

## Scottish Government sponsorship of programmes

STV, 2008 and 2009, various dates and times

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### Summary of Ofcom's investigation

Ofcom conducted an extensive investigation of 57 programmes sponsored by the Scottish Government, Scottish Government agencies or non-departmental public bodies ("the Scottish Government") broadcast on STV in 2008 and 2009. This followed allegations in the press that the Scottish Government had influenced the content of STV's programming - in particular three series: *Made in Scotland*, *Scotland Revealed* and *The Greatest Scot* (together "the Homecoming programmes")

Ofcom found that the Homecoming programmes referred to in the press articles were not in breach of the Code.

However, as part of its wider investigation, Ofcom found that 18 other programmes, the majority of which were one-minute in duration covering public information-type subjects, were in breach of sponsorship rules in the Code.

With regard to any other STV programming, such as news, current affairs and its coverage of Scottish politics, Ofcom found that there was no evidence or implication that the Scottish Government had influenced the content in such a way as to impair STV's responsibility and editorial independence.

### Background

In February and March 2010, two press reports<sup>1</sup> alleged that correspondence between the Scottish Government and STV, which had been obtained under the Freedom of Information Act, suggested that the Scottish Government may have influenced STV's programming to promote itself, for political gain<sup>2</sup>.

Both articles made particular reference to *Made in Scotland*, *Scotland Revealed* and *The Greatest Scot* (together "the Homecoming programmes") which were sponsored by the Scottish newspaper, *The Daily Record*<sup>3</sup> and Homecoming Scotland. Homecoming Scotland was an initiative of the Scottish Government to get "Scotland's people at home and abroad to reconnect with our great country [Scotland]"<sup>4</sup>. It was managed by Event Scotland<sup>5</sup> in

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<sup>1</sup> *Riddle of Salmond and STV 'Promises'*, Scottish Sunday Express, 28 February 2010 and *Inquiry calls into Salmond and STV 'cash-for-programmes' row*, The Times, 1 March 2010

<sup>2</sup> The press articles also referred to concerns that STV had ceased broadcasting ITV networked programmes such as *The Bill*, *Midsomer Murders* and *Doc Martin*, in favour of Scottish produced content. These matters do not raise issues under the Code, and therefore do not form a part of Ofcom's findings on these cases.

<sup>3</sup> While *The Daily Record* sponsored these programmes, there were no allegations made about it in the press articles in question, and Ofcom found no evidence that *The Daily Record* had influenced the content of any of the programmes so as to undermine the independence of the broadcaster.

<sup>4</sup> <http://www.homecomingscotland2009.com/about-us.html>

<sup>5</sup> Event Scotland attracts, develops and supports major events in Scotland.

partnership with Visit Scotland<sup>6</sup> and consisted of events, festivals and celebrations.

Both articles also referred to a letter from STV's Chief Executive Rob Woodward to Alex Salmond the leader of the Scottish Government dated 9 January 2009, which stated:

"I will also write separately to Linda Fabiani [SNP MSP] to introduce our commercial director David Connolly to explore how we can incorporate our innovative thinking around television exposure for the benefit of the Government."

The Scottish Sunday Express article also referred to a letter from STV's Chief Executive to Linda Fabiani dated 21 January 2009, which stated:

"At our meeting I also raised the issue of how we are keen to forge a closer partnership with the Government and our commercial sales team. We're keen to explore how we can bring some of our innovative thinking to maximum effect by using television and on-line to connect Government with the electorate."

#### Issues raised under the Code

The press articles detailed above raised concerns about the Scottish Government's possible influence on the content of programmes broadcast on STV.

After an initial assessment, it was clear to Ofcom that there were potential Code issues to investigate in relation to the Scottish Government's **sponsorship of programmes** on STV.

With specific regard to the letter from STV's Chief Executive to Alex Salmond dated 9 January 2009 detailed above, STV submitted that "commercial discussions [with the Scottish Government] would include air time sales, on-line promotional opportunities, length of commercials, sponsor credits and other similar commercial projects."

Ofcom was satisfied that this offer related solely to the possible *sponsorship* of STV programming by the Scottish Government. As regards **other STV programming**, such as news, current affairs and its coverage of Scottish politics, there was no evidence or implication that the Scottish Government had influenced or had tried to influence the content of any such programming in such a way as to impair STV's responsibility and editorial independence.

Ofcom therefore launched an investigation of:

- the sponsorship of the Homecoming programmes (referred to in the press allegations); and
- all other programmes broadcast on STV in 2008 and 2009 which had been sponsored, either partly or fully, by the Scottish Government, a Scottish Government agency or a non-departmental public body.

There is no prohibition on a government or government body sponsoring a programme or series. Section 321(7) of the Communications Act 2003 permits government departments to place advertisements of public service nature on television and radio. Rule 9.3 of the Code requires sponsorship to comply with advertising content and scheduling restrictions. Therefore, as government departments are permitted to advertise on television, they are

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<sup>6</sup> Visit Scotland is Scotland's national tourism agency.

also permitted to sponsor programmes provide that any sponsorship arrangement complies with the rules set out in Section Nine of the Code.

Section Nine of the Code defines a sponsored programme as one that has had some or all of its costs met by the sponsor with a view to promoting its own or another's name, trademark, image, activities, services, products or any other direct or indirect interest.

The rules that apply to sponsored programmes are derived from the requirements of European legislation<sup>7</sup>, and from the Communications Act 2003 ("the Act"). The Act specifically requires Ofcom to ensure that the "unsuitable sponsorship" of programmes is prevented.

Ofcom's rules on programme sponsorship prevent "unsuitable sponsorship" by ensuring that:

- the editorial independence of the broadcaster is maintained and that programmes are not distorted for commercial purpose;
- sponsorship arrangements are transparent; and
- sponsor credits are separated from programme content and distinct from advertising.

The promotional benefit a sponsor is permitted to gain from contributing to the funding of a programme is through associating itself with the programme, not by being referred to during it. This association is identified through the sponsorship credits that are broadcast around the programme.

In this case, the following Code rules were of particular relevance:

Rule 9.4: "A sponsor must not influence the content and/or scheduling of a channel or programme in such a way as to impair the responsibility and editorial independence of the broadcaster."

Rule 9.5: "There must be no promotional reference to the sponsor, its name, trademark, image, activities, services, or products or to any of its other direct or indirect interests. There must be no promotional generic references. Non-promotional references are permitted only where they are editorially justified and incidental."

Rule 9.6: "Sponsorship must be clearly identified as such by reference to the name and/or logo of the sponsor. For programmes, credits must be broadcast at the beginning and/or end of the programme."

Rule 9.7: "The relationship between the sponsor and the sponsored...programme must be transparent."

These rules serve to prevent sponsored programming effectively being used as an advertisement for the sponsor. They prohibit sponsors from using sponsorship arrangements as a means of placing their brands, activities and interests within the sponsored editorial content. These rules assist in maintaining viewer trust in the integrity of programmes by ensuring editorial content is not distorted to suit the objectives of the sponsor. Finally, the transparency requirements about the identification of sponsorship arrangements ensure that viewers are protected from surreptitious advertising and clearly understand who has been involved in the financing of a programme.

