

# **Ofcom Broadcast Bulletin**

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## Introduction

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/](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](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's policy to describe fully the content in television and radio programmes that is subject to broadcast investigations. Some of the language and descriptions used in Ofcom's Broadcast Bulletin may therefore cause offence.

## Standards cases

### Notice of Sanction

#### DM Digital Television Limited

*Advertisement for Professor Mohammed Zain, DM Digital, 15 February 2009*

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#### Introduction

DM Digital is a free-to-air general entertainment channel, available via cable and satellite in the UK, Europe, Middle East, Africa and Asia and broadcasts mainly in Urdu to the UK Asian community.

On 20 July 2010, Ofcom published its decision to impose a statutory sanction on DM Digital Ltd (“the Licensee”), in respect of its service DM Digital (“the Channel”). This was for serious and repeated breaches of the Broadcast Committee of Advertising Practice Television Advertising Standards Code (“the TV Advertising Code”), and in light of Condition 8 (4) of the Channel’s licence which requires the Licensee to ensure that DM Digital complies with the TV Advertising Code.

The sanction was for a serious breach of the TV Advertising Code recorded by the Advertising Authority (“ASA”) relating to the broadcast of an advertisement for *Professor Mohammad Zain* shown on DM Digital on 15 February 2009.

The regulation of broadcast advertising standards is a function of Ofcom that has been contracted out by Ofcom to the ASA. In accordance with this contracting out arrangement, the ASA referred DM Digital Ltd to Ofcom for consideration of a statutory sanction for these repeated and serious breaches of the TV Advertising Code.

#### Summary of Decision

DM Digital was found in breach of following rules in the TV Advertising Code:

Rules 5.1.1, 5.1.2, 5.1.3:	Misleading advertising;
Rule 3.1 (j):	Unacceptable categories;
Rule 10.3:	Religion, faith and systems of belief - the occult, psychic practices and exorcism); and
Rule 10.13:	Religion, faith and systems of belief - vulnerable viewers.

In summary, the ASA found the advertisement was in breach of the TV Advertising Code because, it represented advice to individuals, based on psychic or faith based practices for personal problems, was misleading, and likely to exploit the vulnerable..

Ofcom considered that the **breach** was serious because it resulted in actual financial harm to a viewer. Ofcom also concluded that the breach demonstrated repeated, long-term and systemic compliance failure on behalf of DM Digital to ensure that the material it broadcast met the requirements of the TV Advertising Code.

For the reasons set out in the adjudication, Ofcom imposed a financial penalty of **£17,500** on DM Digital Ltd (payable to Ofcom) and directed it to broadcast a statement of Ofcom's findings on DM Digital in a form to be determined by Ofcom on two specified occasions.

The full adjudication can be found at:

<http://stakeholders.ofcom.org.uk/binaries/enforcement/content-sanctions-adjudications/dmdigitaltd.pdf>

## Notice of Sanction

### **Tease Me**

*Various programmes, various dates between 20 June 2009 and 25 November 2009*

### **Tease Me 2**

*Bang Babes, 24 November 2009 at 22:00 to 23:59*

### **Tease Me 3**

*Bang Babes, between 30 and 31 October 2009*

### **Tease Me TV (Freeview)**

*TMTV, 3 November 2009 at 05:00*

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### **Introduction**

Bang Channels owns and operates services called Tease Me, Tease Me 2 and Tease Me 3. These channels are on the Sky platform on channel numbers 912, 948 and 959 respectively. Each of Tease Me, Tease Me 2 and Tease Me 3 is operated under a television licensable content service (“TLCS”) licence issued by Ofcom under section 13 of the Broadcasting Act 1990 (“the 1990 Act”).

Bang Media owns and operates a service called Tease Me TV, which is on the Freeview platform. Tease Me TV is operated under a digital television programme service (“DTPS”) licence issued by Ofcom under section 13 of the 1990 Act.

All of these channels broadcast programmes based on televised daytime interactive chat programmes and, after the 9pm ‘watershed’, adult sex chat services in which viewers are invited to contact onscreen female presenters via premium rate telephony services (“PRS”). All of these programmes are broadcast without mandatory restricted access.

Bang Channels and Bang Media are controlled by the same person and all editorial compliance decisions regarding both Bang Channels and Bang Media are taken by one compliance team. For these reasons Ofcom considered for sanction together all serious and/or repeated Code or licence breaches for which Bang Channels and Bang Media are responsible.

On 29 July 2010, Ofcom published its decision to impose a statutory sanction on Bang Channels and Bang Media in respect of its Tease Me, Tease Me 2, Tease Me 3, and Tease Me TV services, for seriously and/or repeatedly breaching the Ofcom Broadcasting Code and for failing to comply with condition 11 of its Television Licensable Content Service Licence (“licence”). In total, Ofcom imposed a financial penalty of **£157,250**.

### **Summary of Decisions**

Bang Channels was found in breach of the following Code rules:

- Rule 1.3: ‘children protected by appropriate scheduling’;
- Rule 1.24: ‘mandatory access restrictions’;
- Rule 1.25: ‘R18-rated material must not be broadcast’;
- Rule 2.1: ‘generally accepted standards’; and
- Rule 2.3: ‘material that may cause offence must be justified by context’.

