of a resident at The Poplars by a member of staff was found to be unsubstantiated. However, the broadcaster noted that the police did not conclude that the incident had not happened but rather that there was insufficient evidence to take matters further.

The BBC said that although The Poplars considered that Ms Buckler-Watson had raised concerns about the standards of care at The Poplars as part of a vendetta (and that this should have been disclosed in the programme) there was no evidence to support this view. Rather the evidence suggested Ms Buckler-Watson raised justified concerns and that her conduct was that which one would expect from an: "experienced and appropriately qualified care professional".

The BBC argued that in the circumstances there was no need for the programme to qualify Ms Buckler-Watson's testimony or include any caution to viewers about her reliability as a witness.

- The programme did not inform viewers that during the four years Mrs Reid was a resident at The Poplars, her daughter and her daughter-in-law only visited eleven times, and on three of these occasions they visited together.

The BBC said the programme did allude to family circumstances which had prevented Mrs Reid's daughter and daughter-in-law from visiting her regularly, (particularly during the summer of 2011). However, it also said that the frequency with which family members visit a resident of a care home was irrelevant to a consideration of the quality of care a home should provide, and the broadcast of such information would not mitigate the impact of poor quality care. The BBC argued that therefore the omission of information about the frequency of family visits to Mrs Reid from the programme did not result in unfairness to The Poplars.

- The programme makers should have waited until the conclusion of a Coroner's inquest into Mrs Reid's death before broadcasting the programme. The Poplars said the programme portrayed Mrs Reid and other residents as having died as a result of poor quality care, when in fact, the inquest found that Mrs Reid had died as a result of her Alzheimer's disease.

The BBC did not accept the complainant's argument that the programme did not present a true account of the standard of care which Mrs Reid (and others) received at The Poplars because it failed to take account of evidence which emerged at the inquest. It said that the allegations made in the programme about Mrs Reid's care at The Poplars were corroborated by evidence given at the inquest and this was confirmed by the Coroner. A

written record summarising the Coroner's findings (noted by a BBC journalist who attended the inquest) showed that:

- The Poplars failed to weigh Mrs Reid in September 2011. The Coroner's belief was that if she had been weighed her weight loss may have been dealt with by the home and the GP;
- there was an 'inadequate' number of staff available at meal times;
- the complaints made by Ms Zannoni in September 2011, which led to a safeguarding investigation, were fully justifiable; and
- the Coroner had criticised the delay in moving Mrs Reid from her room after mould/damp was detected.

The BBC said that contemporaneous coverage in local newspapers (copies of which were provided to Ofcom by the BBC) confirmed the accuracy of the BBC journalist's record.

It acknowledged that the Coroner did not find that the neglect Mrs Reid had been subjected to while at The Poplars contributed to her death. However, it also said that the programme had not alleged that this was the case.

The BBC added that letters from the families of other residents of The Poplars claiming that their relatives "received a good standard of care" did not counter the findings from the investigations carried out by both LCC and the CQC as set out in its response to the first sub-head of this complaint above.

The broadcaster also said that, during the inquest, Mrs Mawani (the owner of The Poplars) accepted the conclusions of LCC and the CQC's investigations and that given this, it was inconsistent for The Poplars to pursue this complaint.

The BBC added that of the 22 complaints in relation to the Poplars investigated by LCC, five were substantiated, one was partly substantiated and one was still on-going. The broadcaster said that, although The Poplars indicated that having "only five complaints of neglect upheld is a matter for approbation", in its view this indicated that neglect of residents was a problem at the home.

- It was unfair for the programme to state that Mrs Reid was transferred to the hospital at the request of a district nurse and an out-of-hours GP, when in fact Mrs Reid was moved to the hospital at The Poplars' request. The inquest found that there was no medical reason for Mrs Reid's admission to the hospital.

The BBC said that the written record of the inquest referred to above showed that there were medical reasons for Mrs Reid's admission and that this was confirmed by the evidence given by the out-of-hours GP and the doctor who admitted Mrs Reid to the hospital.

- The inquest found that there was no medical reason requiring Mrs Reid to be placed on a liquid diet while she was resident in The Poplars, as alleged in the programme.

The BBC said that this claim by Mrs Mawani was inconsistent with the statement in her complaint that: "Mrs Reid refused to eat the liquid or blended food at times so the care home had to make adjustments to ensure she was eating some food". It also said that during the inquest Mrs Reid's GP told the Coroner that he had advised that Mrs Reid should be placed on a liquid diet.

- b) The Poplars was not given an opportunity to respond to all the significant allegations included in the programme. This resulted in it being unfairly portrayed in respect of these allegations. For example:

- The programme stated that half of the residents at The Poplars had died in the year 2011/12 when, in fact, the number of deaths amounted to a third of its residents.

The BBC said that the programme makers wrote to Mrs Mawani on 16 May 2013 and that this letter set out the nature of the programme and the claims that it planned to make about the Poplars, which included that the number of deaths would be referred to in the programme. The broadcaster said that it had subsequently confirmed the number of deaths with The Poplars prior to the broadcast of the programme and that to avoid uncertainty it had used the lower number of 11 resident deaths to calculate its figures.

The broadcaster acknowledged that it did not ask The Poplars to respond to the specific point about the proportion of deaths at The Poplars as a percentage of its residents. However, it said that it was not necessary for it to have done so because this claim was based on a statistical fact. The BBC said that the programme makers had used the standard and accepted form of computing this figure (as used by the CQC) which was based on the number of deaths and number of beds at a home rather than occupancy rate at a home. It added that The Poplars was compared with 500 similar care homes to demonstrate that the comparison of death rates within similar groups of care homes could be used as a predicator of poor performance. The BBC added that the wording of the script in relation to the number of deaths at The Poplars was checked with experts who confirmed that the formulation used was appropriate for the statistical analysis being carried out. Further, the BBC said the analysis was shared and checked in advance of publication with the CQC.

- The programme stated that Mrs Reid's weight had reduced by 15% over five months when it had in fact decreased by 12.88%.

The BBC said that Mrs Reid's weight chart (a copy of which was provided to Ofcom) showed that Mrs Reid's weight fell from 54.5 kg in May 2011 to 46 kg in October 2011, a loss in body weight of 15.6%. The BBC added that a 15% weight loss was also discussed in open court at a pre-inquest review into Mrs Reid's death in June 2013.

The BBC also said that The Poplars were told (in the 16 May 2013 letter) that the programme would be reporting that Mrs Reid had lost 8.5kg and this was not challenged by The Poplars prior to the broadcast. It added that The Poplars admitted that Mrs Reid's weight loss was serious enough that under national guidelines a doctor should have been called but that no doctor was called until the home was prompted to do so by the family.

- Mrs Reid's daughter, Ms Zannoni, said in the programme that her mother's bed and floor were wet. This was not true and none of Ms Zannoni's complaints to the care home reflected this incident.

The BBC said that Ms Zannoni's complaints about poor standards of care at The Poplars were corroborated by regulatory and safeguarding investigations and the BBC therefore believed they were entitled to rely on Ms Zannoni's recollections regarding these matters.

However, it also said that the programme makers had informed The Poplars that the programme intended to include the claim that Mrs Reid's family had made "repeated and consistent complaints" and that the family believed that: "broadly every time they visited [The Poplars] there seemed to be something wrong". The BBC said that The Poplars did not address this issue in their response to the letter offering them an opportunity to respond.

The BBC added that record keeping at The Poplars had come under scrutiny during the CQC's April 2013 inspection which found that: "verbal complaints were not recorded and there were no other records made available to show how many complaints were received". The broadcaster said that therefore no reliance should be placed upon the claims by The Poplars that none of Ms Zannoni's complaints to the care home reflected this incident.

- c) The Poplars' written submissions to the BBC in response to significant allegations were not adequately represented in the programme. This resulted in The Poplars being unfairly portrayed in respect of these allegations. For example, the complainant said that:

- The programme showed photographs of damp in Mrs Reid's room but did not mention that Mrs Reid was immediately moved to a different room.

The BBC said that Mrs Reid's family documented all of the calls and conversations they had with The Poplars regarding this matter which showed that it was five days before Mrs Reid was given a new room. The broadcaster also said that, in any case, the programme did not allege that Mrs Reid was not moved to another room immediately.

The BBC added that an email, sent by a social worker to The Poplars following a visit to the care home in October 2011, raised concerns about the new room Mrs Reid had been moved to and recorded that the manager had told the social worker that the home was aware of the damp problem before it was drawn to its attention by Mrs Reid's family. The BBC said that the CQC inspection in November 2011 also identified other rooms which had damp problems.

