

Ofcom Broadcast Bulletin

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The Broadcast Bulletin reports on the outcome of investigations into alleged breaches of those Ofcom codes which broadcasting licensees are required to comply. These include:

- a) Ofcom's Broadcasting Code ("the Code") which took effect on 16 December 2009 and covers all programmes broadcast on or after 16 December 2009. The Broadcasting Code can be found at <http://www.ofcom.org.uk/tv/ifi/codes/bcode/>.

Note: Programmes broadcast prior to 16 December 2009 are covered by the 2005 Code which came into effect on 25 July 2005 (with the exception of Rule 10.17 which came into effect on 1 July 2005). The 2005 Code can be found at http://www.ofcom.org.uk/tv/ifi/codes/bcode_2005/.

- b) the Code on the Scheduling of Television Advertising ("COSTA") which came into effect on 1 September 2008 and contains rules on how much advertising and teleshopping may be scheduled in programmes, how many breaks are allowed and when they may be taken. COSTA can be found at http://www.ofcom.org.uk/tv/ifi/codes/code_adv/tacode.pdf.
- c) other codes and requirements that may also apply to broadcasters, depending on their circumstances. These include the Code on Television Access Services (which sets out how much subtitling, signing and audio description relevant licensees must provide), the Code on Electronic Programme Guides, the Code on Listed Events, and the Cross Promotion Code. Links to all these codes can be found at <http://www.ofcom.org.uk/tv/ifi/codes/>

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).

It is Ofcom policy to state the full language used on air by broadcasters who are the subject of a complaint where it is relevant to the case. Some of the language used in Ofcom Broadcast Bulletins may therefore cause offence.

Standards cases

In Breach

Drivetime

Radio XL 1296 AM (West Midlands), 5 October 2009, 15:00

Introduction

Radio XL provides a music, news, views and information service for the Asian community in the West Midlands.

During this edition of Radio XL's drivetime programme, promotional material was broadcast shortly after 16:00.

Promotion of office space

After a commercial break and brief station ident, the presenter said:

"Traffic control updates for you in about three to four minutes' time. Time to squeeze in a little song. Just before that, I've got to tell you something and this is dedicated to you. In fact it's special attention to everybody, especially if you're a solicitor, if you're an accountants, travel agents and all those that need office space. Now, office space now available in a prime location on the main high street in West Bromwich. The premises are opposite the subway and have car parking to the rear. Over eighteen hundred square feet of office space is available, and great premises with competitive rates at a highly sought after location there. If you want any enquiries on there, if you do need office space, why not pick up the phone and call either David on 0121... [repeats name and number] or Richard on 0121... [repeats number] and they can help you out with that, if you need any office space – got loads available over in West Bromwich."

A listener found the "presenter ... blatantly plugging office space/rooms for letting ... disruptive in [Radio XL's] usual programming", adding that "it wasn't even a sponsorship or an advert ... it was the presenter announcing it."

The broadcaster confirmed that the promotional material in question was a presenter-read and paid-for advertisement.

We therefore sought Radio XL's comments with regard to Rule 10.2 of the Code, which states:

"Broadcasters must ensure that the advertising and programme elements of a service are kept separate."

Promotion of special travel rates

While listening to the recording provided by Radio XL, we also noted the following material, which was broadcast over a consistent rhythmic sound-bed, following a post-news weather-check ident:

- A pre-recorded sponsor credit: *"Radio XL weather is brought to you in association with Southall Travel – taking you to the best destinations in the world";*
- A presenter-read weather forecast; and

- Pre-recorded promotional material concerning the sponsor: *“For special rates to India, Pakistan, USA, Canada, Kenya, Dar-es-Salaam, Kilimanjaro and Dubai, call Southall Travel, twenty-four hours a day, seven days a week on 0121... [repeats number]”*.

Radio XL said the material contained in the final bullet-point, above, was “an end tag”, which we understood to mean a sponsorship credit, as opposed to part of the weather forecast itself.

We therefore sought the broadcaster’s comments with regard to Rule 9.9 of the Code, which, with reference to sponsorship credits, states:

“Credits must be short branding statements. However, credits may contain legitimate advertising messages.”

Response

Promotion of office space

Radio XL referred to one of the two principles upon which Section Ten of the Code is based; namely:

“To ensure that the independence of editorial control over programme content is maintained and that programmes are not distorted for commercial purposes.”

It added that, “in this passage the presenter [was] clearly doing a paid for live read”, with “no attempt to disguise this as normal programming.” The broadcaster admitted there was “no separation” but claimed the nature of the output was transparent to listeners, as no attempt had been made “to disguise [the] material as normal programming.”

Radio XL said the complainant had “found the announcement disruptive to normal programming, hence insinuating that it was not normal programming.” It added that the complainant’s reference to the presenter “blatantly plugging office space” indicated that the material in question was an advertisement. Radio XL therefore wondered whether the complainant’s claim that the material was not “sponsorship or an advert” was contradictory, as it implied that the material was something else, without suggesting what.

Nevertheless, the broadcaster concluded that, in hindsight, it may have been appropriate “to avoid ... confusion ... to separate the live read from the programming with a jingle.”

Promotion of special travel rates

Radio XL acknowledged its need to ensure that it maintained editorial control over sponsored programming, which should not be distorted for commercial purposes, and that sponsorship arrangements were transparent and sponsorship messages were separated from programmes and distinct from advertising.

The broadcaster considered that, “in this instance there [was] a sponsor credit followed by the programming content in the form of the weather followed by ‘another sponsor credit’ and then a station ident acting as a separation.”

Radio XL believed that “the issue appears to be whether the third bullet point [as in the introduction, above] should [have been] treated as a second sponsor credit.” In

the broadcaster's view, the continuous music bed under both the credits and the programming in between them, demonstrated that the credits were linked.

The broadcaster said "the 'second' sponsor credit [was] short and clearly contain[ed] a legitimate advertising message." It added that Radio XL did not repeat "*brought to you in association with Southall Travel*", since it was obviously linked by the music bed to the first sponsor credit.

Decision

Promotion of office space

Broadcast output is defined either as editorial (programming) or advertising. For the purposes of transparency, and reflecting the second of the two principles upon which Section Ten of the Code is based, Rule 10.2 of the Code requires that:

"Broadcasters must ensure that the advertising and programme elements of a service are kept separate."

Presenters may read advertisements (live or recorded) but broadcasters should ensure that the distinction between advertising and programming is not blurred and that listeners are not confused between them. It is therefore advisable for presenter-read advertisements to be separated from programming by, for example, a jingle or station ident, or by scheduling them in the middle of a commercial break.

In this case, a commercial break was clearly separated from the material that followed by a station ident. The presenter continued his drivetime programme, announcing that he would be playing a song before a travel update. He then dedicated to Radio XL listeners what he was about to say (i.e. "*Just before that, I've got to tell you something and this is dedicated to you. In fact it's special attention to everybody...*"). We note the broadcaster's claim that no attempt had been made "to disguise [the] material as normal programming." Whether or not such an attempt had been made, Ofcom considers that the 40 second promotion of available office space that followed was presented seamlessly as programming.

We note Radio XL's analysis of the complainant's view concerning the material broadcast. We do not consider that the presenter was "clearly doing a paid for live read." Further, we note that Radio XL acknowledged it had not ensured that the advertising and programme elements of its service had been kept separate.

The broadcast was in breach of Rule 10.2 of the Code.

Promotion of special travel rates

Rule 9.6 of the Code requires, among other things, that sponsor credits must appear before and/or after any sponsored programming features (in this case, a weather bulletin). In addition, Rule 9.9 states:

"Credits must be short branding statements. However, credits may contain legitimate advertising messages".

Ofcom's published guidance to Rule 9.9 reminds broadcasters that:

- "the primary purpose of a sponsor credit is to inform the listener of the sponsorship arrangement";

- “a full sponsor credit comprises the sponsor's name and identifies clearly the sponsored output” and “may also contain limited legitimate advertising...”; and
- “sponsor credits on radio should not sound like advertisements.”

The promotional material that followed the weather update comprised merely advertising messages, offering “special rates” to eight destinations and providing Southall Travel’s contact details and availability (i.e. “*For special rates to India, Pakistan, USA, Canada, Kenya, Dar-es-Salaam, Kilimanjaro and Dubai, call Southall Travel, twenty-four hours a day, seven days a week on 0121... [repeats number]*”).

Sponsor credits on radio tend to last less than ten seconds, including the announcement of the sponsorship arrangement that is in place and any short, additional advertising message.

