

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

Sanction

Channel Four Television Corporation

Richard and Judy, 19 July 2004

On 3 August 2005, Ofcom published its decision to impose a financial sanction on Channel Four Television Corporation for giving undue prominence to a commercial product in breach of section 8.4 of Ofcom's Programme Code (ex- ITC).

On 18 May 2004, the *Richard and Judy* show, on Channel Four, broadcast a videotape item and discussion on the dangers of excessive caffeine intake. On 19 July 2004, an apology and correction was given in the *Richard and Judy* show by Richard Madeley, stating that there had been factual inaccuracies in the 18 May 2004 item. This was followed by a videotape item in which the benefits of caffeine were examined, with particular emphasis on the "caffeine energy drink" Red Bull.

The Committee considered that whilst the broadcast of 19 July 2004 was clearly intended to make amends for the errors contained in the earlier broadcast, Channel 4 Television had demonstrated uncharacteristically poor judgement resulting in what appeared to be, at the very least, a loss of editorial control. This culminated in the distinct impression that the programme had come under external commercial influence, giving Red Bull undue prominence, both in the number of direct references to that product and also in the use of an "expert" and sporting personalities linked to the product and extolling the benefits of caffeine and Red Bull.

The Committee viewed the Code breach as sufficiently serious to merit the imposition of a statutory sanction. The material very clearly breached the Code and Channel 4 Television had accepted Ofcom's Finding that it was in breach of section 8.4 of the Code. Whilst the Committee took into account Channel 4 Television's overall good compliance record (particularly given its statutory remit to innovate), it also noted that it had been found in breach in 2003 in relation to material broadcast on the *Richard and Judy* programme (which had been found to be misleading). On that occasion Channel 4 Television had not been subject to any sanction.

Taking all relevant factors into account, the Committee determined that the Code breach was sufficiently serious that a sanction by way of a financial penalty was necessary together with a direction to broadcast a statement of Ofcom's finding. The Committee considered that, in view of the seriousness of the infringement and taking into account all the circumstances, an appropriate fine was £5,000 payable to Ofcom for forwarding to the Treasury.

The full text of this decision can be found at
http://www.ofcom.org.uk/tv/obb/ocsc_adjud/channel4.pdf

In Breach

Britain's Streets of Vice

BBC 1, 28 February 2005 – 3 March 2005, 09:15

Introduction

This series comprised of four documentaries which dealt with the manifestations of 'vice' (in this case drugs and sex) on Britain's streets.

We received 58 complaints from viewers who felt that the content was unsuitable for broadcast at that time in the morning. Eight viewers said that they had been watching with young children, and others were concerned that, because of extreme weather conditions in some areas, children might not have been in school.

Although it was not always clear which of the programmes viewers were referring to, we received complaints about each of the four programmes. Seven viewers were particularly concerned about the third programme, which looked at brothels. The vast majority of complaints were about the last programme in the series, which focused on the growth in the pornography industry.

Response

The BBC said that the emphasis of its daytime service had been refocused in recent years, making serious and informative material available to adult viewers during the day, particularly in the morning. Audience reaction had confirmed that viewers welcomed this "*window on the world*".

The four programmes in question were intended as serious and informative documentaries studying, from the inside, significant aspects of social change, and were prepared in consultation with relevant charities and other support and advice organisations.

The BBC went on to say that the discussion of social and sexual developments was not new on daytime television: morning talkshows had a long tradition of giving people the chance to speak frankly about their problems in these areas.

This series of *Streets of Vice* was specifically scheduled to run during term time and had been carefully considered at a senior level before transmission. Each programme was preceded by an announcement describing what viewers were about to see. The proportion of under-15s viewing was half the weekday average for BBC1 at that time in the morning.

The BBC said that the programmes did not promote the activities depicted. Care was taken to disguise, or confine to middle-distance shots, any material which was likely to have struck most adult viewers as recognisably sexual. However, it acknowledged that although some viewers would have found the change in social attitudes depicted in the programme liberating, others - probably the majority - would find it distasteful and troubling. It was this disquiet, as much as the way the change was presented in the programme, which probably lay behind many of the complaints. And some viewers had expressed appreciation for the series, saying in the case of programme two, which showed the effects on young people of drug abuse, that it should be shown in schools.