Ofcom found Bang Channels and Bang Media in breach of these rules due to the following conduct:

- Broadcasting unsuitable content that was not appropriately scheduled (breach of Rule 1.3)
- Broadcasting adult-sex material without mandatory access restrictions (breach of Rule 1.24)
- Broadcasting BBFC R18-rated films or their equivalent must not be broadcast (breach of Rule 1.25)
- Broadcasting sexual material that would have exceeded the expectations of viewers watching a channel without access restrictions, especially those who may have come across this content unawares (breaches of Rules 2.1 and 2.3).

For the reasons set out in the adjudication Ofcom imposed a financial penalty on Bang channels (payable to HM Paymaster General) of **£141,250** in respect of these Code breaches.

For the reasons set out in the adjudication Ofcom imposed a financial penalty on Bang Media (payable to HM Paymaster General) of **£4,000** in respect of these Code breaches.

Bang Channels and Bang Media were also both found in breach of the following condition of their licences:

Condition 11: (1) The Licensee shall adopt procedures acceptable to Ofcom for the retention and production of recordings in sound and vision of any programme which is the subject matter of a Standards Complaint...  
(2) In particular, the Licensee shall: (a) make and retain or arrange for the retention of a recording in sound and vision of every programme included in the Licensed Service for a period of 60 days from the date of its inclusion therein; and (b) at the request of Ofcom forthwith produce to Ofcom any such recording for examination or reproduction.

Ofcom found Bang Channels in breach of this licence condition for failing to provide, when requested, recordings of the following programmes:

- Bang Babes, Tease Me, 31 October 2009
- Bang Babes, Tease Me 3, 31 October 2009
- Bang Babes, Tease Me, 5 November 2009
- Bang Babes, Tease Me, 15 November 2009

For the reasons set out in this adjudication Ofcom imposed financial penalties (payable to HM Paymaster General) on Bang Channels of **£6,000** for breaches of condition 11 of its licence.

Ofcom found Bang Media in breach of this licence condition for failing to provide, when requested, recordings of the following programmes:

- Bang Babes, Tease Me TV (Freeview), 23 November 2009
- Early Bird, Tease Me TV (Freeview), 23 November 2009

For the reasons set out in this adjudication Ofcom imposed financial penalties (payable to HM Paymaster General) on Bang Media of **£6,000** for breaches of condition 11 of its licence.

The full adjudication is available at:

<http://stakeholders.ofcom.org.uk/binaries/enforcement/content-sanctions-adjudications/bangchannels.pdf>

## In Breach

### **Early Bird**

*Tease Me TV (Freeview) 30 January 2010, 08:00 to 08:30*

### **Early Bird**

*Tease Me TV (Freeview), 20 March 2010, 06:00 to 09:00*

### **Early Bird**

*Tease Me, 21 April 2010, 09:00*

### **Early Bird**

*Tease Me TV (Freeview), 27 April 2010, 08:30 to 09:00*

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## **Introduction**

*Earlybird* is a televised daytime interactive chat programme broadcast without mandatory restricted access. Viewers are invited to contact onscreen female presenters via premium rate telephony services (“PRS”). The presenters generally dress and behave in a flirtatious manner.

The programme is broadcast on the service Tease Me TV between 05:30 and 09:00 and is located on the Freeview platform on channel number 98. The licence for the service Tease Me TV is held by Bang Media (London) Ltd (“Bang Media”).

The programme is also broadcast on the service Tease Me between 05:30 and 10:00. Tease Me is located in the ‘adult’ section of the Sky Electronic Programme Guide (“EPG”) on channel number 912. The licence for the Tease Me service is held by Bang Channels Limited (“Bang Channels”).

Bang Media and Bang Channels have common ownership and common centralised compliance.

### *Early Bird, Tease Me TV (Freeview) 30 January 2010, 08:00 to 08:30*

Ofcom received a complaint about the above broadcast. The complainant was concerned that the female presenter was shown “dressed in a skimpy bra and knickers, moving around provocatively, pulling at the top of her knickers and her bra suggestively, and gyrating her hips”. The viewer believed the broadcast of this material between 05.30 and 09:00 was inappropriate because children may have been watching. The viewer said it was “unacceptable for this type of programme to be broadcast in the daytime on any day”.

Ofcom noted that in this broadcast the presenter was wearing a purple g-string with a see through lace panel on the front and a skimpy purple bra that covered her nipples but with much of her cleavage revealed. During the broadcast the presenter was shown in a number of sexually provocative positions and scenarios, including images of her touching her breasts and around her crotch.

### *Early Bird, Tease Me TV (Freeview), 20 March 2010, 06:00 to 09:00*

While monitoring this particular channel Ofcom noted that the presenter was wearing a skimpy pink vest top, revealing yellow knickers, white socks and pink platform shoes. During the broadcast the presenter was shown in a number of sexually provocative position and scenarios, including images of her genital area.

Early Bird, Tease Me TV (Freeview), 27 April 2010, 08:30 to 09:00

Ofcom received a complaint about the above broadcast. The complainant was concerned that the programme showed “a virtually naked woman soliciting for and taking telephone calls, clearly of a sexual nature”. The complainant said that “her state of undress, posturing and demeanour are clearly designed to arouse and encourage viewers to phone for sexual services”. The viewer was concerned that this programme was broadcast unencrypted and therefore could be “easily accessible to children”.

Ofcom noted that the female presenter was wearing skimpy white knickers, a white ripped t-shirt and calf length socks. During the broadcast the presenter was shown in a number of sexually provocative positions and scenarios, including images of her stroking her body.