Ofcom noted Radio XL’s view that the consistent music-bed (music being played under the speech) throughout the opening sponsor credit, the weather update and the ‘end tag’ (i.e. the promotional message for the sponsor) demonstrated a link between the material surrounding the weather bulletin itself. We did not consider that the music-bed was sufficient to remind the listener of any sponsorship arrangement. Further we noted that the promotional message lasted 17 seconds.

In the circumstances, Ofcom therefore considered that the sponsor credit sounded more like a full advertisement than a brief branding statement. The sponsor credit was therefore in breach of Rule 9.9 of the Code.

Breach of Rules 9.9 and 10.2

In Breach

The Gospel Truth with Andrew Womack

Revelation TV, 7 October 2009, 08:30

Introduction

Revelation TV is a religious channel that features discussion and personal view programmes. At the end of this programme, the following were promoted in length:

- DVD and CD recordings of the programmes
- A book written by the presenter
- Conferences at which the presenter was appearing

Ofcom sought the broadcaster's comments on the promotions under Rule 10.3 (products and services must not be promoted in programme) and Rule 10.4 (no undue prominence may be given in any programme to a product or service) of the Code.

Response

Revelation TV stated that all matters referred to in the programme were directly connected to the presenter Andrew Womack's ministry and the CD/DVDs directly related to the content of the programme. The broadcaster said that the promotions were not included for commercial gain. The programme made clear that if viewers could not afford to pay the quoted price for the CD, they would be sent it free of charge. Further no cost was given in relation to the conferences mentioned.

The broadcaster advised that when programme-makers enter into a contract with Revelation TV for their programmes to be shown on the station, they are reminded of the need to conform to Ofcom rules. However, the broadcaster accepted that it was responsible for ensuring that the material it transmits complies with the Code.

Revelation TV explained that since the programme was shown, it had written to all those who make programmes for the channel, reminding them of the need to study and comply with Ofcom regulations. In addition, two meetings had been held with all in-house presenters and producers to remind them of the Codes requirements in relation to commercial references within programmes.

The broadcaster apologised if the programme had breached the Code.

Decision

Ofcom noted that approximately the last five minutes of the half hour programme was dedicated to the direct selling of the presenter's products and the promotion of conferences. The products were promoted in a style and format usually associated with teleshopping. Products were displayed on screen and accompanied by the following voiceover:

"visit our website where you can order ministry materials online 24 hours a day, seven days a week at [website address]. On our website, you'll not only find materials from today's broadcast, you'll find a wealth of resources free for you to download for yourself and share with others or you can use your credit card to

order by telephone. Our helpline number is [...]. We hope to hear from you today”.

Mention was made of the fact that this was the last opportunity for viewers to order a recording of the teaching featured in the programme. Contact details (postal address, website and telephone number) for acquiring all the products promoted remained on screen throughout the promotions and were also given verbally.

The Code requires that advertising and programming should be distinct and clearly separated. As a general rule, products and services should not be promoted in programming. There are limited exceptions to this rule. For instance, programme-related material may be promoted in or around the programme from which it is derived (Rule 10.6). Any reference to a product or service within a programme must be editorially justified and not unduly prominent.

In this case, Ofcom accepts that there was sufficient justification for the CD/DVDs to be promoted within the programme on the basis that they comprised material directly related to the programme and, as such, met the definition of programme-related material. However, the promotion of programme-related material must be editorially justified and not result in undue prominence. The duration, tone and level of detail in the promotion of these products, as set out above, went beyond what was editorially justified and was unduly prominent. The promotion was therefore in breach of Rule 10.4 of the Code.

While noting that the book and conferences promoted in the programme were linked to the presenter and his ministry, Ofcom considers that this in itself did not provide sufficient justification for the products to be promoted in the programme. Neither the book nor the conferences were directly derived from the programme and therefore could not benefit for the exemption set out in Rule 9.6 for programme-related material. These promotions were therefore in breach of Rule 10.3 of the Code.

Ofcom notes that the broadcaster accepts it is responsible under its licence for the compliance of the broadcast material it transmits. However, Ofcom is particularly concerned that Revelation TV appears to place such reliance on programme-makers for ensuring that material complies with the Code. Ofcom has previously censured Revelation TV for failing to review the content of its programmes prior to transmission¹. In light of our concerns, Ofcom is requiring the broadcaster to attend a meeting to discuss its compliance processes and procedures.

Breach of Rules 10.3 and 10.4

¹ See Ofcom’s finding on *Vision for Israel* in Ofcom Broadcast Bulletin 120 which is available at http://www.ofcom.org.uk/tv/obb/prog_cb/obb120/issue120.pdf

In Breach

Live 960

Live 960, 11 September 2009, 22:00

Introduction

Live 960 is owned and operated by Hoppr Entertainment Limited (“Hoppr Entertainment”). Live 960 is a daytime chat and adult sex chat channel service available freely without mandatory restricted access. The channel is situated in the ‘adult’ section of the Sky electronic programme guide (“EPG”). The channel broadcasts programmes after the 21:00 watershed based on interactive adult sex chat services: viewers are invited to contact onscreen female presenters via premium rate telephony services (“PRS”). The female presenters dress and behave in a sexually provocative way while encouraging viewers to call the PRS telephone line.

A viewer complained about the strong adult content shown during this broadcast. This showed two presenters carrying out a number of sexual acts on each other. At various points in the broadcast the presenters were wearing skimpy thongs and tops that were open to reveal their breasts, spitting on each other’s knickers and licking each other’s breasts, and were shown touching and apparently licking each other’s genital areas. The broadcast included prolonged and close up shots between the presenters’ legs while simulating masturbation. It also included an image of one of the presenters moving her thong to one side to briefly reveal her genitals, while the other simulated the performance of oral sex on her.

Ofcom asked Hoppr Entertainment for its comments on the broadcast in respect of Rules 1.24¹ (‘adult-sex’ material); 2.1 (generally accepted standards); and 2.3 (material that may cause offence must be justified by context).

Response

Hoppr Entertainment said that the broadcast of this material was an accident and was not deliberate. It said that its programmes are broadcast live and therefore it is difficult to stop a mistake such as this. It continued that both the cameraman and presenter no longer work for Hoppr Entertainment.

The broadcaster said that it has now put compliance systems in place to prevent this happening again. These include training presenters on the Code and introducing contracts which require presenters to comply with the Code at all times.

Decision

Rule 1.24 requires ‘adult-sex’ material to be broadcast only between 22:00 and 05:30, and then only if mandatory restricted access is in place. Through a series of

¹ Please note that on 16 December 2009, a revised version of the Code was issued. For programmes broadcast on or after 16 December 2009, Rule 1.18 will apply.

published findings, and published decisions of the Content Sanctions Committee, Ofcom has made clear what constitutes 'adult-sex' material².

Ofcom noted that the broadcast material complained of showed the two presenters apparently performing oral sex and masturbation on each other (head between legs, licking and touching other presenters' genital areas). In Ofcom's opinion, a viewer could reasonably have perceived some of these sexual acts as real. The presenters were also shown spitting on and licking each other's knickers and one presenter very briefly showed her genitals. Ofcom considered that these images broadcast during the programme were clearly of a strong sexual nature and that the primary purpose of this material was sexual arousal or stimulation.

Ofcom noted that the programme was broadcast after the watershed and on a service operating within the 'adult' section of the Sky EPG. Nonetheless in Ofcom's view this content had insufficient editorial or contextual justification to allow its exceptional transmission without mandatory restricted access on free-to-air television. This content was, in Ofcom's view, 'adult-sex' material and its broadcast was in breach of Rule 1.24, which requires such material to be broadcast only after 22:00 with mandatory restricted access.

The broadcasts were therefore in breach of Rule 1.24 of the Code.

Being 'adult-sex' material the content complained of clearly had the potential to be offensive. Ofcom recognises that broadcasting this material in the 'adult' section of the EPG and after the 21:00 watershed were steps which helped to minimise the potential offence caused to viewers. However, given the strength of the material, which Ofcom considered to be 'adult-sex' material and therefore only suitable for transmission with mandatory restricted access (see above), Ofcom considered that factors such as its location in the 'adult' section of the EPG and the content being broadcast after 21:00 did not justify the broadcast of this material in this instance. Ofcom also notes the possibility of viewers (and in particular children) at this time coming across this material unawares. Ofcom therefore concluded that this content was not justified by the context and was therefore in breach of Rules 2.1 and 2.3 of the Code.