- The programme included a photograph of a dirty comb which it said belonged to Mrs Reid. However, this was a comb Mrs Reid had picked up as she had a habit of "*collecting things in her pocket*" because of her Alzheimer's disease.

The BBC said that a letter sent to the programme makers by The Poplars on 16 May 2013 included the claim that a dirty comb had been found in Mrs Reid's room. It added that the programme included the entire response to this allegation when it said that: "[The Poplars did not] *accept that Mrs Reid's comb was dirty*".

- The programme said that Mrs Reid was being fed solid food even though she was meant to be on a liquid or blended food diet. However, the programme did not mention that Mrs Reid refused to eat the liquid or blended food at times and so the care home had to make adjustments to ensure she was eating some food.

The BBC said that the programme makers asked The Poplars to respond to the claim that Mrs Reid was: “given unsuitable food even after a number of instructions from a dietician to provide a blended diet”. It said that The Poplars’ had not directly addressed the question posed but had said that Mrs Reid was “encouraged by staff to eat...and adjustments were made to ensure she was eating” i.e. the home provided Mrs Reid with sandwiches and finger food.

However, the BBC said that it did not believe the claim that “adjustments” were made was credible because there was a video of Mrs Reid being given beans on toast which the BBC said did not fall into the category of “adjustments” as described by The Poplars’ response (namely sandwiches and finger foods). It added that Ms Zannoni had told the programme that it was not appropriate to give Mrs Reid beans on toast because she was no longer able to use a knife and fork. The BBC said that, in its view, the complainant’s claim that suitable adjustments were made in response to Mrs Reid’s alleged refusal to take liquid or blended food was disingenuous and that the meal being served to her was not an “adjustment” but another example of the home failing to meet Mrs Reid’s needs.

The BBC added that it was only after the social worker visited in October 2011 that the home began to keep fluid/food intake charts for Mrs Reid and that without such charts it would be difficult for The Poplars to be definitive about what Mrs Reid was or was not eating. The BBC added that the CQC inspection in November 2011 also raised concerns that some residents were going for long periods without adequate food or drink.

Ofcom’s Preliminary View

Ofcom prepared a Preliminary View in this case that the complaint or unjust or unfair treatment made by The Poplars should not be upheld. Both parties were given the opportunity to comment on the Preliminary View.

The Poplars made representations on the Preliminary View. We took the view, after careful consideration, that the comments were not directly relevant to the complaint as entertained or raised points that had already been addressed and reflected in the Preliminary View. Ofcom concluded therefore that these comments did not materially affect Ofcom’s conclusion that this complaint should not be upheld.

The BBC made no representations on Ofcom’s Preliminary View.

Decision

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

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

In reaching our Decision, we carefully considered all the relevant material provided by both parties. This included a recording and a transcript of the programme as broadcast, both parties' written submissions and supporting material. We also took account of the representations made by The Poplars in response to Ofcom's Preliminary View on this complaint (which was not to uphold the complaint). We concluded that The Poplars had not raised any issues to persuade Ofcom to alter its decision not to uphold the complaint.

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

- a) Ofcom first considered The Poplars complaint that the programme failed to investigate fully the allegations made about it which resulted in material facts being presented, disregarded or omitted in a way that was unfair to the care home.

In assessing this part of the complaint, Ofcom had regard to Practice 7.9 of the Code which provides that before broadcasting a factual programme, broadcasters should take reasonable care to satisfy themselves that material facts have not been presented, disregarded or omitted in a way that is unfair to the individual or organisation.

There was a disparity between the broadcaster and the complainant regarding the veracity of several claims made in the programme. It is therefore important to clarify at the outset that it is not for Ofcom to investigate and adjudicate on whether information broadcast or omitted is factually correct or not. Rather, our role is to consider whether the inclusion or omission of the information amounted to unjust or unfair treatment of an individual or organisation. To assess this issue in this case, we considered each sub-head of The Poplars' complaint separately and then the programme overall to reach a view on whether it was treated unfairly in the programme as broadcast.

- We first considered the complaint that a former employee of The Poplars, Ms Buckler-Watson, who was also a close friend of Mrs Reid's family, was biased and that she had a "personal vendetta" against the care home.

In the programme Ms Buckler-Watson made various comments regarding the poor quality of care she had witnessed when she worked at The Poplars (see the "Introduction and programme summary" section above). In its response to this sub-head of the complaint the BBC said that the claims made in the programme about the poor quality of care at The Poplars were based not only on Ms Buckler-Watson's recollections of actions she had witnessed in her role as a care worker at the home, but also on extensive evidence from inspections carried out by LCC and the CQC (see head a) of the "Summary of complaint and broadcaster's response" section above for details) which corroborated Ms Buckler-Watson's account.

We recognised that The Poplars complained that the omission from the programme of its concerns about Ms Buckler-Watson's credibility resulted in unfairness to it.

In this context, we observed that, consistent with the principle of editorial freedom, the broadcaster has the right to decide whether or not to include particular pieces of information or material in a programme. This is an editorial decision for broadcasters to make prior to the broadcast of a programme, provided it does not result in unfairness. It is not for Ofcom to determine whether or not Ms Buckler-Watson was engaged in a "vendetta" against The Poplars but to consider whether or not the omission from the programme of The Poplars' concerns about Ms Buckler-Watson's credibility resulted in unfairness to the complainant.

We noted that the programme makers were made aware of The Poplars' concerns in this regard prior to broadcast of the programme but that The Poplars did not provide any substantive evidence to the programme makers to corroborate its claims about Ms Buckler-Watson. We also noted that Ms Buckler-Watson was introduced in the programme as a former care worker at The Poplars who had "*blown the whistle*" to the local authority. We therefore considered that viewers were likely to have understood that Ms Buckler-Watson was expressing her own opinions about The Poplars based on her experience as a care worker at the home, and that she had stopped working there after reporting her concerns about the care it provided to residents to the appropriate authorities.

In addition, we observed that prior to the broadcast, the programme makers informed The Poplars of the allegations the programme intended to make, including those in relation to Ms Buckler-Watson's concerns, and The Poplars' response to these allegations were reflected in the programme as broadcast (see Decision at heads b) and c) below for our detailed consideration of these issues).

In light of all the factors noted above, we considered that the programme makers had a reasonable and credible basis for the inclusion in the programme of the claims made about the quality of care provided by The Poplars and that the inclusion of Ms Buckler-Watson's testimony in the programme did not result in unfairness to the complainant. We also considered that the omission from the programme of the Poplars' concern that Ms Buckler-Watson was not a credible witness was unlikely to have materially affected viewers understanding of the complainant in a way the resulted in unfairness to it. This was because viewers were made aware that Ms Buckler-Watson was sufficiently concerned about the standard of care provided by her former employer to report those concerns to the local council (and therefore, would have understood that The Poplars and Ms Buckler-Watson held opposing views about the quality of the care provided by the home), and because of the extensive corroborative evidence on which the programme relied in addition to Ms Buckler-Watson's testimony.

For these reasons, Ofcom found that there was no unfairness in this respect.

- We next examined the complaint that the programme did not inform viewers that during the four years Mrs Reid was a resident, her daughter and her

daughter-in-law only visited her eleven times, and on three of those occasions they visited together.

We observed that there was no specific reference in the programme to the number of times Mrs Reid's family visited her when she was a resident at The Poplars other than the comment that "*for several weeks in the summer of 2011 Joyce [Zannoni] was ill and sister-in-law Anni [Reid] was juggling two jobs*" and indications that the family had visited Mrs Reid at certain times between the summer of 2010 and October 2011 (because they made various comments about Mrs Reid's care). We considered whether the omission of details of the number of visits resulted in unfairness to The Poplars.

The Poplars considered that "the family should have visited more often to understand [Mrs Reid's] decline in health due to Alzheimer's [disease] and old age" and that this should have been reflected in the programme. Again, it is important to underline that it is not for Ofcom to determine whether or not the family were or were not able to appreciate the decline in Mrs Reid's health but to consider whether or not the omission from the programme of information about the number of times the family visited Mrs Reid resulted in unfairness to The Poplars.

As already noted above, programme makers and broadcasters are free to select whether or not to include particular pieces of information or material in a programme, provided this does not result in unfairness.

We observed that while viewers were not informed about the number of occasions the family had visited Mrs Reid, conversely the programme did not indicate that the family had visited her regularly. We also observed that the programme made it clear that on the occasions when the family had visited Mrs Reid (from summer 2010 to October 2011), they were concerned about the quality of care she was receiving at The Poplars (and that they had told the programme that they had expressed these concerns to the manager or owner of The Poplars).

We took into account the argument made by the BBC in its response, that the frequency with which family members visit a resident of a care home is not relevant to a consideration of the quality of care a home should provide.