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<sup>7</sup> The Television Without Frontiers (TWF) Directive which was amended by the Audiovisual Media Services (AVMS) Directive.

## Summary of investigation

In the course of its investigation of these matters, Ofcom conducted a detailed assessment of the **12 Homecoming programmes** (6 of which were 60 minutes in duration while the other 6 were 30 minutes in duration), that had been the subject of the press allegations.

Ofcom also assessed carefully a **further 45 programmes broadcast on STV** in 2008 and 2009 that had been sponsored by either the Scottish Government or a Scottish government agency or non-departmental public body. The majority of these were short one-minute programmes, focusing on public information-type subjects.

## Summary of findings

Having conducted an extensive investigation of all 57 programmes, underlying contractual arrangements and other related documentation, Ofcom found that **39 of the programmes in question did not breach the Code** (including all 12 Homecoming programmes).

However, Ofcom concluded that **18 of the short programmes** (across five series) **were in breach of the Code**. In summary, the majority of these breaches resulted from the editorial content being too closely linked to the sponsor. In one series, there were additional breaches resulting from a lack of transparency in relation to the sponsorship arrangement.

In the case of all the programmes that were found in breach of the Code, STV had sought programme funding to create editorial content that conveyed a positive message about the sponsor or its activities, or to portray it in a favourable light. It appeared to Ofcom that STV had permitted the sponsorship of the programmes to influence the content so that it was too closely linked to the sponsors or their activities.

In the circumstances of these 18 programmes, Ofcom considered that STV had sought programme funding to create programmes that were effectively vehicles for the purpose of promoting the sponsors' interests. In effect, in some cases, the programming appeared akin to an advertisement for the sponsor or its activities. Given the inherent inability of such programmes to comply with the Code's approach to sponsorship, Ofcom concluded that in these cases, STV's responsibility and editorial independence had been impaired by the sponsorship arrangements.

Details of Ofcom's investigations and its decisions under the Code are set out in two findings that follow this summary:

1) A finding on the sponsorship of the Homecoming programmes (*Made in Scotland*; *Scotland Revealed*; and *The Greatest Scot* - all broadcast on STV on various dates in 2009) which Ofcom found to be **not in breach of the Code**.

2) A finding on the sponsorship of four series of short one-minute programmes *Time for Change*; *Learning Journeys*; *A Day in the Life*; and *My Journey* (all broadcast on STV on various dates in 2008 or 2009), each of which Ofcom found to be **in breach of Rules 9.4 and 9.5 of the Code**.

In addition, this second finding includes Ofcom's decision on the series *The Great Scottish Meal* (broadcast on STV in 2008), of which two of the four episodes were found to be **in breach of Rules 9.4 and 9.5 of the Code**, with the series as a whole found **in breach of Rules 9.6 and 9.7 of the Code**.

The second finding also summarises Ofcom's decision that the sponsorship of the series *Health Matters*; *Early Days*; *In Your Own Time*; *Food For Thought*; and *Make Me Happier* (broadcast on STV on various dates in 2008 or 2009) were **not in breach of the Code**.

In view of the issues raised by this case, and the Code breaches Ofcom has recorded, we are requiring STV to attend a meeting to discuss its approach to programme sponsorship, and the sponsorship compliance procedures and processes it has in place.

## Not In Breach

### **Sponsorship of Made in Scotland**

*STV, 23 July 2009 to 7 August 2009, various dates and times*

### **Sponsorship of Scotland Revealed**

*STV, 17 September 2009 to 2 October 2009, various dates and times*

### **Sponsorship of The Greatest Scot**

*STV, 9 November 2009 to 30 November 2009, various dates and times*

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#### **Introduction<sup>1</sup>**

*Made in Scotland*, *Scotland Revealed* and *The Greatest Scot* (together “the Homecoming programmes”) were sponsored by the Scottish newspaper, *The Daily Record*<sup>2</sup> and Homecoming Scotland, a Scottish Government initiative managed by Event Scotland<sup>3</sup> in partnership with Visit Scotland<sup>4</sup> (“the Scottish Government”).

Homecoming Scotland was an initiative to get “Scotland’s people at home and abroad to reconnect with our great country [Scotland]”<sup>5</sup> and consisted of events, festivals and celebrations.

#### *Made in Scotland*

This series consisted of three 60 minute programmes, in which various presenters explored icons which contribute to Scotland’s national identity. The programmes included icons such as tartan, whisky, Scottish castles, shortbread, haggis, bagpipes, Scottish inventions, golf and Robert Burns.

#### *Scotland Revealed*

This series consisted of three 60 minute programmes, in which a geographer travelled around Scotland focussing on its landscapes and landmarks.

#### *The Greatest Scot*

The premise of this series was to present 30 nominees for the title of ‘The Greatest Scot’. The nominees had been picked by a panel comprising of a variety of historians, politicians and businessmen and women. Five further individuals had been nominated by readers of the *Daily Record*.

During each 60 minute programme, a presenter introduced and championed the nominees in one of the following categories: artists and entertainers, scientists and engineers, sporting

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<sup>1</sup> See pages 4 to 5 for further information.

<sup>2</sup> While *The Daily Record* sponsored these programmes, there were no allegations made about it in the press articles in question, and Ofcom found no evidence that *The Daily Record* had influenced the content of any of the programmes so as to undermine the independence of the broadcaster.

<sup>3</sup> Event Scotland attracts, develops and supports major events in Scotland.

<sup>4</sup> Visit Scotland is Scotland’s national tourism agency.

<sup>5</sup> <http://www.homecomingscotland2009.com/about-us.html>

personalities, inventors and entrepreneurs and leaders and thinkers. Viewers were invited to vote for their favourite nominee and the overall winner was announced in the final episode.

#### Sponsorship credit

A similar sponsorship credit appeared at the beginning and end of each of the programmes across these three series. The voiceover used in all the credits stated, "*Scotland's news, Scotland's sports, Scotland's newspaper, The Daily Record sponsors of Scotland Revealed in association with Homecoming Scotland*". The Homecoming Scotland and Daily Record logos also appeared in the credits.

In view of the potential issues raised by the correspondence featured in press articles, (as detailed on page 5), Ofcom requested the following information from STV:

- recordings of the Homecoming programmes;
- the contracts relating to the funding arrangement for each of the three series; and
- STV's comments in relation to the following Code rules:

Rule 9.4: "A sponsor must not influence the content and/or scheduling of a channel or programme in such a way as to impair the responsibility and editorial independence of the broadcaster."

Rule 9.5: "There must be no promotional reference to the sponsor, its name, trademark, image, activities, services, or products or to any of its other direct or indirect interests. There must be no promotional generic references. Non-promotional references are permitted only where they are editorially justified and incidental."

#### **Response**

STV explained that 2009 was designated the year of Homecoming in Scotland. Homecoming Scotland was an idea conceived by a previous Labour/Liberal Democrat administration to celebrate the 250<sup>th</sup> anniversary of Robert Burns' birth, with a programme of events running from Burns' birthday on 25 January and culminating on St Andrews Day on 30 November. STV said that Homecoming was designed to encourage Scots at home and abroad to celebrate their heritage and was supported with extensive marketing activity, for example a UK-wide television advertising campaign carried by STV as well as other Public Service Broadcasters.

