

# **Ofcom Broadcast Bulletin**

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## Introduction

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

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

- a) [Ofcom’s Broadcasting Code](#) (“the Code”).
- b) the [Code on the Scheduling of Television Advertising](#) (“COSTA”) which contains rules on how much advertising and teleshopping may be scheduled in programmes, how many breaks are allowed and when they may be taken.
- c) certain sections of the [BCAP Code: the UK Code of Broadcast Advertising](#), which relate to those areas of the BCAP Code for which Ofcom retains regulatory responsibility. These include:
  - the prohibition on ‘political’ advertising;
  - sponsorship and product placement on television (see Rules 9.13, 9.16 and 9.17 of the Code) and all commercial communications in radio programming (see Rules 10.6 to 10.8 of the Code);
  - ‘participation TV’ advertising. This includes long-form advertising predicated on premium rate telephone services – most notably chat (including ‘adult’ chat), ‘psychic’ readings and dedicated quiz TV (Call TV quiz services). Ofcom is also responsible for regulating gambling, dating and ‘message board’ material where these are broadcast as advertising<sup>3</sup>.
- 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

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<sup>1</sup> The relevant legislation is set out in detail in Annex 1 of the Code.

<sup>2</sup> The relevant legislation can be found at Part 4A of the Act.

<sup>3</sup> 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.**

## Notice of Sanction

### HardGlam

*For the provision of the On Demand Programme Service ('ODPS') provided through the website [www.hardglam.com](http://www.hardglam.com) (HardGlam) from 24 February to 18 November 2014*

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#### Introduction

HardGlam, was an on demand programme service, which provided access to 14 separate websites, and was provided by Mr James Farey. At the time of the breaches set out below it was an On Demand Programme Service ('ODPS') which should have been notified to the Authority of Television On Demand ('ATVOD') and complied with ATVOD's Rules and Guidance<sup>1</sup>.

#### Summary of Decision

Between 24 February and 18 November 2014 users of HardGlam were able to access sexually explicit R18 equivalent material, without a system in place that would effectively restrict those under 18 from accessing it. ATVOD, which is responsible for regulating the editorial content of certain ODPS like HardGlam concurrently with Ofcom, originally found the website in breach of its Rules 1, 4 and 11, which state that:

- Rule 1: "A person must not provide an on-demand programme service unless, before beginning to provide it, that person has given notification to the appropriate regulatory authority of the person's intention to provide that service. A notification must be sent to the appropriate regulatory authority in such manner as the authority may require and must contain all such information as the authority may require".
- Rule 4: "The provider of an On-Demand Programme Service must pay to the appropriate regulatory authority such fee as that authority may require under section 368NA of the Act".
- Rule 11: "If an on demand programme service contains material which might seriously impair the physical, mental or moral development of persons under the age of eighteen, the material must be made available in a manner which secures that such persons will not normally see or hear it".

ATVOD's Guidance on Rule 11 explains the type of restrictions that a provider should put in place around R18 equivalent content to ensure that minors cannot usually access it. As HardGlam was not in compliance with Rule 11 during the period in question, ATVOD referred HardGlam to Ofcom for consideration of a sanction on 14 May 2014<sup>2</sup>. Ofcom also considered breaches of ATVOD's Rules 1 and 4, which

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<sup>1</sup>

[http://www.atvod.co.uk/uploads/files/ATVOD\\_Rules\\_and\\_Guidance\\_Ed\\_2.1\\_February\\_2014.pdf](http://www.atvod.co.uk/uploads/files/ATVOD_Rules_and_Guidance_Ed_2.1_February_2014.pdf)

<sup>2</sup> Ofcom considers such referrals under its *Procedures for consideration of statutory sanctions arising in the context of On Demand Programme Services*, which can be found in full at <http://stakeholders.ofcom.org.uk/binaries/broadcast/tv-ops/vod/sanctions-procedures.pdf>.

relate to notifying ATVOD that a Service is providing relevant content and paying a fee.

Ofcom decided that the breaches of ATVOD's Rules were sufficiently serious, repeated and reckless that a financial penalty should be imposed in accordance with Ofcom's Procedure for the consideration of statutory sanctions arising in the context of On Demand Programme Services.

In accordance with Ofcom's Penalty Guidelines<sup>3</sup>, Ofcom decided it was appropriate and proportionate in the circumstances to impose a financial penalty of **£1,500** on Mr Farey in respect of the breaches of ATVOD's Rules (payable to HM Paymaster General).

The full adjudication is available at:

[http://stakeholders.ofcom.org.uk/binaries/enforcement/content-sanctions-adjudications/HardGlam\\_sanction.pdf](http://stakeholders.ofcom.org.uk/binaries/enforcement/content-sanctions-adjudications/HardGlam_sanction.pdf).

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<sup>3</sup> <http://www.ofcom.org.uk/about/policies-and-guidelines/penalty-guidelines/>

## Standards cases

### In Breach

#### James O'Brien

LBC 97.3 FM, 9 October 2014, 10:00

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#### Introduction

LBC 97.3 FM is a local speech-based commercial radio service which broadcasts across Greater London. The licence for LBC 97.3 FM is held by LBC Radio Limited ("LBC" or "the Licensee").

James O'Brien presents a daily speech-based radio show in which he discusses topical issues in the news. Ofcom was alerted to this programme by four complainants, who all objected to James O'Brien discussing a Westminster Parliamentary by-election<sup>1</sup> whilst the polls were open<sup>2</sup>.

On assessing this content, we noted that at one point in the programme, James O'Brien said the following:

*"We, of course, are living in a country where an anti-immigration party<sup>3</sup> is poised to win a seat in a constituency where there aren't any immigrants. So we can't really start sneering at other civilisations, and other cultures for being defined by division and enmity, when we appear to be rushing headlong into a similar environment ourselves. Just as a point of interest, I was looking at the census, yah – I am living the dream! – 2011 census with regard to Clacton, looking at how many immigrants are there. And do you know how many immigrants – there aren't any in that constituency to speak of, 95.7%, I think, British-born and 95.7% white. It's perfect, perfect territory in a sense – But the tiny number of immigrants who do live there, rather excitingly, the majority of them come from Germany. Who else comes from Germany, I wonder?...We've just had a little bit of election analysis for you".*

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'<sup>4</sup>. Section Six of the Code under the heading 'Meaning of "election"' makes clear that for the purpose of this section: "elections include...[a] parliamentary by-election...".

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<sup>1</sup> The by-election was for the Clacton seat.

<sup>2</sup> On 9 October 2014, polling stations were open for the Clacton by-election between 07:00 and 22:00.

<sup>3</sup> This was a reference to the UK Independence Party ("UKIP").

<sup>4</sup> In the case of the Clacton Westminster Parliamentary by-election, the 'election period' ran from the issuing of the writ for that election on 8 September 2014 to the close of polling (i.e. 22:00) on 9 October 2014.



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

“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.

## **Response**

LBC said that it has “detailed plans” in place for the coverage of elections including that: “no mention of an election should take place from midnight on the morning of the poll”. However, the Licensee said that during this programme: “James O’Brien did make a passing reference to UKIP”. It added that the presenter had been discussing, the extremist organisation, ISIS<sup>5</sup> and: “it was in the midst of this discussion that he made the reference to UKIP and its anticipated victory in Clacton”. LBC further added that: “It was an incidental reference, made briefly and intended merely as an observation before James [O’Brien] returned to the main talking point...which concerned what to do about ISIS”. Although the Licensee also said that James O’Brien did not “actually name the party [i.e. UKIP] or its leader” it acknowledged that: “it would have been clear to listeners to which party he was referring”.

LBC stated its belief that James O’Brien’s comments did not amount to: “a direct political message to his listeners, in that there was never an intention to try and sway a vote nor influence the outcome of the by-election”. It added that the presenter: “did not dwell on his observation about UKIP, nor invite calls on it, and he quickly returned to his topic of ISIS. The Licensee also said that the listeners to the programme “would not have been surprised by” James O’Brien’s views and: “would have understood his remarks in the broader context of his well-established antipathy to UKIP – normally balanced in the station by guests, callers and other shows throughout the day”. However, LBC accepted that what James O’Brien did say was: “a regrettable and inexcusable error”.

In conclusion, the Licensee said it had reminded the presenter and all LBC producers of their obligations under Section Six of the Code and that James O’Brien had apologised for his “mistake” in this case.

## **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).

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<sup>5</sup> Islamic State of Iraq and Syria, also known as: Islamic State (“IS”).

Ofcom's Guidance to Section Six (Elections and Referendums) of the Code ("the Guidance")<sup>6</sup> 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 and analysis 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. The purpose of Rule 6.4 is to ensure that broadcast coverage on the day of an election does not directly affect voters' decisions.

We noted that, during this programme, James O'Brien made reference to a party contesting a Parliamentary by-election, while polling stations for that by-election were open. Although he did not name UKIP explicitly, Ofcom considered that James O'Brien's references to a "*party*" which was "*poised to win a seat*" in the by-election then taking place in Clacton, would have been clearly understood by listeners as a reference to UKIP. We also considered the presenter's references to "*anti-immigration*" policies which he believed had the potential to lead to "*division and enmity*", constituted a clear viewpoint on a policy issue that had featured prominently in the run-up to that by-election.

We noted the Licensee's view that the presenter's remarks were: an incidental reference as part of a larger discussion about ISIS; "not intended to try and sway a vote nor influence the outcome of the by-election"; and in line with what regular listeners to this programme would have expected from this presenter. However, we considered that James O'Brien's comments clearly constituted discussion and analysis of the Clacton by-election, and Rule 6.4 therefore applied.

In reaching its Decision, Ofcom took into account: the presenter's apology; LBC's acknowledgement that this had been: "a regrettable and inexcusable error"; and the Licensee had taken steps to improve compliance in this area. However, given all the above, we considered this was a clear breach of Rule 6.4.

### **Breach of Rule 6.4**

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<sup>6</sup> See <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section6.pdf>

## In Breach

### Rohani Alam

Venus TV, 23 April 2014, 15:00

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#### Introduction

Venus TV is a general entertainment television channel for the Asian community, broadcasting in English, Urdu, Hindi, Punjabi, Gujarati and Bengali. The licence for this service is held by Venus TV Limited ("Venus TV" or "the Licensee"). *Rohani Alam* is a phone-in programme containing lifestyle advice based on the practice of spiritual healing.

A complaint alerted Ofcom to the broadcast in this programme of potentially harmful life changing advice on a range of personal and medical matters including fertility problems, disabilities and epilepsy.

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

During this 50 minute programme, the presenter and two guests gave advice to members of the public who had phoned in, on the potential health, financial and lifestyle benefits of reciting and chanting certain verses from the Qu'ran, also known as Allah's Pure Verses. Ofcom noted a continuous on-screen ticker, in English, was displayed throughout the programme stating: *"If you are having any health problem please consult your GP first"*.

The programme began with the presenter, introducing his first guest, Sufi Syed Barkat Ali Shah:

*"Mr Shah is a spiritual scholar, astrologist, numerologist, and palmist. He is an expert in the knowledge of planets and stars too. He also runs an Islamic Madrasah<sup>1</sup> and he is a hymn singer as well as the Imam<sup>2</sup> of a mosque. He practises all kinds of spiritual cures through Prophet Muhammad's medical system by using Allah's pure verses. If you have any kind of illness which your doctor or GP cannot cure, Allah's pure verses are effective. Allah's pure verses cure every illness. If you have an illness or domestic issue or worry, Mr Sufi's toll free helpline<sup>3</sup> is available 24 hours".*

The presenter went on to explain the advice that could be offered to viewers:

*"...if you have any questions or you want to ask about yourself, or ism-a-azam<sup>4</sup>, your lucky stars, your lucky numbers, what sudqaat [donations and/or sacrifices]*

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<sup>1</sup> A Madrasah is a religious educational institution for the study of the Islamic religion.

<sup>2</sup> An Imam is a worship leader of a mosque.

<sup>3</sup> Ofcom checked this helpline and confirmed that it was indeed free for callers to use.

<sup>4</sup> A divine name, from the Qu'ran and Hadith, for a chant based on an individual's personal circumstances.

*you should give, if you want to know how the year 2014 is going to be for you, if you have a disobedient child, you cannot have children, or you have had still-births, you plan to travel abroad, if you have domestic disharmony, barriers in your business, or if you are married and want a male child. We offer spiritual cure[s] to those whom doctors cannot cure and who believe in spiritual cure, Allah willing 99 percent Mr Shah has knowledge and chants which enable you to have male children by the grace of Allah”.*

The second guest, Aisha Bukhari, a spiritual healer was introduced as follows:

*“We have a lady who needs no introduction. She has been appearing in numerous TV programmes. She is a great expert spiritual leader who has memorised the Qu’ran. She has also performed the Hajj pilgrimage<sup>5</sup>. She is Ms Aisha Bukhari from Sacred Multan<sup>6</sup>, the city of Pirs [holy men]. She belongs to the Syed family. It is a prestigious and noble family whose lineage goes back in time”.*

He added:

*“All three of us are world famous spiritual scholars and palmists. We have done all kinds of things at [an] international level and visited many foreign countries, America, Canada, Saudi Arabia, Dubai, Bangladesh and India too. We have toured around the entire world and presented our programmes on countless TV channels benefitting people with our knowledge. If your child suffers from epilepsy, fainting or falling unconscious, or your child gets frightened in his/her sleep, Ms Aisha Bukhari prescribes chants; she prescribed a chant yesterday. She has very special knowledge of chants”.*

The first caller wanted to know “how this year was going to be” and the presenter introduced the caller to Aisha Bukhari: “We have Aisha Bukhari with us...She too comes from the venerated city of Multan. She is a great hafiza<sup>7</sup>, aamila<sup>8</sup> and fazila<sup>9</sup>”. The presenter went on to give the caller an Arabic chant to recite at specific times.

The second caller to the programme was greeted by the presenter. After introductions the following conversation took place:

Presenter: *“Right sister Saadia. Tell us what your problem is?”*

Saadia: *“I have been married for five years but Allah has not blessed me with children...”.*

Presenter: *“I will put you through to Aisha Buhkari. If she tells you to recite a chant or a word please do chant it and, alongside, for the problem of*

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<sup>5</sup> The Hajj Pilgrimage (an Islamic pilgrimage to Mecca held annually) is a mandatory religious duty for Muslims to carry out at least once in their lifetime.

<sup>6</sup> Multan a city in the Punjab, Pakistan known as the City of Sufi because of the large number of shrines and saints from the city.

<sup>7</sup> Someone who has memorised the whole of the Qu’ran.

<sup>8</sup> A spiritual practitioner who uses chants and amulets.

<sup>9</sup> A qualified expert.