As a result of the reaction to the final programme, however, the matter had been reviewed at a senior level in the BBC. A decision had been taken that any future plans to cover sexual themes in the daytime service would be scrutinised with particular care, and that this particular series would not be shown again at that time of day.

Decision

It is important that broadcasters are able to tackle controversial, challenging and difficult subject matter. Investigations such as the *Britain's Streets of Vice* series are manifestly in the public interest. However, the freedom to explore some issues may be restricted because of scheduling considerations.

Even though, during term time, daytime television is able to explore more adult themes, the key to the suitability of such programmes will always be the context, tone and imagery.

These observational programmes were 45 minutes long and focused on a single issue. The first, third and fourth were devoted to sexual themes: prostitution, brothels and pornography. The second explored drug abuse. The programmes were observational documentaries exploring adult themes and did not seek to glamorise or promote drugs or prostitution.

Although the first two programmes were serious in tone, and included significant commentary from the presenter, we were particularly concerned by graphic scenes of the preparation and taking, including by injection into the groin area, of illegal drugs that were not suitable for broadcast at that time (while noting that filming had been careful to disguise the mechanics of preparation and injection).

The third and fourth programmes were less serious in tone or commentary. The programme focusing on brothels included film of the workers' everyday lives (although not the sexual act), discussion of the services offered and relevant prices and discussion of the high level of earnings that could be achieved.

The fourth programme examined the pornography industry. In addition to film of the sex aids and toys now openly available in central London, magazine covers - some with explicit headlines - were also visible. One segment of the programme featured an explicit list on a PC screen of sexual topics. Contributors to the programme included two women who regularly had sex with subscribers to their internet sites in order to post the films on the web, and a 26 year old man said to be one of Britain's top gay porn stars. All spoke frankly of their experiences and some illustrations of their work were also shown – although graphic images were pixellated.

The programme featured one woman discussing her experiences as a dominatrix, making a living out of online pornography. Another woman told of being filmed by her partner having sex with up to twenty men at group sex sessions, for online publication.

The first three programmes were preceded by announcements which referred to "frank", "hard-hitting" or "graphic" content. The announcement before the fourth stated the "last programme of the series looks at the growing pornography business, including male homosexual pornography". However it was clear that these had not prepared the complainants for the strength of the content which was unexpected at

this time of day. We note the research finding that, throughout the week in question, fewer children than usual were viewing at that time. Even so, we consider that the last two programmes in particular were not suitable for a young child audience, and despite the termtime scheduling, the localised severe weather demonstrated its potential risks.

While challenging subject matter does have a place in the pre-watershed schedule, the programmes' concentration on intimate themes was unremitting. They also used imagery and descriptions which took the content beyond the normal level of discussion in, for example, talkshows, at that time of day. In this context, the scenes of drug preparation and use in the first and second programmes, and the sexual images and references in the third and fourth programmes, while far from glamorising or condoning the activities depicted and while properly acknowledging the risks posed by the lifestyles depicted, went beyond viewer expectation for BBC1 at this time of day and were therefore inappropriately scheduled.

The elements of the series outlined in the decision were unsuitable for broadcast at that time and were in contravention of the Code

Resolved

BBC News 24

BBC News 24, 11 March 2005, 09:45

Sky News

Sky News, 31 May 2005, 14:45

Introduction

Two viewers complained about the use of the word “fuck” in these reports. The BBC item concerned the launch of a Commission for Africa report. The Sky report concerned a press conference for Live8.

Response

The BBC said that the audience for *News 24* contained very few children and that adult viewers were aware that breaking news will sometimes contain material which is disturbing. Such an audience would be aware that Bob Geldof might use ‘the odd expletive’. Even so, the BBC editorial team was closely monitoring the output and was ready to pull out of the event if the language became consistently offensive.

The speech was 10 minutes long, but the word “fuck” was only used twice – to emphasise the speaker’s anger at the suffering of African children. The BBC believed that the transmission of such strong language – even before the watershed - was acceptable on this rare occasion.