In this case, the family's contribution to the programme focused on their knowledge of the quality of care provided to Mrs Reid on the occasions when they had visited her at The Poplars. In addition, we considered that the family's statements about the poor quality of care they had witnessed were presented in the programme as their own opinions based on their own knowledge and that none of these matters were in any way related to the number of occasions they visited Mrs Reid.

In light of these factors, we did not consider that the omission of detailed information about the number of occasions on which Mrs Reid's family visited her at The Poplars resulted in unfairness to The Poplars.

- We next assessed the complaint that the programme makers should have waited until the conclusion of the inquest into Mrs Reid's death before broadcasting the programme.

In assessing this issue, Ofcom acknowledges the right to freedom of expression is crucial for broadcasters and their audience. Broadcasters must not be inappropriately restrained from broadcasting material, especially journalism, which is arguably in the public interest.

Ofcom noted the comments contained in the programme in relation to the inquest. In particular, we observed that the programme said: *“an inquest will examine the circumstances of Kathleen’s death in the autumn”*. The programme also said that: *“Kathleen’s death does raise wider questions. She wasn’t the only Poplars resident to die that year”* and that: *“unusually high mortality rates are an alert to poor care in hospitals – so what about care homes?”*

The BBC said that the claims made in the programme about Mrs Reid’s care at The Poplars were confirmed during the inquest and the BBC provided examples of the Coroner’s findings to support this position. Ofcom had regard to these points. We also took into account the wide range of corroborative evidence on which the claims in the programme about The Poplars were based (and the opportunity to respond to these claims which was given to the complainant before the broadcast – see Decision at head b) below).

As noted above, the focus of the programme was an examination of the issue of the poor standards of day-to-day care in care homes and at no point did the programme allege that Mrs Reid had died as a result of poor quality of care. Taking account of these factors, we considered that viewers would not have understood the reference to the inquest into Mrs Reid’s death to be an allegation that Mrs Reid died as a result of receiving poor quality care. Rather we considered that viewers would have understood that the purpose of the inquest was to determine both the cause of and the circumstances surrounding Mrs Reid’s death. With regard to Mrs Reid, both were yet to be established.

For all these reasons, in our opinion the decision to broadcast this programme prior to the inquest did not result in unfairness.

- We then assessed the complaint that it was unfair for the programme to state that Mrs Reid was transferred to the hospital at the request of a district nurse and an out of hours GP.

The programme said that: *“a district nurse and an out of hours GP became so worried by Kathleen’s weight, she was moved to hospital”*.

Given these comments, we considered that viewers would have understood from them that Mrs Reid’s weight loss had resulted in her admission to hospital.

We recognised that the complainant disputed the veracity of this claim, but observed that The Poplars did not provide any substantive evidence to suggest that this claim included in the programme was not true. The BBC did not set out in its response any specific evidence on which the decision to include this claim in the programme was based. However, the notes taken by a BBC journalist at the inquest into Mrs Reid’s death confirmed that the out-of-hours GP had told the coroner that he had admitted Mrs Reid to hospital “because of weight loss”. The notes of the inquest also showed that the A&E

doctor at the hospital to which Mrs Reid was admitted also expressed concerns about her weight loss.

In light of the inquest notes, and in the absence of any contradictory evidence from The Poplars, we are satisfied that there was no evidence to suggest that the material included in the programme was incorrect or that the inclusion in the programme of this information resulted in unfairness to The Poplars. Therefore, we concluded that in respect of this sub-head, material facts were not presented, disregarded or omitted in a way that resulted in unfairness to The Poplars in this respect.

- We next examined the complaint that - contrary to what was alleged in the programme - the inquest found that there was no medical reason for Mrs Reid to be placed on a liquid diet while she was resident at The Poplars.

The programme said that:

“despite the drastic weight loss, it was five months since the home had asked a doctor to visit Kathleen. When he saw her, he told them she needed liquidised food. Some food was blended but just days later she was still being given beans on toast”; and,

Ms Zannoni said that:

“even when the GP went in at my request he said this lady needs sloppy blended food”.

Given these comments, we considered that viewers would have understood that Mrs Reid had been placed on a liquidised diet by her GP when the GP visited her at The Poplars; that she should have been given only blended food; and, that on some occasions, The Poplars failed to do this. We noted that, in contrast to The Poplars’ claim, the programme did not allege that Mrs Reid’s GP had placed her on a blended diet because she had difficulties swallowing food.

In addition, the notes of the inquest showed that in October 2011 (when Mrs Reid was resident in The Poplars) Mrs Reid’s GP advised that she should have liquidised food.

We recognised that the complainant disputed the claim that Mrs Reid was placed on a liquid diet while she was resident at The Poplars and noted that in its response to Ofcom the BBC did not set out the specific evidence on which the programme makers relied when deciding to include this claim in the programme. However, we observed that this claim accorded with Ms Zannoni’s recollection of events as set out in the broadcaster’s response to head b) of the Decision (see below for details). We also observed that the claim that Mrs Reid’s dietician had placed her on a blended diet was set out within the programme makers’ letter to the home of 16 May 2013 and that The Poplars did not contest it within its pre-broadcast response to the programme. In addition, we noted that the notes of the inquest showed that in October 2011 Mrs Reid’s GP advised that she should have liquidised food, and the newspaper reports about the findings of the inquest stated that Mrs Reid’s GP advised that she should be given pureed and finger food.

In light of all these points, we are satisfied that the programme makers had a reasonable and credible basis for the inclusion in the programme of the claim that Mrs Reid's GP had placed her on a blended diet while she was a resident at the home. We considered there was no evidence to suggest that this information was incorrect. Therefore, we concluded that material facts were not presented, disregarded or omitted in a way that resulted in unfairness to The Poplars in this respect.

Having assessed each sub-head of the complaint identified by The Poplars as being unfair when considered separately, Ofcom concluded that as regards each of these sub-heads, the material facts were not presented, omitted or disregarded in a way that portrayed The Poplars unfairly in the programme as broadcast.

Ofcom also carefully assessed the parts of the programme relating to The Poplars as a whole, to reach a decision as to whether the programme in its entirety was unfair to the complainant – in particular whether the various examples taken together may have created a cumulative effect that might portray the care home in a way that was unfair. After careful consideration, and for all the reasons set out above, Ofcom found that, when taken as a whole, the way in which The Poplars was portrayed did not result in unfairness to The Poplars in the programme as broadcast.

- b) The Poplars was not given an opportunity to respond to all the significant allegations included in the programme. This resulted in it being unfairly portrayed in respect of these allegations.

In considering this head of complaint, Ofcom had regard to Practice 7.11 of the Code. This states that if a programme alleges wrongdoing or incompetence or makes other significant allegations, those concerned should normally be given an appropriate and timely opportunity to respond.

- We first assessed the complaint that The Poplars was not given an opportunity to respond to the claim in the programme that half of the residents at The Poplars had died in the year 2011-12.

The programme included the claim that: *"Panorama has established that at least 11 people died [at The Poplars] – more than half of the home's residents"*.

We observed that this claim was presented alongside a further comment that this figure placed The Poplars at the very high end of the distribution curve for the rate of deaths at similar care homes. We considered that the two statements amounted to significant allegations of wrongdoing or incompetence and that, in accordance with Practice 7.11, the programme makers needed to offer The Poplars an appropriate and timely opportunity to respond to it in order to avoid unfairness.

The Poplars complained that it should have been given an opportunity to respond to this claim and that because it was not, the programme included incorrect information. However, as already observed, it is not for Ofcom to determine whether this claim was factually correct or not. Rather, our role is to consider whether the inclusion of the information without providing The Poplars with an opportunity to respond amounted to unjust or unfair treatment.

We therefore considered what steps, if any, were taken by the programme makers to provide The Poplars with an opportunity to respond to this claim.

We noted that the BBC acknowledged that it had not specifically asked The Poplars' to respond to the claim that *"more than half of the home's residents"* died in the year 2011-12. This was because, the BBC said, it considered that this was a statistical fact which did not require a right of reply in order to avoid unfairness. However, we also noted that on 24 April 2013, the BBC informed The Poplars that it intended to report that there was an unusual number of deaths at the care home in the year 2011-12. As set out in the "Summary of broadcaster's response" regarding head b) above, the programme makers and The Poplars disagreed about the precise number of residents who had died at The Poplars during the year 2011-12 and, to avoid uncertainty, the BBC used the lower figure of 11 resident deaths to calculate the figures it broadcast.