Early Bird, Tease Me, 21 April 2010, 09:00 to 09:45

While monitoring this particular channel Ofcom noted that the broadcast featured a female presenter dressed and acting in a sexually provocative manner. She was wearing a very skimpy animal print bikini bra and thong, stockings and stilettos. During the broadcast the presenter was shown in a number of sexually provocative positions and scenarios, including close-ups images of her body.

Request for comments

Ofcom requested comments from Bang Media under Rule 1.3 (children must be protected from unsuitable material by appropriate scheduling) for the following broadcasts:

- *Early Bird, Tease Me TV (Freeview)*, 30 January 2010, 08:00 to 08:30;
- *Early Bird, Tease Me TV (Freeview)*, 20 March 2010, 06:00 to 09:00; and
- *Early Bird, Tease Me TV (Freeview)*, 27 April 2010, 08:30 to 09:00.

Ofcom requested comments from Bang Channels under Rule 1.3 (children must be protected from unsuitable material by appropriate scheduling) for the following broadcast:

- *Early Bird, Tease Me*, 21 April 2010, 09:00 to 09:45

**Response**

*Bang Media content*

In relation to each broadcast for which it was responsible Bang Media made the following comments:

Early Bird, Tease Me TV (Freeview) 30 January 2010, 08:00 to 08:30

Ofcom requested comments from Bang Media on a number of occasions. Bang Media did not provide any comments. In the absence of any response from the Licensee, Ofcom proceeded to reach a decision on this material against the Code.

Early Bird, Tease Me TV (Freeview), 20 March 2010, 06:00 to 09:00

Bang Media denied that the presenter had a sexualised facial expression. It continued that “in line with the principle that material of a stronger sexual nature must be introduced gradually after the watershed, so too must the principle be observed that sexual material is gradually phased out after 5.30am”. The broadcaster said that assuming the sexualised material would have been broadcast prior to 07:00, it believes that it did not breach Rule 1.3 of the Code.

Bang Media referred to a previous case in which it alleged Ofcom had said that, because the content of this channel was adequately separated from children's channels on the Freeview platform, there was no contravention of the Code. The broadcaster said the material was "consistent with similar broadcasts made on other channels of the same nature".

Early Bird, Tease Me TV (Freeview), 27 April 2010, 08:30 to 09:00

Bang Media said that the material was not aimed at children and it did not believe it had the potential to harm or impair a child in any way. It said that the content was "no more sexualised than imagery in other media to which children are exposed on a constant and daily basis". Bang Media referred to previous cases in which it alleged Ofcom had said that, because the content of this channel was adequately separated from children's channels on the Freeview platform and that parental controls were in place, there was no contravention of the Code.

It said that given the broadcast took place between 08.30 and 09.00 most children would have left for school already. In addition, the broadcaster said that - given Tease Me TV is an adult channel that is adequately separated from children's channels - the programme was appropriately scheduled. Bang Media also said that the content would not have exceeded audience expectations for a clearly signposted adult TV channel, and was consistent with other channels of the same nature.

Bang Media stated that "the nature and position of the channel does amount to appropriate scheduling" and it was therefore satisfied that the broadcast was not in breach of the Code.

*Bang Channels content*

In relation to the broadcast for which it was responsible Bang Channels made the following comments:

Early Bird, Tease Me, 21 April 2010, 09:00 to 09:45

Bang Channels said that "the material in question was not aimed at children and would be of little interest to most children". It did not accept that the material "was of sufficient strength to cause any harm and was no different to the type of imagery children are exposed to daily in other media". The broadcaster compared the material to many music videos, billboard advertisements and daily newspapers.

The broadcaster said that Ofcom has an "inconsistent position" with regard to the channel's location in the EPG and the use of parental controls. Bang Channels stated that these factors amount to appropriate scheduling. The broadcaster referred to cases where Ofcom had advised complainants that there are parental controls in place to block channels on the 'adult' section of the EPG.

Bang Channels said that the imagery was "no different to that seen daily across all media and was certainly no more explicit than any other material broadcast on equivalent channels at this time".

**Decision**

Rule 1.3 makes clear that children should be protected by appropriate scheduling from material which is unsuitable for them. Appropriate scheduling is judged according to factors such as: the nature of the content; the likely number of children in the audience, taking into account such factors as school time; the start and finish time of the programme; the nature of the channel; and, the likely expectations of the audience for a particular channel or station at a particular time and a particular day.

In particular, it should be noted that the watershed starts at 21:00 and material unsuitable for children should not, in general, be shown before 21:00 or after 05:30.

Ofcom has made clear in numerous previous published findings what sort of material is unsuitable to be included in daytime interactive chat programmes without mandatory restricted access. In the context of daytime interactive chat programmes where the presenters generally dress and behave in a flirtatious manner for extended periods in order to solicit PRS calls, Ofcom has frequently stated that the presenters should not, for example, appear to mimic or simulate sexual acts or behave in an overtly sexual manner. These decisions were also summarised in a guidance letter sent by Ofcom to daytime and adult sex chat broadcasters in August 2009. Some of these findings involved Bang Media and Bang Channels.

### *Bang Media content*

- *Early Bird*, Tease Me TV (Freeview) 30 Jan 2010, 08:00 to 08:30;
- *Early Bird*, Tease Me TV (Freeview), 20 March 2010, 06:00 to 09:00; and
- *Early Bird*, Tease Me TV (Freeview), 27 April 2010, 08:30 to 09:00.