Ofcom notes the compliance measures taken by the broadcaster in response to the transmission of the material. However, given the strength of the content broadcast, Ofcom considered this contravention to be a serious breach of the Code. Ofcom notes that Hoppr Entertainment has been operating a licence for Live 960 since 19 August 2009 and since that time it has been found in breach of its licence conditions and of the Code on separate occasions. Given this, Ofcom is now requiring the licensee to attend a meeting at Ofcom to discuss its compliance procedures. Ofcom also puts Hoppr Entertainment on notice that it must take all necessary and

² For example: Sanctions decision against Square 1 Management Limited concerning its channel Smile TV, dated 10 July 2008, http://www.ofcom.org.uk/tv/obb/ocsc_adjud/SmileTV.pdf; Breach Finding on SportxxxBabes, Ofcom Broadcast Bulletin 115, dated 11 August 2008; http://www.ofcom.org.uk/tv/obb/prog_cb/obb115/; Breach Finding on SportxxxBabes, Ofcom Broadcast Bulletin 119, dated 13 October 2008; http://www.ofcom.org.uk/tv/obb/prog_cb/obb119/; Sanctions decision against Satellite Entertainment Limited concerning its channel SportxxxBabes, dated 26 August 2008, http://www.ofcom.org.uk/tv/obb/ocsc_adjud/sportxxxbabes.pdf; and Sanctions decision against Satellite Entertainment Limited concerning its channel SportxxxBabes, dated 26 August 2008, http://www.ofcom.org.uk/tv/obb/ocsc_adjud/sportxxxbabes.pdf.

appropriate measures to ensure its channels comply with the Code in the future. Ofcom will not expect further breaches of this nature to occur again.

Breach of Rules 1.24, 2.1 and 2.3

In Breach

Top Shelf TV

Top Shelf TV, 17 September 2009, 16:45

Introduction

Top Shelf TV is owned and operated by Playboy TV UK/Benelux Limited (“Playboy” or “the Licensee”). Top Shelf TV is a televised interactive chat channel available freely without mandatory restricted access. The channel is situated in the ‘adult’ section of the Sky Electronic Programme Guide (“Sky EPG”) on Channel 911¹. Viewers can call a premium rate telephone number and talk to onscreen female presenters. The presenters generally dress and behave in a provocative and/or flirtatious manner.

On 17 September 2009 routine Ofcom monitoring raised concerns about some material broadcast on Top Shelf TV before the watershed at 16:45. A woman, dressed in skimpy black underwear, stockings, suspenders and stilettos repeatedly lay on her back facing the camera with her legs spread wide apart for prolonged periods of time. While doing so she repeatedly thrust her groin area in close-up to camera as though miming intercourse, and stroked and caressed her body in a sexually provocative manner. This material was presented with background music.

Given the time of broadcast in the late afternoon and that it was available without any access restrictions, Ofcom asked the broadcaster to comment with regard to Rule 1.3 (children must be protected by appropriate scheduling from material that is unsuitable for them).

Response

The Licensee initially responded that the programme material in question was supplied by another licensee, Primetime TV (“PTTV”), and Playboy was not responsible for its compliance. Ofcom pointed out however that a licensee remains responsible for complying all material broadcast on its service unless or until Ofcom has agreed otherwise in advance. Playboy therefore reviewed its original response and accepted that it was responsible for the broadcast of this material.

Playboy said that the material Ofcom queried was in fact part of a test broadcast by PTTV and that the Licensee’s compliance team had not monitored it when broadcast. Playboy however accepted that the presenter’s behaviour was too overtly sexual and unsuitable for the time of broadcast on a channel that was freely available to view. It also confirmed that it has subsequently spoken to PTTV to ensure that such material would not be shown again before the 21:00 watershed.

Decision

Rule 1.3 makes clear that children should be protected from material which is unsuitable for them by appropriate scheduling. Appropriate scheduling is judged

¹ Playboy TV UK/Benelux Limited transferred its licence for Top Shelf TV to Just4USTV Ltd on 22 September 2009. Just4USTV is a wholly owned subsidiary of Playboy TV UK/Benelux Ltd. From 22 September 2009, JUST4USTV began broadcasting a channel called Elite on EPG number 911.

according to factors such as the nature of the content, the nature of the channel and the time of broadcast.

The behaviour of presenters for daytime chat services must not at any time appear to mimic or simulate sexual acts before the watershed. In this case the female presenter dressed in skimpy underwear adopted various sexual positions including lying on her back with her legs wide open for prolonged periods of time and thrusting her groin repeatedly in close up to camera as though miming sexual intercourse, while stroking her thighs and buttocks. In Ofcom's opinion the sexual imagery shown to viewers had no editorial context other than sexual stimulation. It was therefore not editorially justified. In Ofcom's view the repeated actions and sexual positions of the presenter were intended to be sexually provocative in nature. In light of this behaviour, together with its lack of editorial justification, in Ofcom's view (and admitted by Playboy) this material was clearly unsuitable for children.

Given the sexual nature of the content, the location of the channel in the 'adult' section of the EPG and its scheduling at 16:45 were not sufficient to provide adequate protection to prevent children from viewing this material. Ofcom has repeatedly made clear that the location of a channel in the 'adult' section of the Sky EPG, available freely without mandatory restricted access, does not in itself provide adequate protection to under-eighteens from inappropriate material. Therefore the material breached Rule 1.3².

Breach of Rule 1.3

² Bang Babes 'Tease Me' Finding, The Pad 'Tease Me 2' Finding and Note to Daytime and Adult Sex Chat Service Broadcasters in Bulletin 137 at http://www.ofcom.org.uk/tv/obb/prog_cb/obb137/; Freeview promotions for Playboy in Bulletin 139 at http://www.ofcom.org.uk/tv/obb/prog_cb/obb139/Issue139.pdf, Bang Babes 'Tease Me 2' in Bulletin 120 at http://www.ofcom.org.uk/tv/obb/prog_cb/obb120/.

In Breach

MTV Live: Isle of MTV music festival, featuring Lady Gaga

MTV One, 2 November 2009, 16:00

Introduction

MTV is a music channel available on satellite and cable platforms. The Isle of MTV music festival took place in July 2009 and featured a number of pop musicians. This programme included a 30 minute performance by Lady Gaga which was recorded at the festival and transmitted on 2 November 2009. During her performance, Lady Gaga addressed the audience and said “*put your hands up in the air and dance, you motherfuckers*”. One viewer complained about the broadcast of the word “motherfuckers” at 16:00 on a week day at a time when children could be watching.

Ofcom asked MTV Networks Europe (“MTVNE”), which complies the channel, for its comments under Rule 1.14 (the most offensive language must not be broadcast before the watershed) of the Code.

Response

MTVNE unreservedly apologised for the transmission of the language and explained that the programme was broadcast in error.

MTVNE explained that the programme was originally produced and edited by its sister company in Italy and then viewed and complied by its compliance team at MTV in London with all the offensive language removed. After the material was complied, MTV in London requested the Italian office to make technical alterations to the programme’s sound track. The Italian office mistakenly used the original, unedited audio of the concert to make the changes however, and this error resulted in the offensive language being made intelligible again on the soundtrack.

MTVNE outlined the extensive steps it took when it became aware of the broadcast of this offensive language. These included: writing to the complainant and transmitting an apology to viewers the following week; and introducing further compliance checks on all material delivered from Italy.

Decision

Ofcom research on offensive language¹ identified that the word “fuck” and its derivatives were considered by viewers to be very offensive. Ofcom notes MTVNE’s apology for the broadcast of this offensive language and the action MTVNE has taken since it became aware of its transmission, including an on-air apology and the introduction of further compliance checks.

However, Rule 1.14 of the Code states unequivocally that “the most offensive language must not be broadcast before the watershed...”. Therefore the broadcast of this language before the watershed in this instance is a breach of Rule 1.14.

Breach of Rule 1.14

¹ Language and Sexual Imagery in Broadcasting: A Contextual Investigation”, September 2005.

In Breach

Club Paradiso

Club Paradiso, 24 October 2009, 05:30

Introduction

Club Paradiso is an interactive adult sex chat service available freely without mandatory restricted access. The channel is situated in the 'adult' section of the Sky electronic programme guide ("EPG"). The channel broadcasts programmes based on interactive 'adult' sex chat services: viewers are invited to contact on-screen female presenters via premium rate telephony services ("PRS"). The female presenters dress and behave in a sexually provocative way. A viewer made a complaint about the programme.

Ofcom sought a recording of the programme complained of from Chat Central, which is the licence holder for Club Paradiso.

Response

Between 28 October and 30 November 2009 Ofcom was in correspondence with Chat Central seeking a recording of the programme. During this time Chat Central failed to meet a number of deadlines set by Ofcom. Eventually it provided Ofcom with a recording of the programme, but it was not 'as broadcast' quality (i.e. it did not contain some of the on-screen text that had apparently been part of the actual broadcast).