*childlessness, Mr Shah and our entire team – the entire team at of Rohani Alam on-line – specifically perform spiritual practice for one to have children...Contact our centre; they will find out why you cannot have children, what is the reason, and they will give you in writing the practice they are going to perform. Have you contacted your doctor or GP for childlessness problem?"*

Saadia: *"Yes I have but they do not tell [me] what the problem is?"*

Presenter: *"They do tell what the problem is and what the solution is but there are certain things [hindrances] which we cannot speak about on air..."*

Saadia provided details of her date, time and place of birth, and her parents' name before the presenter continued:

*"Congratulations sister Saadia! There is good news for you. God has written children in your fate. Is this your first marriage or second?...Were you ever pregnant? Congratulations! There is good news for you. God has written children in your fate. When God writes something for you, you are sure to get it – it may be late but it will not be denied. You do not have any medical problems and we will pray for you but we will have to make a complete astrological map for you after doing a detailed Istikhara<sup>10</sup>...It provides all the details such as who has placed a restriction [i.e. black magic] on you, from where one is doing so, for what reason one [is] doing so [and] why you are in misfortune. We cannot announce the name of the person [who is] doing it on air and what he wants from it. God has made humans the best of his creation...everything being done in this world has a human hand behind it. I congratulate you for you have children in your fate and in this year you will become pregnant".*

The presenter told Saadia to recite an Arabic chant, the length of three prayer beads, before dawn prayers and in the evening after the evening prayers. He also told her to blow on her body after each completion of the prayer beads. The presenter added:

*"The results will appear in seven days but there are things appearing in your life and affecting you which we cannot tell you on air...I say to all my viewers that we have a female practitioner too, males as well, elderly and young and old. You can discuss with us whatever spiritual problem you have, and we will do it with responsibility [guarantee], Allah willing, we offer 99 responsibility [guarantee]. Sister Saadia, do it, call our 24 hour helpline numbers available on screen...We will provide you with both chants and practices for having children. If we have to send you an amulet, we will post it to you. During this process, if we have to give you a "Jupiter Plate"<sup>11</sup> we will provide it and your problem will be surely solved. Do not be disappointed. God has written children in your fate, sister... Saadia, your matter is quite complicated. There are matters in it which I absolutely cannot discuss here. You know the things; you have been to the doctors and...and you have received all the treatment, as you say, but your [astrological] account shows that there are children in your fate. If there aren't, they should be coming. However, if there is a problem or a barrier in the way, you must get an antidote, a spiritual prayer. Allah's pure verses are very effective..."*

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<sup>10</sup> Istikhara means to seek goodness from Allah through prayer and receiving an answer, from God, through the interpretation of dreams and feelings.

<sup>11</sup> Ofcom's could find no information on the nature and significance of this object.

Emir Hamza, another caller, who was experiencing financial problems, was greeted by the presenter. The presenter explained that Mr Hamza had faced “*many problems*” in 2014 and provided him with a chant to be recited over a 24 hour period as well as recommending the performance of the namaaz<sup>12</sup>. In addition, the presenter urged Emir to call the helpline for a “*proper antidote*”. The call was concluded with the presenter stating:

*“These are the numbers of our organisation which is called [name of organisation given]. In light of the Qu’ran and Sunnah<sup>13</sup> we reply to questions about any matter whatever issue or problem [that] you have. Allah willing, it will be quickly solved [in] 99 percent [of cases]. If you have a medical problem, contact your doctor or GP. If it is a legal problem, immigration problem, keep in touch with your solicitor or lawyer. Alongside, if any of your problems is not being solved, Allah’s pure verses are very effective”.*

Before speaking briefly to another caller the presenter said:

*“There is a reason for which one want[s] to know about a specific thing such as childlessness, or one cannot get married, business failure, settling in another country, immigration problems which one’s solicitor cannot solve, medical problem which one’s doctor cannot solve, or one wants to know one’s astrological forecast...I have with me an expert astrologist, Pir Syed Sufi Barkat Ali Shah...and [he is] a Pir [holy man]...his followers number in hundreds of thousands – around 3.5 to 3.6 million. He has won the “Pride of Performance Award”; he is a gold medallist and he has received “The Presidential Award”. He is an elevated person of great stature. Next to him sits Ms Aisha Bukhari... she is a great spiritual scholar in giving dum<sup>14</sup> and wazifa<sup>15</sup>”.*

After this call the presenter stated:

*“...and call us...and I will tell you about your illness and the upcoming operation – how far it will succeed and how it should be done. However, you must keep in touch with your doctor/GP about your illness. If anyone has a medical issue which their doctor/GP is unable to solve, Mr Shah offers lengthy prayers for it”.*

Prior to the next caller the presenter again highlighted the background of Aisha Bukhari (as detailed above) referring to her as a “*professor*”, “[a] *princess of the Saadat family*” with “*immense knowledge*”. The presenter added:

*“You can call us on our 24 hour helpline number. We have a solution to every kind of worry that you may have. We guarantee 99 percent success, Allah willing... It [the use of Allah’s Pure Verses] treats every problem in light of [the] Qu’ran and Sunnah [Prophet Mohammed’s traditions]. We invite people of all religious and nations to try us in any task. We will provide every nation [religious group] [a] wazifa and treatment*

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<sup>12</sup> Namaaz, also known as Salat, is a ritual prayer in Islam said five times a day.

<sup>13</sup> Sunnah is the way of life for Muslims based on the teachings and practices of the Islamic Prophet Mohammed and the teachings in the Qu’ran.

<sup>14</sup> Dum is a practice in which the practitioner recites verses on a cup of water, blows on it and the subject drinks it. It is believed that the effect of holy verses passes into water through the practitioner’s breath to the subject’s body when they drink it.

<sup>15</sup> Wazifa is a practice in which a verse and chant is recited prior to blowing on the subjects face or body.

*in accordance with their traditions and practices. For Christian brothers and sisters, we will provide them with powers of the Bible. For Sikh brothers and sisters, we will provide them with cures from Gita<sup>16</sup>... The same cures which their pundits<sup>17</sup> provide”.*

The next caller, Roshan was greeted and the following dialogue took place:

Roshan: *“My daughter cannot walk. When she was little she had [a] brain haemorrhage...[Aisha Bukhari asked Roshan for her daughter’s and mother’s name]... She is in a wheelchair. She cannot walk and she has fits. She is 21 years old”.*

Presenter: *“Sister your question is such [as cannot be answered here]; we try to satisfy sisters and brothers by going into detail and tell them everything, to satisfy them 99 percent. We have considered your issue and found that we cannot have a live discussion. First keep in touch with your doctor/GP. Have you had her checked?”*

Roshan: *“Yes she is being checked regularly”.*

Presenter: *“That is fine. Prayers open the doors to blessings. In the Holy Qu’ran and the Prophet’s medicine, there is a solution to every problem in this world. There is a cure for every illness in it. There is a cure even for illnesses that cannot be cured. You[r] problem will surely be solved. Your daughter will surely walk... [The presenter asks viewers to pray for the girl]. Sister, there are restrictions [i.e. spells cast by someone] in cases like this which we cannot disclose on TV; we cannot tell [you] on air who is doing it [casting spells] and how one is doing it. Our 24 hour helpline number is available on screen. These are toll free numbers. Immediately call on these numbers”.*

After the presenter repeated the descriptions of advice offered on the programme (as detailed above), Sufi Syed Barkat Ali Shah said the following:

*“Viewers, I was saying that today is Wednesday. It is a day of great blessings. On this day, people can ask [to pray] for being able to have a male child for which, in our organisation, we perform special prayers, special istikhara<sup>18</sup> and special chants...As regards [to] the day of Wednesday, the holy name they should chant is ‘Ya Wariso’ [meaning “Oh inheritor”] for the sake of being able to have children or any other thing. I have said before that, with respect today [Wednesday] people can contact us and ask [for prayers to be able to have children]”.*

The presenter greeted the final caller of the programme, who explained that her 35 year old daughter was unable to find a husband and that her business was failing. The caller provided details such as her date, time and place of birth, and her parents’ name before the presenter continued:

Presenter: *“...Mr Shah will take his time and fully explain why there is a barrier in your daughter getting married, what the reason is and what the solution is because her marriage has been delayed too long despite*

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<sup>16</sup> The Gita is an abbreviation for the Bhagavad Gita and is a 700 verse Hindu scripture.

<sup>17</sup> A Pundit is a scholar and/or teacher of the Sanskrit language.

<sup>18</sup> See footnote 10.

*that she has such a good and favourable star sign...In matters of marriage and getting male children, Mr Shah's practice is so authentic that, I say, it shows its effects in minutes and seconds...[The presenter repeated the descriptions of advice offered on the programme (as detailed above)]...Mr Shah, you have checked the sister's [astrology] account; her business has gone down, her daughter isn't getting married, please provide her [with] a wazifa, practice [and/or] method and she must do it the way you tell her. Sister, in the end, you will do what you want to do but Allah's pure verses have deep effects and if you keep faith, you will surely succeed".*

Mr Shah: *"In the name of Allah the merciful, the benevolent...Do not be disappointed about Allah's blessings. As a mother you are naturally concerned about your daughter's marriage. The merciful Allah will surely fulfil your desires but there may be delays and sometimes it is our own mistakes or carelessness [that gets in the way]. You are a mother and as such you should pray for her. I [will] tell you a wazifa for this. You need to chant 'Ya Azizo' [meaning "O Dear One"] 700 times every day, then blow on water and make your daughter drink the water. You should do your ablution before doing this and regularly pray five times a day...you should offer five daily prayers after performing ablution and you should recite the Qu'ran. Recite Sura [chapter] Yassen as well. You should do this for three consecutive days and you will see Allah's blessings will show in your home and business...our organisation provides full guidance in light of the Qu'ran and Islamic traditions".*

The presenter concluded the programme by stating: *"Our practitioners listen in privacy and keep your confidentiality. They provide a full solution and completely solve your problem".*

Ofcom considered the material raised issues warranting investigation under Rule 2.1 of the Code, which states that:

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

Given, as noted above, that the programme consisted of the presenter and two religious scholars giving lifestyle advice based on Islamic teachings and practices from the Qu'ran, Ofcom was satisfied that the programme was a "religious programme" within the meaning adopted in Section Four of the Code.

Therefore, in addition, we considered the material complained of raised issues under Rule 4.6:

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

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



## Response

Venus TV said that the programme did not contain “misleading statements and claims”. It added that “popular religious scholars” on the programme reminded viewers “to read particular holy book verses” and “pray to God” in accordance with Muslim religious beliefs for “things [to] be better”.

The Licensee argued that the statements made in the programme were in line with Muslims beliefs “that God had create[d] [a] cure for every illness apart from death” and that the programme discussed viewers’ “family and psychological issues, not medical issues”.

Venus TV stated that the inclusion of a “regular scroll” for “the protection of [the] general public” was “clearly” displayed throughout the programme advising viewers to contact their GP for any medical issues. The Licensee said that the religious scholar did not claim to be a “doctor” or a “qualified financial advisor”.

The Licensee considered that the programme was “not a religious programme but a chat show, where callers call[ed] to discuss their problems and their families’ problems”. It said that religion was neither “the central subject” nor “a significant part of the programme”. In addition, Venus TV considered that the programme was a “multi faith social forum” and had included “scholars from different religions and beliefs”.

Venus TV said that it had a “strict policy” for presenters and that its compliance manager is vigilant and point[s] out...anything [that] conflict[s] with Ofcom rules and any dialogue which might harm [the] general public”. It added that: “Venus TV strictly adhere[s] [to] generally accepted standards...[and] provide[s] best possible consideration to protect members of the public from the inclusion of...harmful and/or offensive material”.

Nonetheless, the Licensee apologised if in this case “there was not enough protection for the general public”. It stated that the programme had finished broadcasting in May 2014 after 12 episodes and that it would be “extra careful and vigilant in future and hop[ed] th[ese] kind[s] of claims [would] not be made in future shows”.

## Decision

Under the Communications Act 2003 (“the Act”), Ofcom has a statutory duty to set standards for broadcast content as appears to it best calculated to secure the standards objectives, including that: “generally accepted standards are applied to the contents of television...services so as to provide adequate protection for members of the public from the inclusion in such services of offensive and harmful material” and that religious programmes do not involve “any improper exploitation of any susceptibilities of the audience for such a programme”.

These objectives are reflected in Section Two and Section Four of the Code. Broadcasters are required to comply with the rules in Section Two of the Code so as to provide adequate protection from harmful (or offensive) material; and Section Four of the Code to ensure that religious programmes do not improperly exploit any susceptibilities of the audience.

In reaching a Decision in this case, Ofcom has taken account of the broadcaster’s right to freedom of expression. This gives the broadcaster a right to impart

information and ideas and the right of the audience to receive them without unnecessary interference by public authority, but subject to restrictions prescribed by law and necessary in a democratic society. This is set out in Article 10 of the European Convention on Human Rights (“ECHR”).

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

Broadcast content may therefore include material in which religious prayer is presented as a means of supporting individuals through illnesses and personal difficulties. Ofcom has had due regard to this factor in considering this case, and taken into account that a number of people find comfort and solace in prayer or a belief in faith healing when ill or encountering personal difficulties.

Ofcom’s statutory duties are not to question or investigate the validity of religious belief or its consequences but to require broadcasters to comply with the standards in the Code. These include requirements to provide adequate protection for members of the public from harmful material being broadcast and ensure that religious programmes do not involve any improper exploitation of any susceptibilities of the audience for such programmes.

#### Rule 2.1

Rule 2.1 states that generally accepted standards must be applied to the contents of television and radio services so as to provide adequate protection for members of the public from the inclusion in such services of harmful and/or offensive material. This rule is specifically concerned with the protection of viewers from harm.

Programmes that provide lifestyle and health advice about potentially serious medical conditions against a background of religious belief and prayer can be broadcast providing adequate protection is provided for members of the public so as to comply with the Code. Whether such protection is given will depend on all the circumstances, including as relevant: the health, financial or lifestyle problems being discussed; the extent to which a cure or answer is offered; and, any warnings or caveats given to viewers.

Ofcom noted that during this programme members of the public contacted the programme to seek advice on a variety of personal and medical issues. For example, callers sought advice on potentially serious medical issues (such as disability, infertility, and surgery) and personal problems (such as financial and marriage difficulties). Various examples of advice offered and/or provided by the presenter and studio guests are set out below in the order they appeared in the programme, including:

- a women suffering from fertility problems. It was suggested that to have a child the caller should recite prayers from the Qu’ran, and blow on her body after each completion of the prayer. In addition, the presenter encouraged the caller to contact the helpline for further chants and practices for having children.

- a call from a man who did not have any money. It was suggested that he recite a chant over a 24 hour period and perform the namaaz<sup>19</sup> five times a day. The caller was also encouraged to call the helpline for a “*proper antidote*”;
- a man who requested an astrological forecast of the future including an operation he was due to have. It was suggested the caller, pray five time a day to recite the praises of the Prophet Mohammed. The caller was also encouraged to phone the helpline for details on whether the forthcoming operation would be successful and how the operation should be conducted;
- a call from a mother whose daughter had had a brain haemorrhage when she was younger and as a consequence could not walk. In addition, the daughter suffered from fits. The caller was urged to call the helpline “*immediately*” to discuss the “*restrictions* [spells cast by someone]” with the assurance that “*the problem will surely be solved*” and the “*daughter will surely walk*”; and
- a women whose business was failing and her 35 year old daughter was unmarried. It was suggested the barrier preventing her daughter from getting married would be removed if the mother recited a wazifa<sup>20</sup> 700 times every day, and offered five daily prayers after performing ablution for three consecutive days.

In addition, the presenter encouraged viewers to call the helpline for a “*solution*” to the following issues or problems:

- stillbirths;
- conceiving a male child;
- domestic disharmony;
- business issues;
- children suffering from epilepsy;
- fainting or falling unconscious;
- child nightmares;
- financial problems; and
- immigration issues

We considered the programme was intended to a certain extent to encourage and offer spiritual support based on astrology and the teachings of the Qu’ran. We also took into account the Licensee’s comments that the programme was a “chat show, where callers call to discuss their and their families personal problems...not for particular medical advice” and that the presenter “remind[ed] people to read particular holy book verses at particular time[s] and pray to God”.

