

Ofcom broadcast bulletin

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Introduction

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

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

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

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

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

Copies of the full adjudications for Upheld and Not Upheld Fairness and Privacy cases can be found on the Ofcom website: www.ofcom.org.uk

Standards cases

In Breach

Zane Lowe's 'Most Punk'

BBC Radio 1, 16 June 2005, 19:00

Introduction

Two listeners complained about the use of strong language in an early evening broadcast on Radio 1.

The programme was about punk culture and was preceded by a warning voiced by one of the presenters. It stated that the programme would feature strong language and that listeners offended by swearing should switch off.

This was then immediately followed by what appeared to be an elderly lady saying:

"Hello ladies, boys and girls, I thought that you might like to know - in the spirit of punk rock – the following show includes, what we often refer to as language. So if, like me, you are offended by such words and phrases as: arse; bollocks; tit, wank; tit-wank; rotter; mother licker; mother sucker; mother fucker; twat; minge juice; bottler and of course bastard – then you might wish to turn over, or fuck off – thank you".

Response

The BBC said that the programme was an examination of the punk phenomenon and the circumstances of its transmission were very carefully considered. The audience profile was studied and the principal findings were that under-15s make up one per cent of the total radio audience at 19:00 on a weekday evening. The clip was used at the front of the programme because the show was designed to be thought-provoking and introduce both older fans of the genre as well as younger listeners to an alternative view of punk that previously they had never considered.

The juxtaposition of an elderly lady, said by the broadcaster to be typically the kind of person likely to be offended by the language contained in the show, with strong language neatly signposted the fact that what followed was no ordinary programme. It humorously set up a programme commended for its range and intelligence.

Decision

The programme was an examination of punk culture. It was therefore inevitably likely to include some material that contained strong language and a warning was given. The 'elderly lady' was clearly intended to be ironic and provide a humorous introduction to the programme. We therefore appreciate the editorial technique that the BBC was trying to use, with the use of labelling and warnings.

Broadcasters have the right to transmit, and listeners the right to receive, material which may offend some people but uses strong language to explore artistic and creative themes. However, the right to deal with such subject matter comes with the responsibility of ensuring material is appropriately scheduled with the potential child audience in mind. While this was a legitimate approach, its application here was

seriously misguided.

We note that the BBC states that under 15's make up 1% of the total radio audience at that time. However, this figure is not relevant. The number of listeners to Radio 1 at this time is the key consideration. Listeners aged between 4 and 14 years old were in fact 14% of the total audience for Radio 1. Given the potential child audience for Radio 1 at this time, we believe that the use of such strong language, with such intensity, at the start of the programme was inappropriate.

The item was in contravention of the Code

Resolved

Brainiac: History Abuse

Sky One, 9 July 2005, 20:00

Introduction

A viewer complained that the programme contained details of the names of substances that can be used to make bombs and showed a caravan being blown up. In view of the events in London on the 7 July, the viewer thought that this was inappropriate and offensive.

Response

Sky explained that after any significant event it immediately reviews its broadcast schedule to ensure that 'sensitive' material i.e. that which is likely to be rendered tasteless or offensive in the light of the event, is removed from the channel's schedule. Programming was reviewed for its suitability for as long as was appropriate, having regard to all relevant circumstances.

This procedure involved a review of Sky's programme database, which contains detailed information relating to the content of each programme. The database can search for keywords to help identify programmes that may have become sensitive due to a particular issue.

Following this database search, programmes identified as potentially problematic may be viewed to assess whether or not they pose a risk of offence, and should therefore be removed from broadcast schedules.

The events in London of 7 July triggered the review process outlined above, and resulted in a number of programmes being immediately withdrawn from the schedule. As events unfolded over the subsequent weeks more programmes were removed.