The broadcasts above contained similar images which raised similar issues under the Code. Each of the three broadcasts concerned was transmitted during the early morning and featured female presenters wearing only skimpy lingerie or clothing. Each of the presenters was shown acting in a sexualised way – for example by adopting various sexual positions for prolonged periods of time, such as: kneeling on all fours; lying on their front with their legs wide open and bottom raised in the air; and lying on their side and back with their legs wide open (albeit away from camera). While in these positions each of the presenters repeatedly thrust and/or gyrated their buttocks and pelvis as though mimicking sexual intercourse. Each of the presenters also pulled down their knickers to reveal the top of their bottoms or crotch, and licked their lips in a sexualised rather than flirtatious way. In addition, each of the three presenters, on various occasions, stroked particular parts of their body in a sexually provocative manner, including their breasts, crotch, stomach, thighs and buttocks.

In addition to the above, during the broadcast of *Early Bird*, Tease Me TV, 20 March 2010, 06:00 to 09:00, the presenter was shown lying on her side with her legs open and due to her skimpy underwear her outer genital area was shown. She was also shown opening her mouth in a sexually provocative manner and pulled down the straps of her top to reveal more of her breasts.

We concluded that the content included in the three broadcasts described above and shown on the Tease Me TV service licensed by Bang Media, had no editorial justification since its sole purpose was to elicit PRS calls. In Ofcom's view the revealing clothing, repeated actions and sexual positions of the presenters in the three broadcasts were intended to be sexually provocative in nature and the broadcast of such images was not suitable to promote daytime chat. In light of this behaviour, together with its lack of editorial justification, in Ofcom's view the material included in all three broadcasts was clearly unsuitable for children.

Ofcom went on to consider whether this unsuitable material was appropriately scheduled. Ofcom took into account the likely number of children in the audience and the time of the three broadcasts. Ofcom noted that the programmes broadcast on 30 January 2010 and 20 March 2010 were transmitted on a Saturday, and the programme broadcast on 27 April 2010 was transmitted on a Tuesday. Given that some schools do not start until 09:00 and that two of the broadcasts took place at the

weekend, it is Ofcom's view that all of the above programmes were broadcast at a time when children may have been watching television, some unaccompanied by an adult. While Ofcom noted that all of the material was broadcast on a channel that is not located directly next to children's channels on the Freeview platform, there was the potential for children, should they be flicking through the Freeview electronic programme guide, to come across the channel unawares. Ofcom then considered the likely expectations of the audience for programmes broadcast at this time of day on a channel without mandatory restricted access. In its opinion, viewers would not expect to come across such material on this channel or any other unencrypted channel at this time.

Taking into account the factors above, Ofcom concluded that the content of the three broadcasts was clearly unsuitable for children and not appropriately scheduled so as to protect them from it. Therefore the content breached Rule 1.3 of the Code.

Ofcom noted Bang Media's assertion that Ofcom had said in other previous cases that this channel was adequately separated from children's channels on the Freeview service. Ofcom accepts that there is some separation of chat channels from children's channels on Freeview. However, Ofcom considers that this separation does not adequately protect children from material that is unsuitable for them.

Ofcom also noted the Bang Media's assumption that "in line with the principle that material of a stronger sexual nature must be introduced gradually after the watershed, so too must the principle be observed that sexual material is gradually phased out after 5.30am". As the Code notes, the watershed is at 21:00 and in general material unsuitable for children should not be shown before 21:00 or after 05:30. Rule 1.6 of the Code states that "the transition to more adult material must not be unduly abrupt at the watershed (in the case of television). For television, the strongest material should appear later in the schedule." This rule is included in the Code to ensure that people under eighteen are protected from material that may be unsuitable for them, given that some children do stay up until after 21:00. It is important to note that Ofcom has never suggested, either in its rules or published guidance, that the transition from more adult material could or should be gradually phased out after 05.30, in an analogous way to it being phased in from 21:00. Ofcom considers that adult or more adult material included in a daytime chat service and which is unsuitable for children is not appropriately scheduled by being shown soon after 05:30. Any material broadcast directly after 05:30 should be suitable for children to view.

These three broadcasts therefore breached Rule 1.3 of the Code.

#### *Bang Channels content*

- *Tease Me*, 21 April 2010, 09:00 to 09:45

During this particular broadcast the female presenter dressed in very skimpy clothing (small bikini top and thong) and acted in a sexualised way – for example by adopting various sexual positions for prolonged periods of time. For example, she was shown lying on her front, back and side, and while in these positions the presenter had, at times, her legs wide open (albeit away from camera). While lying on her front the presenter was shown repeatedly shaking her bottom, lifting her bottom in the air, gyrating her pelvis and positioning her bottom to camera. While lying on her back the presenter was shown with her legs open away from camera and gyrating her pelvis as though mimicking sexual intercourse. Throughout the broadcast the presenter repeatedly stroked her thighs and bottom, and lightly touched her breasts in a

sexually provocative manner. She was also shown bending over close to the camera so that her breasts were shown in close up.

In this case too, in Ofcom's opinion, the sexual imagery shown to viewers during this broadcast had no editorial justification since its sole purpose was to elicit PRS. In contrary to the broadcaster's assertion, the material was unlike the content of a music channel video or billboard advertisement (because, for example, the shots of the presenter here were not still images, were more prolonged and sexually provocative than music videos, and were not edited to music). In Ofcom's view the very skimpy clothing of the presenter combined with her repeated actions and behaviour were intended to be sexually provocative in nature and the broadcast of such images was not suitable to promote daytime chat. In light of this behaviour, together with its lack of editorial justification, in Ofcom's view the material included in this broadcast was clearly unsuitable for children.