However, the programme went further than providing a forum for callers to discuss problems they were facing and receive spiritual support and advice. Some viewers called in to seek advice about how to improve, cure or deal with potentially serious medical issues or conditions – see the examples above. In these cases the nature of the advice (the reciting of specific prayers) went beyond a reminder to viewers to pray. The advice provided by the presenter and studio guests included instances where it was claimed and/or implied that potentially serious health issues (such as infertility, disability, epilepsy) could be cured through prayer and various practices (such as blowing on the body) alone.

The presenter made the following claims at various points in the programme:

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<sup>19</sup> See footnote 12.

<sup>20</sup> See footnote 15.

*“Allah’s pure verses cure every illness”.*

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*“Allah willing 99 percent Mr Shah has knowledge and chants which [will] enable you to have children”.*

\*\*\*\*

*“...we will do it with responsibility [guarantee], Allah willing, we offer 99 [percent] responsibility [guarantee]”.*

\*\*\*\*

*“Allah willing it will be quickly solved [in] 99 percent [of cases]”.*

\*\*\*\*

*“We guarantee 99 percent success”.*

Ofcom noted that the presenter described the practices advocated on the programme as *“spiritual cures through Prophet Mohammed’s medical system”*, a *“spiritual cure [for] those whom doctor cannot cure”*, and *“an antidote”*. The presenter also referred to the advice provided to viewers who called the helpline, as *“a full solution”* that could *“completely solve your problem”*. We considered that the advice to callers about health issues amounted to a promise that the prayers and other recommended practices would provide a solution to the problem being discussed, and could have led viewers to understand that specific medical or other problems could be treated or solved successfully by following the recommendations of the presenter and his guests alone.

In Ofcom’s view these statements undoubtedly would have encouraged some viewers to believe that the medical conditions featured in the programme could be treated through the type of faith healing advocated in this programme. We were also mindful that some viewers may have suffered, or were suffering from, the medical conditions mentioned. As a result they may have been more vulnerable to accept the advice in the programme that the prayers and other practices alone might treat their conditions successfully without the need for conventional medical advice or treatment. This clearly could have the potential to cause serious harm because viewers with serious illnesses – especially more vulnerable ones – may not seek, or may abandon, existing, conventional medical treatment on the basis of what they had seen in the programme.

We also noted the presenter gave advice to callers seeking a solution for financial problems such as lack of money or owning an unsuccessful business – see examples above. In these cases the presenter in the first instance offered a prayer to the callers. However, the advice provided by the presenter went beyond offering a prayer for support and encouraged the callers to perform a Wazifa<sup>21</sup> and/or contact the helpline to obtain a *“proper antidote”*. We therefore considered that the advice to callers about financial matters was given in a manner that could have led viewers to believe that through prayers alone their financial difficulties could be solved. This in our view had the potential to cause harm to viewers.

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<sup>21</sup> See footnote 15

We took into account the status of the Islamic scholars. Throughout the programme, the presenter consistently promoted the expertise of the religious scholars and the effectiveness of their advice. For example, the presenter referred to his guest Sufi Syed Shah as a *“Pir [holy man]”* who has *“followers in numbers in hundreds and thousands – around 3.5 to 3.6 million...he has won the ‘Pride of Performance Award’. He is a gold medallist and has received the ‘Presidential Award’”*. He also referred to Aisha Bukhari as *“an expert spiritual leader”* and a *“princess of the Saadat family”* with *“immense knowledge”*. We considered the reputation of the presenter and religious scholars was a significant factor in terms of the programme’s potential harm, in that it made it more likely that some viewers would respect and follow their advice.

We next considered whether the Licensee had taken steps to provide adequate protection to viewers from this potentially harmful material.

In this broadcast the *“cure”* for a number of medical conditions or solution to other (for example financial) problems, through the use of prayer and other practices alone, was repeatedly promoted by the presenter of the programme and his guests. In circumstances where a programme provides and/or offers advice on potentially serious medical conditions or other problems, the Code requires that the broadcaster applies *“generally accepted standards”* to provide adequate protection from harmful material. The purpose of the requirement is to mitigate any risk that viewers who suffer from such conditions or problems might forego or delay orthodox medical treatment or other advice in favour of the advice given during the programme, with consequent harm caused to their health or general wellbeing.

The more serious the risk of harm to susceptible and vulnerable viewers, the greater the protection that should be provided. For all the reasons set out above, Ofcom’s assessment was that the advice and claims that specified prayers could *“cure”* medical conditions or other problems (as outlined above) created a material risk for viewers. We acknowledge that in most instances where a viewer contacted the programme regarding a medical issue, the presenter asked if the caller had contacted their GP, although these references were very brief. We were concerned that following any reference to a GP, the presenter frequently and immediately disparaged the effectiveness of this warning by stating for example: *“There is a cure even for illnesses that cannot be cured [i.e. by using the prayers and other practices advocated on the programme]. You[r] problem will surely solved. Your daughter will surely walk”*, and *“I will tell you about your illness and the upcoming operation – how far it will succeed and how it should be done”*. In addition, we noted examples of the presenter suggesting that callers had been misdiagnosed by their doctor:

*“you have been to the doctors...you have received all the treatment...but your [astrological] account shows that there are children in your fate...you must get an antidote, a spiritual prayer”.*

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*“God has written children in your fate... You do not have any medical problems...I congratulate you for in this year you will become pregnant”.*

We were also concerned that there were some examples of the presenter suggesting that the practices advised on the programme might provide cures where the caller’s medical issue had not been solved through conventional medical treatment. For example: *“If anyone has a medical issue which their doctor/GP is unable to solve, Mr Shah offers lengthy prayers for it”.*

Ofcom noted that throughout the duration of the programme an on-screen ticker was displayed stating: *"If you are having any health problems please consult your GP first"*. However, we considered the likely effect of the presenter's statements and guarantees of success (as detailed above) was to question the efficacy of seeking or continuing to seek advice from a qualified medical practitioner by implying that it was ineffective and/or unnecessary. In Ofcom's view the on-screen warning and the reference to seeking advice from a GP in this case did not sufficiently mitigate the risk of harm to viewers.

For all the reasons outlined above we concluded the broadcast material breached Rule 2.1.

#### Rule 4.6

Rule 4.6 of the Code states that religious programme must not improperly exploit any susceptibilities of the audience.

In assessing the programme's compliance with Rule 4.6 we took into account the Licensee's comments that it did not consider the broadcast to be a religious programme but a "chat show" and a "multi faith social forum". Section Four of the Code states that: "A religious programme is a programme which deals with matters of religion as the central subject, or as a significant part, of the programme". Ofcom's guidance<sup>22</sup> adds that:

"The meaning of religious programmes demonstrates that this section of the Code does not apply simply to a programme containing devotional material, an act of worship or prayerful reflection, but includes other types of programming, including for example, current affairs programmes or history programmes where religion or belief is a *significant part* of the programme".

As detailed in the Introduction, this lifestyle programme focused almost exclusively on giving advice based on Islamic teachings and prayers from the Qu'ran. Further, both studio guests were introduced as Islamic scholars, and it was suggested that they were qualified to give advice, based on their Islamic beliefs and affiliation. In addition, we noted that during the programme the presenter also referred to *"cures"* based on other religious texts such as the Bible and the Bhagavad Gita. Ofcom was therefore satisfied that the programme was a "religious programme" as defined in Section Four of the Code.

We considered for the reasons described above that the programme promoted a *"cure for every illness"* and was presented to viewers in a manner that could lead susceptible members of the audience to believe that medical and personal issues could be cured or solved as result of prayers and Islamic teachings. In addition, we noted that the presenter encouraged viewers to call the advice helpline for advice that could, and indeed would, *"cure"* a particular problem within a specified time. For example, prior to the presenter providing a recommended prayer and practice for fertility issues he stated that the results *"would appear in seven days"* before inviting viewers to call if they were experiencing the same problem.

The programme clearly had the potential to improperly exploit the vulnerability of viewers with personal, health or financial difficulties. In addition, the cumulative effect of the repeated guarantees and efficacy of the practices promoted in the programme

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<sup>22</sup> Guidance note on Section Four: Religion can be found at:  
<http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section4.pdf>

(as detailed in the Introduction) heightened the possibility of the susceptibilities of other vulnerable viewers being improperly exploited. This was made more likely as regards to viewers suffering from medical conditions because, as already detailed above, the presenter appeared to undermine the on-screen and other advice to seek medical advice and did not provide clear information for viewers to maintain medical care alongside the advice provided in the programme. As a result we considered that viewers were less likely to question the content broadcast and be more susceptible to the claims made.

For all these reasons, we concluded that there was a material risk that the susceptibilities of members of the audience were improperly exploited by this programme. This was therefore a breach of Rule 4.6.

### Conclusion

Ofcom was concerned that the Licensee did not appreciate that this programme was a religious programme as defined in Section Four of the Code. We were also concerned that the Licensee did not consider the advice included in this programme to be potentially harmful to viewers. We acknowledge that Venus TV took some, but clearly inadequate, steps to provide protection to its audience. However, for the reasons set out above, we considered the steps taken to mitigate the risk of harm to susceptible viewers were not sufficient and considered the material to be clearly in breach of Rules 2.1 and 4.6.

We note that Ofcom imposed a statutory sanction on the Licensee in 2008 and recorded a breach of Rule 2.1 in 2010 – in both cases involving material which had the potential to cause harm to the health of viewers. We are therefore concerned about the Licensee's compliance in this area.

Ofcom is therefore requesting the Licensee to attend a meeting to explain its compliance arrangements for this type of content, and puts the Licensee on notice that should similar breaches of the Code occur, we will consider further regulatory action.

### **Breaches of Rules 2.1 and 4.6**

## In Breach

### ARY News

ARY News, 15 May 2014, 08:00

ARY News, 16 May 2014, 08:23

ARY News, 16 May 2014, 14:00

ARY News, 16 May 2014, 18:00

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### Introduction

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

Six complainants alerted Ofcom to the four news items listed above as well as five editions of the programme *Khara Sach*, a current affairs programme broadcast between 14 May 2014 and 27 May 2014 by the Licensee. The complainants objected to critical references on ARY News about the Independent Media Corporation<sup>1</sup>, and in particular, allegations that services owned by the company, including Geo TV, had committed blasphemy against the Prophet Mohammed, his associates and family<sup>2</sup>.

Ofcom noted that the allegations of blasphemy arose from the broadcast of the programme *Utho Jago Pakistan* on Geo TV in Pakistan on 14 May 2014. This edition of *Utho Jago Pakistan* featured a re-enactment of the wedding of the programme’s guests Veena Malik, a Pakistani actress, and Assad Khan Khattak, including a group of live musicians performing a renowned devotional qawwali<sup>3</sup>. The singing of this qawwali<sup>4</sup> during the re-enactment of the wedding was criticised by some clerics and parts of the Pakistani media as disrespectful to the family of the Prophet Mohammed.

We noted that the complainants in this case considered that the four news items listed above were not duly impartial. The complainants also considered the news items and the five editions of *Khara Sach* contained: “one sided hate speech in all reports<sup>5</sup>”.

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<sup>1</sup> Businesses run by the Independent Media Corporation include the Jang Group of Newspapers (the ‘Jang Group’), Pakistan’s largest newspaper group, and Geo Television Network, whose services include both the Pakistani and UK versions of Geo News and Geo TV, a general entertainment channel.

<sup>2</sup> Derogatory statements against notable figures in Islam are prohibited under Pakistani law. Those convicted of insulting the Prophet Mohammed may, in some circumstances, be liable for the death penalty.

<sup>3</sup> Qawwali is a form of Sufi devotional music.

<sup>4</sup> This qawwali celebrated the wedding of Hazrat Fatima Zehra, the daughter of the Prophet Mohammed, and Hazarat Ali, the cousin and companion of the Prophet Mohammed.

<sup>5</sup> Ofcom has considered whether the four news items in this case and the five editions of *Khara Sach* complied with the requirements of rule 3.1 of the Code which states: “Material likely to encourage or incite the commission of crime or lead to disorder must not be included in television or radio services”. After careful assessment, however, Ofcom concluded that neither the news programmes nor the episodes of *Khara Sach* raised issues under Rule 3.1. As the episodes of *Khara Sach* raised no issues under the Code, we have not considered them further as part of this Decision.



### Chronology of Events

We noted that all of the news reports in this case covered events unfolding in Pakistan following the controversial broadcast of *Utho Jago Pakistan* by Geo TV. The chronology of events was as follows:

- 14 May 2014: Geo TV broadcast the edition of *Utho Jago Pakistan* described above.
- 15 May 2014: In light of criticism at an alleged act of blasphemy, Geo TV launched an internal investigation and suspended the production staff involved. An apology from Geo TV and Shaista Wahidi, the presenter of *Utho Jago Pakistan*, was broadcast throughout the day on Geo News. On the same day, the Sunni Ittehad Council issued a religious decree or 'fatwa'<sup>6</sup> against Geo TV for disrespecting Islamic religious and cultural values, and the Pakistan Electronic Media Regulatory Authority ("PEMRA") issued a 'show cause' notice<sup>7</sup> to Geo TV for an explanation of the material.
- 16 May 2014: PEMRA postponed a hearing about a separate complaint from the Pakistani Defence Ministry<sup>8</sup> against Geo TV, in relation to a publicly critical campaign against the Pakistani Inter-Services Intelligence ("ISI"), referring the matter to the Law Ministry for legal advice. The Pakistani Cable Operators Association ("COA") held a press conference about whether Pakistani cable operators would continue to broadcast Geo Channels. However, the conference was suspended due to the allegedly disruptive conduct of Geo employees in attendance.
- 17 May 2014: Cable operators in Pakistan suspended Geo TV in various areas of the country in response to the controversial broadcast. Activists from religious organisations held protests in a number of cities in Pakistan to condemn Geo TV.
- 6 June 2014: PEMRA adjudicated on the Defence Ministry's case against Geo TV, fining the broadcaster 10 million Rupees (c. £60,000) and suspending transmissions for a period of 15 days.
- 20 June 2014: PEMRA adjudicated on Geo TV's broadcast of *Utho Jago Pakistan*, issuing a fine of 10 million Rupees and suspended the broadcaster for a further 30 days. In addition, PEMRA also announced the suspension of ARY News for a period of 15 days and fined the broadcaster 10 million Rupees for maligning the judiciary.

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<sup>6</sup> A fatwa is a legal opinion or learned interpretation issued by an Islamic scholar on issues pertaining to Islamic law.

<sup>7</sup> Ofcom understands a 'show cause' notice to be a request for information on potential regulatory matters issued by PEMRA to one of its licensees.

<sup>8</sup> A Geo TV journalist was shot on 19 April 2014. Following the incident, Geo TV allegedly broadcast accusations about the involvement of the ISI in the shooting. The Pakistani Defence Minister, Khawaja Asif, lodged a complaint with PERMA over the broadcast.

## Broadcast Content

We reviewed the four news programmes shown on ARY News, which were broadcast in Urdu. Ofcom commissioned a transcript of the programmes by an independent translator which we provided to the Licensee so it could comment on the accuracy of the transcript.