The episode of "*Brainiac: History Abuse*" scheduled for broadcast two days after those events, was highlighted by the database search as a potential issue as a search of the programme information highlighted the use of explosives in the episode. For reasons which Sky explained to us, including the fact that the editorial team were well aware of the light-hearted nature of the show which regularly featured an item involving the blowing up of a caravan and which was thought unlikely to cause offence, it was decided to allow the programme to be broadcast without it being viewed further before transmission.

Subsequently, having reviewed this programme, the editorial team believed that the tone of the voiceover accompanying the caravan item was inappropriate in the circumstances. Had that section of the programme been viewed prior to broadcast, a different decision would have been taken. Sky apologised for any offence caused.

As a result of this matter, Sky said that it had changed its review procedures for such occasions so that where a database search highlighted a potential problem, editorial staff would review the relevant section of the programme, instead of relying on the database description and their own understanding of the programming. The editorial team had also been cautioned about the seriousness of this error.

Decision

We agree that the programme's scheduling so close to the events of 7 July was ill-judged given the tone of the voiceover accompanying the exploding caravan item. We welcome Sky's detailed explanation of the circumstances that led to its transmission and, in view of the measures it has subsequently put in place, we consider the matter resolved.

Complaint resolved

Astro Zone

Vectone Bolly, 14 February 2005, 14:00

Introduction

Astro Zone is a live entertainment programme, which viewers are invited to contact to obtain a psychic reading. This edition involved the presenter reading Tarot Cards. One complainant was concerned that this was not allowed by Ofcom's Programme Code.

The Code in force at the time was the ex-ITC Code (Section 1.10, revised). This says that:

- such practices [tarot readings] should not be shown before the watershed and only in the context of a legitimate investigation;
- certain psychic practices involving such things as divination (generally meaning foretelling the future) are allowed before the watershed provided they are clearly and explicitly presented as entertainment programmes. Divination by card readings (but not explicitly tarot) may be possible in this case;
- these kinds of programmes should not be included at times when significant numbers of children are expected to be watching; and
- programmes should not include specific advice about health or medical matters, the law or personal finance or include specific advice which might significantly influence behaviour in relation to personal relationships.

Response

Vectone said that this was an entertainment programme. It was broadcast between 14.00 and 15.30 at a time when it did not believe large numbers of children would have been watching. Unfortunately this particular broadcast came on the first day of half-term, which the scheduling team was unaware of.

The programme received fifteen calls, fourteen of which led to readings. The remaining call came from an eleven-year-old and the presenter, correctly, refused to give a reading. One of the callers received advice about the purchase of a property.

Vectone said that it had reviewed the programme and now made clear to viewers that the programme was for entertainment only, both in sound and vision. It had permanently rescheduled the series beyond the watershed. The presenter had been reminded that she was not allowed to give advice of a specific nature (as outlined above).

Decision

We note that the announcement is now in place and that the programme is scheduled post-watershed. The cards are no longer explicitly tarot and there is no evidence to date that life-changing advice of the kind listed above is being given to viewers. No further complaints have been received. In the light of Vectone's prompt and comprehensive action, we believe there is no reason to intervene further in this matter at this time.

Complaint resolved

BBC1 News/BBC News 24 ITV Early Evening News Channel 4 News

Coverage of London terrorist attacks 7 July 2005

Introduction

During coverage of the terrorist bomb attacks in London on 7 July 2005, three channels ran footage of a victim being stretchered from an ambulance into hospital. The man was clearly in a critical condition and was pictured, apparently close to death, while receiving heart massage from one of the medical personnel in attendance.

A number of viewers found these images offensive. 26 viewers complained about their inclusion in BBC's coverage on BBC1 and BBC News 24, shortly before 11:00. Another nine complaints were received about the use of the same images in ITV's Early Evening News, shortly after 18:00. A further two complaints were received about their use on Channel 4 News after 19:00.

Response

The BBC said the footage had been transmitted in error, and apologised for any offence caused. During the rush to get material on air as soon as possible, the tape was played without being viewed in its entirety. Although a warning was given, it was not appreciated how graphic the footage was. The BBC acknowledged that the footage should not have been put to air without first being thoroughly checked.