STV told Ofcom that *Made in Scotland*, *Scotland Revealed* and *The Greatest Scot* were sponsored by Homecoming Scotland, and "were conceived and developed entirely within STV Productions prior to discussion with the Scottish Government at any level".

It added that in its programming statement for 2009, which it had submitted to Ofcom in December 2008, it had committed to "showcase more home-grown Scottish programmes" and in particular "to introduce a factual strand, looking at the history and culture of Scotland". STV said that "given the topical relevance of Homecoming, it was natural for some of [its] programming to reflect this, indeed it would have been odd had it not."

STV explained that in early 2009, an approach was made to the Scottish Government to gauge interest in being associated with the programmes through sponsorship. The programme details were presented to the Scottish Government as "firm and fixed formats and remained unchanged through the commercial dialogue." STV confirmed that "there was no editorial influence by... the Scottish Government"

STV said that “no representative from the Scottish Government was featured in any of the programmes, nor involved in the voting panel for *The Greatest Scot*.” The broadcaster also submitted that the programmes “were not influenced by the sponsors, that editorial integrity was maintained throughout, and that no promotional references to the sponsors, their activities, or their interests are featured within any of the programmes.”

## **Decision**

Ofcom first considered that the sponsorship credits broadcast around each of the episodes of the Homecoming programmes made it clear that the programmes were sponsored by both Homecoming Scotland and The Daily Record.

Sponsors cannot use sponsorship arrangements as a means of placing their brands, activities or interests within sponsored editorial content. To ensure sponsors do not use programme content as a platform to promote their interests, Rule 9.4 of the Code prohibits a sponsor from influencing the content and/or scheduling of a programme in such a way as to impair the responsibility and editorial independence of the broadcaster.

In addition, Rule 9.5 of the Code prohibits promotional references to the sponsor, including its direct or indirect interests, in a sponsored programme. It also provides that any non-promotional reference to the sponsor, or to its interests, must be incidental and editorially justified. These rules help maintain viewer trust in the integrity of programmes by ensuring editorial content is not distorted to suit the objectives of the sponsor.

### Rule 9.4 – sponsor influence

As stated above, STV told Ofcom that all three series “were conceived and developed entirely within STV Productions prior to discussion with the Scottish Government at any level” and “there was no editorial influence by either the Scottish Government or The Daily Record who agreed to co-sponsor.”

Ofcom noted STV’s submission that it had, in fact, already established the programming ideas for each of the Homecoming programmes before approaching the Scottish Government to secure sponsorship. Ofcom also took into account STV’s explanation that the programme details were presented to the Scottish Government as “firm and fixed formats and remained unchanged through the commercial dialogue.”

Ofcom found no evidence in the sponsorship contracts for the Homecoming programmes, or in the programmes themselves, to suggest that the Scottish Government influenced the content of any of the programmes so as to undermine the independence of the broadcaster

Further, Ofcom noted, that in contrast to the 18 short sponsored programmes broadcast on STV which Ofcom had found in breach of Rule 9.4 and 9.5 of the Code<sup>6</sup>, the editorial content of the Homecoming programmes was not linked so closely to the sponsor, so that the programmes appeared to be vehicles for the purpose of promoting the sponsors’ interests.

Ofcom therefore did not find any of the Homecoming programmes in breach of Rule 9.4.

### Rule 9.5 – sponsor references

Rule 9.5 of the Code prohibits promotional references to the sponsor within the programme. The rule is not limited to a sponsor’s products, but includes references to its name, trademark, image, activities, services or to any of the sponsor’s other direct or indirect interests.

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<sup>6</sup> See finding on page 11.

### Made in Scotland

The *Made in Scotland* series featured various presenters (who are either Scottish or of Scottish ancestry) exploring icons which contribute to Scotland's national identity. Examples included tartan, whisky, Scottish castles, shortbread, haggis, bagpipes, Scottish inventions, golf and Robert Burns.

The introduction to the first programme in the series explained that:

*“Throughout this series we’ll be rediscovering the icons that have made this nation renowned the world over. At a time when people from across the globe have been invited to return to their roots, to explore a Scotland they only know from afar, we’ll be examining the symbols and ideas that make up the national identity”.*

Each icon was explored in a generic manner, and no reference was made to the Scottish Government, nor was any specific reference made to the Homecoming Scotland festival.

The presenters included John Michie (actor), Lorraine Kelly (television presenter), Alistair Campbell (Director of Communications and Strategy for The Labour Party 1997-2003) and Charles Kennedy (Liberal Democrat MP and former leader of the Liberal Democrat Party) and Alex Norton (actor). There were no members of the Scottish Government on the panel responsible for selecting the nominees, nor were any of the programme presenters members of the Scottish Government.

In each programme there was a competition to win a prize related to a Scottish icon. These prizes included a family ticket to the opening night of Edinburgh Military Tattoo, a whisky blending day and a luxury seven course meal for two at The Kitchin (a Michelin starred restaurant in Edinburgh). In each case, the prizes were described as being courtesy of Homecoming Scotland, the Daily Record and a third party which in each case related to the provision of the prize<sup>7</sup>.

### Scotland Revealed

The *Scotland Revealed* series featured a geographer travelling around Scotland focussing on its landscapes and landmarks. At the beginning of the first programme, the presenter introduces the series with:

*“Scotland – a land of dramatic contrasts and extraordinary beauty. Britain’s highest mountains, wildest coasts and some of the most memorable cities are all here. In this series we’re going to see them as never before. My name is Vanessa Collingridge, I’m a geographer. I’ve travelled from the frozen Antarctic to Tahiti exploring some of the world’s most challenging landscapes, but Scotland can match any of them.... So I’m starting another journey, to take a new look at this incredible country. Come with me as I reveal Scotland in a way you’ve never seen it before.”*

Again, each landscape, city or landmark was explored in a generic manner and no reference was made to the Scottish Government or the Homecoming Scotland festival.

### The Greatest Scot

During each 60 minute programme, a presenter introduced and championed the nominees in one of the following categories: artists and entertainers, scientists and engineers, sporting personalities, inventors and entrepreneurs and leaders and thinkers. Viewers were invited to vote for their favourite nominee and the overall winner was announced in the final episode.

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<sup>7</sup> Brief references to the prizes donated by sponsors are permitted under the Code.

No representative of the Scottish Government was featured in any of the programmes, nor involved in the voting panel. No reference was made to the Scottish Government, nor was any specific reference made to the Homecoming Scotland festival during the programmes.

#### Conclusion

Ofcom noted that Homecoming Scotland's objectives include encouraging Scottish tourism and pride in the Scottish national identity. While the series may have indirectly achieved these aims, Ofcom considered that the content of the series was of clear, general interest to a Scottish audience. Furthermore, the topics covered in each were sufficiently generic that the programmes could not be described as amounting to promotional vehicles for the sponsors.

Therefore Ofcom judged that *Made in Scotland*, *Scotland Revealed* and *The Greatest Scot*, did not contain promotional references to either of the names, trademarks, images, activities, services or products of the sponsor or to any of their other direct or indirect interests. Ofcom therefore did not find any of these series in breach of Rule 9.5 of the Code.