We noted the content of the news reports as follows:

### ARY News 15 May 2014 at 08:00 to 11:00

This news bulletin began with a presenter reading the national and international headlines, including the following:

*“In Geo’s Morning Show<sup>9</sup>, the singing of a sacred hymn in the wedding of Veena Malik and Assad has caused severe grief and anger among Islamic scholars...Allama Muzhar Abbas Rizvi of the Shia Scholars Council says if Geo refused to apologise he will seek legal recourse...Faisal Raza Abdi<sup>10</sup> says that legal action should be taken against Geo”.*

Later in the bulletin, a clip from *Utho Jago Pakistan* featuring the qawwali was shown, accompanied by the following voiceover:

*“Islamic scholars have expressed outrage at the singing of a sacred hymn [qawwali] – which was about the wedding of honourable and blessed Ali and Fatima [the daughter of the Prophet Mohammed] –in the wedding drama of Veena Malik, and dancing upon it. Religious scholar Allama Abbas Kameeli<sup>11</sup> has said that this hymn was played by Geo at an inappropriate place”.*

Two clips from the broadcast of the ARY News programme *Khara Sach* on 14 May 2014 followed. The first *Khara Sach* clip showed a politician, Allama Abbas Kameeli, stating that: *“The hymn is not wrong but it was used at a wrong place. Hence it is Blasphemy”*. The second clip showed Shaibzada Hamid, leader of the Ahle-Sunna[t]-wal-Jammat<sup>12</sup> and chairman of the Sunni Ittehad Council<sup>13</sup> saying: *“It is sheer waywardness and sinful conduct”*.

Shortly after, a further clip from *Utho Jago Pakistan* of the re-enacted wedding was repeated as the voiceover said:

*“...Allama Muzhar Abbas Rizvi of the Shia Scholars Council said that Geo News should seek [an] apology for this blasphemy otherwise tens of millions of Shi’as would boycott it. No Muslim can tolerate this kind of blasphemy. If Geo would not apologise he will seek legal recourse... Islamic scholars have expressed severe outrage and concerns at the singing of a sacred hymn... All over the country,*

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<sup>9</sup> i.e. the edition of *Utho Jago Pakistan* broadcast on Geo TV on 14 May 2014.

<sup>10</sup> Faisal Raza Abidi is a former senator representing the Pakistan People’s Party for Sindh Province.

<sup>11</sup> Allama Abbas Kameeli is a politician and president of the Jaffria Alliance Pakistan.

<sup>12</sup> Ahle-Sunnat-Wal-Jammat is a Sunni Muslim religious organisation in Pakistan.

<sup>13</sup> The Sunni Ittehad Council is an Islamic political party in Pakistan.

*people have been severely grieved and outraged and they are demanding the closure of Geo broadcasts”.*

The first news presenter then said the following:

*“Allama Tahir Ashrafi<sup>14</sup> states that Geo should seek [an] apology from the nation for running an evil instigating programme...the elders of Geo should be mindful of the sanctity of Islam and Islamic personalities. What they have done is a sin”.*

The second news presenter went on to say:

*“Renowned poet Gohar Charjwi has said that he strongly protests at the vulgar exhibition of his sacred poem and he strongly condemns it. This act is part of a conspiracy against Islam...it seems to be part of a plan to destroy Islam”.*

An image of PEMRA’s logo was displayed on screen and accompanied by the following voiceover:

*“...64,922 complaints [about Geo TV’s broadcast of accusations against Pakistan’s Inter-Services- Intelligence] were registered at PEMRA in the month of April which is a historical record...despite such large numbers of complaints, no action was taken against Geo Network... People are compelled to think it is because of the laziness of PEMRA officials or the influence and clout of Geo Group”.*

At approximately 10:00, the following statement was made by the second news presenter:

*“This session of PEMRA that was to take place tomorrow has been postponed for an indefinite period... This is because PEMRA has not received a reply from the Law Ministry to its letter seeking [a] legal opinion in [the] Geo case [brought by the Defence Ministry]... PEMRA sources have been saying that they are facing strong pressure from the Government. Decisions are made with Government consent. There have been disagreements...We have heard PEMRA were under pressure to postpone this session and now it has happened”.*

The first news presenter introduced Mubashar Luqman, the presenter of the ARY News programme *Khara Sach*, who said:

*“I thought PEMRA and the Government would go ahead with the session to prove me wrong, but no because they have to protect these people [Geo TV] who have blasphemed against the Holy Prophet, his associates and his family...PEMRA and the Government have become their [Geo TV’s] tools... I can tell you that they [PEMRA] had neither the intention nor the spirit [to reprimand Geo TV]”.*

Israr Abbasi, a PEMRA member, was then interviewed by one of the news presenters and stated:

*“It is very clear legally, and in every respect...No individual or institution or power can cancel [a] PEMRA meeting...I think that all private members agree that no one has the authority to cancel this meeting...The one who cancelled it should come forward...It shows that somewhere within the Government a decision was*

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<sup>14</sup> Allama Tahir Ashrafi is a religious scholar.

*made not [to] let this meeting happen... Those who have formed these queries [with the Law Ministry] are misusing their powers under the PEMRA Act and they may be held criminally liable for doing so...It seems they are going to abolish PEMRA on this [Geo TV] issue..."*

ARY News Bureau Chief Sabir Shakir was subsequently interviewed and said:

*"Until now proceedings have taken place in accordance with PEMRA rules... [However], a special VIP treatment is being extended to Geo... the Government [representative at PEMRA] raised an objection which was highly surprising because it meant that the Government was defending the accused [Geo TV] despite the fact that the plaintiff was the Defence Ministry itself".*

[...]

*"Geo has been active to stop PEMRA proceedings. For the last three days Geo... have been [favourably] covering the Supreme Court in their headlines because they now want to approach the Supreme Court and they want its favours".*

In addition, Mubashar Luqman, the presenter of Khara Sach, said:

*"Why is the Government creating a situation of lawlessness and chaos by rendering its own institutions dysfunctional? Is it a foreign agenda? Do they lack wisdom? Do they not understand or do they think that this is not an issue?...yesterday, after the way Geo violated the sanctity of the family of Holy Prophet and his associates, can we call ourselves Muslims?...and what is that self-styled TV channel [Geo TV] doing about it? It just runs a ticker stating that they regret if someone's feelings have been hurt...Our religion, the mothers of believers, the associates and the family of the Holy Prophet are more worthy of respect than our parents and children are and if someone tried to undermine them we will pluck his eyes out of their sockets. We will not spare him. I am saying this on air and on record".*

He added:

*"Iftikhar Chaudhary<sup>15</sup> took [a] bribe from him [Mir Shakil-ur-Rehmaan<sup>16</sup>] and granted him the [broadcasting] licence...and Iftikhar Chaudhary had his last ceremonies covered on their channel. He granted them [Geo TV] more rights...Iftikhar Chaudhary himself broke the law...And they [Geo TV] challenge us to prove it though they have been apologising this morning; their anchor is apologising; so what do I have to prove when you yourself are apologising for it".*

The news report concluded by Mubashar Luqman stating the following:

*"It shows the organisation [PEMRA] is totally ineffective; it does not have a functional chairman; its members are appointed by the Government and the Information Secretary head[s] it. PEMRA should not be subordinate to the Ministry of Information because it has to regulate information being provided by any TV Channel whichever it may be".*

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<sup>15</sup> Iftikhar Chaudhary is an ex-chief Justice of the Pakistan Supreme Court.

<sup>16</sup> Mir Shakil-ur-Rehmaan, is the present head of the Independent Media Corporation which owns Geo Television Network.

ARY News, 16 May 2014 at 08:23

This 10 minute news bulletin began with a news presenter reading the following headline:

*"I have breaking news for you...the Prime Minister of Azad Kashmir<sup>17</sup> has strongly condemned Geo's blasphemy against the Holy Prophet's family...Geo News has been banned in Azad Kashmir".*

A report by ARY News correspondent Sarder Raza followed:

*"Prime Minister of Azad Kashmir, Chaudhary Abdul Majeed called an urgent press conference...He said that Geo was being punished for what it had done and the [Federal] Government of Pakistan too should ban this TV channel [Geo TV] which has become a tool of the powers that are enemies of the country and Islam".*

The news presenter read the next headline:

*"A senior lawyer of Faisalabad has lodged a petition to initiate a lawsuit against Shaista Lodhi<sup>18</sup> and Mir Shakil-ur-Rehmaan for broadcasting [a] blasphemous programme on Geo...In this application Mr Nadeem Shakeel stated that he was deeply hurt by Geo News insulting the Holy Prophet; Geo News compared Veena Malik and her husband with the blessed and honourable Fatima and Ali which has hurt the religious feelings of the entire Muslim nation. Hence he stated that a lawsuit should be initiated and the accused persons should be arrested, prosecuted and duly punished".*

Brief footage of protesters standing in a street chanting "shut down Geo" followed. The news bulletin concluded with an image of PEMRA's offices accompanied by a voiceover which stated: "After strong protests from various Islamic sects about this programme, PEMRA took notice and issued a show-cause notice [to Geo]".

ARY News, 16 May 2014 at 14:00

This news programme began with the news presenters reading the following headlines:

First news presenter: *"In Karachi, Jang and Geo reporters raised havoc and created mayhem during the press conference of the cable operators. They broke glass windows in the Press Club..."*

Second news presenter: *"The Chairman of Cable Operators Association Mr Khalid Araeen said they tried to suppress his voice by issuing threats; Geo TV resorted to brazen bullying..."*

First news presenter: *"PEMRA member Mr Israr Abbasi says that PEMRA has called...a meeting on 20 May to discuss...Geo. The Government is interfering in PEMRA affairs".*

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<sup>17</sup> Azad Kashmir is a self-governing autonomous territory of Pakistan.

<sup>18</sup> Lodhi is the maiden name of Shaista Wahidi, the presenter of the Geo TV programme *Utho Jago Pakistan* broadcast on 14 May 2014.

Second news presenter: *“Workers of the National Unity Council, Congress of Muslim Unity, and Ahla-Sunnat-wal-Jammat [a Sunni party] have demanded the closure of Geo. The Christian community has announced [a] boycott of Geo”.*

Footage of demonstrators holding placards was shown before returning back to the news presenters:

First news presenter: *“Punjab Assembly has passed a resolution stating that the insult to the Holy Prophet’s family is intolerable and those responsible for this should be punished. PTI [Movement for Justice] women’s wing has announced that they would besiege Geo offices”.*

Second new presenter: *“Geo TV states that the hymn which glorifies the Holy Prophet’s family was broadcast by ARY too, which is correct but ARY [broadcast] it with due respect and honour”.*

The news presenters described the scene of disruption at the COA press conference (see above) and stated: *“Evidence so far suggests that the Jang reporters were responsible for this”.* Shortly afterwards, Muzher Iqbal, an ARY correspondent, said the following:

*“In the Punjab Assembly, the opposition leader Mahmoud Rasheed has submitted a resolution of condemnation against the insult to the Holy Prophet’s family...In addition, the People’s Party too submitted a resolution of condemnation to the Assembly...[that] states ‘This is an extremely blasphemous and unpardonable crime. The Islamic Republic should not only take immediate action but also permanently ban its [Geo TV] broadcasts’”.*

Footage of demonstrations was shown, accompanied by the following voiceover:

*“[A] series of protest[s] against Geo continue all over the country. In Karachi, the Ja’afria (Shi’a) Alliance of Pakistan demonstrated against Geo. Hundreds participated in this demonstration... Participants in the demonstrations said...‘It [Geo TV] should be immediately shut down and lawsuits should be filed against Geo administrators’. In Islamabad, the Congress of Muslim Unity led a rally to protest against Geo”.*

Later in the news programme, the first newsreader continued reporting on the demonstrations held in Pakistan:

*“We told you earlier that this morning...Geo representatives beat up the officials of the Cable Operators Association. People have been protesting in various cities against Geo’s disrespect...In Muzafargarh, Islamic Students Association and United Sunni Council have been protesting...Geo News’ blasphemy against the pure family of the Holy Prophet follows the 19 April event<sup>19</sup>...It is time that this media group, which takes undue advantage of its freedom, must be punished”.*

Further footage of demonstrators was shown, with the demonstrators holding placards stating *“Hang those who are responsible for insulting the Holy Prophet’s*

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<sup>19</sup> This refers to the shooting of a Geo TV journalist – see footnote 8 above.

*family and shut down the Channel” featured in the news report as the news presenters continued to provide details of the demonstrations: “In Tando Muhammed Khan<sup>20</sup>, the demonstrators burned down Geo signboards”.*

The news report concluded with a clip of Israr Abbasi, a PEMRA member:

*“They [the Government] are lingering on with this matter because of their vested interests...Their interference continues...Let me make it clear: We will not be moved by any fatwa. We will not be moved by any pressure. We will take side with media independence, people’s right to correct information, and media-related laws”.*

ARY News, 16 May 2014 at 18:00

This programme began with the following headline:

*“Geo, Jang Group has resorted to bullying tactics. Its reporters raised havoc in the Cable Operators’ press conference and issued threats to the cable operators...Mr Tahir-ul-Qadri<sup>21</sup> has stated that Islam was under assault in the Geo Morning Show and the Supreme Court should spontaneously take notice of this...Pir [spiritual guide] Fazal Haq has denied the statement which Geo broadcast in his name...He said that Geo has in fact expelled itself from Islam”.*

Following the main headlines, the news presenter continued her report about the conduct of Geo TV:

*“Another claim of Geo has been proved false...Geo [broadcast] statements which it claimed had been issued by various Islamic scholars and jurists but those scholars and jurist have denied giving those statements”.*

A clip of a cleric, Pir Fazal Haq, was shown in which he said:

*“I think that Geo has in fact expelled itself from Islam. Those who have done this, this error, I think that it would be better if Pakistan Government should duly punish them...This task was pre-planned. The Government should have taken a rapid action and shut it [Geo TV] down. If they don’t shut it, then it is a sign of weakness of their faith”.*

This news bulletin then featured footage of demonstrations against Geo TV, which showed protesters in streets chanting “shut down Geo channel” and “punish the enemies of the Holy Prophet’s family” while holding placards that read: “Permanently shut down Geo Channel for insulting the Qur’an and the Holy Prophets family; Geo is the root of vice and hypocrisy”. This was accompanied by the voice of the presenter and an ARY News correspondent saying the following:

News presenter:

*“In Quetta, the Congress of Muslim Unity held a rally against Geo. Speakers addressed the rally and said: ‘Geo has committed a crime by insulting the Holy Prophet’s family. The government should take quick action and shut down Geo broadcasts’”.*

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<sup>20</sup> A town in the southern part of Sindh province in Pakistan.

<sup>21</sup> Muhammad Tahir-ul-Qadri is a Pakistani politician and Islamic scholar of Sufism.