Sky said that it had cut back to the studio almost immediately after the swearing. The studio presenters had remarked on the fact that the speaker must have been overwhelmed by emotion to use such language. This demonstrated that the presenters immediately understood that some viewers might have been upset by the language used, but set in context the powerful feelings that the subject of poverty in Africa provoked.

Later that afternoon, before an interview with Bob Geldof, the presenter had warned “You’re live, please don’t swear” and no offensive language was used during that interview.

Sky was not aware that there was any specific warning to the Live8 panel about swearing, but they would have been aware that it was being transmitted live on all the main news channels.

Sky’s presenters were all extremely sensitive to potential swearing on air by any live interviewee, and would usually stop an interview quickly and apologise. Although Bob Geldof did have a reputation for swearing on air, Sky news had interviewed him many times without incident.

Decision

The Code on Standards, which applies to the BBC, states that “there is rarely ever any justification for the use on television of offensive language before the watershed” and that “broadcasters must be alert to, and guard against, the use of such language

in live programmes”.

The Code applying to Sky News, the Programme Code, notes that “there is no absolute ban on the use of bad language....Offence is most likely if the language is contrary to audience expectations. The most offensive language must not be used before the watershed....”

Swearwords of this strength are almost always unacceptable pre-watershed. We appreciate that the words were, in the main, used to convey a great strength of feeling. News channels do have an overwhelmingly adult audience and it was clear that, on this occasion, the language had not been used to intentionally shock or sensationalise. However we appreciate Sky News' recognition of the issue and the steps it took to address this and prevent further occurrences. In these very unusual circumstances, we consider that the language would not have exceeded the expectations of the majority watching these channels. However we would not expect to see a repetition of this and certainly not for such language to become commonplace, despite the target audience of a channel for its pre-watershed programmes. In the future, we would expect pre-watershed news bulletins to include such language only when the language, *itself*, is the story, rather than being incidental to it.

BBC News – not in contravention

Sky News – Resolved

Nip/Tuck trailer

Discovery Kids, 20 May 2005, 12:30

Introduction

A viewer was concerned by the showing of this trailer about cosmetic surgery at a time when her young child was watching cartoons.

Response

Discovery apologised for showing this trailer on its channel which caters for children. Normally each Discovery channel would review the trailer to make sure that it was appropriate for their particular audience. On this occasion, the procedure was not followed. As a result of this oversight, the broadcaster was undertaking new training for its staff and would ensure that due emphasis was placed on the scheduling of promotions.

Decision

We welcomed the action taken by the broadcaster to ensure that trailers are appropriately scheduled in future. As steps had been taken to prevent any future recurrence, we consider the matter resolved.

Complaint resolved

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.

Not Upheld

Complainant	Programme	Date & Broadcaster	Type of complaint
Mr A	Tenants from Hell	ITV1 16 December 2003	Unfair treatment and unwarranted infringement of privacy
Miss Angela Ferguson	Calendar News	ITV1 10 June 2004	Unfair treatment
Mr Sean Crossman	The Antiques Roadshow	BBC1 3 and 8 October 2004	Unfair treatment
Springfield Retail Limited, trading as 'Art'	Reporting Scotland	BBC1 (Scotland) 17 November 2003	Unfair treatment
Mr Bryan King on behalf of Pelmet's Plus	How Not To Decorate	Five 15 August 2004	Unfair treatment
Mr Philip Miller MBE on behalf of Stockvale Limited	The Nick Ferrari Show	LBC 20 August 2004	Unfair treatment