***Made in Scotland* – Not in breach of Rules 9.4 and 9.5**

***Scotland Revealed* – Not in breach of Rules 9.4 and 9.5**

***The Greatest Scot* – Not in breach of Rules 9.4 and 9.5**

## In Breach

### **Sponsorship of Time for Change**

STV, 3 March 2008 and 11 April 2008, various times

### **Sponsorship of Learning Journeys**

STV, 1 October 2008 and 3 November 2008, various times

### **Sponsorship of The Great Scottish Meal**

STV, 24 November 2008 to 28 November 2008, various times

### **Sponsorship of A Day in the Life**

STV, 2 March 2009 and 6 March 2009, various times

### **Sponsorship of My Journey**

STV, 14 September 2009 and 18 September 2009, various times

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## Introduction<sup>1</sup>

Ofcom asked STV for recordings of any programmes it had broadcast in 2008 and 2009 which had been sponsored by the Scottish Government, Scottish Government agencies, or non-departmental public bodies (“the Scottish Government”).

Ofcom viewed the following programmes:

#### *Time for Change*, sponsored by Learn Direct Scotland

This series of five programmes, each approximately one minute in duration, was broadcast between 3 March 2008 and 11 April 2008. Four of the programmes featured individuals explaining how they had benefited from learning new work-related skills. The other programme featured an employer who explained some of the opportunities available for people who want to learn new skills.

The series was sponsored by Learn Direct Scotland, part of Skills Development Scotland which is a non-departmental public body accountable to Scottish Ministers. The sponsorship credit broadcast at the beginning and end of each of the programmes, contained an image of a clock, accompanied by the voiceover “*It’s never too late to make the most of your life. Time for change sponsored by Learn Direct Scotland*” and the on-screen text, “*Time for change sponsored by [Learn Direct Scotland logo]*”. Learn Direct Scotland’s phone number and web address were also provided in the form of on-screen text.

#### *Learning Journeys*, sponsored by The Big Plus

This series of four programmes, each approximately one minute in duration, was broadcast between 1 October 2008 and 3 November 2008. Three of the programmes featured an individual who had undertaken a course to improve their reading, writing and numeracy skills. The other programme featured an employer who had organised a course for its employees to improve their maths skills.

The series was sponsored by The Big Plus, an organisation which is co-funded by two non-departmental public bodies accountable to Scottish Minister: the Scottish Government Learning Connections; with marketing support provided by Skills Development Scotland.

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<sup>1</sup> See pages 1 to 3 for further information.

According to the The Big Plus' website<sup>2</sup>, "the main objective of the campaign is to encourage people to improve their reading, writing and number skills, by taking part in the wide range of free help which is available throughout the country. The campaign also seeks to reduce the stigma associated with the subject matter amongst the general public."

The sponsorship credit broadcast at the beginning and end of each of the programmes, contained the voiceover, "*Learning Journeys sponsored by The Big Plus*" and the on-screen text, "*Learning Journeys sponsored by [The Big Plus logo]*". The logo included the text "*Reading, Writing, Numbers*". The Big Plus' telephone number and web address were also provided in the form of on-screen text.

*The Great Scottish Meal, sponsored by Specially Selected Pork, Quality Meat Scotland*

This series of four programmes, each approximately four minutes in duration, was broadcast between 24 November 2008 and 27 November 2008. The premise of the series was that the presenter, a cook, demonstrated how to prepare a Scottish meal for St Andrews Day using Scottish produce. In the first programme the presenter bought the ingredients and in the three subsequent programmes she demonstrated how to prepare the starter, main course and dessert.

In the first programme, the presenter visited a fishmonger to buy Scottish haddock, for the starter. She then visited a shop to buy mustard, oatmeal and other items, which she stated were all Scottish produce. While in the shop the presenter could be seen standing in front of a banner that clearly stated: "*I ♥ chicken. I ♥ lamb. I ♥ beef.*"

The presenter then visited a butcher to discuss which cut of beef he would recommend for her meal. Scottish produce was not mentioned on this occasion. She then visited a farm shop to buy berries for her dessert and vegetables for her main course, and again Scottish produce was referred to.

In the second programme, the presenter cooked the fish starter. During the programme, there was no reference to meat and only one reference to the Scottish produce - the butter.

In the third programme the presenter cooked the main course. At the beginning of the programme, there was a close-up shot of some packaged bacon; the label on the packet said "*SMOKED AYRSHIRE STREAKY BACON*". During the programme, the presenter cooked the steak. She did not refer to the steak as being Scottish beef, however, she did describe it as "*gorgeous rib-eye steak*" and explained that "*Rib eye I've decided is good to use because of the fantastic flavour it's got and also it is slightly cheaper than certainly a fillet and usually sirloin as well.*" To go with the steak the presenter cooked what she described as "*kale with some lovely Ayrshire bacon*". She referred to the Ayrshire bacon again when presenting the finished plate of food.

In the fourth programme, the presenter made the dessert, again with emphasis on Scottish produce.

The series was sponsored by Specially Selected Pork, which is an initiative run by Quality Meat Scotland, to promote Scottish pork products. Quality Meat Scotland is the public body responsible for improving the Scottish red meat sector. The sponsorship credit broadcast at the beginning and end of each of the programmes, contained an image of a plate with potatoes and vegetables on it. A piece of pork was then placed on the plate. The accompanying voiceover stated "*The Great Scottish Meal sponsored by Specially Selected*

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<sup>2</sup> <http://www.thebigplus.com/bigplus/27.html>

*Pork*”, while the on-screen text stated “*The Great Scottish Meal sponsored by [Specially Selected Pork logo] www.speciallyselectedpork.com*”.

#### *A Day in the Life*, sponsored by National Care Standards

This series of five programmes, each approximately one minute in duration, was broadcast between 2 March 2009 and 6 March 2009. Each programme featured an individual talking about their experiences of care services, for example, a man whose wife goes to a day centre for people suffering from dementia, an assistant manager of a care home, a woman who moved her mother into a care home and a home care co-ordinator.

The series was sponsored by the National Care Standards, which were developed and published by Scottish Ministers. According to the Scottish Government’s website<sup>3</sup>, the National Care Standards “explain what you can expect from any care service you use”. It also states that there are six main principles behind the Standards which are dignity, privacy, choice, safety, realising potential, and equality and diversity.

The sponsorship credit featured an animated line drawing of a carer helping someone to put their shoes on. The Healthier Scotland: Scottish Government logo appeared at the bottom of the screen. The voiceover stated, “*A Day in the Life is sponsored by the Scottish Government. National Care Standards. Get the right quality of care*”, while the on-screen text stated, “*A Day in the Life is sponsored by National Care Standards*”.

#### *My Journey*, sponsored by The Children’s Panel

This series of three programmes, each approximately one minute in duration, was broadcast between 14 September 2009 and 18 September 2009. Each programme was a dramatisation of a story of a child who had received help for a problem they had experienced such as being in care, drug and alcohol abuse and the divorce of parents.

The series was sponsored by The Children’s Panel, an organisation funded by the Scottish Government, which implements Children’s Hearings in which volunteer lay people make decisions about vulnerable children in need of care or who have offended. The sponsorship credit featured an image of a child with animated cracks on their face which then close up. This is followed by the voiceover “*The Children’s Panel sponsors My Journey*” and the text “*The Children’s Panel sponsors My Journey. infoscotland.com/childrenspanel*”. The Smarter Scotland and Scottish Government logos also appeared at the bottom of the screen.