ARY correspondent: *“Members of both factions of the Muslim League seemed distressed at the blasphemy of Geo TV...Islamic Scholars have issued fatwas against Geo TV. Protests continue all across the country...Imamiya Student Organisation too led a protest rally. It... tried to protest in front of the Geo offices but the protest was postponed upon the intervention of the local administration...The Congress of Muslim Unity led a rally in front of PEMRA offices and demanded from the President and the Prime Minister [Nawaz Sharif] the dismissal of the Federal Minister of Information...Jammat-a-Ahl-a-Sunnat [Sunni Party] in protest in front of the press club...”*

The next part of the news bulletin featured footage from the COA press conference, with the news presenter stating the following:

*“...the reporters and workers of Geo and Jang Group rushed at the representatives of Cable Operators Association and sabotaged the press conference...in a thuggish manner, Geo and Jang Group reporters made the press conference holders stand on their chair[s], threatened them [with] serious consequences and turned the Press Club into a thugs den... when the Chairman of the Cable Operators, Mr Khalid Araeen, tried to leave the room, he was threatened again and, to frighten him, they broke glass ...Viewers, you watched this report and how Geo News reporters resorted to thuggish behaviour...”*

Live coverage of Khalid Araeen, Chairman of the COA, addressing a press conference followed:

*“...the abuse inflicted on us, I would say it was openly thuggish conduct, and it wouldn't be far from the truth to say that today Geo TV was holding Karachi Press Club hostage...All cable operators of Pakistan, including me, condemn the events at the press club and they will hold demonstrations all around Pakistan against these actions by Geo reporters. From tomorrow, wherever PEMRA has its regional offices, cable operators will hold [demonstrations]...you would remember that on 19 April, Geo launched a heinous propaganda against an important institution of national security. Because of this irresponsible act of Geo, viewers' sentiments and viewpoints were seriously hurt...we regret to say that until now Geo is continuously working against national interests and spreading anarchy...the family of Prophet Mohammed was ridiculed thus exhibiting the worst form of religious incitement to commit evil...as a consequence...cable operators have fallen victims to severe public reaction...The Federal Government should instruct PEMRA to immediately ban Geo...because Geo channel is becoming the cause of spreading religious hatred...its consecutive incitements to commit evil have made us wary...cable operators are receiving clear threats from religious groups ...that if they continued to transmit Geo broadcasts, the latter would not only cut their cables but vandalise their offices as well because Ullayma<sup>22</sup> have issued a fatwa stating that watching Geo or facilitating its watching is haram...in these circumstances, Cable Operators Association of Pakistan advises all the cable operator brothers to consider the current events and decide in accordance with their conscience and [considerations about] their lives and properties. In every case, keep in mind the requirements of religious harmony and national interest”*

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<sup>22</sup> An Ullayma is a scholar in Islamic law.



The news presenter then interviewed Khalid Araeen who said:

*“All Muslims brothers; it is their national duty and religious duty not to support anything...associated with those who spread religious hatred...how can we work in these circumstances when [the] Pakistani public is so inflamed?...the Government has remained unmoved...the Government has not taken notice or done anything...the public is inflamed because this is an Islamic state and this should be decided...[soon] in accordance with Islamic principles”.*

The news programme concluded with the presenters summarising Khalid Araeen’s comments at the press conference:

*“Khalid Araeen has said that the Jang Group does not tolerate criticism on itself and he also said that Geo TV is being supported by the Government...he said that PEMRA has only pretended to act”.*

Ofcom considered that the material raised issues warranting investigation under Rule 5.1 of the Code which states:

Rule 5.1: “News in whatever form. Must be reported with due accuracy and presented with due impartiality”.

We therefore sought ARY’s comments as to how the material complied with this rule.

## **Response**

ARY explained that the programmes portrayed a factual account of the public’s opinions, reactions and demonstrations provoked by the “offending” broadcast of the re-enactment of the wedding on Geo TV. It added that “many opinions were featured on the programmes” and included “the reactions of the regulatory authorities”.

Nonetheless the Licensee said that its staff had attended a “compliance training session” with a third party consultant.

## **Decision**

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, including that news on television or radio services and that news on television and radio services is presented with due impartiality. This objective is reflected in Section Five of the Code.

When applying the requirement to preserve due impartiality, Ofcom must take into account the audience’s and the broadcaster’s right to freedom of expression. This is set out in Article 10 of the European Convention of Human Rights. The right of freedom of expression encompasses the right to hold opinions and to receive and impart information and ideas without interference by public authority. The broadcaster’s right to freedom of expression is not absolute. In carrying out its duties, Ofcom must balance the right to freedom of expression with the requirement in the Code to preserve “due impartiality” on matters relating to political or industrial controversy or matters relating to current public policy.

Ofcom recognises that Section Five of the Code, which sets out how due impartiality must be preserved, acts to limit to some extent freedom of expression. This is because its application necessarily requires broadcasters to ensure, for example,

that neither side of a debate relating to matters of political or industrial controversy and matters relating to current public policy is unduly favoured. Therefore, while any Ofcom licensee should have the freedom to discuss any controversial subject or include particular points of view in its programming, in doing so broadcasters must always comply with the Code.

In reaching decisions concerning due impartiality, Ofcom underlines that the broadcasting of comments either criticising or supporting particular organisations or individuals, or the policies and actions of any government, state or political organisation is not, in itself, a breach of due impartiality. Any broadcaster may do this provided it complies with the Code. However, depending on the specific circumstances of any particular case, it may be necessary to reflect alternative viewpoints in an appropriate way in order to ensure Section Five is complied with.

Rule 5.1 of the Code states that: “News in whatever form, must be reported with due accuracy and presented with due impartiality”.

The obligation in Rule 5.1 to present news with due impartiality applies potentially to any issue covered in a news programme, and not just to matters of political or industrial controversy and matters relating to current public policy. In judging whether due impartiality is preserved in any particular case, the Code makes clear that the term “due” means adequate or appropriate for the subject matter. Therefore “due impartiality” does not mean an equal division of time has to be given to every view, or that every argument and every facet of the argument has to be represented. Due impartiality may be preserved in a number of ways and it is an editorial decision for the broadcaster as to how it ensures due impartiality is maintained.

In assessing whether any particular news item has been reported with due impartiality, we take into account all relevant facts in the case, including: the substance of the story in question; the nature and context of the coverage; and whether there are varying viewpoints on a news story, and if so, how a particular viewpoint or viewpoints on a news item could be or are reflected within news programming.

In this case, Ofcom noted that the four *ARY News* programmes (as detailed in the Introduction) reported on the controversy surrounding the broadcast of Geo TV’s morning show *Utho Jago Pakistan* on 14 May 2014. We also noted that that edition of *Utho Jago Pakistan* had elicited very strong criticisms from a number of parts of Pakistani society, which had considered that the programme had breached Pakistan’s blasphemy law<sup>23</sup>. In particular, we noted there were calls from some religious scholars on the Pakistani broadcasting regulator, PEMRA, to suspend Geo’s broadcast licences, and for a criminal case to be brought before Pakistan’s Supreme Court against Geo TV and its owner, Mir Shakil-ur-Rehman, for the broadcast of allegedly blasphemous content.

It is important that broadcasters – taking account of their and the audience’s right to freedom of expression – are able to report such stories to their viewers or listeners. The Code does not in any way prohibit news programmes from including views that are critical of particular organisations, such as media organisations, however that news must be reported with due accuracy and presented with due impartiality. We noted the news items summarised above related to on-going negative and critical reactions towards the Independent Media Corporation, the owners of Geo Television Network and the Jang Group, made by religious scholars, politicians and members of

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<sup>23</sup> See footnote 2.

the public. The items also described what some of these groups had perceived as a lack of action by PEMRA, the Government and the Judiciary in response to an allegation of blasphemy prohibited under Pakistani law.

We considered there were a number of statements which could reasonably be characterised as being primarily critical of Geo TV in these news bulletins. For example, we noted that these programmes included various calls, from religious scholars, for Geo TV to be banned from broadcasting within Pakistan, as well as allegations of blasphemy and corruption by Geo TV (as detailed in the Introduction). Among other things, Geo TV's conduct during the news reports was described as: *"openly thuggish"*, *"running an evil instigating campaign"* and broadcasting *"consecutive incitements to commit evil"*. Ofcom also noted the inclusion of critical statements about Geo Television Network and the Jang Group, made by ARY news presenters, in the news programmes broadcast on 16 May 2014, in addition to the critical interviews by ARY senior anchor Mubashar Luqman and ARY Bureau Chief Sabir Shakir. In particular, Ofcom considered statements such as *"it is time for this media group which takes undue advantage of its freedom must be punished"*, *"they [Geo and Jang reporters] resorted to rudeness"* and *"viewers, you watched this report and how Geo News reporters resorted to thuggish behaviour"* demonstrated the presenters willingness to editorialise further the highly critical views already conveyed by the programmes' contributors.

Ofcom also noted that the news items in question also included references that could have been characterised as critical of the actions of the Pakistani Government. For example, we noted that the Government was described as: becoming Geo TV's *"tools"*, *"creating a situation of lawlessness and chaos by rendering its own institutions dysfunctional"*; and *"interfering in PEMRA affairs"*. We also noted the following statements:

*"somewhere within the Government a decision was made not [to] let this meeting happen... Those who have formed these queries [with the Law Ministry] are misusing their powers under the PEMRA Act and they may be held criminally liable for doing so...It seems they are going to abolish PEMRA on this [Geo TV] issue".*

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*"...the organisation [PEMRA] is totally ineffective; it does not have a functional chairman; its members are appointed by the Government and the Information Secretary head[s] it. PEMRA should not be subordinate to the Ministry of Information..."*

We noted that at no point did the four news programmes reflect the viewpoints of the Independent Media Corporation or the Pakistani Government on the highly critical statements being made against these organisations. Given the critical and serious nature of the statements made about the Independent Media Corporation and the Pakistani Government, we considered it was necessary for the Licensee to ensure that the views of the Independent Media Corporation and the Government were presented in the news items at least to some extent, to counter the critical statements being made.

In reaching our Decision, we took into account ARY's comments that "many opinions were featured on the programmes" and that it had included "the reactions of the regulatory authorities". However, our view was that the alternative viewpoints presented during the programmes were insufficient, given the range and frequency of

strongly critical comments against Independent Media Corporation and the Pakistani Government. Although we noted that a very brief interview with PEMRA member Israr Abbasi was included in two of the four broadcasts (15 May 2014 and 16 May 2014), we also observed that:

- despite the fact that the story covered in the bulletins centred on material broadcast by Geo TV, during the four news programmes only one brief reference<sup>24</sup> which could be reasonably described as offering the Independent Media Corporation's viewpoint was included (*"It just runs a ticker stating that they regret if someone's feelings have been hurt"*) and that this itself contained an implied criticism of that broadcaster; and
- in the three news programmes which contained criticisms of the Pakistani Government, no viewpoints were offered to counter the critical statements being made against it.

Given the above, we concluded that, on the specific facts of this case, the news programmes were not presented with due impartiality and were therefore in breach of Rule 5.1 of the Code.

### **Breaches of Rule 5.1**

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<sup>24</sup> In the news bulletin broadcast on 15 May 2014.

## Advertising Scheduling cases

### In Breach

#### Advertising minutage

*HUM Europe, various dates and times*

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#### Introduction

HUM Europe is a general entertainment channel that broadcasts in Urdu, serving the Pakistani community in the UK and Europe. The licence for HUM Europe is held by HUM Network UK Limited (“HUM Network” or “the Licensee”).

Rule 4 of the Code on the Scheduling of Television Advertising (“COSTA”) states:

“time devoted to television advertising and teleshopping spots on any channel in any one hour must not exceed 12 minutes”.

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

Date	Clock hour	Amount of Advertising (minutes and seconds)
05/08/2014	20	12:59
06/08/2014	20	12:22
07/08/2014	19	12:07
07/08/2014	20	13:27
09/08/2014	21	12:42
11/08/2014	19	14:56
11/08/2014	20	14:46
11/08/2014	21	12:56
11/08/2014	22	13:25
12/08/2014	19	13:06
12/08/2014	20	14:46
12/08/2014	21	12:55
12/08/2014	22	13:15
13/08/2014	19	12:12
13/08/2014	23	12:52
14/08/2014	9	15:20
14/08/2014	10	16:06
14/08/2014	19	12:40
16/08/2014	22	12:09
17/08/2014	19	13:22
17/08/2014	20	12:44

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

#### Response

HUM Network said that upon being alerted to the matter by Ofcom, its scheduling team, who it said are aware of the rules of COSTA, carried out a complete review of the process.

The Licensee explained that an error occurred during the transition to a new software system. For the purposes of training staff to use the new system, “test schedules” were created. It said the test schedules were never intended to be used for broadcast and in some cases, purposely exceeded 12 minutes of advertising to check whether the new system picked up the additional minutage and prevented the schedule from being exported.

However, the Licensee said that the test schedules inadvertently overrode the original schedules when it was still using the old system. As the old system was not capable of detecting the excess advertising minutage, the schedule was exported into the playout system and subsequently broadcast.

HUM Network said that “glitches” in the system were identified and testing continued until they were resolved. It also confirmed that its new system was now fully operational and that daily advertising ‘as run’ logs are delivered to the general manager for review and checking.

### **Decision**

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content which it considers are best calculated to secure a number of standards objectives. One of these objectives is that “the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with”.

Articles 20 and 23 of the EU Audiovisual Media Services (AVMS) Directive set out strict limits on the amount and scheduling of television advertising. Ofcom has transposed these requirements by means of key rules in COSTA.

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

Ofcom noted the Licensee’s explanation for the incidents and the measures it has undertaken to prevent a recurrence. However, given the significant number of incidents and the fact that many of the clock hours identified contained considerably more advertising than permitted, Ofcom was concerned that HUM Network did not appear to be aware of this problem until it was alerted to the matter by Ofcom.

Ofcom will continue to monitor the Licensee’s compliance with COSTA and puts the Licensee on notice that we will consider further regulatory action in the event of a recurrence.

### **Breaches of Rule 4 of COSTA**

## In Breach

### Advertising minutage

*Showcase 2, 1 September to 8 October 2014, various times*

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#### Introduction

Showcase 2 is a general entertainment channel broadcast on the digital satellite platform. The licence for Showcase 2 is held by Information TV Ltd ("Information TV" or "the Licensee").

Rule 4 of the Code on the Scheduling of Television Advertising ("COSTA") states:

"time devoted to television advertising and teleshopping spots on any channel in any one hour must not exceed 12 minutes".

During its routine monitoring of COSTA compliance, Ofcom identified seven instances between 1 and 21 September 2014 where the amount of advertising in a single clock hour exceeded the permitted allowance by between 22 and 58 seconds.

Ofcom considered these instances raised issues warranting investigation under Rule 4 of COSTA and therefore sought comments from the Licensee with regard to this rule.

#### Response

The Licensee said the incidents – which all related to broadcasts of the same recently launched music programme, *Nusic TV* – were the result of a combination of several changes in operational procedures and a "failure to fully grasp the new regime controlling transmissions".

The Licensee explained it had introduced new scheduling software in April 2014 which should prevent transmission schedules from breaching rules relating to advertising minutage. It said that the software assesses compliance both over a broadcast day and in each clock hour.

Information TV said that advertisements were planned using a schedule template into which breaks were inserted, and then verified as compliant. The length of the individual video clips which featured in *Nusic TV*, however, varied from the schedule template, requiring the schedule to be adjusted to ensure compliance. This was a manual process, involving the selection of clips to bring the transmission schedule back into compliance.

The Licensee said the errors arose in this case because assessment was carried out on the basis of the programme's two hour length, rather than on individual clock hours. Although one of the clock hours in the programme exceeded the permitted allowance on the dates in question, the adjacent clock hour was under the permitted allowance, and minutage across the programme as a whole was therefore compliant.

The Licensee also informed Ofcom about four additional overruns on 22, 26 and 27 September and 8 October 2014 of 55 seconds, 131 seconds, 131 seconds and 35 seconds respectively.

## **Decision**

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content which it considers are best calculated to secure a number of standards objectives. One of these objectives is that “the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with”.

Articles 20 and 23 of the Audiovisual Media Services Directive set out strict limits on the amount and scheduling of television advertising. Ofcom has transposed these requirements by means of key rules in COSTA. Ofcom undertakes routine monitoring of its licensees’ compliance with COSTA.