It added that at that time the victim involved was seriously injured, but not dead. An update on his condition had been given later in the day with the aim of reassuring viewers who may have been upset.

ITV said the use of this footage on the Early Evening News was exceptional, and reflected the scale of what had happened that day. It was important not to over-sanitise such a serious news event. It considered that many other images available on the day were too upsetting to broadcast, but this particular sequence was acceptable. Its inclusion had been carefully considered, and it had been used sparingly and in context. News of the terrorist attacks had been running on all media outlets since the morning, and few viewers would have been unaware of the events that day. The image would not be used again.

Channel 4 said that it had to consider whether the risk of causing upset was outweighed by its responsibility to report fairly and accurately on the unprecedented scale of death and suffering. It considered the images of the man on the stretcher were shocking, but that it was a legitimate and proportionate way to convey the horror and context of the events.

Decision

Even within the context of a shocking news event these particular images were exceptionally strong and disturbing - and their use demanded exceptional justification. We do not believe the images themselves were too offensive for broadcast – provided they were handled sensitively and placed in a proper context. In considering offence we take into account the strong public interest in reporting on the aftermath of the bombings both as soon as possible after the actual event and also in later accounts and analyses of the day's events.

The three broadcasters used the images in different ways:

The BBC showed the images whilst a studio presenter spoke in general terms about the emergency operation taking place after the bomb blasts and the casualties arriving at hospitals. The presenter gave a warning but introduced the images from the hospital by saying “..let's just take a look at some of the pictures coming from the Royal London”. It appeared to us that the pictures were used generically and the commentary did not reflect the seriousness of the images being transmitted. We welcome the BBC's admission that the images had not been viewed properly, and its acknowledgement that they should not have been put to air in such a manner.

The images on the ITV Early Evening News were used in the context of an edited item. A warning was included in the introduction, which stated that the item contained “graphic images of the injured”. The script established a clear narrative context and the pictures were sensitively ‘written to’. We considered this was an appropriate treatment of the incident, given the very exceptional events of the day and did not breach the Code.

Channel 4 News also used the images within the context of an edited item. Again, a warning was given in the introduction about the disturbing nature of some of the material. The pictures were not used casually and the item was voiced appropriately. The script referred to the timings of the bombings but did not fully reflect the enormity of the images that were being transmitted. Nevertheless, their use was not careless and – on balance – we consider that Channel 4 also had not breached the Programme Code.

BBC - Resolved.

ITV Early Evening News – Not in Breach

Channel 4 News - Not in Breach

Fairness and Privacy Cases

Where a complaint is not upheld there is only a note of the outcome. For a copy of a full adjudication, whether the complaint is upheld or not, go to Ofcom's website at www.ofcom.org.uk/bulletins/ or send a stamped addressed envelope to: Ofcom, Riverside House, 2a Southwark Bridge Road, London SE1 9HA.

Upheld in Part - Summary of Adjudication

Complaint from Detective Chief Inspector Philip Wheeler

Real Story, BBC1, 29 March 2004

The BBC1 current affairs programme, *Real Story*, investigated scientific concerns about the safety of criminal convictions based on Shaken Baby Syndrome ("SBS"). DCI Wheeler complained to Ofcom that he was treated unfairly in the programme and Ofcom upheld some parts of his complaint.

The programme gave the unfair impression that DCI Wheeler was personally responsible for securing convictions based on the SBS theory.

It wrongly suggested that he dismissed out of hand medical opinion that opposed the theory.

It was unfair for the programme to refer to criticism of DCI Wheeler in the Victoria Climbié inquiry in the way it did.

The programme makers did not give DCI Wheeler an appropriate or timely opportunity to respond to the allegations made about him. A statement in the programme that he declined to be interviewed did not reflect the true position.

Ofcom did not uphold DCI Wheeler's complaints that the programme failed to refer to work he said he had done on improving police investigations in SBS cases and failed to reflect properly the two sides of the medical debate. Nor did Ofcom uphold his complaint about the portrayal of a child abuse conference in Florida.