Ofcom sought clarification from Chat Central about its reasons for delay in responding to Ofcom's request and the quality of the recording provided.

Chat Central said that it believed it had been misled by a member of staff about his handling of Ofcom's request (for example he claimed to have sent the recording to Ofcom when this had not happened), and there had been an increased workload caused by various issues during the company's first eight weeks of trading.

Chat Central confirmed that following this incident, it had employed two more staff and immediately changed to a new recording system that was able to record its output in 'as broadcast' quality, 24 hours a day.

Decision

It is a condition of all broadcast licences that the licensee adopts procedures for the retention and production of recordings and provides these recordings to Ofcom "forthwith" if requested. Further, the recordings should be 'as broadcast' (i.e. the same quality in terms of both sound and picture as when originally transmitted).

In this case, Chat Central failed to respond to Ofcom's request for recordings 'forthwith' and had not put procedures in place to ensure their programme recordings were 'as broadcast'.

Taking these factors into account Ofcom has found Chat Central in breach of its licence condition for failing to retain recordings of their output in 'as broadcast' quality and for failing to provide the deal with a request for recordings "forthwith".

This is a serious and significant breach of the broadcaster's licence and will be held on Chat Central's compliance record.

Breach of Licence Condition 11 (retention and production of recordings)

Resolved

F1: Grand Prix

BBC1, 1 November 2009, 12:10

Introduction

On 1 November 2009, BBC 1 broadcast the Formula 1 Grand Prix, live from Abu Dhabi. Immediately after the race, cameras followed the drivers as they left their cars and presented themselves for the official post-race weigh-in. This part of the live coverage captured an impromptu conversation between the podium drivers, Sebastian Vettel, Mark Webber and Jenson Button, during which Jenson Button said *"fuck, I should have waited"*.

Ofcom received one complaint from a viewer who considered this language was inappropriate given the programme's afternoon scheduling. Ofcom sought the broadcaster's comments under Rule 1.14 of the Code (the most offensive language should not be broadcast before the watershed).

Response

The BBC said that the post-race coverage was supplied by a third party, Formula One Management ("Formula One"), and therefore the BBC had limited control over the output and the conduct of the drivers. However, it stressed that it asked Formula One to remind drivers that their conversations would be broadcast live and must not swear, and that Formula One had given the drivers this reminder.

The BBC regretted the broadcast of the word, but maintained that the majority of viewers would understand that live coverage of the "highly charged atmosphere surrounding sporting events" may occasionally contain strong language. The BBC also referred to: the subsequent apology given by the programme commentator on air; the context of the non-aggressive friendly banter in which the word was used; and the fact that the BBC ensured that the offensive language was not shown in any repeat or on the iPlayer. It stated that these factors mitigated any offence caused.

To minimise the likelihood of recurrence, the BBC said it would, in future, make every effort to dip or mask the sound if there is an indication of the impending use of strong language.

Decision

Our research indicates that the word "fuck" and its derivatives are an example of the most offensive language.

Ofcom accepts that 'live' broadcasting poses special compliance challenges for broadcasters, especially when the coverage is supplied by a third party. Ofcom also appreciates that viewers value 'behind the scene' moments that provide a close-up insight into the post-race activities of drivers. However, such broadcasts (live, 'fly-on-the-wall', and filmed by a third party, where the coverage is largely out of the broadcaster's hands) can carry risks for compliance and so the broadcaster must take all reasonable steps to ensure compliance with the Code.

Ofcom notes that the BBC does ask Formula One to remind drivers to take care not to swear, and that the BBC plans to reduce the risk of a similar incident happening again through dipping or masking the sound if there is an indication of the impending use of strong language. Ofcom also notes that the BBC transmitted an on air apology. In light of these factors, including the context and tone of this use of strong language, Ofcom has decided that the matter is resolved.

Resolved

Fairness and Privacy Cases

Not Upheld

Complaint by Ms Emma Czikai

Britain's Got Talent, ITV1, 9 May 2009

Summary: Ofcom has not upheld this complaint made by Ms Emma Czikai of unfair treatment in the programme.

This edition of the programme included footage from Ms Emma Czikai's performance as a solo singer. After she had sung the first line of "You Raise Me Up", Piers Morgan activated his buzzer and Ms Czikai stopped singing. She was given the chance to start again, but after she had sung the first line Simon Cowell activated his buzzer. Ms Czikai responded by saying "Start it [the music] again". As the audience chanted "Off! Off! Off!", Ms Czikai shouted "Shut up!" before starting the song for a third and final time. Amanda Holden activated her buzzer when Ms Czikai reached the chorus of the song. After finishing her performance Ms Czikai expressed a number of concerns about the sound equipment, namely, the microphone and the volume of the backing track.

In summary Ofcom found the following:

- The programme portrayed the way events unfolded fairly and did not make any omissions that resulted in unfairness.
- There was no evidence to suggest that the programme makers had provided Ms Czikai with an assurance that all of the "prejudicial material" would be removed from the programme as broadcast.
- There was no obligation, in the interests of fairness, on the programme makers to provide a link between the original programme and an edition of its sister programme in which Ms Czikai appeared.

Introduction

On 9 May 2009, ITV1 broadcast an episode of its talent show, *Britain's Got Talent*. The programme features a number of contestants who perform a variety of acts in front of three judges ("the panel judges") and a live audience. The contestants have a limited time in which to perform their act, but their performances can be brought to an early conclusion if all three panel judges press the buzzers in front of them. After each performance, the panel judges gave their opinion of the performance and then voted whether or not the contestant was good enough to go through to the semi-final stage of the competition. The complainant, Ms Emma Czikai, performed in the programme as a solo singer.

The programme presenters, Anthony McPartlin and Declan Donnelly ("Ant and Dec"), interviewed Ms Czikai immediately before she went on stage to perform. Following a brief conversation with Simon Cowell, Ms Czikai's backing music began and she started singing. After she had sung the first line of her song, "You Raise Me Up", Piers Morgan activated his buzzer. Ms Czikai stopped singing and said to him:

"I knew you'd do that! Let me start again... That was rotten. Not taking your buzz. They buzz, ok; you buzz, no way!"

Ms Czikai began to sing again and after she had sung the first line of the song, Simon Cowell activated his buzzer. Ms Czikai responded to this by saying *"Start it [the music] again"*. At this point, the audience chanted *"Off! Off! Off!"* she shouted *"Shut up!"* before starting to sing for a third time. Amanda Holden activated her buzzer when Ms Czikai reached the chorus of the song.

Following Ms Czikai's performance, Simon Cowell said to Ms Czikai:

"...And I think I speak on behalf of everyone; you have a horrible singing voice Emma."

Ms Czikai replied:

"You don't think it might be that perhaps the backing track is too loud?"

Later in the conversation, Ms Czikai said that she was not used to the *"particular microphone"*, to which Simon Cowell replied:

"Emma, Emma, reality check here, it's not the music; it's not the microphone; it's you".

The programme then showed footage from a further interview between the programme presenters and Ms Czikai before moving on to the next act.

Ms Czikai complained to Ofcom that she had been treated unfairly in the programme as broadcast.

The Complaint

Ms Czikai's case

In summary, Ms Czikai complained that she was treated unfairly in the programme as broadcast in that:

- a) The programme was unfairly edited and unfairly portrayed her and her performance.

In particular, Ms Czikai said that the broadcast footage:

- i) Did not show that she had tried to exit the stage and had been called back three times by Simon Cowell on the understanding that the volume of the music would be adjusted to enable her to sing, but it wasn't.
- ii) Did not show that she had asked throughout her performance for the music to be reduced in volume to enable her to hear herself sing.
- iii) Did not show that she had asked to sing without the music and the microphone to prove that she could sing.
- iv) Only showed her pre-performance comment that *"There are a lot of people out there who think they can sing but can't"*, which made her appear arrogant because the rest of her comment was not included: *"but what I think doesn't*

matter. What matters is what the public think because different styles appeal to different people and at the end of the day it takes a lot of guts to get up on stage and sing and anyone who does deserves commendation for that”.

- v) Included footage of her refusing to “take a buzzer” from Piers Morgan but did not include her qualifying her refusal by saying “because you are biased against me”.
- b) She only agreed to allow the footage of her performance to be broadcast on the basis that all of the “prejudicial material” was removed from the programme, but that no other footage was removed. This did not happen.
- c) The *Britain’s Got Talent* broadcast on 9 May 2009 did not link to the *Britain’s Got More Talent* of 25 May 2009 in which she later appeared, where she had been provided a fairer environment in which to perform.