In this case, Ofcom found that the amount of advertising broadcast by Showcase 2 was in breach of Rule 4 of COSTA on 11 occasions.

Ofcom will continue to monitor the Licensee’s compliance with COSTA. Should similar compliance issues arise, Ofcom may consider further regulatory action.

## **Breaches of Rule 4 of COSTA**



## Broadcast Licence Conditions cases

### In Breach

#### Provision of information to Ofcom relating to a change of control

*Sunrise Radio (London) Ltd*

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##### Introduction

Sunrise Radio (London) Ltd (“Sunrise” or “the Licensee”) holds a local AM commercial radio licence for Greater London. The station currently broadcasts on 963 and 972 kHz AM as Sunrise Radio.

In April 2014 Avtar Lit, who Ofcom regarded as being the ultimate controller of the Licensee, informed us that he had resigned from the licence-holding company as a director. Ofcom therefore requested that a ‘Notification of a Change to a Broadcast Licensee’ form (the “Notification form”) be completed by Sunrise so that Ofcom could assess whether a change of control had taken place at the licence-holding company<sup>1</sup>.

The Notification form requests information on current shareholdings and directorships at the licence-holding company. It also requests confirmation of the licensee’s previous shareholdings and directorships prior to the change taking place.

On the basis of the information provided in the form, as well as information held by Ofcom and information filed at Companies House, it became apparent that significant changes to the shareholders and directors of Sunrise had taken place previously without Ofcom being informed.

Prior to the Notification form being completed by Sunrise on 24 April 2014, the existing information held on file by Ofcom, dating from 17 September 2009, showed that the licence-holding company (at that time known as Buzz Asia Ltd) was 100% owned by Litt Corporation Ltd. That company was, in turn, 100% owned by Avtar Lit.

Since then, the following three changes had taken place:

- The transfer, in October 2012, of Litt Corporation’s 100% shareholding in the licensee company to Avtar Lit.

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<sup>1</sup> When a commercial radio licence undergoes a change of control, Ofcom is required, under section 355 of the Communications Act 2003, to undertake a review of the programme output provided under the licence. Specifically, Ofcom must review the likely effect of the change of control on:

- the quality and range of programmes included in the service;
- the character of the service; and,
- the extent to which local material and locally-made programmes are included in the service.

Ofcom must determine whether the change of control would prejudice any of the three matters listed above. If it decides that it would, then it must amend the licence, by imposing new Format obligations. However, any amendments may only reflect what the previous owner was actually delivering during the three months before the change of control.

- The issue, at some point prior to December 2013, of 99 new shares in the licensee company to Anita Lit (Avtar Lit's wife). At this time, the company was 99% owned by Anita Lit, however Avtar Lit remained the sole director.
- The issue, in February 2014, of an additional 150 shares in the licensee company. Half (75) of these new shares were issued to Triple A Express Limited, with the other half issued to Autoline Consulting Ltd. Additional directors – Rajinder Bajwa, Gurdev Jassi and Anita Lit – were also appointed to the board.

Ofcom had not been made aware of these significant changes (in each case affecting or potentially affecting the control of the company) that had taken place at the Licensee between September 2009 and April 2014.

Ofcom considered that this warranted investigation under Condition 10 of Sunrise's Licence. Condition 10<sup>2</sup> requires, among other things, that the Licensee must inform Ofcom of proposed and actual changes affecting shareholdings in, or directors of, the Licensee.

We therefore asked the Licensee for formal comments on its compliance with Condition 10 of its licence between 2009 and April 2014.

## Response

The Licensee acknowledged that the transfer in October 2012 of the 100% shareholding in the Licensee company from Litt Corporation Ltd to Avtar Lit should have been notified to Ofcom, but was not.

The Licensee acknowledged that the issue of 99 new shares to Anita Lit in October 2012 should have been notified to Ofcom, but was not, although it noted that Avtar Lit continued as the sole director and Chief Executive, thereby retaining 'de facto control' of the company.

The Licensee further acknowledged that the issue of new shares and appointment of three new directors in February 2014 should also have been notified to Ofcom, but was not.

The Licensee noted that all shareholder and director changes since 9 April 2014, including Avtar Lit's departure from the board, had been formally notified to Ofcom.

Sunrise explained that the failure to notify these changes resulted from Avtar Lit's mistaken understanding that only changes of control in the Licensee were required to be notified, and no other changes. It also indicated that Avtar Lit believed a change of control only occurred on 9 April 2014, despite the introduction of new investors and new directors, as the majority of shares were held by family members and Avtar Lit retained the role of Chairman and Chief Executive.

The Licensee assured Ofcom that procedures are now in place to ensure that the company can comply fully with all its licence obligations and apologised for the failure to do so in relation to the changes which took place between 1 October 2012 and 9 April 2014.

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<sup>2</sup> Condition 10 can be viewed in full via our template licence, available at: <http://licensing.ofcom.org.uk/binaries/radio/analogue-licence.pdf>.

## Decision

Ofcom has an ongoing statutory duty to ensure that all broadcasting licences are held by “fit and proper” persons, and also to ensure that licences are not held by disqualified persons. In addition, if a change of control takes place at a local commercial analogue radio licensee, Ofcom is required under section 355 of the Communications Act to undertake a review of the station’s broadcast output.

These duties are reflected in Condition 10 of local sound broadcasting service licences, which requires the licensee to keep Ofcom informed of proposed and actual changes affecting shareholdings in, or directors of, the licence-holding company.

In this case, Sunrise Radio (London) Ltd failed to notify Ofcom of three specific changes to its shareholdings or directorships. We noted that the issue of 99 shares to Anita Lit gave this shareholder a majority interest in the company, and that on that basis, Anita Lit controlled the company. Avtar Lit also retained ‘de facto control’.<sup>3</sup> The issue of 150 additional shares in February 2014 and the addition of directors at the same time, also constituted an important change.

The failure to inform Ofcom of these changes was therefore contrary to the requirements set out in Condition 10 of Sunrise’s licence, and prevented Ofcom from fulfilling its duties with regard to this licence during the period between October 2012 and April 2014.

**Breach of Licence Condition 10 in Part 2 of the Schedule to the local sound broadcast service licence held by Sunrise Radio (London) Ltd (licence number AL000175BA).**

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<sup>3</sup> “Ofcom guidance on the definition of control of media companies”, 27 April 2006, paragraphs 2.6 and 3.6. The guidance is available at: [http://stakeholders.ofcom.org.uk/binaries/consultations/media2/statement/media\\_statement.pdf](http://stakeholders.ofcom.org.uk/binaries/consultations/media2/statement/media_statement.pdf)

## Electronic Programme Guide cases

### Not in Breach

#### Electronic Programme Guide

*Virgin Media Limited*

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This Finding includes redactions.

#### Introduction

Local TV services are provided under local digital television programme service (L-DTPS) licences awarded by Ofcom. ESTV Limited was awarded the L-DTPS (Local TV) licence for the London area, and launched its service, London Live, on 31 March 2014. London Live is provided via the DTT, cable and satellite platforms.

L-DTPS services and any simulcasts on other broadcast platforms are listed as public service channels entitled to prominence on Electronic Programme Guides (EPGs) under section 310 of the Communications Act 2003 (“the Act”). The operators of the EPGs for the three main TV platforms – Digital UK for DTT/Freeview, Virgin Media for its cable and BSkyB for its satellite platform – have all allocated local TV services positions on their EPGs. EPG providers are required to comply with Ofcom’s Code on Electronic Programme Guides (“the Code”) in the allocation of EPG positions and, in particular in this context, the section of the Code relating to the granting of prominence to public service channels.

Virgin Media Limited (“the Licensee”) holds a Television Licensable Content Service (TLCS) licence for the EPG service provided on the cable platform. The Licensee has allocated Channel number 159 to ESTV.

Ofcom received a complaint from ESTV in January 2014, alleging that the allocation of Channel number 159 to ESTV does not constitute “appropriate prominence” for the purposes of the Act and the Licensee had “failed to provide any reason” why a higher position (i.e. lower channel number) could not be allocated, highlighting apparently vacant slots at 119 and 120.

#### Statutory and Regulatory Framework

##### *Section 310 of the Act*

Section 310(1) and (2) of the Act require Ofcom to draw up a code giving guidance as to the practices to be followed in the provision of EPGs. Those practices must include the giving of such degree of prominence within the EPG as Ofcom considers appropriate to the listing or promotion of the programmes included in each public service channel.

Section 310(4) of the Act sets out a list of public service channels which originally included BBC services, Channels 3, 4 and 5 and S4C. In January and February 2012, legislation was passed by Parliament creating a new regulatory framework for local television. As part of that framework, the Secretary of State made an Order under section 310(4) of the Act to add local television services to the list of public service channels granted prominence.

### *Aims of the legislation*

During the legislative debates which led to the enactment of section 310 of the Act, the Minister made clear that prominence means granting public service channels a better listing position than might otherwise be the case through commercial negotiation. As the Minister stated:

“If those behind the amendment seek confirmation that we want to make it possible for public service channels to be given more prominent places on EPGs than might be the case if matters were simply left to negotiation, let me assure them that is certainly our intention. It is the purpose of [section 310]. However, as I said, it is equally our intention to leave it to Ofcom to decide what prominence a given channel should be afforded. It will have to take lots of factors into account, such as the degree to which the removal of a channel to a new part of the listing might inconvenience viewers. Ultimately, however, we want to leave it to its discretion.”<sup>1</sup>

When the Secretary of State chose to make an Order under section 310(5) of the Act adding local television services to the list of public service channels set out in section 310(4), the Government stated<sup>2</sup>:

“The Government has discussed EPG prominence with the main cable and satellite providers who are willing to offer genre tabs and yellow button access accordingly and envisage services carried on the pay platforms will largely be in the form of video on demand. However, they will review their EPG policies in light of the relevant legislation that is made and take a view on appropriate prominence. This view has to be consistent with the statutory code on EPGs that Ofcom enforces. The Government would hope that the highest, vacant LCN would be awarded to the local TV services established under the Government’s proposed framework.”

The purposes of the prominence regime for public service channels, was most recently set out by the Government in the strategic review paper *Connectivity, Content and Consumers*, “PSBs must be easily accessible and discoverable by audiences”<sup>3</sup> and goes on to say:

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<sup>1</sup> HL Deb 03 June 2003 vol.648 col. 1277

<sup>2</sup> *Local TV: Implementing a new framework* : [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/72922/Impact-Assessment\\_Local-TV\\_July2011.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/72922/Impact-Assessment_Local-TV_July2011.pdf) at paragraphs 33 to 36 of the Evidence Base section.

<sup>3</sup> See p25. Available at [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/225783/Connectivity\\_Content\\_and\\_Consumers\\_2013.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/225783/Connectivity_Content_and_Consumers_2013.pdf).

“The vast majority of people find the programmes they want to watch by using the Electronic Programme Guide (EPG) on their TV: the channel listing service that signposts viewers to what’s on. The more prominently a channel is placed on an EPG, the more likely that a given viewer will settle on that channel, because it is easier to find and access. PSB programmes are relatively easy to discover because their channels are placed at the top of the listing services, meaning that no scrolling is required to watch *EastEnders* or *Coronation Street*. This prominence on traditional TV is secured in legislation.”<sup>4</sup>

### *Ofcom’s EPG Code*

In accordance with section 310 of the Act, Ofcom has published a Code on Electronic Programme Guides (“the Code”)<sup>5</sup> setting out a range of practices to be followed by providers of EPGs, including a section dealing with the listing and promotion of public service channels. That section provides as follows:

“2. Section 310(2) requires that Ofcom’s EPG code oblige EPG providers to give the degree of prominence that Ofcom considers appropriate to the listing and promotion of public service channels, for members of the intended audience. The Secretary of State may add to, or subtract from, the list of relevant public service broadcasting (PSBs) channels, which comprises the digital versions of BBC services, as well as the digital services of Channels 3, 4 and 5, Teletext and S4C Digital<sup>6</sup>. The Code is also to ensure that members of the intended audience for services provided for a particular area or locality are able use the EPG to select the programmes included in that service.

3. Ofcom considers that ‘appropriate prominence’ permits a measure of discrimination in favour of PSB channels. However, it does not propose to be prescriptive about what appropriate prominence means, as there are many possible ways in which EPGs could display information about programmes included in PSB services. Accordingly, EPG providers are required to comply with the following general principles:

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<sup>4</sup> Ofcom notes that the reference to PSB programmes being at the top of the listing services in the paper does not include L-DTPS services since those services are not at the top of the listing services. However, section 310 of the Act does not draw a distinction between different public service channels and therefore the requirement for prominence should secure ease of discoverability for all public service channels.

<sup>5</sup> Available at <http://stakeholders.ofcom.org.uk/binaries/broadcast/other-codes/epgcode.pdf>

<sup>6</sup> Local digital television programme services were added to the list of public service channels by the Code of Practice for Electronic Programme Guides (Addition of Programme Services) Order 2011 after the publication of the Code.

- a. EPG providers should ensure that the approach they adopt to the requirement for appropriate prominence is objectively justifiable and should publish a statement setting out their approach;
  - b. Ofcom will have regard to the interests of citizens and the expectations of consumers in considering whether a particular approach to listings public service channels constitutes appropriate prominence; and
  - c. in giving appropriate prominence to PSB channels, EPGs should enable viewers in a region to select the appropriate regional versions of those channels through the primary listings for those channels provided the PSB in question has secured services that enable this.
4. These principles would have broad application. For example, they would justify a decision by an EPG operator using a menu-based approach to position public service channels no more than 'one click' from the home page. They might also justify giving public service channels first refusal on vacant listings higher in the category that they were placed."

EPG providers are required to comply with the Code as a result of conditions included in their broadcasting licences. Section 311 of the Act requires Ofcom to include appropriate conditions in the licences of EPG providers and Condition 10 of the television licensable content licence issued to the Licensee for the provision of its electronic programme guide ("the Licence") therefore states:

"To the extent that the Licensed Service consists in or includes an EPG the Licensee shall ensure that the provisions of the Code on Electronic Programme Guides are observed in the provision of the Licensed Service."

The Licensee is therefore required to comply with the Code in considering the appropriate listing of public service channels and, in particular, paragraphs 3 and 4 which provide for the principles to be applied in deciding upon the degree of prominence to be afforded to them.

### **The Licensee's EPG Policy**

The Licensee's latest EPG listing policy was established in February 2014<sup>7</sup> ("the EPG Policy") and sets out the Licensee's approach to the listing of channels on its EPG. That document now includes a statement setting out the Licensee's approach to the listing and promotion of public service channels. Whilst no such statement was included in the EPG Policy prior to February 2014, the Licensee has indicated that the principles now set out in the EPG Policy are those which it followed in deciding upon the degree of prominence to be afforded to local television services. In light of this, Ofcom has therefore assessed ESTV's complaint as if the EPG Policy were published at the time of the allocation of slot 159 to the Licensee.

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<sup>7</sup> Available at <http://www.virginmedia.com/about/working-with-us/epg-listing-policy.php>



In respect of the listing of public service channels, the EPG Policy includes the following statement:

“3. In accordance with Ofcom’s Code and section 310(2) of the Communications Act 2003, Virgin Media is required to give the relevant public service broadcasters “appropriate prominence” in allocating an EPG listing. In deciding how to give “appropriate prominence” to public service broadcasters, Virgin Media will ensure that its approach is objectively justifiable and has regard to the interests of citizens and the expectations of consumers. It is understood that the degree of prominence required under the Ofcom Code is not prescriptive and this has informed Virgin Media’s view that public service content varies greatly in terms of the target audience, the particular nature of the content and the date of the relevant channel’s launch into the EPG.