Having viewed recordings of all the above five series, and given the apparently close links in each case between the sponsor’s interests, and the content of the sponsored programmes, Ofcom requested the following information from STV:

- the contracts relating to the funding arrangement for each of the five series; and
- STV’s comments in relation to the following Code rules:

Rule 9.4 “A sponsor must not influence the content and/or scheduling of a channel or programme in such a way as to impair the responsibility and editorial independence of the broadcaster.”

Rule 9.5 “There must be no promotional reference to the sponsor, its name, trademark, image, activities, services, or products or to any of its other direct or indirect interests. There must be no promotional generic references. Non-promotional references are permitted only where they are editorially justified and incidental.”

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<sup>3</sup> <http://www.scotland.gov.uk/Topics/Health/care/17652/National-Care-Standards-1-1>

With regards to *The Great Scottish Meal* Ofcom also asked the broadcaster for its comments under the following Code rules:

Rule 9.6 “Sponsorship must be clearly identified as such by reference to the name and/or logo of the sponsor. For programmes, credits must be broadcast at the beginning and/or end of the programme.”

Rule 9.7 “The relationship between the sponsor and the sponsored channel or programme must be transparent.”

The purpose of the four rules above is to prevent sponsors from influencing editorial content they are sponsoring, and to stop sponsored programmes being used as advertisements for the sponsor. In addition, the transparency rules serve to protect the audience from the risk of surreptitious advertising.

## **Response**

### Rule 9.4

STV provided the contracts and programming agreements it had made with each of the sponsors as well as various proposal documents containing content ideas for some of the programmes.

STV explained that it has a long history of broadcasting “funded social action programming”. It continued that it is “committed to public service broadcasting and at no point is its independent editorial control compromised”.

STV explained that with regard to programmes funded by public bodies, specifically Scottish Government bodies, “all communications are conducted between STV and the public body’s media agency.” The broadcaster said that each year the Scottish Government’s media agency informs STV of the various public bodies which may be interested in sponsoring editorial content and provides STV with a list of a number of health and wellbeing campaigns which are in focus for the year. STV’s production teams then consider the campaigns and create programme ideas which may be suitable for sponsorship. It said that “The creative process for programme content is conducted solely by STV, independently from any potential sponsor” and that “The key priority for STV is that the content is of interest to viewers and secondarily that it is content which the public body would consider funding.”

The broadcaster submitted that content format ideas are subsequently presented to the agency and sponsor to consider a funding arrangement. Once the sponsor confirms that it will fund production of a specific format, “in most cases no further communication is entered into between the parties until the format is developed in more detail and the programme is created and ready for broadcast.”

STV told Ofcom that “a sponsor may be engaged as an advisor on a programme, where the accuracy of content or the sourcing of experts is necessary”, but it “ensures that the editorial process remains uninfluenced”. STV explained that it sometimes chooses to source and recruit experts who were not connected to the sponsor.

In relation to the scheduling arrangements of the sponsored programmes, STV explained that it has a fixed schedule time for the programmes which is non-negotiable and subject to change depending on STV’s own schedule needs. The broadcaster also provided the following specific comments with regards to the individual programmes:

### Rule 9.5

STV said that it refers to these programmes as “social action programmes”. It continued that “in general, the subject matter involves health, wellbeing or education, which are intrinsically unownable, and neither the presentation of the subject nor the activity of the sponsor relates to the provision of a product or a service.”

STV also explained that its compliance practices are continually revised. It said that “in addition to its own internal self-regulation improvements, which include assessing industry developments through Ofcom’s communications, STV noted the direct implications of Ofcom’s finding on *Beat: Life on the Street*<sup>4</sup> in relation to the sponsorship of its social action programmes.

#### *Time for Change*, sponsored by Learn Direct Scotland

STV said that the subject matter “concerns community welfare, namely adult education and skills in the workplace.” It continued that this “social action series” was funded by a “non-commercial, not-for-profit entity. The content is educational and provides information to the viewer on matters of public interest – enhancing and improving personal abilities through education.” STV said that it “accepts that the programmes [did] make reference to an interest of the funder, namely, education. However, education is intrinsically unownable and there is no reference to Learn Direct within the programme itself.”

STV submitted that it had “assessed the subject matter, care in the community, as a possible interest of the sponsor, however this was dismissed as the references, across the series [were] both editorially justified and incidental.” STV considered that it was “necessary to reflect the different aspects of how employers and individuals improve skills.” It added that there is no reference to the sponsor itself in any of the programmes.

#### *Learning Journeys*, sponsored by The Big Plus

STV said that the subject matter “concerns community welfare, namely adult education and self improvement and this is a social action series [which was] funded by a non-commercial, not-for-profit entity.” STV continued that “the content is educational and provides information to the viewer on matters of public interest - improving literacy and numeracy self esteem and indeed confidence”. STV “accepts that the programmes [did] make reference to the sponsor and interest of the funder, namely education.” However, STV argued that this was “a social action series which seeks to educate viewers on what is essentially and intrinsically unownable subject matter.” It considered that the reference to the sponsor was non-promotional and incidental.

#### *The Great Scottish Meal*, sponsored by Specially Selected Pork, Quality Meat Scotland

STV said that the series was created “entirely independently of the sponsor. There was no reference to Quality Meat Scotland...and any reference to meat was editorially justified and incidental.”

With regards to the transparency of the relationship between the sponsor and the sponsored programme, STV said that it “is of the view that it is not always necessary to mention an ultimate funder on a sponsor credit subject to viewers being able to identify the sponsorship arrangement. Many examples where the ultimate funder is not mentioned within a sponsor credit include references to movies, books, games, car models and products. These brands and products are referenced as the sponsor without further reference to the film production company, the book publisher, the retail outlet or the manufacturer. With regard to 'Specially

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<sup>4</sup> The finding was published in Ofcom’s Broadcast Bulletin 126 on 26 January 2009: [http://www.ofcom.org.uk/tv/obb/prog\\_cb/obb126/issue26.pdf](http://www.ofcom.org.uk/tv/obb/prog_cb/obb126/issue26.pdf). The finding recorded a breach of Rule 9.5 of the Code in relation to the programme *Beat: Life on the Street* broadcast on ITV1.

Selected Pork', Scottish viewers have been made aware of this well known brand through its advertisement features.”

STV added that “This sponsor is not the name of a campaign but is a well known brand which does not involve any other agency or other intermediary. The sponsor is well known in Scotland and the use of public money is unlikely to be considered controversial. It is also unlikely that the use of such funding will lead to an objection about the transparency of the branding. As such, it remains STV’s view that there is no need in this instance to refer to the ultimate funder as the relationship between the sponsor and the programme is transparent and the sponsorship is clearly identified within the sponsor credit.”

#### A Day in the Life, sponsored by National Care Standards

STV said that the series provided general information to viewers about care in the community. STV said that it had “assessed the subject matter, care in the community, as a possible interest of the sponsor, however this was dismissed as the references across the series are both editorially justified and incidental.” STV said that the series portrays general care in the community and predominantly focuses on the people being cared for, rather than on individuals employed by the Health Board. The broadcaster said that the “representations of the various methods of care is essential to appropriately inform viewers. There is no reference to standards of care in the community or indeed the sponsor at any time throughout the series.”