Ms Czikai said that she had given her consent for footage of her performance to be included in the 9 May 2009 broadcast based upon promises by the programme makers that her appearance on the sister programme would be seen by all those who saw her main audition, and that *Britain’s Got Talent* would include a link to the sister programme to help ensure that.

The Broadcaster’s case

In summary, Channel Television Limited (“Channel TV”), an ITV Licence holder, responsible for the compliance of the programme on behalf of the ITV Network (“ITV1”) responded to Ms Czikai’s complaint of unfair treatment.

- a) In relation to the complaint that the programme was unfairly edited and unfairly portrayed Ms Czikai and her performance, Channel TV responded as follows:
 - i) Channel TV said that, as regards attempts to leave the stage, Ms Czikai was mistaken and that the unedited footage of her performance clearly showed that she made no such attempt but remained in her performance spot throughout. Channel TV said that Ms Czikai made no mention of leaving the stage and that instead she requested (and was given) a second and third attempt at performing the song after both Piers Morgan and then Simon Cowell “buzzed” her as she sang. Channel TV said that no reference was made at any time during her performance to “adjusting the volume of the music”. The only reference to the volume came after her performance finished.
 - ii) As regards the volume of the music, Channel TV said that Ms Czikai was again mistaken and that the unedited footage clearly showed that the only mention of the volume of the music came after Ms Czikai had finished her performance, when she remarked, in response to criticism from the judging panel, “*You don’t think it might be that the backing track is perhaps a little too loud?*”. Channel TV said that at no point during her performance did she request that the volume of the backing track be adjusted.
 - iii) With reference to Ms Czikai asking to sing without the music and the microphone, Channel TV said that Ms Czikai was again mistaken and that the unedited footage showed that it was only after she had had three attempts at her performance and all three judges had “buzzed” her off, that she remarked in response to the judges’ comments:

“Let me sing it without this microphone...”

Channel TV said that Ms Czikai did not ask to sing without the music and that this suggestion was actually made by Simon Cowell, who said:

“OK how about you sing it with the microphone turned off and no music?”

Ms Czikai did not respond in the affirmative to this but instead repeated her previous request to sing without the microphone and went on to say:

“Simon, in all fairness I accept what you’re saying but in all fairness I’m not very happy with this microphone, I’m not blaming the microphone I’m just saying I’ve never used it before...”

Channel TV said that the microphone used by Ms Czikai was the one used by all the performers and had been in use all morning during that day’s performances and continued to be used for those who appeared after Ms Czikai, with no technical faults noted by the experienced sound technicians.

- iv) As regards the footage of Ms Czikai’s interview, Channel TV said that the footage included in the programme was not chosen or edited in such a way as to deliberately make Ms Czikai *“appear arrogant”*. It said that the edited extract used did not give the impression that she was speaking arrogantly and would have been appreciated by viewers as a correct comment. Channel TV said that the programme makers edited several longer passages of Ms Czikai’s interview, in which she gave her thoughts on other performers, into more editorially pertinent lines. It said that the edited version complained of was a fair representation of Ms Czikai’s thoughts and opinions as expressed on the day.
- v) As regards Ms Czikai’s refusal to take a buzzer from Piers Morgan, Channel TV said that Piers Morgan did not express any animosity towards Ms Czikai when she took to the stage and treated her with courtesy throughout. The unedited footage showed that Ms Czikai seemed to interpret his attempts at cheerful conversation as being in some way an attack, culminating in her telling him to *“shut up”*.

Channel TV said that the programme showed Ms Czikai calling Piers Morgan to account for buzzing so soon after her performance began and the roar of approval of the audience and Ant’s delight in her response to such an immediate dismissal of her singing abilities. It said that the edited footage used in the programme as broadcast was overwhelmingly positive and demonstrated that her refusal to accept Piers Morgan’s opinion after such a short time was approved by everyone.

Channel TV said that, given that there was no basis for Ms Czikai’s assertion that Piers Morgan did not like her, it was editorially essential to remove this claim to avoid puzzling viewers. This brief edit was justified and the programme as broadcast was a fair summary of the events.

- b) In relation to the complaint that Ms Czikai had only agreed to footage of her being broadcast on the basis that all of the *“prejudicial material”* was removed from the programme, Channel TV said that there was no prejudice towards Ms Czikai. It said that Ms Czikai did tell the judges that she had received some *“nasty”*

comments from judges at music festivals, but Simon Cowell suggested that she should “put that to one side”. It said that none of this material was included in the programme as broadcast as it was deemed to be editorially irrelevant. Channel TV said that Ms Czikai had talked at length about her experiences at music festivals in her interviews in the Holding Room, but that none of this footage was included in the show. The panel judges were not aware of this material, and in any event, Channel TV said that Ms Czikai did not mention any specific comments that may have been made to her.

Channel TV said that Amanda Holden did not say “the adjudicators were right you can’t sing” at any point during Ms Czikai’s performance. However, her comment that “*I just can’t see how she can’t see she can’t sing*” was included in the programme as broadcast. Channel TV said that the line quoted by Ms Czikai as proof of prejudice did not appear in either the programme as broadcast nor in the unedited footage of her performance.

Channel TV said that Ms Czikai claimed that she had left the stage and was then asked to come back, but it said that she was mistaken, as it was clear from the unedited footage that she did not leave the stage during her performance and was not called back by Simon Cowell. It said that none of the material included in the programme was shown out of context, as claimed in her complaint.

Channel TV said that Ms Czikai signed a release form before performing and so her consent had been obtained at that point. It said that Ms Czikai’s conversation with the series producer had occurred as a matter of professional courtesy and was not an attempt to secure her consent to broadcast the footage. Channel TV said that there was no prejudice against Ms Czikai and indeed any mention of negative comments made previously about her singing ability was initiated by Ms Czikai, not expanded upon to the panel judges and not included in the programme as broadcast.

- c) As regards Ms Czikai’s complaint that the broadcast on 9 May 2009 did not include a link to *Britain’s Got More Talent*, broadcast on ITV2 on 25 May 2009, in which she said she was given a fairer environment in which to perform, Channel TV said that Ms Czikai was mistaken in believing that she was promised that her live broadcast on *Britain’s Got More Talent* would be seen by all those who saw the first audition and that a link would be made between the two programmes to help ensure that. It said that the programme broadcast on ITV2 included a reference to Ms Czikai’s previous appearance in *Britain’s Got Talent*, but that editorially a link of the sort that Ms Czikai appeared to envisage was impossible, not least because of the length of time between the two broadcasts.

Channel TV said that the programme makers made all possible attempts to ensure that Ms Czikai had a positive memory of her *Britain’s Got More Talent* experience. It said she was allowed a proper sound check before recording her contribution to it. Channel TV said she sang live but that her performance was pre-recorded to ensure that she was entirely happy with the way she sounded.

Channel TV said that Ms Czikai had demonstrated in her Holding Room interview that she was familiar with the format of the programme and the performance in front of an audience and panel of judges, commenting:

“...but this is just about as stressful as it can get isn’t it, because it’s no rehearsals, no prior knowledge of the stage or the equipment, adjudication

and an audience who are quite prone to booing if you make an error so you can't get much more stressful than that, could you really, so, you know".

Channel TV said that Ms Czikai's active and willing participation in the making of the programme was a clear indication that she had given consent for her contribution to be used in the programme.

Decision

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

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

Ms Czikai's complaint was considered by Ofcom's Executive Fairness Group. In reaching its decision, Ofcom considered all the relevant material provided by both parties. This included recordings of the programmes as broadcast and transcripts, both parties written submissions and recordings and transcripts of unedited material. In its considerations, Ofcom also took into account of its Broadcasting Code ("the Code").

Unfair Treatment

- a) Ofcom first considered Ms Czikai's complaint that the programme was unfairly edited and that the programme unfairly portrayed her and her audition

In considering this complaint, Ofcom took into account Rule 7.1 of the Code, which states that broadcasters must avoid unjust or unfair treatment of individuals in programmes. Ofcom also considered Practice 7.6 which states that when a programme is edited, contributions should be represented fairly.

Ofcom first noted that the decision as to what material is included in a programme is a matter of editorial discretion. However, such editorial discretion comes with the responsibility to ensure that the material facts have not been presented unfairly.

- i) Ofcom first considered the complaint that the broadcast footage did not show that Ms Czikai had tried to exit the stage and was called back three times.

In considering this head of complaint, Ofcom examined the unedited footage of Ms Czikai's performance. Ofcom noted that Ms Czikai stopped singing after the second buzzer was activated, as it seemed she was under the false impression that the performers were to stop their performance at this point:

Ms Czikai: "Two buzzes and you're out. Start it again!"