Virgin Media will therefore consider the following factors in applying the requirement for ‘appropriate prominence’ (which are listed in no particular order):

- (a) The channel’s actual or likely BARB rating, scope, target audience and appeal to Virgin Media’s customer base;
- (b) Whether the channel is a multiplex of an existing PSB channel or high definition version of a standard definition channel;
- (c) The breadth of distribution rights made available to Virgin Media customers and other access points provided by Virgin Media;
- (d) In Virgin Media’s view, the unique value of the channel to its customers;
- (e) The channel numbers available at the time of the launch of the channel;
- (f) The overall prominence of the PSB brand within the EPG together with other access points;
- (g) The nature of content provided and where similar and comparable channels and/or content is located within the EPG; and
- (h) Existing and future slot availability within the relevant genre.”

### The Complaint

ESTV submitted a complaint to Ofcom on 24 January 2014. In its complaint, ESTV stated:

“As the sixth PSB ideally local TV services should have been afforded Ch.6 across all EPG’s on all delivery platforms, keeping them in line with the established PSB’s. Clearly this would have been a challenge to



achieve given the legacy issues around EPG delivery and the lack of clarity in regulatory control around EPG guides. ESTV at all times assumed the “appropriate prominence” would translate into, at worst the first available LCN in the entertainment genre for each platform; this assumption was further endorsed by DMOL delivering the First LCN available CH.8 on the DTT platform and Sky also delivering the first available LCN Ch.117 as highlighted in sections 2.91 and 2.88 of the Local TV statement.”

In respect of the particular listing it received on the Licensee’s platform, ESTV stated:

“To ensure ESTV delivers maximum coverage it engaged with all linear platforms that can deliver London only coverage in line with its licence remit. To maximise coverage all delivery platforms must deliver “appropriate prominence” ideally Ch.6 but at worst the first available LCN within the entertainment category; DTT has confirmed they will deliver Ch.8, Sky Ch.117 whilst Virgin (which represents ca. 20% of London homes) will only commit to Ch.159 – clearly this is not appropriate prominence, its first available LCN or in line with the positions offered by the peer group. Virgin Media currently has no listings for Ch.119 or Ch.120.”

ESTV indicated that it had raised the issue with the Licensee in correspondence and in meetings on a number of occasions. The Licensee had not offered an alternative channel listing and had provided no reason as to why it would not be possible to list ESTV at Channel number 119 or 120.

## Response

On the Licensee’s EPG<sup>8</sup>, viewers have the option of either accessing the entire channel list, or using one of the genre filtering options to restrict the list to the channels within a specific channel genre section. Although channels are always ranked in ascending order by EPG channel number, the number of channels listed per EPG page depends on the equipment used, and on Virgin Media the number of channels listed per EPG page varies on the set-top box used.

The Licensee has indicated that in allocating the slot to ESTV, it considered it to be a service falling within the Entertainment genre of its EPG. The Entertainment genre is one of 13 channel groupings on the Virgin Media EPG, and it appears first in the sequential channel listings. On the basis of the latest channel listing, the Entertainment genre currently holds 105 logical channel numbers, from 101 to 204, and 991<sup>9</sup>.

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<sup>8</sup> A report commissioned by Ofcom and published last year described the navigation options for users of the main television EPGs, see [http://stakeholders.ofcom.org.uk/binaries/consultations/c3-c5-finance/Impact\\_of\\_EPG\\_Prominence.pdf](http://stakeholders.ofcom.org.uk/binaries/consultations/c3-c5-finance/Impact_of_EPG_Prominence.pdf).

<sup>9</sup> <http://my.virginmedia.com/content/dam/virgoBrowse/docs/VirginMediaTVChannelGuide.pdf>

Having considered the factors set out in the EPG Policy, the Licensee offered ESTV listing at slot 159 within the channel listings which it states is the highest available slot within the appropriate genre that is not currently subject to ongoing negotiation or plans. Whilst higher positions, notably 119 and 120, were available at the time, the Licensee indicated that these were the subject of ongoing discussion both internally and with third parties.

The Licensee stated that it had offered a “preferential slot within our EPG – particularly given ESTV’s expected low audience share”. It also said that “the allocation of certain alternative EPG positions are the subject of ongoing discussion both internally and with third parties”, and in view of commercial sensitivities and confidentiality obligations, it would not be appropriate for it to give details as to why particular slots were unavailable to ESTV.

The Licensee disputed that local TV should “by default be allocated the first available slot”, arguing that the Code does not explicitly oblige this.

The Licensee considers that the allocation of slot 159 takes into account all relevant factors within the EPG Policy and is compliant with its obligations under the Code and the Act.

The Licensee supplied Ofcom with an account of how it assessed the factors that it states in the EPG Policy will be taken into account, in allocating EPG slot 159 to local TV in general and ESTV in particular. This stated in relation to the factors listed (a) to (h) above, that:

- In relation to (a), the likely audience share of ESTV would be low;
- In relation to (d), Local TV would have “potentially the same value to Virgin Media’s customers as existing regional channels, such as BBC Alba and S4C”;
- In relation to (e) and (h), 159 was the highest slot in the appropriate genre “that is not currently subject to ongoing negotiation or plans”; and
- In relation to (g), 159 was “in proximity” to “comparable/similar channels”.

The Licensee suggested that the other factors were not relevant in this case.

#### Additional Information

In light of the Licensee’s indication that slots 119 and 120 were the subject of ongoing negotiation, Ofcom requested further information from the Licensee. In its response, the Licensee stated that:

“In considering future channel launches and potential EPG positions, Virgin Media has to take into account a number of factors, in line with its EPG policy, including the long term management of the EPG, likely future channel launches, available slot positions and the overall customer offering. These internal considerations often take place well in advance of a channel’s launch and may result in certain EPG slots being the subject of future plans and/or being earmarked for a certain purpose in anticipation of ensuring consistency with our EPG policy. Therefore, whilst certain slots

may appear “free”, our EPG allocation methodology, as informed by our EPG Policy, does not mean that all currently unused slots are necessarily available for the carriage of any channel.

Slots 119 and 120 are prominent slots within the EPG and, as with other EPG slots, have operational and strategic significance for certain channel providers as well as for Virgin Media. In relation to these particular slot numbers, they are buffered by ITV channels at slots 113 to 118 and Sky channels at slots 121 to 123. One of the principles for consideration within our EPG policy is that we may group “families” of channels together. [ ].”

The Licensee also supplied the following documents in response<sup>10</sup>:

Correspondence with [A]

- e-mail from the Licensee to [A] dated [ ] 2012, indicating that they had begun a renegotiation of [ ]<sup>11</sup>;
- internal document dated [ ] 2013 indicating [ ];
- e-mail from the Licensee to [A] dated [ ] 2013 indicating [ ];
- e-mail from [A] to the Licensee dated [ ] 2013 setting out [ ];
- e-mail from [A] to the Licensee dated [ ] 2013 indicating a commercial understanding between the parties not including slots 119 and 120 for [ ].

Correspondence with [B]

- e-mail from [B] dated [ ] 2014 indicating its intention to launch a new channel and requesting an indication of available EPG positions.

Correspondence with [C]

- letter from [C] to the Licensee dated [ ] 2013 enquiring as to why [ ] services had not been offered certain higher slots [ ];
- e-mail from the Licensee to [C] dated [ ] 2013 indicating that certain higher slots [ ] “form part of commercial negotiation and long term plans for our EPG” and that local channels would be launched on slot 159.

Internal documents

- Spreadsheet from 2012 indicating discussions for slots 119 and 120 to be filled by [A] or [B] channels;
- Spreadsheet (undated) indicating “Proposed View at [ ] 2012” including [ ] and [ ] at slots 119 and 120 respectively.

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<sup>10</sup> This section and the following have been redacted in this version of the PV, so as not to disclose confidential information.

<sup>11</sup> The document does not make clear whether or not EPG position is relevant to these discussions, however.

Ofcom also requested details of the date on which slots 119 and 120 were last occupied from the Licensee. The Licensee indicated that the slots had not been in use since 31 January 2011.

The Licensee has subsequently indicated that it reached agreement for the carriage of ITVBe and launched that service in slot 119 on 8 October 2014, and ITVBe+1 in slot 120 on 19 November 2014.

## Decision

The Licensee is required to comply with the Code in the listing of public service channels<sup>12</sup>. ESTV is a public service channel for these purposes. The Code requires EPG providers to grant appropriate prominence to public service channels.

Slots 119 and 120 were unused by the Licensee at the time it allocated a slot to ESTV, and had not been used since January 2011. The Licensee has indicated that it considers channels 119 and 120 to be “prominent slots within the EPG” and might therefore have been suitable for the ESTV service. However, the Licensee decided not to allocate either 119 or 120 to ESTV but rather to allocate slot 159.

In summary the Licensee has indicated that it has considered a number of factors in deciding upon the appropriate positioning of ESTV within its EPG service. In respect of the possible allocation of slots 119 and 120, the Licensee considers that those slots have operational and strategic significance for Virgin Media and [ ]. The Licensee considers that 119 and 120 are natural positions for existing and future channels operated by [ ]. The Licensee has stated that [ ] had indicated their intention to launch new channels at various points and had discussed this with the Licensee [ ].

Ofcom recognises that the Code permits a degree of freedom for EPG providers in arranging their channel listings and recognises that the factors put forward by the Licensee may be relevant in deciding what prominence is appropriate. However, Ofcom notes that slots 119 and 120 were not in use between 31 January 2011 and, in the case of slot 119, 8 October 2014. Slot 119 is now in use by ITVBe (since 8 October 2014) and Slot 120 by ITVBe+1 (since 19 November 2014). The Licensee first set out its proposed approach to EPG prominence for L-DTPS services in May 2012; ESTV was awarded the L-DTPS licence for London in January 2013; and launched its service in March 2014.

The Licensee has suggested that slots 119 and 120, whilst unused until October 2014, were not in fact vacant due to ongoing negotiation with [A] and [B]. Ofcom has reviewed the correspondence supplied by the Licensee in support of its position. In Ofcom’s view, the evidence provided by the Licensee does not indicate that negotiations for slots 119 and 120 with either [A] or [B] were at a sufficiently advanced stage prior to the allocation of slot

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<sup>12</sup> as defined in section 310 of the Act.

159 to ESTV in 2012 such that slot 119 or slot 120 should not have been considered for ESTV.

As regards [A], the evidence provided indicates that proposals for the use of slots 119 and 120 were not put forward until after the allocation of slot 159 to L-DTPS services and were subsequently rejected. The e-mail of [ ] 2012 contains no mention of EPG position and indicates merely that [ ].

With respect to [B], the correspondence from 2014 did not occur until after the allocation of slot 159 to ESTV and contains no mention of slots 119 and 120. The Licensee's correspondence with [C] does not provide any evidence of concrete proposals or agreement for the use of slots 119 and 120.

Ofcom recognises that EPG providers may wish to hold open slots for the grouping of families of channels and the spreadsheets provided indicate that the Licensee may have had a preference for slots 119 and 120 to be used by [ ]. However, in Ofcom's view, an EPG provider should not maintain this position indefinitely. At the time of allocation of slot 159 to ESTV, slots 119 and 120 had been vacant for a period of over 12 months and no concrete proposals had been put forward for the allocation of those slots to other services. In fact, slots 119 and 120 remained vacant for a period of over 3 years until the very recent launch of ITVBe and ITVBe+1.

However, in this case, Ofcom recognises that the EPG Code permits a measure of discretion to EPG providers in their approach to the granting of prominence to public service channels.

In exercising that discretion, Ofcom has considered the extent to which the Licensee's policy is consistent with the requirements of the Code and, in particular, the extent to which it may be objectively justified. Ofcom does not consider that there is evidence to suggest that the Licensee's approach in its policy is not objectively justified in the present circumstances, and Ofcom recognises that the Code itself is not so prescriptive as to require an EPG provider to offer the highest available slot to a public service channel.

Ofcom further recognises that the Licensee has followed its published policy in considering the appropriate level of prominence in this case. The Licensee's policy sets out a number of factors which it will take into account and, insofar as relevant, the Licensee has taken those factors into account in this case. The approach of the Licensee in granting slot 159 to ESTV is within the margin of discretion afforded to the Licensee under the current Code.

In light of the above, Ofcom is satisfied that, in this case, the Licensee has not breached the provisions of the Code and, consequently Condition 10 of its Licence.

## **Not in Breach**

## **Further note on EPG Prominence**

Ofcom wishes to see public service channels given easily discoverable positions on EPGs, and it is our view that the discretion afforded to EPG providers under the existing Code may not achieve the policy aims of the legislation. Consequently, it may be appropriate for Ofcom to be more specific as to the outcomes which are to be secured in granting prominence to public service channels.

Ofcom's Annual Plan set out our intention to consult on any changes to the Code following the anticipated Government consultation and statement on EPG prominence<sup>13</sup>. However, in light of Ofcom's concerns as to whether the existing Code is capable of achieving the objectives of the prominence regime, Ofcom has decided that it is appropriate to review the Code now. A consultation will be issued shortly setting out new proposals for the securing of prominence for public service channels.