#### My Journey, sponsored by The Children’s Panel

The broadcaster said that “the programmes were created by STV as a dramatisation, of real-life stories portrayed through actors. The individuals have experience difficult backgrounds and through all of the stories, it is clear that they have grown, matured and become a balanced individual because of being loved, cared for and listened to.... The focus of the programme centres on the children, how they felt, what they experienced and what they are doing now”.

### **Decision**

Ofcom noted STV’s description of these series as featuring issues relating to “social action”. During our consideration of these programmes, we accepted that the majority of these series covered “social action” subjects. However, it is not Ofcom’s statutory duty or function to reach any judgement about the merits or otherwise of such programmes/series or the social value of the subjects featured within them. Ofcom’s duty in such investigations is to determine whether or not the broadcast content in question complied with the relevant requirements of the Code.

#### Rule 9.5 – sponsor references

Rule 9.5 of the Code prohibits promotional references to the sponsor within the programme. The rule is not limited to a sponsor’s products, but includes references to its name, trademark, image, activities, services or to any of the sponsor’s other direct or indirect interests.

#### Time for Change, sponsored by Learn Direct Scotland

Ofcom noted the following statements in two of the programmes:

- *“Many employers in Scotland like ourselves deliver a lot of in-house training, but for people sat at home there’s plenty of other opportunities available. There’s colleges where you can go in afternoons and evenings, to learn all kinds of new skills that can help you get back into the workplace. What we’ve found sometimes with older people is sometimes there’s a lack of confidence, but it’s never too late to start learning new skills.”*

- *“I also was able to get funding to help me pay for the course, and I only had to pay a small amount myself”.*

Ofcom also noted STV’s argument that while “the programmes do make reference to an interest of the funder, namely, education”, but that there was no specific reference to the sponsor, and it considered education to be “intrinsically unownable”. Ofcom also acknowledged STV’s submission that this was a “social action series...funded by a non-commercial, not-for-profit entity” and that “the content is educational and provides information to the viewer on matters of public interest – enhancing and improving personal abilities through education”.

Ofcom accepted that this series covered a subject which is of public interest, and that education *in general* is a non-proprietary subject.

However, the focus of all of these short, one minute programmes was the benefits that individuals (particularly older individuals), could gain from attending courses in order to learn new skills, and two of the programmes referred to the funding available for people on low-incomes.

In Ofcom’s view, this series consisted of little other than the focus on the benefits of attending courses and the funding available. In addition to the two references to funding detailed above, Ofcom noted the following generic references which focused on the benefits of attending courses:

- *“...there’s plenty of other opportunities available. There’s colleges where you can go in afternoons and evenings to learn all kinds of new skills that could help you get back into the workplace. What we’ve found sometimes with older people is sometimes there’s a lack of confidence, but it’s never too late to start learning new skills”;* and
- *“When I decided to go back to work, I was really glad to find a course in child care which has allowed me to come to this after school service and work in a job that I really love and enjoy.... When I realised I needed IT skills for my new job, I came to my local learning centre and there I found great support and guidance to help me with my courses.”*

The generic references to the courses served to present the sponsor’s service i.e. encouraging people to consider taking courses in order to learn new skills in a clearly favourable and positive light.

It appeared to Ofcom, therefore, that this series had been created as a vehicle to encourage viewers to use the sponsor’s service, (in this case, Learn Direct Scotland’s service), to seek out advice about suitable courses and available funding. As such, the programming appeared akin to an advertisement for the sponsor.

Ofcom therefore considered that the series promoted the service provided by the sponsor, in breach of Rule 9.5 of the Code.

#### Learning Journeys, sponsored by The Big Plus

Ofcom noted the specific references to the sponsor, The Big Plus, in the first episode, which consisted of a woman being interviewed. She said:

*“The Big Plus has got all different courses. One of the courses is run through the library that I go to. The first day when I got to The Big Plus, was just basically meeting everyone*

*and talking to everyone and learning about everyone else's problems. Before that I was [inaudible] I wouldn't do much; I was quite lazy. But I am going to do much more reading and writing because there wasn't much help for me whereas now I know that I've got the help so I'm going to just keep asking and getting help as far as I go. But I am really happy with what's going on in my life right now."*

In the other three episodes of the series, The Big Plus was not mentioned specifically. However, the focus of two of these episodes was a participant explaining how taking a course related to reading or writing, had helped to develop their skills and benefited their life. The final episode featured an employer explaining how it had set up a basic trigonometry and geometry course for its employees. He explained "*We've got now a much more integrated, confident workforce. We've got guys that don't need tuition, they don't need direction, they are able to spot a problem and solve that problem*".

Ofcom noted STV's argument that, while "the programmes do make reference to the sponsor, and interest of the funder, namely education", it considered these to be "non-promotional and incidental". Ofcom also acknowledged STV's submission that while the series referred to an interest of the funder, this was "a social action series which seeks to educate viewers on what is essentially and intrinsically unownable subject matter."

As in the case of *Time for Change* detailed above, Ofcom accepted that this series covered a subject which is of public interest, and that education *in general* is a non-proprietary subject.

However, the focus of all of these short, one minute programmes was the benefits individuals could gain by seeking out courses of the type that were the sponsor's business (albeit a non-commercial one). In addition, there was a specific reference to a course run by The Big Plus in the first episode. Ofcom did not accept STV's position that these references were non-promotional. In Ofcom's view, the series consisted of little other than the focus on the courses on offer and their benefits. In particular, the specific references to The Big Plus' course in the first episode, and the generic references to the courses in the other episodes, served to present the sponsor and its courses in a clearly favourable and positive light.

It appeared to Ofcom, therefore, that these programmes had been created as a vehicle to encourage viewers to seek out courses run by The Big Plus. As such, the programming appeared akin to an advertisement for the sponsor.

As in the case of *Time for Change* as detailed above, Ofcom therefore considered that the series promoted the service provided by the sponsor. This, along with the specific promotional references to the sponsor in one of the programmes, resulted in the series being found in breach of Rule 9.5 of the Code.

#### *The Great Scottish Meal, sponsored by Specially Selected Pork*

Ofcom took into account that while the sponsorship credit identified the sponsor of this series as Specially Selected Pork, it made no reference to the fact that this initiative is run by Quality Meat Scotland. However, STV referred to Quality Meat Scotland as being the series sponsor in its representations to Ofcom.

Ofcom judged that while the Specially Selected Pork campaign was identified to viewers as the sponsor of the series, as Quality Meat Scotland ran the campaign, *it* was in effect the sponsor of the series. In some cases where the overall sponsor's identity is not crucial to the programme's subject matter, it may not be necessary to refer to the overall sponsor. However, in this case, there was in Ofcom's view, a direct relationship between the overall sponsor (Quality Meat Scotland) and sponsor identified to viewers (Specially Selected Pork), and there were references to an interest of the overall sponsor within the series i.e. red

meat. Therefore, Ofcom considered that in the interests of transparency, viewers should have been made aware in the sponsorship credits that the ultimate sponsor was Quality Meat Scotland.