Piers Morgan: "She's got one more."

Ms Czikai: "Shut Up!" (to audience, then starts to sing again)

Ofcom noted that Ms Czikai did restart her performance, having requested for her backing music to be started again. Ofcom took the view that there was no evidence to suggest that Ms Czikai tried to leave the stage. It did note that, at one stage she thought she had lost the opportunity to perform further, having received two “buzzers” but then noted that she quickly realised she could perform again and proceeded to do so. Furthermore, Ofcom saw no evidence to suggest that Simon Cowell called her back from leaving the stage three times.

Ofcom was therefore satisfied that the material was not edited in a way that was unfair to her in this respect.

- ii) Ofcom considered the complaint that the broadcast footage did not show that Ms Czikai had asked throughout her audition for the music to be reduced in volume to enable her to hear herself sing.

Ofcom examined all of the unedited footage of the audition and noted Ms Czikai said:

“You don’t think it might be that that the backing track is perhaps a little too loud”.

Aside from this comment, made after her performance, in which Ms Czikai expressed concern about the volume of the backing track, there was no other reference to the volume of the music.

In these circumstances, as there was no footage of Ms Czikai asking for the music to be reduced in volume, there was no unfair editing of such a request.

- iii) Ofcom considered the complaint that the broadcast footage did not show that Ms Czikai had asked to sing without the music and the microphone to prove that she could sing.

Ofcom noted that it was clear from the unedited footage that Ms Czikai did ask the panel if she could sing without the microphone. Ofcom noted the following comments made by Ms Czikai:

“Let me sing it without this microphone...Simon, in all fairness I accept what you’re saying but in all fairness I’m not very happy with this microphone, I’m not blaming the microphone I’m just saying I’ve never used it before...”

Ofcom noted that this passage did not appear in the programme as broadcast. In deciding whether the omission of this footage resulted in unfairness to Ms Czikai, Ofcom noted that Ms Czikai said in the programme:

“...it’s because I’m not really used to this particular microphone.”

Later in the programme, when Dec asked her what the problem with the microphone was, Ms Czikai said:

“I don’t know, it’s really strange, it’s sort of very muffling and I can’t get the hang of where to put it but it [...]”

Ofcom took the view that it was clear from these broadcast excerpts that Ms Czikai was not satisfied with the microphone provided. Ofcom felt that, despite the fact that the programme did not show Ms Czikai's request to perform without the music or microphone, it was still clear, from the programme as broadcast, that she felt that her performance had been hindered by the equipment provided.

Ofcom therefore found that the editing of this part of the programme did not materially affect Ms Czikai's depiction in the programme as it was clear from the broadcast that she was dissatisfied with the microphone and that the omission of the footage of Ms Czikai asking to sing without the microphone did not in itself result in unfairness.

- iv) Ofcom next considered the complaint that the editing of Ms Czikai's pre-performance comment that *"there are a lot of people out there who think they can sing but they can't"* made her appear arrogant.

Ofcom noted that the comment included in the programme Ms Czikai said:

"There's a lot of people out there making music that shouldn't be making music, because they're out of tune and they've got terrible voices, I think if I got the sort of breaks that they had, I could do equally as well them."

Ofcom then noted the excerpt of the interview from which this comment was taken:

"I think there's a lot of people out there making music that shouldn't be making music because they're out of tune and they've got terrible voices but you know on the other hand there are a lot of really good people and it's personal choice isn't it, it's like beauty is in the eye of the beholder, whatever pleases you, pleases you, and I think at the end of the day I wouldn't want to criticise anybody to get up and sing in public is difficult, you know, and if they can do that that in itself is wonderful".

As set out above, the decision as to what material is included in a programme is a matter of editorial discretion subject to the requirement that material facts are not presented unfairly.

Ofcom was then left to adjudicate on whether the omissions from this passage were edited in such a way as to unfairly portray her as being arrogant. Ofcom noted that the broadcast passage asserted that there were people with low levels of talent who had found success in the music industry. It then noted that Ms Czikai said that, if given similar opportunities she may have found similar success. Ofcom took the view that Ms Czikai was saying that she had not had the same opportunities that other, more fortunate people had had and that this was unlikely to be understood as an arrogant statement.

Ofcom therefore concluded that the inclusion of the edited comment did not result in unfairness.

- v) Ofcom considered the complaint that the programme included footage of Ms Czikai refusing to "take a buzzer" from Piers Morgan but did not include her qualifying her refusal by saying "because you are biased against me".

Ofcom noted that Ms Czikai's comments regarding bias were omitted from the programme as broadcast. Ofcom then considered whether this omission was unfair and noted in particular what Ms Czikai had said to Piers Morgan that had been broadcast. Ofcom noted that Ms Czikai said:

"I knew you'd do that. Let me start again [...] That was rotten! I'm not taking your buzz, they buzz ok, you buzz no way".

Ofcom took the view that it would have been clear to viewers from these comments that Ms Czikai felt that Piers Morgan was biased against her, as she had predicted he would "buzz" her without giving her much opportunity to perform and in that she suggested the views of the other judges were more valid. Ofcom therefore concluded that Ms Czikai's reservations towards Piers Morgan were evident from the programme as broadcast and that, therefore, the omission of the phrase "because you are biased against me" did not lead to unfairness.

Accordingly, Ofcom concluded that the footage of Ms Czikai was not unfairly edited and she was not unfairly portrayed in the programme.

- b) Ofcom then considered Ms Czikai's complaint that she had only agreed for the programme to go out on the basis that all of the "prejudicial material" was removed from the programme.

Practice 7.3 of the Code sets out that in order for potential contributors to a programme to be able to make an informed decision about whether to take part, they should be given sufficient information about: the programme's nature and purpose; their likely contribution; any changes to the programme that might affect their decision to contribute; and the contractual rights and obligations of both parties.

Ofcom noted that Ms Czikai said that she was given an assurance from the programme makers that all "prejudicial material" would be removed from the programme as broadcast. Ofcom understood "prejudicial material" to mean all material that bore mention of Ms Czikai's previous experiences with festival judges. Ofcom noted that the programme makers said that no such assurance was given. There was, therefore, a dispute of fact between the parties. Ofcom noted that it was not a tribunal of fact and could only reach any decision based on the evidence as submitted by both parties.

From examining the records of correspondence submitted by both parties between Ms Czikai and the programme makers, Ofcom did not find evidence of such any assurance that all "prejudicial material" would be removed from the programme.

Having found no evidence of an assurance of this kind, Ofcom could not adjudicate further on whether the programme makers had broken any express assurances relevant to this point.

Ofcom was therefore unable to find any unfairness in this regard.

- c) Ofcom finally considered Ms Czikai's complaint that the *Britain's Got Talent* programme broadcast on 9 May 2009 did not link to the *Britain's Got More Talent* programme broadcast on 25 May 2009, in which she later appeared, where she had been provided a fairer environment in which to perform.

Ofcom noted that the programme makers had given Ms Czikai another opportunity to perform a song on a *Britain's Got More Talent* programme that was broadcast two weeks after her initial appearance on *Britain's Got Talent* and that Ms Czikai was happy with her performance on that occasion.

Ofcom considered that the question of whether a link was provided between the two programmes was a matter of editorial consideration, provided that the omission of such a link did not result in unfairness.

Ofcom took the view that the programme makers were under no obligation, in the interests of fairness, to provide a link between the two programmes and that this was purely an editorial decision. Furthermore, as Ofcom did under head b), Ofcom saw no evidence to suggest that Ms Czikai was given an assurance by the programme makers that such a link would be provided.

In these circumstances, Ofcom found no unfairness in this regard.

Accordingly, Ofcom has not upheld Ms Czikai's complaint of unfair treatment in the programme as broadcast.