Ofcom was unable to reach a finding about a statement provided by DCI Wheeler's solicitors for broadcast, as no copy of the statement was available.

Unfairness in the programme – Upheld in part

Not Upheld

Complainant	Programme	Date & Broadcaster	Type of complaint
Tillery Valley Foods	Dispatches: Fit to Eat	Channel 4, 13 May 2004	Unfair treatment
Mr X	BBC South East Today	BBC1, 1 November 2004	Unwarranted infringement of privacy

Other programmes not in breach/out of remit

24 August – 6 September 2005

Programme	Trans Date	Channel	Category	No of complaints
7 Waves	22/08/2005	7 Waves	Offence	1
Bad Lads' Army	23/08/2005	ITV1	Offence	1
Bad Lads' Army	25/08/2005	ITV1	Offence	2
Bad Lads' Army	26/08/2005	ITV1	Offence	1
Bargain Hunt	25/08/2005	BBC1	Misleading	1
BBC News	14/07/2005	BBC1	Offence	1
BBC News	14/06/2005	BBC1	Accuracy	1
BBC News	23/08/2005	BBC1	Impartiality	1
BBC News	01/09/2005	BBC1	Offence	1
BBC News 24	19/08/2005	BBC News 24	Impartiality	1
Big Brother 6	12/08/2005	Channel 4	Offence	1
Big Brother 6	23/08/2005	Channel 4	Offence	1
Big Game TV	26/08/2005	ITV2	Offence	1
Big Game TV	30/08/2005	ITV2	Offence	1
Brainiac	15/08/2005	Sky One	Offence	1
Brainteaser	18/08/2005	Five	Other	1
Britain's Biggest Celebrity Mingers	20/08/2005	Sky Mix	Offence	1
Casualty @ Holby City - Interactive	27/08/2005	BBC1	Offence	1
Cathouse	03/08/2005	Five	Offence	1
Cathouse	10/08/2005	Five	Offence	1
CFM 102.5FM	01/09/2005	CFM(Carlisle)	Offence	1
Channel 4 News	23/08/2005	Channel 4	Offence	4
Channel Idents	18/08/2005	BBC2	Offence	1
Coming Up: Viva Liberty	02/09/2005	Channel 4	Offence	1
Coronation Street	01/08/2005	ITV1	Violence	1
Coronation Street	28/08/2005	ITV1	Offence	1
Coronation Street	29/08/2005	ITV1	Offence	1
Crafty Tricks of War	22/08/2005	UKTVHistory	Offence	1
Derren Brown: Trick of the Mind	06/05/2005	Channel 4	Offence	1
Dispatched-The Dyslexia Myth	08/09/2005	Channel 4	Offence	1
EastEnders	11/08/2005	BBC1	Language	1
Emmerdale	24/08/2005	ITV1	Language	1
Extras	25/08/2005	BBC2	Offence	1
Family Affairs	02/09/2005	Five	Offence	1
Fox News	26/08/2005	Fox News	Offence	1
Galaxy Breakfast	22/08/2005	Galaxy105	Offence	1
Game Network	29/08/2005	Game Network	Offence	1
God's Rottweiler?	22/08/2005	Channel 4	Religious Offence	2
Hollyoaks	28/08/2005	Channel 4	Offence	1
Ideal World	10/05/2005	Ideal World	Offence	1