Ofcom went on to consider whether this unsuitable material was appropriately scheduled. Given the sexual nature of the content, Ofcom considered that the location of the channel Tease Me in the 'adult' section of the EPG and the programme's scheduling at 09:00 were not sufficient to provide adequate protection to prevent children from viewing this material. In addition, Ofcom has repeatedly made clear that the location of a channel in the 'adult' section of the Sky EPG, available without mandatory restricted access, does not in itself provide adequate protection to under-eighteens from inappropriate material shown on daytime chat channels<sup>1</sup>. Therefore this unsuitable content was not appropriately scheduled and breached Rule 1.3 of the Code.

We noted Bang Channels' assertion that Ofcom had said in other previous cases that where parental controls are in place to block channels material is appropriately scheduled. While Ofcom recognises that satellite set top boxes do have voluntary parental controls, Ofcom research shows that only "one in three households with multichannel television has set up access controls (32%)"<sup>2</sup>. Ofcom therefore does not consider that the existence of parental controls on set top boxes offers enough protection to under-eighteens from viewing unsuitable material of this nature. In any event, under the Code broadcasters are required to observe the watershed.

As a result of the serious and repeated nature of the breaches recorded in these current findings, and those recorded against Bang Media and Bang Channels Limited

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<sup>1</sup> Breach findings include:

- Tease Me: Earlybird, Tease Me TV (Freeview), 15 February 2010, 05:30 and Tease Me: Earlybird, Tease Me TV (Freeview), 25 January 2010, 07:15 – both Findings in Bulletin 158 at <http://stakeholders.ofcom.org.uk/enforcement/broadcast-bulletins/obb158/>;
- The Pad, Tease Me, 26 February, 11:45, The Pad, Tease Me 3, 27 February 2010, 11:45, Tease Me: Earlybird, Tease Me TV (Freeview) 26 January 2010, 07:15 - all in Bulletin 157 at <http://stakeholders.ofcom.org.uk/enforcement/broadcast-bulletins/obb157/>;
- The Pad Tease Me, 6 November 2009, 12:00 to 13:00 and 14:00 to 15:00, Bulletin 152 at <http://stakeholders.ofcom.org.uk/enforcement/broadcast-bulletins/obb152/>;
- Elite Days, Finding in Bulletin 151 at <http://stakeholders.ofcom.org.uk/enforcement/broadcast-bulletins/obb151/>;
- Top Shelf TV, Finding in Bulletin 149 at <http://stakeholders.ofcom.org.uk/enforcement/broadcast-bulletins/obb149/>; and
- Elite Days/Elite TV Finding in Bulletin 144 at <http://stakeholders.ofcom.org.uk/enforcement/broadcast-bulletins/obb144/>.

<sup>2</sup> UK children's media literacy at: <http://stakeholders.ofcom.org.uk/binaries/research/media-literacy/ukchildrensm11.pdf>

elsewhere in this Bulletin and earlier in Bulletins 157 and 158, Bang Media and Bang Channels Limited are put on notice that these present breaches of the Code are also being considered for statutory sanction.

### **Bang Media content**

***Early Bird, Tease Me TV (Freeview) 30 Jan 1010, 08:00 to 08:30: Breach of Rule 1.3***

***Early Bird, Tease Me TV (Freeview), 20 March 2010, 06:00 to 09:00: Breach of Rule 1.3***

***Early Bird, Tease Me TV (Freeview), 27 April 2010, 08:30 to 09:00: Breach of Rule 1.3***

### **Bang Channels content**

***Early Bird, Tease Me, 21 April 2010, 09:00: Breach of Rule 1.3***

On 29 July 2010 Ofcom published a statutory sanction against Bang Media (London) Limited and Bang Channels Limited for serious and repeated breaches of the Code as regards the broadcast of programmes between June 2009 and November 2009 and for breaches of Licence Conditions. Ofcom imposed a total financial penalty of £157,250 (see pages 7 to 9).

## In Breach

### **Bang Babes**

*Tease Me, 25 February 2010, 22:00 to 22:30*

### **Bang Babes**

*Tease Me, 16 April 2010, 22:00 to 22:50*

### **Bang Babes**

*Tease Me 2, 16/17 April 2010, 22:30 to 23:15 and from 01:00*

### **Bang Babes**

*Tease Me 3, 16 April 2010, 22.00 to 22:30 and from 23:55*

### **Bang Babes**

*Tease Me, 7 May 2010, 22:00 to 22:45*

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## Introduction

*Bang Babes* is an adult sex chat television service, owned and operated by Bang Channels Limited ("Bang Channels" or "the Licensee"). The service is available freely without mandatory restricted access on the channels *Tease Me*, *Tease Me 2* and *Tease Me 3* (Sky channel numbers 912, 948 and 959 respectively). These channels are situated in the 'adult' section of the Sky electronic programme guide ("EPG"). The channels broadcast 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 contact the PRS numbers.

### *Bang Babes, Tease Me (Sky Channel 912) 25 February 2010 22.00 to 22.30*

During routine monitoring of this channel, Ofcom noted that this broadcast featured a female presenter wearing a shiny, latex "body". At various times during the broadcast the presenter adopted sexual positions, including: lying on her back with her legs wide open to camera for relatively prolonged periods of time and bending over with her buttocks to camera. While in these positions, the presenter repeatedly carried out a number of sexual acts in intrusive detail. These included: pulling her buttocks apart direct to camera to reveal outer labial detail; bunching her thong into her genitals and tugging at it to reveal her labial contours; simulating masturbation by rubbing her outer labia; miming insertion of an object into her vagina; and touching in and around her crotch area. She also gyrated her hips in a way which simulated sexual intercourse.