Other programmes not in breach/out of remit

13 July – 26 July

Programme	Trans Date	Channel	Category	No. of complaints
18 Stone of Idiot	01/07/2005	Channel 4	Language	1
A - Z of EastEnders	28/03/2005	BBC1	Language	2
A Bear's Tale	11/07/2005	Channel 4	Offence	1
Bad Girls	05/07/2005	ITV1	Violence	2
Baddiel and Skinner Unplanned	05/07/2005	ITV1	Offence	1
BBC News	14/07/2005	BBC1	Offence	1
BBC News	14/06/2005	BBC1	Accuracy	1
BBC News	22/07/2005	BBC1	Impartiality	1
Big Brother 6	21/06/2005	Channel 4	Offence	1
Big Brother 6	24/06/2005	Channel 4	Offence	2
Big Brother 6	01/07/2005	Channel 4	Offence	1
Big Brother 6	23/06/2005	Channel 4	Offence	1
Big Brother 6	08/07/2005	Channel 4	Offence	2
Big Brother 6	15/07/2005	Channel 4	Misleading	2
Big Brother 6	21/06/2005	Channel 4	Offence	1
Big Brother 6	20/07/2005	Channel 4	Offence	1
Big Brother 6	19/07/2005	Channel 4	Offence	3
Big Brother 6	20/07/2005	Channel 4	Offence	3
Big Brother 6	23/07/2005	Channel 4	Language	1
Big Brother 6	22/07/2005	Channel 4	Offence	1
Big Brother's Big Mouth	11/07/2005	E4	Other	1
Big Game TV	22/07/2005	ITV2	Offence	1
Bremner, Bird & Fortune	13/03/2005	Channel 4	Offence	1
CD:UK	26/03/2005	ITV1	Offence	1
Channel 4 News	10/05/2005	Channel 4	Language	3
Channel 4 News	11/07/2005	Channel 4	Impartiality	1
Choice FM	10/07/2005	Choice FM	Offence	1
Close Encounters of the Third Kind	04/07/2005	Channel 4	Language	1
Close Encounters of the Third Kind	03/07/2005	Channel 4	Scheduling	1
Coronation Street	10/07/2005	ITV1	Offence	1
Coronation Street	18/07/2005	ITV1	Offence	3
Coronation Street	12/06/2005	ITV1	Offence	1
Country Cops	20/07/2005	BBC2	Offence	1
CSI: Crime Scene	28/06/2005	Five	Offence	1
CSI: Crime Scene	12/07/2005	Five	Offence	1
Dambusters	14/05/2005	Channel 4	Offence	1
Deadwood	21/09/2004	Sky One	Language	1
Denis Norden's Laughter File	05/07/2005	ITV1	Offence	1
Derren Brown: Trick of the Mind	30/06/2005	Channel 4	Offence	1
Donovan	24/07/2005	ITV1	Offence	1
Dr Who	21/05/2005	BBC1	Offence	2
Drawn Together	08/05/2005	MTV	Offence	1
Dream Team	20/11/2004	Sky One	Sexual Portrayal	1

Entertainment Now	09/07/2005	ITV1	Offence	1
Feedback	03/07/2005	Radio 4	Misleading	1
Fox News	07/07/2005	Fox News	Offence	3
Fox News	08/07/2005	Fox News	Offence	2
Friday Night With Jonathan Ross	06/05/2005	BBC1	Language	1
Friday Night With Jonathan Ross	19/07/2005	BBC1	Offence	1
Full on Food	20/07/2005	BBC2	Offence	1
Geldof in Africa	04/07/2005	BBC1	Offence	1
Glastonbury	25/06/2005	BBC3	Language	1
Glastonbury	26/06/2005	BBC3	Language	1
GMTV	27/02/2005	ITV1	Impartiality	1
GMTV	14/04/2005	ITV1	Accuracy	1
GMTV	08/07/2005	ITV1	Offence	2
GMTV	12/07/2005	ITV1	Offence	1
GMTV	09/07/2005	ITV1	Offence	1
GMTV	20/07/2005	ITV1	Offence	1
GMTV	22/07/2005	ITV1	Offence	1
Heresy	20/07/2005	BBC	Offence	1
Hollyoaks	11/11/2004	Channel 4	Offence	1
Invicta FM	09/07/2005	Invicta FM	Offence	1
It Shouldn't Happen on TV Awards Show	09/07/2005	ITV1	Offence	1
ITV News	07/07/2005	ITV1	Accuracy	1
ITV News	09/07/2005	ITV1	Offence	1
ITV News	08/07/2005	ITV1	Offence	1
ITV News	13/07/2005	ITV1	Offence	1
ITV News	12/07/2005	ITV1	Offence	1
ITV News	22/07/2005	ITV1	Offence	1
Jamie's School Dinners	10/07/2005	E4	Offence	1
Jeremy Vine	13/07/2005	BBC Radio 2	Offence	1
Jonathan Ross	02/07/2005	BBC1	Language	1
LBC Programme	21/06/2005	LBC97.3	Offence	1
LBC Programme	30/06/2005	LBC97.3	Offence	1
Man vs Beast USA	13/07/2005	ITV1	Offence	1
Man vs Beast USA	14/07/2005	ITV2	Offence	1
Man vs Beast USA	15/07/2005	ITV2	Offence	1
Man vs Beast USA	18/07/2005	ITV2	Offence	1
Nanny 911	02/06/2005	ITV1	Language	1
Nation 217	06/01/2005	Satellite & Cable	Other	1
Nation 217	10/07/2005	Nation 217	Offence	1
Parkinson	19/03/2005	ITV1	Language	3
Question Time	07/07/2005	BBC1	Offence	1
Quiz Nation	11/06/2005	Satellite & Cable	Misleading	1
Quiz TV	18/07/2005	Quiz TV	Offence	1
Quiz TV	20/07/2005	Quiz TV	Offence	1
Ramsay's Kitchen Nightmares	05/07/2005	Channel 4	Offence	1
Ramsay's Kitchen Nightmares - Revisited	12/07/2005	Channel 4	Language	1
Richard and Judy	23/06/2005	Channel 4	Sexual Portrayal	1