Given this pre-broadcast exchange between the parties, we considered that The Poplars would have been aware that the programme intended to report that there had been an "unusual number of deaths" at the home in 2011-12. The programme therefore did not specifically inform The Poplars that it intended to report the number of deaths both as a number and as a proportion of residents. However, we consider that the programme gave the care home an appropriate and timely opportunity to respond to the claim which the programme intended to report in relation to the "unusual number of deaths" at The Poplars during this period.

For these reasons, we concluded that the fact that The Poplars was not given an opportunity to respond to the claim that a specific proportion (as opposed to an absolute number) of the residents at The Poplars had died in the year 2011-12 did not result in unfairness to the complainant.

- We next assessed the complaint that The Poplars was not given an opportunity to respond to the claim made in the programme that Mrs Reid's weight had reduced by 15% over five months.

The programme included the claim that: *"even more worryingly for the family was the amount of weight Kathleen had lost. Over five months she'd shed more than 15 per cent of her body weight"*. We considered that the material weight loss of an elderly resident at a care home is a potentially serious matter and therefore this amounted to a significant allegation of wrongdoing or incompetence, and that, in accordance with Practice 7.11, the programme makers needed to offer The Poplars an appropriate and timely opportunity to respond to it in order to avoid unfairness.

The BBC acknowledged that the programme makers did not inform The Poplars prior to the broadcast that it intended to report Mrs Reid's weight loss as a percentage of her body weight. However, we also noted that, in a letter dated 16 May 2013, the BBC told The Poplars that it intended to report that Mrs Reid had lost "8.5 kilos in five months from May to October 2011". In response (in a letter dated 24 May 2013), The Poplars said that "Mrs Reid's weight loss [was] consistent with the progression of her illness". Therefore, it was clear that The Poplars was given an opportunity to comment on the claim that Mrs Reid had lost a specific amount of weight and that the care home did not dispute this claim. In addition, we observed that, as set out (in the head b) of the "Summary of the complaint and broadcaster's response" section)

above, Mrs Reid's weight chart showed that a decrease in weight of 8.5kg equated to a total body weight loss of 15.6%.

For these reasons, we concluded that, The Poplars was given an appropriate and timely opportunity to respond to the claim the programme intended to report regarding Mrs Reid's weight loss. Therefore, we concluded that The Poplars was not treated unfairly in this respect.

- We also assessed the complaint that The Poplars was not given an opportunity to respond to Mrs Reid's daughter (Ms Zannoni)'s, claim in the programme that her mother's bed and floor were wet.

As noted above, the programme included Ms Zannoni saying: *"Every time I went up there was something not quite right, for example: her bed was wet, the floor was wet"*. It was our view that the claim that a resident's room was in a poor condition amounted to a significant allegation of wrongdoing or incompetence. In accordance with Practice 7.11, the programme makers therefore needed to offer The Poplars an appropriate and timely opportunity to respond to it in order to avoid unfairness.

We noted that in the letter dated 16 May 2013 the BBC informed The Poplars that the programme was "likely to include criticisms of the care provided to some residents at The Poplars" and the programme makers asked The Poplars to respond to the various concerns the family had raised about Mrs Reid's care at The Poplars. The list of concerns raised included a reference to Mrs Reid's room having damp walls (floor to ceiling). However, the programme makers did not specifically state that they intended to report that Mrs Reid's "bed and floor were wet".

We noted that there was a disagreement between the BBC and The Poplars about the veracity of Mrs Zannoni's claim. However, as set out above, it is not for Ofcom to determine whether the particular claim made is factually correct or not. Rather, our role is to consider whether the inclusion of the information without providing The Poplars with an opportunity to respond amounted to unjust or unfair treatment.

In our view, although the programme makers did not make a specific reference to Ms Zannoni's specific claim that Mrs Reid's bed and floor were wet in its 16 May 2013 letter, The Poplars was given an appropriate and timely opportunity to respond to the general claim which the programme intended to report i.e. that there were concerns about the condition of Mrs Reid's room at The Poplars - and in particular the issue that it might be damp.

Given these observations, we considered that it was not necessary for the programme makers to provide The Poplars with the specific (as opposed to the general) details of Ms Zannoni's claim about the condition of Mrs Reid's room at The Poplars, in order to avoid unfairness. For this reason, we concluded that The Poplars was not treated unfairly in this respect.

Taking each sub-head of the complaint into account separately, Ofcom found that The Poplars was given an appropriate and timely opportunity to respond to the claims made about it in the programme.

We also considered the programme as a whole, to reach a view as to whether the programme provided The Poplars with an appropriate and timely opportunity to

respond to the claims about quality of care provided by The Poplars in general. After careful consideration, Ofcom's decision is that, when taken as a whole, The Poplars was given an appropriate and timely opportunity to respond to all the claims and there was no unfairness to The Poplars in this respect.

- c) Ofcom next considered the complaint that The Poplars' written submissions to the BBC in response to significant allegations were not adequately represented in the programme.

When considering this head of complaint, Ofcom had regard to Practice 7.13 which states that where it is appropriate to represent the views of a person or organisation that is not participating in the programme, this must be done in a fair manner.

As stated above, consistent with the principle of editorial freedom, we acknowledge that the broadcaster has the right to decide whether or not to include particular pieces of information or material in a programme provided this does not result in unfairness.

We assessed each element of the programme in relation to which the complaint said that its pre-broadcast response was represented unfairly.

- We first considered the complaint that while the programme showed photographs of damp in Mrs Reid's room, it did not, as set out in The Poplars' pre-broadcast response to the programme makers, mention that Mrs Reid was immediately moved to a different room.

We observed that the programme included the claim that *"damp was on the walls and near the electrics"* and included The Poplars' response to this claim that: *"the damp was only apparent after a downpour the night before"*. We compared this with The Poplars' pre-broadcast response to the programme. We noted that part of the response, which addressed the steps The Poplars had taken to rectify the situation (i.e. that Mrs Reid was moved to another room), was not included in the programme.

There was a disagreement between the BBC and The Poplars regarding whether Mrs Reid had in fact been moved to another room immediately after the damp was discovered. However, the programme did not allege that Mrs Reid was not moved to a different room. Rather it said that damp had been discovered in Mrs Reid's room.

We therefore considered that the presentation of The Poplars' response adequately summarised the main point the home had made in this regard (i.e. its position with regard to the claim that Mrs Reid's room was damp). In particular, viewers would have been aware that the care home acknowledged that there had been damp in the room, but it said that it had only become aware of the damp problem in the room following heavy rain the night before. We considered that it was not necessary for the programme to have added further information regarding whether and if so The Poplars had addressed this issue, to avoid unfairness to The Poplars.

Therefore, we considered that the programme provided viewers with sufficient information regarding the damp issue in Mrs Reid's room and reflected The Poplars' position on this matter fairly.

- We next considered the complaint that the programme included a photograph of a dirty comb that it said belonged to Mrs Reid, but did not reflect the home's position that this was a comb which Mrs Reid had picked up as she had a habit of "*collecting things in her pocket*" because of her Alzheimer's disease.

The programme's reporter stated that "*Kathleen's comb was filthy*"; a photograph of a dirty comb was shown and The Poplars' response (namely, that "*the home doesn't accept the comb was dirty*") was included. We compared this information with The Poplars' response to the programme makers' allegation, set out in the letter dated 16 May 2013, that: "Mrs Reid's bedroom had a...dirty comb...[and] There is photographic evidence...which we intend to broadcast". In response The Poplars said: "we do not accept that Mrs Reid's comb was dirty".

On the information provided to Ofcom, it appears that at no point prior to broadcast did The Poplars indicate to the programme makers that the comb belonged to someone other than Mrs Reid.

Given the observations set out above, we concluded that The Poplars' response to this particular claim was adequately represented in the programme and the care home was not treated unfairly in this respect.

- We next considered the complaint that the programme said that Mrs Reid was being fed solid food in The Poplars (even though she was meant to be on a liquid or blended food diet), but did not mention that Mrs Reid refused to eat the liquid or blended food at times and so the care home had to make adjustments to ensure she was eating some food.

The programme said that:

"[Mrs Reid's GP] told [The Poplars] [Mrs Reid] needed liquidised food. Some food was blended but just days later she was still being given beans on toast"; and

It also said that The Poplars' response to this claim was that:

"Mrs Reid was encouraged to eat by staff. She was provided with sandwiches and finger food throughout the day".

We compared this statement with The Poplars' response to the claim the BBC told The Poplars in advance of broadcast it intended to make, that "Mrs Reid was given unsuitable food even after a number of instructions including from a dietician to provide a blended diet". We observed that part of The Poplars' response to this potential claim (that Mrs Reid "would pick at her food and often refuse meals so we made adjustments to ensure she was eating") was not included in the programme. We also noted the disagreement between the parties regarding whether appropriate adjustments were made to Mrs Reid's diet while she was in the home. In particular, we noted that in its response the BBC said that beans on toast should not properly fall into the category of 'adjustments' referred to in The Poplars' response to the claim about Mrs Reid's diet, and that it did not consider that The Poplars had made appropriate adjustments to Mrs Reid's diet.