As Quality Meat Scotland was not referred to in the sponsorship credits, the relationship between the sponsor and the programme was not transparent to the viewer, in breach of Rules 9.6 and 9.7 of the Code,

Ofcom was concerned that by identifying Specially Selected Pork as the sponsor, rather than Quality Meat Scotland, it appeared that Rule 9.5 had effectively been circumvented, to enable the inclusion of promotional references to red meat as detailed below:

Given that Quality Meat Scotland is the public body responsible for promoting the Scottish red meat sector, Ofcom considered the nature and manner of the references to red meat throughout the series in relation to Rule 9.5 of the Code.

Ofcom noted that the presenter only referred to the non-meat products she was using as being of Scottish origin. However, as Scottish produce was such an integral part of the meal and the series as a whole, and was therefore referred to frequently throughout it, Ofcom considered viewers would also be likely to assume that the presenter was buying Scottish beef during the first programme and cooking with it during the third programme.

During the third programme the presenter described the beef as “*gorgeous rib-eye steak*” and explained that “*Rib eye I’ve decided is good to use because of the fantastic flavour it’s got and also it is slightly cheaper than certainly a fillet and usually sirloin as well.*” In addition, during the first programme, there were visual references to meat, including red meat on the signs that said “*I ♥ chicken. I ♥ lamb. I ♥ beef.*”

As Ofcom judged Quality Meat Scotland to be the sponsor, it therefore considered the references to red meat during the series to be promotional for the sponsor. It appeared to Ofcom, therefore, that these programmes had been created as a vehicle to encourage viewers to cook and eat red meat. As such, the programming appeared akin to an advertisement for the sponsor. Ofcom therefore found the first and third programme in the series in breach of Rule 9.5 of the Code.

#### *A Day in the Life, sponsored by National Care Standards*

Ofcom noted that in one of the programmes a man explains:

*“Through the local authority, Carol [his wife] has a carer comes and they go out for a couple of hours. They build up a very close relationship and trust with these people. And then on a Friday, Carol comes here [day centre]. It gives her her own independence doing something on her own, she likes mixing with the people. Basically I think it’s just her being herself as she sees herself.”*

In another of the programmes, an assistant manager of a care home says:

*“We have to organise care plans responding to the individual, that will reflect who they are, what their specific needs are, with patients and with the support of families we can get individual care plans developed that will give them that sense of being their own person and having their own specific needs dealt with. What time do people want to get up in the morning, what time they want to go to bed, what type of foods do they like, do they prefer a male or female carer to assist them, do they like their bath in the morning or would they prefer a shower.”*

In another of the programmes, a woman talks about putting her mother (who has dementia) into care. She says:

*“...ask for help because it’s there if you need it. She’s got the care she needs now, she’s got people around her 24 hours a day, whereas before it was just morning, lunch and teatime she had people coming in making sure she was fed, but at least now I know that if she’s hungry there’s someone to make her a cup of tea and a biscuit, and also just for a bit of company more than anything. It’s there 24 hours a day for her.”*

In another of the programmes, a home care co-ordinator explains her job. She explains that the people she visits get four calls a day from carers, assisting with personal care, meals and medication. She also says:

*“You have to be very caring and you also have to respect your client’s dignity at all times. The way we think is, how would we like to be treated if we were in that situation?....After a period of time they almost become like part of the family and that is very important for the carer and the client to gain trust.”*

Ofcom noted STV’s argument that the series provided general information to viewers about care in the community and predominantly focussed on the people being cared for, rather than on the individuals employed by the Health Board. Ofcom also acknowledged STV’s position that the “representations of the various methods of care is essential to appropriately inform viewers. There is no reference to standards of care in the community or indeed the sponsor at any time throughout the series. Ofcom also noted that STV considered that the references to the interest of the sponsor across the series were both editorially justified and incidental.”

As stated above, the sponsor i.e. the Scottish Government’s National Care Standards campaign, explains what people can expect from any care service they use. It also states that there are six main principles behind the Standards which are dignity, privacy, choice, safety, realising potential, and equality and diversity. Ofcom considered that the focus of these programmes was to highlight how the Scottish Government’s National Care Standards work in practice: that the elderly in these cases are being treated with dignity and respect in a variety of care services, such as day centres, care homes or home help.

It appeared to Ofcom therefore, that these short, one minute programmes had been created as a vehicle to reassure viewers that the Scottish Government’s National Care Standards work in the favour of elderly citizens. As such, the programming appeared akin to an advertisement for the sponsor.

Ofcom therefore considered that the series promoted the sponsor’s interests, in breach of Rule 9.5 of the Code.

#### My Journey, sponsored by The Children’s Panel

Ofcom noted STV’s argument that “the focus of the programme centres on the children, how they felt, what they experienced and what they are doing now”.

As detailed above, it is not Ofcom’s statutory duty or function to form any judgement about the merits or otherwise of such programmes/series or the social value of the subjects featured within them. What Ofcom must determine is whether or not the sponsorship arrangement is suitable, i.e. whether it is permissible under the Code.

In this case, the focus of all of these short programmes was the interventions that young people received to improve their quality of life (i.e. counselling, receiving foster care).

In Ofcom's view, while there was no reference to the sponsor during the programmes, the way in which the programmes referred to the improvements to the children's lives that had resulted from various interventions and forms of assistance, served to present the sponsor, whose role and purpose is intrinsically linked to such work, in a favourable and positive light.

It appeared to Ofcom, therefore, that these programmes had been created as a vehicle to encourage viewers to view the work of the Children's Panel in a positive light. As such, the programming appeared akin to an advertising feature for the sponsor.

Ofcom therefore considered that the series promoted the service provided by the sponsor, which resulted in it being found in breach of Rule 9.5 of the Code.

It should be noted that, while these are clear breaches of the Code, the *Time for Change*, *Learning Journeys* and *The Great Scottish Meal* series were broadcast before Ofcom had published its decision in January 2009, regarding the programme *Beat: Life on the Street* which was broadcast on ITV1<sup>5</sup>. The finding provided broadcasters with further guidance and clarity around Rule 9.5 and STV has informed Ofcom that it has improved its procedures since that decision was published.

#### Rule 9.4 – sponsor influence

We noted STV's assurances that it retained complete editorial control over the series and the sponsors' input into the programmes was limited to matters of factual accuracy.

In the case of the 18 one-minute programmes detailed above, which Ofcom found in breach of Rule 9.5 of the Code, it appeared to Ofcom that STV had permitted the sponsorship of these programmes to influence the content so that it was too closely linked to the sponsors or their activities. In effect, in some cases, the programming appeared akin to an advertisement for the sponsor or its activities.

In these cases, it appeared to Ofcom that STV had sought programme funding to create editorial content that conveyed a positive message about the sponsor or its activities, or to portray it in a favourable light. Ofcom concluded that these programmes were incompatible with the sponsorship rules of the Code. Therefore Ofcom judged that, in these cases, STV's responsibility and editorial independence has been impaired by the sponsorship arrangements.