### *Bang Babes, Tease Me (Sky Channel 912), 16 April 2010, 22:00 to 22:50*

During routine monitoring of this channel Ofcom noted that this broadcast featured a female presenter wearing a black bra and thong and fishnet stockings. At various times during the broadcast the presenter adopted sexual positions, including lying on her back with her legs wide open to camera for prolonged periods of time. While in this position she was shown simulating masturbation by repeatedly touching her genital and anal area and pulling her thong against her genitals. The broadcast included close up shots of the presenter's genital and anal area, with outer labial detail shown.

*Bang Babes, Tease Me 2 (Sky Channel 948), 16/17 April 2010, 22:30 to 23:15 and from 01:00*

Ofcom received a complaint about the above broadcast. The complainant said that the content transmitted was too sexually explicit to be broadcast without mandatory restricted access. The complainant referred to intrusive images of genital and anal detail, simulated masturbation and the suggestion of sexual violence.

Ofcom noted that between 22:30 and 23:30, the broadcast included a female presenter wearing a gold lame “body” over a black thong. She removed the “body” during the broadcast. At various times, she adopted sexual positions including: on all fours with her buttocks close to camera; lying on her back with her legs wide open to camera; sometimes pulling on her legs to open them wider; and on her knees and leaning back. While in these positions she was shown simulating masturbation by repeatedly rubbing her genital and anal area and pulling her thong against her genitals, mimicking oral sex with her fingers, biting her nipple, spanking her outer labial and anal areas and simulating aggressive sex by putting her hands around her throat and pulling her hair. The broadcast included close up shots of the presenter’s genital and anal area, with outer labial and anal detail shown.

Later in the broadcast from around 01:00 the same presenter was wearing a purple patterned bikini. She adopted various sexual positions including on all fours with legs wide open and on her back with open legs. During the broadcast she was seen spitting on her fingers and nipples, biting and vigorously massaging her breasts and nipples, mimicking fellatio by inserting the phone deep into her mouth, rubbing her crotch vigorously to simulate masturbation on herself, pulling her buttocks apart to reveal her anus, and spanking her buttock vigorously for around a minute leaving a noticeable mark. She also pulled on her hair and slapped her face and breast in an aggressive way. While on all fours she was seen to simulate masturbation.

*Bang Babes, Tease Me 3 (Sky Channel 959), 16 April 2010, 22:00 to 22:30 and from 23:55*

During routine monitoring of this channel the presenter was wearing a polka dot bra, thong and white shoes. At various times, she adopted sexual positions including: on all fours with her buttocks close to camera, lying on her front with her hips raised, and squatting up and down with her bottom raised. While in these positions she was shown mimicking masturbation by pushing her fingers in her mouth while spitting onto them, forming her fingers into a circle to camera while moving her tongue into the circle, pulling her thong against her genitals, causing it to bunch in and reveal her labia, licking her fingers in a sexualised way and touching her genital area, and rubbing her outer labial and anal areas. The broadcast included close up shots of the presenter’s genital and anal area, with outer labial detail shown. Later in the broadcast the same presenter was wearing a green g-string and boob tube and a yellow vest which she subsequently removed. Her positions and actions were of the same type as earlier in the broadcast and in particular, she dribbled and spat, and pulled at her knickers to reveal the front of her crotch, and labial and anal detail.

*Bang Babes, Tease Me (Sky Channel 912), 7 May 2010, 22:00 to 22:45*

Ofcom received a complaint about the above broadcast. The complainant said that the content transmitted was too sexually explicit to be broadcast without mandatory restricted access. The complainant referred to the presenter masturbating and spitting on herself and the intrusive images that were shown during the broadcast.

Ofcom noted that the broadcast featured a female presenter wearing a very skimpy turquoise thong and bra. Her top was pulled down to reveal her breasts. During the broadcast she adopted various sexual positions for prolonged periods of time,

including bending over on all fours with her buttocks to camera and lying on her back with her legs spread wide open to camera. While doing so, the presenter repeatedly: pulled her buttocks apart to reveal her anus and genital area; sucked her fingers to mimic performing oral sex on a man; vigorously rubbed saliva around her anal and genital area; rubbed her thong against her genitals; opened her legs to expose extensive labial detail in close up; and spat saliva over her breasts.

#### Relevant Code rules

Ofcom requested formal comments from Bang Channels in relation to the following broadcasts and Code Rules:

#### *Bang Babes, Tease Me, 25 February 2010 22.00 to 22.30*

- Rule 2.1 (the broadcaster must apply generally accepted standards); and
- Rule 2.3 (offensive material must be justified by context).

#### *Bang Babes, Tease Me, 16 April 2010, 22:00 to 22:50*

- Rule 2.1 (the broadcaster must apply generally accepted standards); and
- Rule 2.3 (offensive material must be justified by context).

#### *Bang Babes, Tease Me 2, 16/17 April 2010, 22:30 to 23:15 and from 01:00*

- Rule 2.1 (the broadcaster must apply generally accepted standards); and
- Rule 2.3 (offensive material must be justified by context).

#### *Bang Babes, Tease Me 3, 16 April 2010, 22.00 to 22:30 and from 23:55*

- Rule 2.1 (the broadcaster must apply generally accepted standards); and
- Rule 2.3 (offensive material must be justified by context).