The programme claimed that Mrs Reid was placed on a blended diet while at the Poplars but she was still given unsuitable food. In our view, the programme's presentation of The Poplars' response adequately summarised the main point which The Poplars had made in response to this claim (i.e. that Mrs Reid was encouraged to eat by staff and that she was also provided with finger food).

In addition, we considered that the programme provided viewers with sufficient information to reach their own conclusions regarding whether or not The Poplars had provided Mrs Reid with a suitable diet.

Therefore, notwithstanding the omission of The Poplars' claim that Mrs Reid would often refuse meals so adjustments needed to be made, we considered that the way in which the programme represented the complainant's response on this issue did not result in unfairness.

Having assessed each sub-head of the complaint identified by The Poplars as being unfair to it, we concluded that The Poplars' responses to the claims were presented accurately and fairly in the programme as broadcast.

Ofcom also carefully assessed the parts of the programme relating to The Poplars as a whole, to reach a decision as to whether the programme in its entirety was unfair as regards including a fair representation of The Poplars' responses to the claims about the quality of care provided by The Poplars. After careful consideration, and for all the reasons set out above, Ofcom found that, when taken as a whole, the way in which The Poplars' responses were represented in the programme did not result in unfairness to The Poplars in the programme as broadcast.

Ofcom found that The Poplars' complaint of unjust or unfair treatment in the programme as broadcast should not be upheld.

Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 5 and 25 August 2014 and decided that the broadcaster did not breach Ofcom's codes, licence conditions or other regulatory requirements.

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

Programme	Broadcaster	Transmission date	Categories
Sat-7	Sat-7	24/04/2014	Religious programmes
Welcome TV	MATV	05/04/2014	Crime

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

Complaints Assessed, not Investigated

Here are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 5 and 25 August 2014 because they did not raise issues warranting investigation.

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

For more information about how Ofcom assesses conducts investigations about content standards, go to:

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

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Big Brother	5*	23/06/2014	Offensive language	1
Big Brother	5*	06/07/2014	Offensive language	1
Big Brother	5*	30/07/2014	Offensive language	1
Dangerous Dog Owners and Proud	5*	16/08/2014	Generally accepted standards	2
The Walking Dead	5*	09/08/2014	Television Access Services	1
The Walking Dead (trailer)	5*	08/08/2014	Scheduling	1
The Walking Dead (trailer)	5*	13/08/2014	Scheduling	1
Subtitling	5USA	n/a	Television Access Services	1
Christian O'Connell Breakfast Show (trailer)	Absolute 80's	02/08/2014	Generally accepted standards	1
Megaladon: The Monster Shark Lives	Animal Planet	14/08/2014	Materially misleading	1
Charity Appeal - Live	ATN Bangla UK	19/07/2014	Charity appeals	1
Sirsho Songlap	Bangla TV	17/05/2014	Elections/Referendums	1
News	BBC	n/a	Due impartiality/bias	1
Programming	BBC	n/a	Generally accepted standards	1
Subtitling	BBC / ITV	n/a	Television Access Services	1
News	BBC / ITV / Sky News	03/08/2014	Due accuracy	1
BBC News	BBC 1	08/07/2014	Due impartiality/bias	1
BBC News	BBC 1	01/08/2014	Due impartiality/bias	1
BBC News	BBC 1	10/08/2014	Due impartiality/bias	1
BBC News at One	BBC 1	06/08/2014	Due impartiality/bias	1
BBC News at One	BBC 1	13/08/2014	Due impartiality/bias	1
BBC News at Six	BBC 1	08/08/2014	Due impartiality/bias	1
Behind Closed Doors	BBC 1	30/04/2014	Generally accepted standards	1
Breakfast	BBC 1	24/07/2014	Sexual orientation discrimination/offence	4

Commonwealth Games Opening Ceremony	BBC 1	23/07/2014	Generally accepted standards	2
Live at the Apollo	BBC 1	10/08/2014	Race discrimination/offence	1
Mrs. Brown's Boys	BBC 1	16/08/2014	Offensive language	1
My £9.50 Holiday	BBC 1	04/08/2014	Outside of remit / other	1
Neighbourhood Blues	BBC 1	12/08/2014	Offensive language	1
Nick and Margaret: Too Many Immigrants?	BBC 1	16/07/2014	Generally accepted standards	1
The Great British Bake Off	BBC 1	06/08/2014	Generally accepted standards	1
The Hairy Bikers' Bake-ation	BBC 1	12/08/2014	Outside of remit / other	1
The One Show	BBC 1	19/08/2014	Generally accepted standards	2
Walter	BBC 1	08/08/2014	Gender discrimination/offence	1
Commonwealth Games Opening Ceremony	BBC 1	23/07/2014	Generally accepted standards	1
Cimarron	BBC 2	27/07/2014	Violence and dangerous behaviour	1
James May's Cars of the People (trailer)	BBC 2	04/08/2014	Generally accepted standards	1
Newsnight	BBC 2	25/07/2014	Generally accepted standards	1
Newsnight	BBC 2	28/07/2014	Race discrimination/offence	1
The Honourable Woman	BBC 2	24/07/2014	Generally accepted standards	3
The Honourable Woman	BBC 2	24/07/2014	Television Access Services	1
Tropic of Capricorn	BBC 2	10/08/2014	Offensive language	1
World War I Remembered from the Battlefield	BBC 2	04/08/2014	Outside of remit / other	1
Family Guy	BBC 3	09/08/2014	Generally accepted standards	1
Family Guy	BBC 3	11/08/2014	Generally accepted standards	1
Football Fight Club	BBC 3	11/08/2014	Materially misleading	1
Meet the Fockers	BBC 3	03/08/2014	Sexual orientation discrimination/offence	1
Siblings	BBC 3	07/08/2014	Generally accepted standards	1
The Duchess of Malfi: BBC Arts at the Globe	BBC 4	25/05/2014	Television Access Services	1
The Invention of Brazil	BBC 4	05/05/2014	Generally accepted standards	1
Come Fly With Me	BBC Entertainment	23/07/2014	Generally accepted standards	1
Facebook Page	BBC Jersey	n/a	Outside of remit / other	1

BBC News	BBC News	09/08/2014	Outside of remit / other	1
BBC News	BBC News	16/08/2014	Outside of remit / other	1
BBC News	BBC News Channel	19/08/2014	Due accuracy	1
Radio 1 Chart Show	BBC Radio 1	17/08/2014	Drugs, smoking, solvents or alcohol	1
Jeremy Vine	BBC Radio 2	01/08/2014	Generally accepted standards	1
Programming	BBC Radio 2	n/a	Race discrimination/offence	1
Farming Today This Week	BBC Radio 4	02/08/2014	Due impartiality/bias	1
I'm Sorry I Haven't a Clue	BBC Radio 4	04/08/2014	Race discrimination/offence	1
Just A Minute	BBC Radio 4	11/08/2014	Offensive language	1
Sketchorama	BBC Radio 4	14/08/2014	Offensive language	1
Woman's Hour	BBC Radio 4	07/08/2014	Transgender discrimination/offence	2
Fighting Talk	BBC Radio 5 Live	16/08/2014	Gender discrimination/offence	1
Morning Call	BBC Radio Scotland	07/07/2014	Religious/Beliefs discrimination/offence	1
BBC World Service News	BBC World Service	09/08/2014	Due impartiality/bias	1
Mystery & Mayhem Weekends (trailer)	Boomerang	31/07/2014	Offensive language	1
Max	Capital Xtra	02/08/2014	Scheduling	1
Regular Show	Cartoon Network	30/07/2014	Scheduling	1
The Amazing World of Gumball	Cartoon Network	24/07/2014	Nudity	1
Programming	Castle FM	22/07/2014	Offensive language	1
TNA Impact	Challenge	10/08/2014	Gender discrimination/offence	1
5 News Update	Chanel 5	05/08/2014	Due accuracy	1
Advertising	Channel 4	23/07/2014	Advertising content	1
Advertising	Channel 4	16/08/2014	Advertising content	1
Channel 4 News	Channel 4	16/07/2014	Due impartiality/bias	1
Channel 4 News	Channel 4	17/07/2014	Generally accepted standards	1
Channel 4 News	Channel 4	18/07/2014	Generally accepted standards	1
Channel 4 News	Channel 4	21/07/2014	Due impartiality/bias	1
Channel 4 News	Channel 4	22/07/2014	Due accuracy	1
Channel 4 News	Channel 4	24/07/2014	Due impartiality/bias	1
Channel 4 News	Channel 4	25/07/2014	Generally accepted standards	1
Channel 4 News	Channel 4	26/07/2014	Due impartiality/bias	2
Channel 4 News	Channel 4	27/07/2014	Due impartiality/bias	1
Channel 4 News	Channel 4	28/07/2014	Due impartiality/bias	1
Channel 4 News	Channel 4	29/07/2014	Due impartiality/bias	1
Channel 4 News	Channel 4	29/07/2014	Generally accepted standards	1
Channel 4 News	Channel 4	30/07/2014	Due impartiality/bias	1