As noted above, during Ofcom's investigation, STV provided Ofcom with copies of what it referred to as "initial sales pitch" documents. Some of these documents, while noting that the sponsored material was required to comply with the relevant Code rules, also set out the advantages to the sponsor of using editorial content as a means to convey a "message" to the audience. For example, a general proposal document for sponsored programming and the specific proposal document for the series *My Journey* stated: "It has been proven that consumers can be more receptive when they feel they are not being 'sold to', as with the branded content model, by using ...[sponsored programming] the consumer feels that they are being offered advice and 'given' something rather than being told to do something."

In another STV initial sales pitch document for the series *A Day in the Life*, STV stated that: "We aim to portray a positive but 'true to life' account of caring, featuring care workers who are charming and cheery, with positive stories to tell about clients and their relationships with them".

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<sup>5</sup> See footnote 4.

While acknowledging that the documents in question were sales-orientated, and that they did not need to comply with the Code, it was Ofcom's view that the spirit and intention of parts of these STV documents were at odds with the Code's approach to sponsorship.

In the circumstances of these 18 programmes, Ofcom considered that STV had sought programme funding to create programmes that were effectively vehicles for the purpose of promoting the sponsors' interests. Where STV had taken this approach, there was an inherent inability for these particular programmes to comply with the Code.

Ofcom concluded that in these cases, STV's responsibility and editorial independence had been impaired by the sponsorship arrangements.

There were a number of other programmes where STV did not adopt such an approach to sponsorship and in those cases STV was able to ensure compliance with the Code (see not in breach cases below).

### **Breaches of Rules 9.4 and 9.5**

***Time for Change***, sponsored by **Learn Direct Scotland**, series of five programmes, 3 March 2008 and 11 April 2008

***Learning Journeys***, sponsored by **The Big Plus**, series of three programmes, 1 October 2008 to 2 November 2008

***The Great Scottish Meal***, sponsored by **Specially Selected Pork**, episode one, 24 November 2008, and episode three, 26 November 2008

***A Day in the Life***, sponsored by **National Care Standards**, series of five programmes, 2 March 2009 to 6 March 2009

***My Journey***, sponsored by **the Children's Panel**, series of three programmes, 14 September 2009 to 18 September 2009

### **Breaches of Rules 9.6 and 9.7**

***The Great Scottish Meal***, sponsored by **Specially Selected Pork**, series of four programmes, 24 November 2008 to 27 November 2008

### **Not in breach**

Ofcom also viewed the following programmes broadcast on STV:

#### ***Health Matters***, sponsored by **Healthier Scotland, Scottish Government**

This series of six programmes was about organ donation. Each programme was approximately one minute in duration and broadcast between 10 March 2008 and 11 April 2008 and between 21 July 2008 and 25 July 2008. The series was sponsored by Healthier Scotland, the Scottish Government's health improvement initiative.

#### ***Early Days***, sponsored by **Healthier Scotland, Scottish Government**

This series of three programmes was about breastfeeding and other aspects of becoming a parent. Each programme was approximately one minute in duration and broadcast between

11 May 2009 and 15 May 2009. The series was sponsored by Healthier Scotland, the Scottish Government's health improvement initiative.

*In Your Own Time*, sponsored by Breathing Space

This series of six programmes, each approximately one minute in duration, was broadcast between 26 January 2009 and 2 February 2009 and between 21 September 2009 and 25 September 2009. Each programme featured an individual talking about how they relax.

The series was sponsored by Breathing Space, which is a free and confidential phonenumber service for those experiencing low mood or depression and in need of someone to talk to. Breathing Space is funded by the Scottish Government Health Department and NHS 24.

*Food for Thought*, sponsored by Specially Selected Pork

This series of three programmes, each approximately one minute in duration, was broadcast between 23 March 2009 and 10 April 2009. Each programme featured an athlete talking about their sport, their training regime and their chosen diet to achieve elite sporting success. The series was sponsored by Specially Selected Pork, which is an initiative run by Quality Meat Scotland, to promote Scottish pork products. Quality Meat Scotland is the public body responsible for improving the Scottish meat sector.

Ofcom found *The Great Scottish Meal* in breach of Rules 9.6 and 9.7 of the Code for not making it transparent to the audience that Quality Meat Scotland was the ultimate sponsor (see above). However, in this case, as the programme was about the benefits of a healthy diet and did focus on red meat, the sponsor's identity was not crucial to the programme's subject matter. Ofcom therefore considered that the sponsorship credit in this case was transparent.

*Make Me Happier*, sponsored by Healthier Scotland, Scottish Government

This series of six programmes, each approximately 30 minutes in duration was broadcast between 10 November 2009 and 15 December 2009. Ofcom viewed the first episode of the series which featured the story of a man who had overcome alcohol addiction only to turn to comfort eating and also suffered from mood swings and depression. In an effort to reduce his weight and improve his mental health, the man meets a chef, a nutritionist, a personal trainer and a psychotherapist. At the end of the programme the transformation to the man's life was revealed. The series was sponsored by Healthier Scotland, the Scottish Government's health improvement initiative.

## **Response**

### Rule 9.4

STV provided the contracts and programming agreements it had made with each of the sponsors.

Ofcom also noted STV's response with regards to Rule 9.4 of the Code as detailed on page 14 above.

### Rule 9.5

As detailed on page 15 above, STV said that it refers to these programmes as "social action programmes". It continued that "in general, the subject matter involves health, wellbeing or education, which are intrinsically unownable, and neither the presentation of the subject nor the activity of the sponsor relates to the provision of a product or a service."

## **Decision**

### Rule 9.5 – sponsor references

Ofcom found that the series *Health Matters*, *Early Days*, *In Your Own Time*, *Food for Thought* and the programme *Make Me Happier* did not include promotional references to the sponsors, their names, trademarks, images, activities, services or products.

While it could be argued that these series promoted the sponsors' direct or indirect interests, Ofcom concluded that the subjects covered, i.e. health, healthy eating and wellbeing, are general, non-proprietary subjects. The way in which these programmes were presented did not promote the sponsors, their services, or their direct or indirect interests. These programmes did not appear to be vehicles to promote the sponsors. In addition, any non-promotional references to the interests of the sponsors were editorially justified and incidental. In view of this, Ofcom did not find these programmes in breach of Rule 9.5.

### Rule 9.4 – sponsor influence

We noted STV's assurances that it retained complete editorial control over these programmes and the sponsors' input into the programmes was limited to matters of factual accuracy.

We found no evidence in the sponsorship contracts for these programmes, or in the programmes themselves, to suggest that the sponsors influenced the content of any of the programmes so as to undermine the independence of the broadcaster and, as such, we did not find these series in breach of Rule 9.4.

## **Not in breach**

***Health Matters*, sponsored by Healthier Scotland, Scottish Government**, series of six programmes, 10 March 2008 to 25 July 2008 and 21 July 2008 to 25 July 2009

***Early Days*, sponsored by Healthier Scotland, Scottish Government**, series of three programmes, 11 May 2009 to 15 May 2009

***In Your Own Time*, sponsored by Breathing Space**, series of six programmes, 26 January 2009 and 2 February and 21 September 2009 to 25 September 2009

***Food for Thought*, sponsored by Specially Selected Pork**, series of three programmes, 23 March 2009 to 10 April 2009

***Make Me Happier*, sponsored by Healthier Scotland, Scottish Government**, 10 November 2009.