Other Programmes Not in Breach

Up to 14 December 2009

Programme	Transmission Date	Channel	Category	Number of complaints
999 Out of Time: Tonight	16/11/2009	ITV1	Due Impartiality/Bias	1
Afternoon Live With Kay Burley	12/11/2009	Sky News	Due Impartiality/Bias	1
Alan Carr: Chatty Man	03/12/2009	Channel 4	Offensive Language	1
All Star Family Fortunes	29/11/2009	ITV1	Generally Accepted Standards	2
Andrew Womack	07/10/2009	Revelation TV	Generally Accepted Standards	1
Bath FM	07/12/2009	Bath FM	Other	1
BBC News	30/11/2009	BBC 1	Generally Accepted Standards	1
BBC News at Six	25/11/2009	BBC 1	Crime (Incite/Encourage)	1
BBC Radio 1's Chart Show with Reggie Yates	08/11/2009	BBC Radio 1	Offensive Language	2
Beyonce & Lady Gaga "Videophone"	01/12/2009	Clubland TV	Dangerous Behaviour	1
Big Trouble in Thailand	19/10/2009	Bravo	Inaccuracy/Misleading	1
Bowtime with Adrian Durham and Darren Gough	25/11/2009	Talksport	Generally Accepted Standards	1
Brain Box	10/11/2009	UTV	Use Of Premium Rate Numbers	1
Brainiac: Science Abuse	28/11/2009	Sky 3	Sex/Nudity	1
Brit Cops: Frontline Crime	05/11/2009	Virgin 1	Inaccuracy/Misleading	1
Britain's Next Top Model	24/11/2009	Living	Sex/Nudity	1
Britain's Really Disgusting Food	06/12/2009	BBC 3	Generally Accepted Standards	1
Busty Babes	22/10/2009	Tease Me TV (Freeview)	Sex/Nudity	1
Calendar News	10/12/2009	ITV1 Yorkshire	Generally Accepted Standards	1
Capital Breakfast	16/11/2009	Capital 95.8FM	Generally Accepted Standards	1
Cast Offs (trailer)	02/12/2009	Channel 4	Offensive Language	1
CBBC	26/11/2009	CBBC	Generally Accepted Standards	1
Channel 4 News	27/11/2009	Channel 4	Due Impartiality/Bias	1
Channel 4 News	09/12/2009	Channel 4	Due Impartiality/Bias	4
Channel 4 News	09/12/2009	Channel 4	Generally Accepted Standards	1
Chris Moyles Show	23/11/2009	BBC Radio 1	Generally Accepted Standards	1

Chris Moyles Show	24/11/2009	BBC Radio 1	Generally Accepted Standards	1
Chris Moyles Show	24/11/2009	BBC Radio 1	Generally Accepted Standards	1
Connect with The Stars (trailer)	02/12/2009	Zee TV	Generally Accepted Standards	1
Coronation Street	30/11/2009	ITV1	Generally Accepted Standards	7
Coronation Street	07/12/2009	ITV1	Generally Accepted Standards	1
Coronation Street	27/11/2009	ITV1	Religious Offence	1
Count Arthur Strong's Radio Show	22/10/2009	BBC Radio 4	Generally Accepted Standards	1
Countryfile	29/11/2009	BBC 1	Generally Accepted Standards	1
Curb Your Enthusiasm	19/11/2009	More4	Religious Offence	1
Death In Venice: Vampire Island	07/11/2009	Living	Generally Accepted Standards	2
Derren Brown: How to Control The Nation	18/09/2009	Channel 4	Unconscious Influence/Hypnosis/Subliminal	5
Dispatches	07/12/2009	Channel 4	Crime (Incite/Encourage)	1
Dispatches: Return To Africa's Witch Children	23/11/2009	Channel 4	Generally Accepted Standards	1
Dispatches: Return To Africa's Witch Children	23/11/2009	Channel 4	Generally Accepted Standards	1
E.T. The Extra-Terrestrial	05/12/2009	ITV2	Offensive Language	1
Early Bird	05/11/2009	Tease Me TV (Freeview)	Sex/Nudity	1
Early Bird	01/12/2009	Tease Me TV (Freeview)	Sex/Nudity	1
EastEnders	10/12/2009	BBC 1	Generally Accepted Standards	1
EastEnders	26/11/2009	BBC 1	Religious Offence	4
Embarrassing Old Bodies	27/11/2009	Channel 4	Sex/Nudity	3
Emmerdale	02/12/2009	ITV1	Generally Accepted Standards	1
Emmerdale	25/11/2009	ITV1	Violence	1
Esure sponsorship of ITV Weather	23/11/2009	ITV1	Generally Accepted Standards	1
Extreme Fishing With Robson Green	15/11/2009	Fiver	Animal Welfare	1
Five News	11/12/2009	Five	Inaccuracy/Misleading	1
Football Today	06/12/2009	Sky Sports News	Generally Accepted Standards	1
Friday Night with Jonathan Ross	11/12/2009	BBC 1	Generally Accepted Standards	1
Gavin and Stacey	03/12/2009	BBC 1	Generally Accepted Standards	1
George Galloway	06/11/2009	Talksport	Generally Accepted	1

			Standards	
Gigglebiz	21/11/2009	CBeebies	Generally Accepted Standards	1
Glyn Williams	05/12/2009	Amber Sound FM	Generally Accepted Standards	1
GMTV	06/12/2009	ITV1	Generally Accepted Standards	1
GMTV	10/12/2009	ITV1 London	Generally Accepted Standards	1
GMTV	23/11/2009	ITV1	Inaccuracy/Misleading	1
GMTV	26/11/2009	ITV1	Inaccuracy/Misleading	1
Golden Balls	03/12/2009	ITV1	Offensive Language	2
Guidelines	19/11/2009	BBC Radio Guernsey	Religious Offence	1
Harry Hill's TV Burp	28/11/2009	ITV1	Sex/Nudity	1
Have I Got a Bit More News for You	28/11/2009	BBC 2	Generally Accepted Standards	1
Have I Got News For You	30/11/2009	BBC 2	Generally Accepted Standards	1
Hawksbee & Jacobs	25/11/2009	Talksport	Generally Accepted Standards	1
How Not to Decorate	24/11/2009	Five	Offensive Language	1
Howard Conder	07/10/2009	Revelation TV	Generally Accepted Standards	1
Iceland sponsors I'm A Celebrity		ITV1	Generally Accepted Standards	1
I'm a Celebrity, Get Me Out of Here Now!	20/11/2009	ITV2	Generally Accepted Standards	2
I'm a Celebrity, Get Me Out of Here Now!	24/11/2009	ITV2	Generally Accepted Standards	1
I'm a Celebrity, Get Me Out of Here Now!	30/11/2009	ITV2	Generally Accepted Standards	1
I'm a Celebrity, Get Me Out of Here Now!	02/12/2009	ITV2	Generally Accepted Standards	1
I'm a Celebrity, Get Me Out of Here Now! Finale	04/12/2009	ITV2	Generally Accepted Standards	1
I'm a Celebrity, Get Me Out of Here!	30/11/2009	ITV1	Advertising	1
I'm a Celebrity, Get Me Out of Here!	01/12/2009	ITV1	Advertising	1
I'm a Celebrity, Get Me Out of Here!	01/12/2009	ITV1	Animal Welfare	1
I'm a Celebrity, Get Me Out of Here!	02/12/2009	ITV1	Animal Welfare	2
I'm a Celebrity, Get Me Out of Here!	04/12/2009	ITV1	Animal Welfare	18
I'm a Celebrity, Get Me Out of Here!	30/11/2009	ITV1	Animal Welfare	1
I'm a Celebrity, Get Me Out of Here!	18/11/2009	ITV1 Central	Animal Welfare	1
I'm a Celebrity, Get Me Out of Here!	30/11/2009	ITV1	Dangerous Behaviour	1
I'm a Celebrity, Get Me Out of Here!	04/12/2009	ITV1	Generally Accepted Standards	1

I'm a Celebrity, Get Me Out of Here!	27/11/2009	ITV1	Harm/Food	7
I'm a Celebrity, Get Me Out of Here!	26/11/2009	ITV1	Offensive Language	1
In the Night Garden	03/11/2009	CBeebies	Offensive Language	1
Inspirational Breakfast	22/11/2009	Premier Christian Radio	Offensive Language	1
ITV News	18/11/2009	ITV1	Generally Accepted Standards	1
ITV News and Weather	13/12/2009	ITV1 London	Generally Accepted Standards	1
ITV News at Ten and Weather	11/12/2009	ITV1 London	Generally Accepted Standards	1
James May's Toy Stories	22/11/2009	BBC 2	Dangerous Behaviour	1
Jo Caulfield Won't Shut Up	01/12/2009	BBC Radio 4	Generally Accepted Standards	1
Live @ Nine	18/11/2009	Genesis TV	Inaccuracy/Misleading	1
Live from Studio Five	25/11/2009	Five	Generally Accepted Standards	1
Live from Studio Five	01/12/2009	Five	Generally Accepted Standards	1
London Tonight	02/12/2009	ITV1 London	Sex/Nudity	1
Look North	20/11/2009	BBC1 North	Sex/Nudity	1
Loose Women	24/11/2009	ITV1	Offensive Language	1
Maltesers sponsorship of Loose Women	27/11/2009	ITV1	Generally Accepted Standards	1
Maltesers sponsorship of Loose Women	08/12/2009	ITV1	Generally Accepted Standards	1
Match of the Day	12/12/2009	BBC 1	Offensive Language	1
Merlin	05/12/2009	BBC 1	Violence	1
Midsomer Murders	27/11/2009	ITV1	Generally Accepted Standards	1
Midsomer Murders	30/11/2009	ITV1	Violence	1
Miranda	16/11/2009	BBC 2	Offensive Language	1
My Parents are Aliens	23/11/2009	CITV	Violence	1
News at Ten	30/11/2009	ITV1	Generally Accepted Standards	1
News at Ten	12/11/2009	ITV1	Inaccuracy/Misleading	1
Official UK Top 20	24/11/2009	Viva	Offensive Language	1
Oliver's Twist	05/12/2009	Good Food	Animal Welfare	1
On Golden Pond	03/01/2009	Film 4	Offensive Language	1
One Way Out (trailer)	n/a	DMAX	Generally Accepted Standards	1
Oops TV	30/11/2009	Sky1	Generally Accepted Standards	1
Postal Gold sponsors afternoon dramas on Five	05/12/2009	Five	Crime (Incite/Encourage)	1
Rihanna "Russian Roulette"	07/12/2009	MTV Hits	Dangerous Behaviour	1
Rip Off Britain	03/12/2009	BBC 1	Inaccuracy/Misleading	1