Channel 4 News	Channel 4	31/07/2014	Due impartiality/bias	1
Channel 4 News	Channel 4	04/08/2014	Due impartiality/bias	3
Channel 4 News	Channel 4	04/08/2014	Generally accepted standards	1
Channel 4 News	Channel 4	07/08/2014	Violence and dangerous behaviour	1
Channel 4 News	Channel 4	11/08/2014	Scheduling	1
Channel 4 News	Channel 4	12/08/2014	Due impartiality/bias	1
Channel 4 News	Channel 4	n/a	Due impartiality/bias	1
Channel 4 News	Channel 4	28/07/2014	Generally accepted standards	1
Channel 4 News	Channel 4	04/08/2014	Due impartiality/bias	1
Channel 4 News website	Channel 4	06/08/2014	Outside of remit / other	1
Deal or No Deal	Channel 4	18/08/2014	Outside of remit / other	1
Dispatches: How to Stop Your Nuisance Calls	Channel 4	11/08/2014	Materially misleading	1
Hollyoaks	Channel 4	12/08/2014	Scheduling	1
Hollyoaks	Channel 4	13/08/2014	Sexual orientation discrimination/offence	1
Masters of Sex (trailer)	Channel 4	05/08/2014	Scheduling	1
Masters of Sex (trailer)	Channel 4	n/a	Scheduling	1
Short Shorts (trailer)	Channel 4	07/08/2014	Generally accepted standards	1
Short Shorts (trailer)	Channel 4	n/a	Scheduling	2
The Inbetweeners Movie	Channel 4	02/08/2014	Nudity	1
The Singer Takes it All	Channel 4	01/08/2014	Voting	2
Masters of Sex (trailer)	Channel 4 / E4	n/a	Scheduling	1
5 News Weekend	Channel 5	03/08/2014	Due impartiality/bias	1
70 Stone: The Man Who Couldn't Be Saved (trailer)	Channel 5	07/08/2014	Generally accepted standards	1
70 Stone: The Man Who Couldn't Be Saved (trailer)	Channel 5	11/08/2014	Generally accepted standards	1
Advertising	Channel 5	16/08/2014	Advertising content	1
Advertising	Channel 5	21/08/2014	Advertising content	1
Any Which Way You Can	Channel 5	09/08/2014	Generally accepted standards	1
Benefits Britain: Life on the Dole	Channel 5	14/07/2014	Race discrimination/offence	4
Benefits Britain: Life on the Dole	Channel 5	Various	Generally accepted standards	1
Big Brother	Channel 5	02/06/2014	Generally accepted standards	1
Big Brother	Channel 5	05/06/2014	Outside of remit / other	1
Big Brother	Channel 5	05/06/2014	Race discrimination/offence	2

Big Brother	Channel 5	05/06/2014	Sexual orientation discrimination/offence	8
Big Brother	Channel 5	05/06/2014	Voting	2
Big Brother	Channel 5	06/06/2014	Gender discrimination/offence	1
Big Brother	Channel 5	07/06/2014	Generally accepted standards	1
Big Brother	Channel 5	08/06/2014	Offensive language	5
Big Brother	Channel 5	09/06/2014	Generally accepted standards	3
Big Brother	Channel 5	09/06/2014	Offensive language	3
Big Brother	Channel 5	09/06/2014	Race discrimination/offence	1
Big Brother	Channel 5	09/06/2014	Religious/Beliefs discrimination/offence	27
Big Brother	Channel 5	10/06/2014	Religious/Beliefs discrimination/offence	208
Big Brother	Channel 5	13/06/2014	Generally accepted standards	366
Big Brother	Channel 5	14/06/2014	Outside of remit / other	1
Big Brother	Channel 5	16/06/2014	Gender discrimination/offence	10
Big Brother	Channel 5	16/06/2014	Generally accepted standards	1573
Big Brother	Channel 5	16/06/2014	Offensive language	1
Big Brother	Channel 5	17/06/2014	Generally accepted standards	2
Big Brother	Channel 5	18/06/2014	Generally accepted standards	2
Big Brother	Channel 5	19/06/2014	Generally accepted standards	16
Big Brother	Channel 5	19/06/2014	Offensive language	1
Big Brother	Channel 5	20/06/2014	Voting	1
Big Brother	Channel 5	21/06/2014	Generally accepted standards	130
Big Brother	Channel 5	22/06/2014	Gender discrimination/offence	8
Big Brother	Channel 5	22/06/2014	Generally accepted standards	10
Big Brother	Channel 5	22/06/2014	Religious/Beliefs discrimination/offence	5
Big Brother	Channel 5	23/06/2014	Gender discrimination/offence	4
Big Brother	Channel 5	23/06/2014	Generally accepted standards	4
Big Brother	Channel 5	23/06/2014	Offensive language	3
Big Brother	Channel 5	24/06/2014	Generally accepted standards	3
Big Brother	Channel 5	25/06/2014	Generally accepted standards	382
Big Brother	Channel 5	25/06/2014	Scheduling	1
Big Brother	Channel 5	26/06/2014	Scheduling	1
Big Brother	Channel 5	26/06/2014	Voting	1
Big Brother	Channel 5	27/06/2014	Gender discrimination/offence	1

Big Brother	Channel 5	27/06/2014	Generally accepted standards	1
Big Brother	Channel 5	29/06/2014	Religious/Beliefs discrimination/offence	60
Big Brother	Channel 5	30/06/2014	Generally accepted standards	4
Big Brother	Channel 5	30/06/2014	Race discrimination/offence	1
Big Brother	Channel 5	30/06/2014	Religious/Beliefs discrimination/offence	4
Big Brother	Channel 5	01/07/2014	Generally accepted standards	2
Big Brother	Channel 5	02/07/2014	Generally accepted standards	4
Big Brother	Channel 5	02/07/2014	Offensive language	3
Big Brother	Channel 5	03/07/2014	Generally accepted standards	3
Big Brother	Channel 5	03/07/2014	Offensive language	1
Big Brother	Channel 5	05/07/2014	Generally accepted standards	3
Big Brother	Channel 5	06/07/2014	Generally accepted standards	8
Big Brother	Channel 5	06/07/2014	Offensive language	2
Big Brother	Channel 5	07/07/2014	Outside of remit / other	54
Big Brother	Channel 5	07/07/2014	Sexual material	6
Big Brother	Channel 5	08/07/2014	Generally accepted standards	176
Big Brother	Channel 5	08/07/2014	Scheduling	1
Big Brother	Channel 5	09/07/2014	Generally accepted standards	2
Big Brother	Channel 5	09/07/2014	Sexual material	3
Big Brother	Channel 5	13/07/2014	Scheduling	5
Big Brother	Channel 5	14/07/2014	Generally accepted standards	1
Big Brother	Channel 5	14/07/2014	Voting	1
Big Brother	Channel 5	15/07/2014	Generally accepted standards	7
Big Brother	Channel 5	16/07/2014	Sexual material	5
Big Brother	Channel 5	16/07/2014	Sexual orientation discrimination/offence	1
Big Brother	Channel 5	17/07/2014	Generally accepted standards	16
Big Brother	Channel 5	20/07/2014	Religious/Beliefs discrimination/offence	1
Big Brother	Channel 5	22/07/2014	Generally accepted standards	4
Big Brother	Channel 5	22/07/2014	Materially misleading	33
Big Brother	Channel 5	23/07/2014	Generally accepted standards	6
Big Brother	Channel 5	24/07/2014	Generally accepted standards	2
Big Brother	Channel 5	26/07/2014	Outside of remit / other	1
Big Brother	Channel 5	27/07/2014	Generally accepted standards	1
Big Brother	Channel 5	27/07/2014	Offensive language	1