Richard and Judy	27/04/2005	Channel 4	Misleading	1
Richard and Judy	06/07/2005	Channel 4	Language	1
Richard and Judy	15/07/2005	Channel 4	Accuracy	1
Richard and Judy	13/07/2005	Channel 4	Language	1
Scissor Sisters Filthy Gorgeous video	28/05/2005	Q Music Channel	Offence	1
Sky Mix	18/07/2005	Satellite & Cable	Misleading	1
Slaughterhouse-A Task of Blood	04/07/2005	BBC2	Offence	3
Special Report	07/07/2005	ITV1	Offence	1
Stepkids in love	19/07/2005	Channel 4	Scheduling	1
Talksport	06/07/2005	Talksport	Impartiality	1
Talksport	22/07/2005	Talksport	Offence	1
The Big Call	22/07/2005	ITV1	Misleading	1
The Big Call	23/07/2005	ITV1	Offence	1
The Bill	06/01/2005	ITV1	Offence	1
The Great Big British Quiz	11/07/2005	TTV	Offence	1
The Great Big British Quiz	12/07/2005	TTV	Offence	1
The Great Big British Quiz	13/07/2005	TTV	Misleading	1
The Great Big British Quiz	14/07/2005	TTV	Offence	1
The Great Big British Quiz	15/07/2005	TTV	Offence	2
The Great Big British Quiz	19/07/2005	TTV	Offence	2
The Jeremy Kyle Show	12/07/2005	ITV1	Offence	1
The Jeremy Kyle Show	18/07/2005	ITV1	Offence	1
The Jeremy Kyle Show	25/07/2005	ITV1	Offence	3
The Last Hunt	04/07/2005	Sky One	Sexual Portrayal	1
The Wright Stuff	13/07/2005	Five	Religious Offence	1
This Morning	19/07/2005	ITV1	Offence	1
This Morning	20/07/2005	ITV1	Offence	1
This Morning	22/07/2005	ITV1	Offence	1
Tonight with Trevor McDonald	08/07/2005	ITV1	Offence	1
Top of the Pops	11/07/2005	BBC1	Offence	1
Tracey Beaker	22/05/2005	CBBC	Offence	1
Trailer for E4	09/07/2005	E4	Offence	1
Transworld Sports	09/07/2005	Channel 4	Offence	1
Who Wants to be a Millionaire	07/06/2005	ITV1	Misleading	1
Wildboyz	29/05/2005	Five	Offence	1
Wimbledon 2005	14/06/2005	BBC1	Violence	1
Wimbledon 2005	15/06/2005	BBC1	Violence	3
Wimbledon 2005	16/06/2005	BBC1	Violence	1
Wimbledon 2005	20/06/2005	BBC1	Violence	1
Wimbledon 2005	28/06/2005	BBC1	Violence	1
Wrestling	12/07/2005	Satellite & Cable	Violence	1
X Men	28/05/2005	ITV1	Scheduling	3