#### *Bang Babes, Tease Me, 7 May 2010, 22:00 to 22:45*

- Rule 1.18 ('Adult sex material' - material that contains images and/or language of a strong sexual nature which is broadcast for the primary purpose of sexual arousal or stimulation - must not be broadcast at any time other than between 2200 and 0530 on premium subscription services and pay per view/night services which operate with mandatory restricted access. In addition, measures must be in place to ensure that the subscriber is an adult);
- Rule 2.1 (the broadcaster must apply generally accepted standards); and
- Rule 2.3 (offensive material must be justified by context).

## **Response**

The response from the Licensee was as follows:

#### *Bang Babes, Tease Me, 25 February 2010 22.00 to 22.30*

Ofcom requested comments from Bang Channels on a number of occasions. Bang Channels did not provide any comments. In the absence of any response from the Licensee, Ofcom proceeded to reach a decision on this material against the Code.

#### *Bang Babes, Tease Me (Sky Channel 912), 16 April 2010, 22:00 to 22:50*

The broadcaster said that "the strength of content was consistent across the sector and must therefore have been in line with audience expectations, thus conforming to generally accepted standards". It also said "it follows that if the nature of the broadcast was in line with viewer expectation then it could not have caused offence" and was therefore not in breach of Rules 2.1 and 2.3 of the Code.

*Bang Babes, Tease Me 2, 16/17 April 2010, 22:30 to 23:15 and from 01:00*  
*Bang Babes, Tease Me 3, 16 April 2010, 22.00 to 22:30 and from 23:55*

Ofcom requested comments from Bang Channels on a number of occasions. Bang Channels did not provide any comments. In the absence of any response from the Licensee, Ofcom proceeded to reach a decision on this material against the Code.

*Bang Babes, Tease Me, 7 May 2010, 22:00 to 22:45*

With regard to Rule 1.18, Bang Channels said that it did “not believe that the content broadcast was of sufficient strength to be considered ‘adult sex’ material”. It continued that “the material was not broadcast for the primary purpose of arousal, but rather to promote interaction”.

With regard to Rules 2.1 and 2.3, the Licensee said that “the material broadcast was of similar strength to other broadcasts made during the time period in question in the adult section of the BSkyB platform”. It was therefore satisfied that the broadcast “conformed to viewer expectation for the type of channel at the time of broadcast” and said that “the broadcast would have been unlikely to cause offense to viewers familiar with the type of material transmitted in the adult section at this time”.

Bang Channels also said that “given the time and nature of the broadcast and its position within the adult section [of the Sky EPG] we think it unlikely that a viewer unfamiliar with the adult section might have happened upon it unawares”.

## **Decision**

Ofcom has a duty to ensure that generally accepted standards are applied to the content of radio and television services so as to provide adequate protection from the inclusion of harmful or offensive material. In relation to generally accepted standards, including those in relation to sexual material, Ofcom recognises that what is and is not generally accepted is subject to change over time. When deciding whether or not particular broadcast content is likely to fall within generally accepted standards it is necessary to assess the character of the content itself and the context in which it is provided.

In relation to the broadcast of material of a sexual nature this normally involves assessing the strength or explicitness of the content and balancing it against the particular editorial or contextual justification for broadcasting the content. Ofcom seeks to ensure that material of a sexual nature, when broadcast, is editorially justified, appropriately scheduled and where necessary access is restricted to adults.

Broadcasters are allowed to broadcast after the watershed (and without other access restrictions) material which is of a strong sexual nature as long as it is justified by the context. However, this material must not be considered to be ‘adult sex material’ (i.e. it is not strong sexual images which are broadcast for the primary purpose of sexual arousal or stimulation), or BBFC R-18 rated films or their equivalent.

Rule 1.18 of the Code requires ‘adult sex material’ to be broadcast only between 22:00 and 05:30, and then only if mandatory restricted access is in place. In judging whether material is ‘adult sex material’, and therefore is subject to this rule, broadcasters should be guided by the definitions used by the BBFC when referring to “sex-works at ‘18’”. This guidance has been supplemented by various decisions of Ofcom through a series of published findings, and published decisions of the Content

Sanctions Committee. By these means Ofcom has made clear what constitutes 'adult sex material'<sup>1</sup>.

In considering the contents of each of these programmes Ofcom asked itself two questions as relevant in each case:

- was the content of the programme 'adult sex material'; and
- did the broadcaster ensure that the content was provided with sufficient contextual justification so as to ensure that it fell within generally accepted standards.

When setting and applying standards in its Code to provide adequate protection to members of the public from harm and offence, Ofcom must have regard to the need for standards to be applied in a manner that best guarantees an appropriate level of freedom of expression in accordance with Article 10 of the European Convention of Human Rights, as incorporated in the Human Rights Act 1998. This is the right of a broadcaster to impart information and ideas and the right of the audience to receive them. Accordingly, Ofcom must exercise its duties in light of these rights and not interfere with the exercise of these rights in broadcast services unless it is satisfied that the restrictions it seeks to apply are required by law and are necessary to achieve a legitimate aim. Ofcom notes however that a broadcaster's right to freedom of expression, although applicable to sexual content and pornography, is more restricted in this context compared to, for example, political speech, and this right can be legitimately restricted if it is for the protection of the public, including the protection of those under 18.