ITV News	18/08/2005	ITV1	Offence	1
ITV News	21/08/2005	ITV1	Misleading	1
ITV News	25/08/2005	ITV1	Offence	1
ITV News	18/08/2005	ITV1	Impartiality	1
ITV News	31/08/2005	ITV1	Offence	1
ITV News Channel	29/07/2005	ITV News Channel	Accuracy	1
Journeys From the Centre of the Earth	30/07/2005	BBC2	Religious Offence	1
Just a Minute	27/07/2005	BBC Radio 4	Language	1
Key 103 Radio	12/08/2005	Key 103	Offence	1
Kiss FM	23/07/2005	Kiss100FM	Language	1
Law and Order	12/08/2005	Five	Offence	1
LBC Programme	26/01/2005	LBC97.3	Offence	1
LBC Programme	07/08/2005	LBC97.3	Language	1
Lost	10/08/2005	Channel 4	Offence	1
Messiah 4	01/09/2005	BBC1	Offence	1
Mission Impossible 2	29/08/2005	ITV1	Scheduling	1
North West Tonight	30/08/2005	BBC1	Offence	1
Playboy Channel	04/08/2005	Playboy	Offence	1
Psycho: Kill Me if You Can	22/08/2005	Channel 4	Offence	1
Psycho: Kill Me if You Can	23/08/2005	Channel 4	Offence	1
Pulling Power	23/08/2005	ITV1	Accuracy	1
Quiz Call	31/08/2005	Quiz Call	Misleading	1
Quiz TV	31/08/2005	Quiz TV	Offence	1
Radio Jackie	13/08/2005	Radio Jackie	Offence	1
Ramsay's Kitchen Nightmares	18/08/2005	Channel 4	Language	1
Reading 107	05/06/2005	Reading 107FM	Offence	1
Return of the Chef	23/08/2005	Channel 4	Language	1
Ross Noble - Live in Regents Park	27/08/2005	Channel 4	Religious Offence	1
Sad To Be Gay	09/08/2005	BBC2	Accuracy	1
Sinatra: Dark Star	04/08/2005	BBC1	Offence	1
Sky Mix	01/09/2005	Sky Mix	Offence	1
Sky News	18/08/2005	Sky News	Offence	1
Source FM	04/06/2005	Source FM	Misleading	1
Sports	14/08/2005	BBC1	Accuracy	1
Talksport	20/08/2005	Talksport	Religious Offence	1
Talksport	16/08/2005	Talksport	Offence	1
Talksport	19/08/2005	Talksport	Offence	1
Talksport	26/08/2005	Talksport	Offence	1
Talksport	01/09/2005	Talksport	Offence	1
Taxidermy: Stuff the World	22/08/2005	BBC2	Offence	3
The Best and Worst Places to Live	09/08/2005	Channel 4	Offence	2
The Big Eat	21/08/2005	Channel 4	Offence	1
The Bigger Picture with Graham Norton	29/08/2005	BBC1	Offence	1
The Chris Moyles Show	25/08/2005	BBC Radio 1	Language	1
The Community Link Show	11/08/2005	Gloucester FM	Impartiality	1
The Empire Pays Back	15/08/2005	Channel 4	Offence	4

The Great Big British Quiz	30/08/2005	TTV	Offence	1
The Magic Christian	29/08/2005	BBC2	Offence	1
The Make Shift	24/08/2005	CBBC	Offence	1
The Pulse	23/08/2005	ITV1	Offence	2
The Queen's Sister	26/08/2005	Channel 4	Offence	1
The Simpsons	21/08/2005	Sky One	Offence	1
The Vicar of Dibley	20/08/2005	BBC1	Religious Offence	1
The Wrestling Channel	23/08/2005	The Wrestling Channel	Offence	1
The Wrestling Channel	25/08/2005	The Wrestling Channel	Offence	1
The X Factor	20/08/2005	ITV1	Offence	2
The X Factor	27/08/2005	ITV1	Offence	1
This Morning	24/08/2005	ITV1	Accuracy	4
This Morning	26/08/2005	ITV1	Language	1
Tonight with Trevor McDonald	02/06/2005	ITV1	Impartiality	1
Top Gear	07/08/2005	BBC2	Offence	2
War at the Door	16/06/2005	BBC2	Language	1
Wessex FM	08/08/2005	Wessex FM	Regionality	1
WWE - Experience	10/07/2005	Sky One	Offence	1
You and Yours	12/08/2005	Radio 4	Offence	1