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<sup>13</sup> [http://www.ofcom.org.uk/files/2014/03/Annual\\_Plan\\_1415.pdf](http://www.ofcom.org.uk/files/2014/03/Annual_Plan_1415.pdf) at paragraph 4.94

## Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 18 November and 1 December 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
ITV News at Ten	ITV	08/09/2014	Elections/Referendums
Gospel Show	Kemet Radio (Nottingham)	21/09/2014	Sexual orientation discrimination/offence

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

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

Licensee	Licensed Service	Categories
ATN Bangla UK Ltd	ATN Bangla UK	Provision of recordings

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

## Complaints Assessed, Not Investigated

Here are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 18 November and 1 December 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
The Hotel Inspector Returns	5*	29/07/2014	Materially misleading	1
NCIS	5USA	18/11/2014	Scheduling	1
Station Ident	Absolute Classic Rock	n/a	Materially misleading	1
Absolute 80s Greatest Hits	Absolute Radio	07/11/2014	Offensive language	2
Andy Bush	Absolute Radio	15/10/2014	Disability discrimination/offence	1
Geoff Lloyd's Hometown Show	Absolute Radio	21/10/2014	Generally accepted standards	1
Programming	All Channels	n/a	Outside of remit / other	1
Programming	Ask FM	31/10/2014	Outside of remit / other	1
Advertisements	Attheraces	28/10/2014	Advertising minutage	1
Atlantis	BBC 1	15/11/2014	Violence and dangerous behaviour	1
BBC News	BBC 1	n/a	Due accuracy	1
BBC News at Six	BBC 1	19/11/2014	Due impartiality/bias	1
BBC News at Six	BBC 1	24/11/2014	Due impartiality/bias	1
Children in Need 2014	BBC 1	14/11/2014	Race discrimination/offence	1
Doctor Who	BBC 1	08/11/2014	Promotion of products/services	1
Doctor Who	BBC 1	08/11/2014	Violence and dangerous behaviour	1
EastEnders	BBC 1	17/11/2014	Drugs, smoking, solvents or alcohol	1
EastEnders	BBC 1	18/11/2014	Generally accepted standards	1
EastEnders	BBC 1	18/11/2014	Sexual orientation discrimination/offence	1
EastEnders	BBC 1	20/11/2014	Race discrimination/offence	1
Have I Got a Bit More News for You	BBC 1	03/11/2014	Generally accepted standards	1
Match of the Day	BBC 1	08/11/2014	Flashing images/risk to viewers who have PSE	1



Question Time	BBC 1	n/a	Due impartiality/bias	1
Saturday Kitchen Live	BBC 1	22/11/2014	Outside of remit / other	1
Strictly Come Dancing	BBC 1	22/11/2014	Outside of remit / other	1
Strictly Come Dancing	BBC 1	23/11/2014	Gender discrimination/offence	1
The Apprentice	BBC 1	26/11/2014	Offensive language	2
The Missing (trailer)	BBC 1	23/11/2014	Scheduling	1
MasterChef: The Professionals	BBC 2	13/11/2014	Gender discrimination/offence	1
Peaky Blinders	BBC 2	30/10/2014	Offensive language	1
The Mekong River with Sue Perkins	BBC 2	16/11/2014	Under 18s in programmes	1
The Mekong River with Sue Perkins	BBC 2	23/11/2014	Under 18s in programmes	1
Tigers About the House	BBC 2	21/11/2014	Animal welfare	1
Tom Kerridge's Best Ever Dishes	BBC 2	17/11/2014	Gender discrimination/offence	1
Tom Kerridge's Best Ever Dishes	BBC 2	17/11/2014	Generally accepted standards	1
BBC News	BBC channels	n/a	Due impartiality/bias	1
BBC News	BBC News Channel	11/11/2014	Due impartiality/bias	1
BBC News	BBC News Channel	18/11/2014	Due impartiality/bias	1
BBC News	BBC News Channel	29/11/2014	Due impartiality/bias	1
Newsbeat	BBC Radio 1	30/10/2014	Scheduling	1
Some Girls (trailer)	BBC Radio 1	17/11/2014	Scheduling	1
The Official Chart with Jameela Jamil	BBC Radio 1	30/11/2014	Age discrimination/offence	2
Afternoon Drama: Lost in Mexico	BBC Radio 4	25/11/2014	Offensive language	1
Afternoon Drama: The Man Who Fell to Earth	BBC Radio 4	06/11/2014	Offensive language	1
From Our Own Correspondent	BBC Radio 4	01/11/2014	Generally accepted standards	1
PM	BBC Radio 4	14/11/2014	Scheduling	1
PM	BBC Radio 4	20/11/2014	Due impartiality/bias	1
Programming	BBC Radio 4	n/a	Generally accepted standards	1
Today	BBC Radio 4	19/11/2014	Sexual material	1
Diotimas Ladder: From lust to morality (A History of Ideas)	BBC Radio 4 website	11/11/2014	Generally accepted standards	1
Breakfast Show	Blast 106 Belfast	09/10/2014	Violence and dangerous behaviour	1
Breakfast Show	Blast 106 Belfast	21/10/2014	Scheduling	1
Station ident	Bob FM	17/11/2014	Generally accepted standards	2
Dads Can't Dance	BRFM 95.6 FM (Sheerness, IoS)	19/11/2014	Generally accepted standards	1

Friday Forum	BRFM 95.6 FM (Sheerness, IoS)	07/11/2014	Offensive language	1
Moto GP	BT Sport	Various	Gambling	1
Capital Breakfast with Rob Ellis	Capital FM 102	20/11/2014	Drugs, smoking, solvents or alcohol	1
The Amazing World of Gum Ball	Cartoon Network	26/11/2014	Sexual material	1
Brainiac	Challenge	19/10/2014	Nudity	1
Alan Carr: Chatty Man	Channel 4	21/11/2014	Gender discrimination/offence	1
Channel 4 News	Channel 4	12/11/2014	Generally accepted standards	1
Channel 4 News	Channel 4	22/11/2014	Generally accepted standards	1
Countdown	Channel 4	25/11/2014	Advertising minutage	1
Father Ted	Channel 4	02/11/2014	Offensive language	1
Gogglebox	Channel 4	14/11/2014	Violence and dangerous behaviour	1
Gogglebox	Channel 4	28/11/2014	Animal welfare	3
Gogglebox	Channel 4	28/11/2014	Generally accepted standards	1
Homeland	Channel 4	02/11/2014	Generally accepted standards	1
How Rich are You?	Channel 4	10/11/2014	Crime	1
How Rich are You?	Channel 4	10/11/2014	Materially misleading	2
Mitsubishi's sponsorship of documentaries on 4	Channel 4	15/11/2014	Generally accepted standards	1
NFL	Channel 4	10/11/2014	Due impartiality/bias	1
Rory Peck Awards	Channel 4	10/11/2014	Scheduling	1
Sunday Brunch	Channel 4	23/11/2014	Religious/Beliefs discrimination/offence	1
The Paedophile Next Door (trailer)	Channel 4	21/11/2014	Scheduling	1
The Simpsons	Channel 4	13/11/2014	Scheduling	1
The Simpsons	Channel 4	22/11/2014	Scheduling	1
The Simpsons	Channel 4	28/11/2014	Scheduling	1
Weekdays on E4 (trailer)	Channel 4	19/11/2014	Age discrimination/offence	1
You Can't Get the Staff	Channel 4	18/11/2014	Generally accepted standards	1
Advertising	Channel 5	19/11/2014	Advertising content	1
Advertising	Channel 5	22/11/2014	Advertising content	1
Ben Fogle: New Lives in the Wild	Channel 5	21/11/2014	Generally accepted standards	1
Britain's Bloodiest Dynasty (trailer)	Channel 5	17/11/2014	Generally accepted standards	1
Britain's Bloodiest Dynasty (trailer)	Channel 5	21/11/2014	Scheduling	1
Can't Pay? We'll Take it Away!	Channel 5	21/07/2014	Offensive language	2
Can't Pay? We'll Take it Away!	Channel 5	23/09/2014	Generally accepted standards	1

Can't Pay? We'll Take it Away!	Channel 5	08/11/2014	Offensive language	3
Can't Pay? We'll Take it Away: Final Demand	Channel 5	28/07/2014	Offensive language	1
Christmas Wishes	Channel 5	25/11/2014	Scheduling	1
Madeleine McCann: A Global Obsession	Channel 5	18/11/2014	Due impartiality/bias	1
Movies on Sunday (trailer)	Channel 5	22/11/2014	Scheduling	1
My Violent Child	Channel 5	25/09/2014	Disability discrimination/offence	1
Neighbours	Channel 5	17/11/2014	Generally accepted standards	1
Rome: The World's First Superpower	Channel 5	07/11/2014	Competitions	1
The Gadget Show	Channel 5	03/11/2014	Competitions	2
The Wright Stuff	Channel 5	11/11/2014	Generally accepted standards	1
The Wright Stuff	Channel 5	24/11/2014	Generally accepted standards	1
Fort Boyard Ultimate Challenge	CITV	12/11/2014	Animal welfare	1
Bad Education (trailer)	Comedy Central	06/11/2014	Scheduling	1
Two and a Half Men (trailer)	Comedy Central	09/11/2014	Scheduling	1
The Cutting Tradition	Community Channel	09/11/2014	Generally accepted standards	1
Storage Hunters	Dave	14/11/2014	Scheduling	1
Channel ident	E4	20/11/2014	Generally accepted standards	1
Made in Chelsea	E4	24/11/2014	Generally accepted standards	11
Rude Tube	E4	24/11/2014	Animal welfare	1
Weekdays on E4 (trailer)	E4	16/11/2014	Age discrimination/offence	1
Weekdays on E4 (trailer)	E4	17/11/2014	Age discrimination/offence	1
Weekdays on E4 (trailer)	E4	18/11/2014	Age discrimination/offence	1
Hot Shots!	Film 4	28/11/2014	Scheduling	1
Utho Jago Pakistan	Geo TV	14/05/2014	Religious/Beliefs discrimination/offence	1
Advertising	Iman FM	26/11/2014	Advertising content	1
Advertising	ITV	19/11/2014	Advertising content	1
Advertising	ITV	20/11/2014	Advertising content	1
Aunt Bessie's sponsorship of The Chase	ITV	21/11/2014	Generally accepted standards	1
Broadchurch (trailer)	ITV	22/11/2014	Scheduling	1
Broadchurch (trailer)	ITV	30/11/2014	Generally accepted standards	1
Coronation Street	ITV	12/11/2014	Promotion of products/services	1
Coronation Street	ITV	17/11/2014	Offensive language	1

Coronation Street	ITV	24/11/2014	Outside of remit / other	1
Emmerdale	ITV	13/10/2014	Violence and dangerous behaviour	4
Emmerdale	ITV	15/10/2014	Violence and dangerous behaviour	4
Emmerdale	ITV	30/10/2014	Violence and dangerous behaviour	2
Emmerdale	ITV	20/11/2014	Violence and dangerous behaviour	3
Expression of support countering complaint about Dapper Laughs	ITV	n/a	Outside of remit / other	1
Good Morning Britain	ITV	03/11/2014	Gambling	1
Good Morning Britain	ITV	17/11/2014	Generally accepted standards	1
Harry Potter and the Philosopher's Stone	ITV	29/11/2014	Offensive language	1
I'm A Celebrity Get Me Out of Here! (trailer)	ITV	10/11/2014	Animal welfare	1
I'm a Celebrity, Get Me Out of Here! (trailer)	ITV	n/a	Generally accepted standards	2
ITV News and Weather	ITV	18/11/2014	Generally accepted standards	1
ITV News and Weather	ITV	22/11/2014	Generally accepted standards	1
Keep it in the Family	ITV	22/11/2014	Gender discrimination/offence	1
Lewis	ITV	14/11/2014	Drugs, smoking, solvents or alcohol	1
Lorraine	ITV	17/11/2014	Generally accepted standards	1
Lorraine Show	ITV	13/11/2014	Harm	1
The Chase	ITV	24/11/2014	Materially misleading	1
The X Factor (trailer)	ITV	16/11/2014	Generally accepted standards	1
This Morning	ITV	23/10/2014	Scheduling	1
This Morning	ITV	06/11/2014	Generally accepted standards	6
This Morning	ITV	20/11/2014	Animal welfare	1
This Morning	ITV	26/11/2014	Offensive language	1
News	ITV / Sky News	17/11/2014	Due impartiality/bias	1
ITV News Granada Reports	ITV Granada	21/11/2014	Age discrimination/offence	1
ITV News London	ITV London	17/11/2014	Due accuracy	1
ITV News London	ITV London	18/11/2014	Due impartiality/bias	4
Emmerdale Omnibus	ITV2	18/10/2014	Generally accepted standards	1
Release the Hounds	ITV2	27/10/2014	Generally accepted standards	1
The Jeremy Kyle Show	ITV2	13/11/2014	Race discrimination/offence	1

You've Been Framed!	ITV2	26/11/2014	Generally accepted standards	1
Darts	ITV4	26/10/2014	Offensive language	1
The Real Housewives of Cheshire (trailer)	ITVBe	n/a	Generally accepted standards	1
Station ident	Jack FM (South Coast)	22/11/2014	Generally accepted standards	1
Iain Dale	LBC 97.3 FM	03/11/2014	Due impartiality/bias	1
Nick Ferrari	LBC 97.3 FM	20/11/2014	Race discrimination/offence	1
Steve Allen	LBC 97.3 FM	16/11/2014	Generally accepted standards	1
Steve Allen	LBC 97.3 FM	18/11/2014	Sexual orientation discrimination/offence	1
Dance Mums with Jennifer Ellison	Lifetime	10/11/2014	Offensive language	1
The Real Extras	Made in Tyne and Wear	13/11/2014	Scheduling	1
Magic Breakfast	Magic FM	22/11/2014	Offensive language	1
Advertising	More4	22/11/2014	Advertising content	1
Music Euphoney	NTV	15/10/2014	Undue prominence	1
Travel Guide	NTV	30/09/2014	Sponsorship credits	1
Fat Families: Second Helpings	Pick	23/11/2014	Generally accepted standards	1
Big Pete	Radio Bronglais (RB FM)	12/11/2014	Format	1
The Breakfast Show	Radio Bronglais (RB FM)	12/11/2014	Competitions	1
News	RT	01/11/2014	Violence and dangerous behaviour	1
Programming	RT	n/a	Due impartiality/bias	1
Advertising	Signal Radio Stoke on Trent	n/a	Gender discrimination/offence	1
Emergency Animal Rescue	Sky 2	18/11/2014	Scheduling	1
Psychobitches	Sky Arts 1	25/11/2014	Gender discrimination/offence	1
Rewind Festival 2012	Sky Arts 1 HD	21/11/2014	Sexual orientation discrimination/offence	1
Richard E Grant's Hotel Secrets	Sky Atlantic	08/11/2014	Scheduling	1
Press Preview	Sky News	12/11/2014	Generally accepted standards	1
Sky News	Sky News	17/11/2014	Offensive language	2
Sky News with Kay Burley	Sky News	21/11/2014	Violence and dangerous behaviour	1
Advertising	Sky Sports 1	22/11/2014	Advertising content	1
Sky Sports Today	Sky Sports News	20/11/2014	Violence and dangerous behaviour	1
Fiat's sponsorship of Modern Family	Sky1	10/11/2014	Sponsorship credits	1
Micky Flanagan's Detour De France	Sky1	17/11/2014	Disability discrimination/offence	1
The Simpsons	Sky1	21/11/2014	Offensive language	1

Drivetime	Talksport	18/11/2014	Race discrimination/offence	1
Extra Time on Talksport	Talksport	21/11/2014	Age discrimination/offence	1
Paradise Hotel	TV3	03/11/2014	Generally accepted standards	1
Svenske Hollywoodfruer	TV3	07/10/2014	Under 18s in programmes	1
Advertising	Universal Channel	30/11/2014	Advertising content	1
Advertising	Various	27/11/2014	Advertising content	1
Advertising	Various	n/a	Political advertising	1
Speaker's Corner	Venus TV	n/a	Due impartiality/bias	1
Voice FM (Southampton)	Voice FM (Southampton)	28/09/2014	Religious/Beliefs discrimination/offence	1
Derren Brown: Trick or Treat	Watch	25/11/2014	Animal welfare	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	Licensed service	Categories
Chiltern Radio Limited	Heart Milton Keynes	Format
Gemini Radio Limited	Heart Exeter & Torbay	Format

## Investigations List

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

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

Here are alphabetical lists of new investigations launched between 20 November and 3 December 2014.

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

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission date</b>
Al Jazeera Arabic	Al Jazeera Arabic	31 August 2014
BBC News	BBC 1	29 October 2014
Look North	BBC 1 (North East & Cumbria)	28 October 2014
Today	BBC Radio 4	19 November 2014
Victoria Derbyshire	BBC Radio 5 Live	13 August 2014
The Political Slot	Channel 4	20 November 2014
Channel i Superstar	Channel i	13 September 2014
Shera Kantho	Channel i	19 September 2014
Advertising minutage	HUM Europe	Various
The Newspapers	Latest TV	24 October 2014
Psychic Sally on the Road	Pick	20 October 2014 and 23 November
US Bounty Hunters	Pick TV	09 November 2014
Advertising minutage	VATV	7 to 29 October 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 General Procedures for investigating breaches of broadcast licences**

<b>Licensee</b>	<b>Licensed Service</b>
DM Global Media Limited	DM News Plus
Media Worldwide UK Private Limited	PTC PUNJABI
Voice of Africa Radio	Voice of Africa

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