Big Brother	Channel 5	27/07/2014	Scheduling	1
Big Brother	Channel 5	28/07/2014	Generally accepted standards	2
Big Brother	Channel 5	28/07/2014	Offensive language	1
Big Brother	Channel 5	29/07/2014	Generally accepted standards	2
Big Brother	Channel 5	29/07/2014	Offensive language	1
Big Brother	Channel 5	02/08/2014	Generally accepted standards - other	1
Big Brother	Channel 5	03/08/2014	Animal welfare	1
Big Brother	Channel 5	03/08/2014	Generally accepted standards	2
Big Brother	Channel 5	04/08/2014	Sexual orientation discrimination/offence	1
Big Brother	Channel 5	06/08/2014	Generally accepted standards	16
Big Brother	Channel 5	07/08/2014	Generally accepted standards	11
Big Brother	Channel 5	07/08/2014	Scheduling	1
Big Brother	Channel 5	09/08/2014	Generally accepted standards	1
Big Brother	Channel 5	11/08/2014	Generally accepted standards	11
Big Brother	Channel 5	12/08/2014	Generally accepted standards	2
Big Brother	Channel 5	n/a	Generally accepted standards	2
Big Brother	Channel 5	n/a	Outside of remit / other	9
Big Brother (trailer)	Channel 5	06/08/2014	Scheduling	1
Big Brother: Live Eviction	Channel 5	27/06/2014	Voting	1
Big Brother: Live Eviction	Channel 5	04/07/2014	Generally accepted standards	1
Big Brother: Live Eviction	Channel 5	04/07/2014	Voting	3
Big Brother: Live Eviction	Channel 5	11/07/2014	Generally accepted standards	16
Big Brother: Live Eviction	Channel 5	11/07/2014	Sexual material	14
Big Brother: Live Eviction	Channel 5	12/07/2014	Scheduling	1
Big Brother: Live Eviction	Channel 5	18/07/2014	Generally accepted standards	4
Big Brother: Live Eviction	Channel 5	18/07/2014	Materially misleading	8
Big Brother: Live Eviction	Channel 5	25/07/2014	Generally accepted standards	1
Big Brother: Live Eviction	Channel 5	08/08/2014	Generally accepted standards	2
Big Brother: Live Eviction	Channel 5	08/08/2014	Voting	1
Big Brother: The Live Final	Channel 5	15/08/2014	Voting	469
Big Brother's Bit on the Psych	Channel 5	28/06/2014	Generally accepted standards	2
Big Brother's Bit on the Side	Channel 5	10/06/2014	Disability discrimination/offence	3

Big Brother's Bit on the Side	Channel 5	12/06/2014	Offensive language	11
Big Brother's Bit on the Side	Channel 5	23/06/2014	Disability discrimination/offence	1
Big Brother's Bit on the Side	Channel 5	23/06/2014	Race discrimination/offence	1
Big Brother's Bit on the Side	Channel 5	27/06/2014	Race discrimination/offence	1
Big Brother's Bit on the Side	Channel 5	01/08/2014	Generally accepted standards	1
Big Brother's Bit on the Side	Channel 5	06/08/2014	Violence and dangerous behaviour	1
Big Brother's Bit on the Side	Channel 5	12/08/2014	Generally accepted standards	1
Big Momma's House	Channel 5	20/07/2014	Offensive language	5
Big Momma's House	Channel 5	27/07/2014	Offensive language	6
Cricket on 5	Channel 5	16/08/2014	Religious/Beliefs discrimination/offence	1
CSI: Crime Scene Investigation (trailer)	Channel 5	06/08/2014	Scheduling	1
Dangerous Dog Owners and Proud	Channel 5	04/08/2014	Generally accepted standards	103
Dangerous Dog Owners and Proud	Channel 5	13/08/2014	Generally accepted standards	18
Drama on 5 (trailer)	Channel 5	20/07/2014	Scheduling	1
Grand Theft Auto: UK	Channel 5	13/08/2014	Crime	8
Police Interceptors	Channel 5	10/08/2014	Offensive language	2
Programme trailers	Channel 5	27/07/2014	Scheduling	1
Programme trailers	Channel 5	07/08/2014	Scheduling	1
The Walking Dead (trailer)	Channel 5	29/07/2014	Scheduling	1
The Walking Dead (trailer)	Channel 5	30/07/2014	Scheduling	2
The Walking Dead (trailer)	Channel 5	31/07/2014	Scheduling	1
The Walking Dead (trailer)	Channel 5	Various	Scheduling	1
The Wright Stuff	Channel 5	22/07/2014	Race discrimination/offence	1
UFC Fight Night London: Live	Channel 5	08/03/2014	Generally accepted standards	1
Azan E Asr	CHSTV	17/07/2014	Sponsorship	1
Channel ident	Comedy Central	10/08/2014	Offensive language	1
Programme trailers	Comedy Central	n/a	Scheduling	1
South Park (trailer)	Comedy Central	08/08/2014	Scheduling	1
South Park (trailer)	Comedy Central	09/08/2014	Scheduling	2
South Park (trailer)	Comedy Central	14/08/2014	Scheduling	1
South Park (trailer)	Comedy Central	n/a	Scheduling	2
Programming	CRUZR	n/a	Premium rate services	1
Dynamo (trailer)	Dave	15/08/2014	Outside of remit / other	2
Dynamo (trailer)	Dave	19/08/2014	Outside of remit / other	1
Megaladon: The Monster Shark Lives	Discovery Channel	10/08/2014	Materially misleading	1

Klondike / Sky on demand films	Discovery Channel / Sky	n/a	Television Access Services	1
Noel Fielding's Luxury Comedy (trailer)	E4	02/08/2014	Nudity	1
Short Shorts (trailer)	E4	08/08/2014	Scheduling	2
The Inbetweeners Go Global	E4	03/08/2014	Under 18s in programmes	1
Friends With Benefits (trailer)	Film 4	03/08/2014	Scheduling	1
50 Ways to Kill Your Mammy (trailer)	Heart	15/08/2014	Generally accepted standards	1
Heart Breakfast	Heart	24/07/2014	Generally accepted standards	1
Programming	Heat Radio	06/08/2014	Offensive language	1
Advertising	ITV	12/08/2014	Outside of remit / other	1
Benidorm	ITV	07/08/2014	Generally accepted standards	1
Coronation Street	ITV	23/07/2014	Materially misleading	8
Coronation Street	ITV	01/08/2014	Disability discrimination/offence	1
Coronation Street	ITV	04/08/2014	Disability discrimination/offence	6
Coronation Street	ITV	08/08/2014	Disability discrimination/offence	1
Coronation Street	ITV	18/08/2014	Drugs, smoking, solvents or alcohol	1
Emmerdale	ITV	14/08/2014	Generally accepted standards	1
Emmerdale	ITV	14/08/2014	Scheduling	1
Emmerdale	ITV	15/08/2014	Generally accepted standards	2
Exposure	ITV	15/07/2014	Due impartiality/bias	7
Good Morning Britain	ITV	23/07/2014	Harm	1
Good Morning Britain	ITV	29/07/2014	Sexual material	1
ITV Drama (trailer)	ITV	10/08/2014	Scheduling	1
ITV News	ITV	04/08/2014	Due accuracy	1
ITV News	ITV	07/08/2014	Due accuracy	1
ITV News	ITV	18/08/2014	Generally accepted standards	1
ITV News	ITV	11/08/2014	Generally accepted standards	1
ITV News	ITV	12/08/2014	Due accuracy	1
Judge Rinder	ITV	18/08/2014	Race discrimination/offence	1
Judge Rinder	ITV	n/a	Materially misleading	1
Let's Do Lunch... With Gino and Mel	ITV	28/07/2014	Scheduling	1
Midsomer Murders	ITV	03/08/2014	Violence and dangerous behaviour	1
Midsomer Murders	ITV	10/08/2014	Scheduling	1
On Assignment	ITV	30/07/2014	Due accuracy	11