Russell Howard's Good News	03/12/2009	BBC 3	Religious Offence	1
School of Comedy	08/10/2009	E4	U18's In Programmes	1
School of Comedy	22/10/2009	E4	U18's In Programmes	2
School of Comedy	29/10/2009	E4	U18's In Programmes	1
School of Comedy	01/10/2009	E4	U18's In Programmes	1
Scrubs	19/11/2009	E4	Generally Accepted Standards	2
Sexcetera	28/10/2009	Virgin 1	Sex/Nudity	1
Small Island	13/12/2009	BBC 1	Offensive Language	1
Sports Personality of the Year	13/12/2009	BBC 1	Due Impartiality/Bias	1
Strictly Come Dancing	28/11/2009	BBC 1	Competitions	1
Strictly Come Dancing	05/12/2009	BBC 1	Generally Accepted Standards	1
Strictly Come Dancing: Results Show	05/12/2009	BBC 1	Use Of Premium Rate Numbers	1
Sunrise With Mark Longhurst	28/11/2009	Sky News	Generally Accepted Standards	1
Taraweeh Recitation	03/11/2009	Islam Channel	Religious Offence	1
The A to Z of Classic FM Music	22/11/2009	Classic FM	Generally Accepted Standards	1
The Alan Titchmarsh Show	27/11/2009	ITV1	Animal Welfare	2
The Alan Titchmarsh Show	14/12/2009	ITV1	Animal Welfare	1
The Alan Titchmarsh Show	08/12/2009	ITV1	Generally Accepted Standards	3
The Alan Titchmarsh Show	23/11/2009	ITV1	Religious Offence	1
The Basil Brush Show	07/11/2009	CBBC	Substance Abuse	1
The British Comedy Awards - The Fun Goes On	12/12/2009	ITV2	Generally Accepted Standards	1
The Event: How Racist Are You?	29/10/2009	Channel 4	Generally Accepted Standards	43
The F Word	08/12/2009	Channel 4	Offensive Language	1
The Gadget Show	30/11/2009	Five	Generally Accepted Standards	1
The Gospel Programme	22/11/2009	97.5 Kemet Radio (Nottingham)	Generally Accepted Standards	1
The Graham Norton Show	30/11/2009	BBC 1	Generally Accepted Standards	1
The Graham Norton Show	07/12/2009	BBC 1	Generally Accepted Standards	1
The Graham Norton Show	09/12/2009	BBC 1	Generally Accepted Standards	1
The Green Mile	29/11/2009	Five	Advertising	1
The Hour		STV	Competitions	1
The House Bunny	24/11/2009	Sky Movies Premiere	Dangerous Behaviour	1

The Impressions Show with Culshaw and Stephenson	05/12/2009	BBC 1	Generally Accepted Standards	1
The Jeremy Kyle Show	30/11/2009	ITV1	Generally Accepted Standards	1
The Jeremy Kyle Show	08/12/2009	ITV1 London	Generally Accepted Standards	1
The Jeremy Kyle Show	25/11/2009	ITV1	Offensive Language	1
The Nations Favourite Xmas Songs	28/11/2009	4Music	Offensive Language	1
The Now Show	04/12/2009	BBC Radio 4	Religious Offence	1
The Now Show	05/12/2009	BBC Radio 4	Religious Offence	1
The One Show	04/12/2009	BBC 1	Generally Accepted Standards	1
The One Show	08/12/2009	BBC 1	Generally Accepted Standards	1
The One Show	03/12/2009	BBC 1	Offensive Language	1
The Paul O'Grady Show	01/12/2009	Channel 4	Sex/Nudity	1
The Paul O'Grady Show	08/12/2009	Channel 4	Substance Abuse	1
The Queen	02/12/2009	Channel 4	Inaccuracy/Misleading	1
The Restaurant	19/11/2009	BBC 2	Generally Accepted Standards	1
The Sex Inspectors (trailer)	20/11/2009	Living+1	Sex/Nudity	1
The Thick of It	05/12/2009	BBC 2	Offensive Language	1
The Weakest Link	07/12/2009	BBC 1	Generally Accepted Standards	1
The Wright Stuff	18/11/2009	Five	Due Impartiality/Bias	1
The Wright Stuff	03/12/2009	Five	Generally Accepted Standards	1
The Wright Stuff	09/12/2009	Five	Religious Offence	1
The Wright Stuff	25/11/2009	Five	Use Of Premium Rate Numbers	1
The X Factor	07/11/2009	ITV1	Generally Accepted Standards	1
The X Factor	15/11/2009	ITV1	Inaccuracy/Misleading	1
The X Factor	21/11/2009	ITV1	Inaccuracy/Misleading	1
The X Factor	28/11/2009	ITV1	Commercial References	1
The X Factor	28/11/2009	ITV1	Sex/Nudity	1
The X Factor	29/11/2009	ITV1	Dangerous Behaviour	1
The X Factor	05/12/2009	ITV1	Generally Accepted Standards	1
The X Factor	06/12/2009	ITV1	Offensive Language	29
The X Factor	06/12/2009	ITV1	Use Of Premium Rate Numbers	1
The X Factor	12/12/2009	ITV1 London	Advertising	1
The X Factor		ITV1	Use Of Premium Rate Numbers	1
This Morning	30/11/2009	ITV1	Competitions	1
This Morning	01/12/2009	ITV1	Inaccuracy/Misleading	1
This Morning	20/11/2009	ITV1	Sex/Nudity	1

This Week	03/12/2009	BBC 1	Generally Accepted Standards	1
This World - Gypsy Child Thieves	02/09/2009	BBC2	Generally Accepted Standards	1
TMI	05/12/2009	BBC 2	Animal Welfare	1
Tombola.co.uk sponsors Emmerdale	16/11/2009	ITV1	Generally Accepted Standards	1
Tombola.co.uk sponsors Emmerdale	01/12/2009	ITV1	Generally Accepted Standards	1
Top Gear	29/11/2009	BBC 2	Dangerous Behaviour	1
Top Gear	29/11/2009	BBC 2	Generally Accepted Standards	2
Top Gear	02/12/2009	BBC 2	Generally Accepted Standards	1
Top Gear	25/11/2009	BBC 2	Offensive Language	1
Top Gear	29/11/2009	BBC 2	Religious Offence	2
Totally You've Been Framed!	05/12/2009	ITV1	Religious Offence	2
Totally You've Been Framed!	08/12/2009	ITV2	Religious Offence	1
Trailer	25/11/2009	ITV3	Offensive Language	1
Tropic Thunder	07/12/2009	Sky Movies Christmas	Violence	1
True Blood	11/11/2009	Channel 4	Sex/Nudity	1
True Blood	18/11/2009	Channel 4	Violence	1
Unreported World	27/11/2009	Channel 4	Due Impartiality/Bias	1
Vauxall Voicebox promo	23/11/2009	Talksport	Dangerous Behaviour	1
VH1 Official UK Top 40 Show	29/11/2009	VH1	Offensive Language	1
Waterloo Road	09/12/2009	BBC 1	Dangerous Behaviour	1
Who You Callin' A Nigger	26/11/2009	More4	Generally Accepted Standards	1
Woman's Hour	07/12/2009	BBC Radio 4	Generally Accepted Standards	1