Secret Dealers	ITV	29/07/2014	Generally accepted standards	2
Subtitling	ITV	n/a	Television Access Services	1
Testing Britain's Worst Drivers: Crash Course	ITV	20/07/2014	Violence and dangerous behaviour	1
The Chase	ITV	01/08/2014	Outside of remit / other	1
The Jeremy Kyle Show	ITV	08/07/2014	Disability discrimination/offence	1
The Jeremy Kyle Show	ITV	23/07/2014	Sexual orientation discrimination/offence	1
The Jeremy Kyle Show	ITV	23/07/2014	Generally accepted standards	1
The Jeremy Kyle Show	ITV	28/07/2014	Sexual orientation discrimination/offence	1
The Jeremy Kyle Show	ITV	19/08/2014	Gender discrimination/offence	1
The Speakmans	ITV	08/08/2014	Materially misleading	1
The X Factor (trailer)	ITV	01/08/2014	Generally accepted standards	1
The X Factor (trailer)	ITV	04/08/2014	Generally accepted standards	2
This Morning	ITV	22/07/2014	Scheduling	1
This Morning	ITV	06/08/2014	Disability discrimination/offence	1
This Morning	ITV	08/08/2014	Harm	1
This Morning	ITV	19/08/2014	Scheduling	1
Tipping Point	ITV	09/08/2014	Materially misleading	1
Tonight: Do You Let Your Kids Play Out?	ITV	07/08/2014	Materially misleading	1
118118.com's sponsorship of movies on ITV	ITV2	04/08/2014	Sexual orientation discrimination/offence	1
Advertising	ITV2	16/08/2014	Advertising content	1
Dinner Date	ITV2	12/08/2014	Outside of remit / other	1
Emmerdale	ITV2	15/08/2014		1
The X Factor (trailer)	ITV2	12/08/2014	Generally accepted standards	1
You've Been Framed!	ITV2	13/08/2014	Offensive language	1
You've Been Framed!	ITV2	19/08/2014	Disability discrimination/offence	1
The Sweeney	ITV4	30/07/2014	Offensive language	1
The Sweeney	ITV4	31/07/2014	Offensive language	1
Station ident	Jack FM (Oxfordshire)	14/08/2014	Generally accepted standards	1
Station ident	Jack FM (Oxfordshire)	15/08/2014	Generally accepted standards	1
Station ident	Jack FM (South Coast)	14/08/2014	Generally accepted standards	1
Iain Dale	LBC 97.3 FM	31/07/2014	Commercial communications on radio	1
James O'Brien	LBC 97.3 FM	13/08/2014	Due impartiality/bias	1

News	LBC 97.3 FM	28/07/2014	Due impartiality/bias	1
News	LBC 97.3 FM	29/07/2014	Due impartiality/bias	2
News	LBC 97.3 FM	19/08/2014	Due impartiality/bias	1
Steve Allen	LBC 97.3 FM	n/a	Generally accepted standards	1
Man Eater of the Congo	More4	06/08/2014	Animal welfare	1
Masters of Sex (trailer)	More4	12/08/2014	Scheduling	2
The Golden Rules of Porn / Date My Porn Star	More4	15/08/2014	Generally accepted standards	1
Geordie Shore	MTV	Various	Undue prominence	1
Chart Show	Music Channel	11/08/2014	Under 18s in programmes	1
Mysteries of the Unseen World	n/a	n/a	Outside of remit / other	1
Subtitling	n/a	n/a	Television Access Services	1
Freaks and Creeps	Nat Geo Wild	19/07/2014	Generally accepted standards	1
Advertising	Nick Jr 2	05/08/2014	Scheduling	1
Programming	Notts TV	n/a	Television Access Services	1
Richie Rich	Omega Radio	15/06/2014	Race discrimination/offence	1
Breakfast Show	Pirate FM 102.2	06/08/2014	Generally accepted standards	1
Backyard Science	Pop	03/08/2014	Violence and dangerous behaviour	1
Programming	Ramadan FM (87.7 FM - Bradford)	13/07/2014	Race discrimination/offence	1
Sisters	Ramadhan Radio (87.7 FM - Leicester)	08/07/2014	Crime	1
News	RT	n/a	Due impartiality/bias	1
News	RT	Various	Due impartiality/bias	13
Greggs: More than Meats the Pie	Sky 2	10/08/2014	Generally accepted standards	1
Monty Python: Almost the Truth	Sky Arts 1	03/08/2014	Offensive language	1
Ray Donovan	Sky Atlantic	29/07/2014	Race discrimination/offence	1
CSI: Crime Scene Investigation	Sky Living	05/08/2014	Scheduling	1
Entertainment Week	Sky News	02/08/2014	Scheduling	1
Press Preview	Sky News	19/08/2014	Generally accepted standards	1
Sky News	Sky News	19/07/2014	Due impartiality/bias	1
Sky News	Sky News	22/07/2014	Due impartiality/bias	1
Sky News	Sky News	23/07/2014	Due impartiality/bias	1
Sky News	Sky News	27/07/2014	Due impartiality/bias	2
Sky News	Sky News	28/07/2014	Due impartiality/bias	2

Sky News	Sky News	29/07/2014	Due impartiality/bias	1
Sky News	Sky News	01/08/2014	Due impartiality/bias	1
Sky News	Sky News	02/08/2014	Due impartiality/bias	1
Sky News	Sky News	04/08/2014	Due impartiality/bias	1
Sky News	Sky News	08/08/2014	Due impartiality/bias	2
Sky News	Sky News	09/08/2014	Due impartiality/bias	2
Sky News	Sky News	10/08/2014	Due accuracy	2
Sky News	Sky News	10/08/2014	Due impartiality/bias	2
Sky News	Sky News	10/08/2014	Generally accepted standards	1
Sky News	Sky News	11/08/2014	Due accuracy	5
Sky News	Sky News	12/08/2014	Generally accepted standards	3
Sky News	Sky News	19/08/2014	Race discrimination/offence	1
Sky News	Sky News	n/a	Due impartiality/bias	1
Sky News website	Sky News	19/08/2014	Outside of remit / other	1
Sunrise	Sky News	26/07/2014	Religious/Beliefs discrimination/offence	1
Sunrise	Sky News	31/07/2014	Due impartiality/bias	1
Sunrise	Sky News	05/08/2014	Due impartiality/bias	1
50 Ways to Kill Your Mammy (trailer)	Sky Sports 2	17/08/2014	Generally accepted standards	1
Live Formula One	Sky Sports F1	26/07/2014	Race discrimination/offence	1
50 Ways to Kill Your Mammy	Sky1	26/08/2014	Generally accepted standards	1
50 Ways to Kill Your Mammy (trailer)	Sky1	n/a	Generally accepted standards	2
A League of Their Own	Sky1	09/08/2014	Sexual orientation discrimination/offence	1
Got to Dance	Sky1	09/08/2014	Generally accepted standards	1
Got to Dance	Sky1	17/08/2014	Generally accepted standards	1
The Simpsons	Sky1	07/08/2014	Scheduling	1
The Simpsons	Sky1	17/08/2014	Scheduling	1
Advertising	Sky2	16/08/2014	Advertising content	1
Advertising	Smooth Radio	11/08/2014	Outside of remit / other	1
The Debate	STV	05/08/2014	Due impartiality/bias	2
The Debate	STV	05/08/2014	Outside of remit / other	10
Sports Bar	Talksport	14/08/2014	Generally accepted standards	1
Programming	The Jewellery Channel	05/08/2014	Advertising content	1
Programming	The Jewellery Channel	07/08/2014	Advertising content	1
Programming	The Jewellery Channel	10/08/2014	Advertising content	1
Honey Boo Boo (trailer)	TLC	01/08/2014	Scheduling	1
Dynamo (trailer)	UKTV Channels	17/08/2014	Outside of remit / other	1

Access services	Various	n/a	Television Access Services	1
Advertising	Various	n/a	Outside of remit / other	1
Subtitling of continuity announcements	Various	n/a	Television Access Services	1
Dynamo (trailer)	Watch	15/08/2014	Outside of remit / other	1
Dynamo (trailer)	Watch	18/08/2014	Outside of remit / other	4
Programming	William Hill Radio	13/08/2014	Outside of remit / other	1
Inquisition	Yesterday	17/07/2014	Scheduling	1
Nazi Collaborators	Yesterday	02/08/2014	Scheduling	1

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

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

Licensee	Categories
Awaaz Radio Limited	Format
Gravity FM CIC	Key Commitments
Radio Scilly Limited	Key Commitments
Radio Scilly Limited	Other
Radio Sherborne Community Interest Company	Provision of licensed service

Investigations List

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

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

Here are alphabetical lists of new investigations launched between 7 and 27 August 2014.

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

Programme	Broadcaster	Transmission date
Advertisement for Friends of Al Aqsa	EAVA FM	Various
BBC News	BBC News Channel	17 July 2014
Big Brother	Channel 5	7 August 2014
Communal Affairs	ATN Bangla	9 June 2014
Drivetime	BRFM 95.6	21 July 2014
Jago Pakistan Jago	HUM Europe	26 June 2014
News	RT	17 July 2014
The Hotel Inspector Returns	Channel 5	5 July 2014
The Truthseeker	RT	23 March 2014
The Truthseeker: Genocide in Eastern Ukraine	RT (Europe)	14 July 2014
The Wright Stuff	Channel 5	19 August 2014
Ukraine's Refugees	RT	18 July 2014

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

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

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

Programme	Broadcaster	Transmission date
Champneys	ITV	10 July 2014
The Truthseeker	RT	23 March 2014

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

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

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

Licensee	Licensed Service
DM News Plus	DM News Plus

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

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