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<sup>1</sup> 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](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/](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/](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](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](http://www.ofcom.org.uk/tv/obb/ocsc_adjud/sportxxxbabes.pdf);
- Sanction decision against Playboy TV UK/Benelux Limited concerning its channel Playboy One, dated 2 April 2009, [http://www.ofcom.org.uk/tv/obb/ocsc\\_adjud/playboytv.pdf](http://www.ofcom.org.uk/tv/obb/ocsc_adjud/playboytv.pdf);
- Breach Finding on Playboy One, licensed by Playboy TV UK/Benelux Limited, Broadcast Bulletin 134, [http://www.ofcom.org.uk/tv/obb/prog\\_cb/obb134/](http://www.ofcom.org.uk/tv/obb/prog_cb/obb134/);
- Breach Finding on Live 960, licensed by Hoppr Entertainment, Broadcast Bulletin 149, [http://www.ofcom.org.uk/tv/obb/prog\\_cb/obb149/](http://www.ofcom.org.uk/tv/obb/prog_cb/obb149/);
- Breach Finding on Bang Babes licensed by Bang Channels Limited, Broadcast Bulletin 151, [http://www.ofcom.org.uk/tv/obb/prog\\_cb/obb151/](http://www.ofcom.org.uk/tv/obb/prog_cb/obb151/); and
- Breach Finding on Bang Babes, Broadcast Bulletin 152, [http://www.ofcom.org.uk/tv/obb/prog\\_cb/obb152/Issue152.pdf](http://www.ofcom.org.uk/tv/obb/prog_cb/obb152/Issue152.pdf)
- Breach Finding on Bang Babes, Broadcast Bulletin 153, [http://www.ofcom.org.uk/tv/obb/prog\\_cb/obb153/](http://www.ofcom.org.uk/tv/obb/prog_cb/obb153/)

*Bang Babes, Tease Me, 7 May 2010, 22:00 to 22:45*

Ofcom considered the above broadcast in respect of Rules 1.18, 2.1 and 2.3 of the Code.

In relation to Rule 1.18, Ofcom examined the content of the broadcast and considered that it contained material of a very strong sexual nature and on some occasions contained graphic and intrusive images of genital and anal detail. For example, during the broadcast the presenter was shown apparently performing masturbation on herself by repeatedly touching her genital and anal area and vigorously rubbing and bunching her thong against her genitals. In Ofcom's opinion, in this particular case, a viewer could reasonably have perceived the sexual acts as real. The presenter was also shown pulling her buttocks apart to reveal her anus and extensive labial detail. Further, Ofcom took account of the fact that the sequences were, in some cases, relatively prolonged and repeated. In Ofcom's view, the primary purpose of broadcasting this material was clearly sexual arousal. Given the above, the material was, in Ofcom's view, of a very strong sexual nature. Having assessed these programme's content and purpose, Ofcom considered that the material broadcast constituted 'adult-sex' material. Its broadcast, without mandatory restricted access, was therefore in breach of Rule 1.18 of the Code.

Ofcom is concerned that the Licensee considers material, such as extensive genital and anal detail and simulated masturbation in a sexual context such as this, to be acceptable for broadcast without mandatory restricted access.

Ofcom then went on to consider whether the broadcast was also in breach of Rules 2.1 and 2.3 of the Code. In light of Ofcom's view that the programme contained material that constituted 'adult sex material' and was therefore unsuitable for broadcast without mandatory restricted access, the broadcast was clearly capable of causing considerable offence. Ofcom therefore examined the extent to which there were any particular editorial or contextual factors that might have limited the potential for offence. Ofcom noted that the programme was broadcast at 22:00, therefore after the watershed, and that viewers tend to expect stronger sexual material to be shown later at night. Ofcom also took account of the fact that the Tease Me channel is positioned in the 'adult' section of the Sky EPG and that viewers tend to expect the broadcast of stronger sexual material on channels in this section of the EPG than would be expected to be included on other channels.

However, in this case, given the relatively prolonged and repeated scenes of a very strong sexual nature and the inclusion of graphic images of genital and anal detail (provided for the purpose of sexual arousal), the time of broadcast and location of the channel was not sufficient to justify the broadcast of the material. The material shown was so strongly sexual that it would have exceeded the likely expectation of the vast majority of the audience. Ofcom concluded that the content was clearly not justified by the context and was in breach of generally accepted standards.

The broadcast was also therefore in breach of Rules 2.1 and 2.3 of the Code.

*Bang Babes, Tease Me, 25 February 2010 22.00 to 22.30*

*Bang Babes, Tease Me, 16 April 2010, 22:00 to 22:50*

*Bang Babes, Tease Me 2, 16/17 April 2010, 22:30 to 23:15 and from 01:00*

*Bang Babes, Tease Me 3, 16 April 2010, 22.00 to 22:30 and from 23:55*

Ofcom considered these broadcasts in respect of Rules 2.1 and 2.3 of the Code.

In terms of the content of all these broadcasts, Ofcom considered the sexual images shown to be strong and capable of causing offence. During all four broadcasts the presenter in each programme positioned themselves in front of the camera with their legs wide apart for prolonged periods of time. Given the skimpy clothes all the presenters were wearing and the close up nature of some shots, there were occasions when outer labial and anal detail was shown in intrusive detail. In addition, during all four broadcasts the presenters in each individual programme appeared to simulate masturbation at various points in the broadcasts, by apparently touching their genital and anal areas and rubbing their underwear against their genitals in a sexual manner. In addition, during the broadcasts *Bang Babes, Tease Me*, 25 February 2010, *Bang Babes Tease Me 2*, 16/17 April 2010 and *Bang Babes, Tease Me 3*, 16 April 2010, the presenters were shown inserting their fingers or the telephone into their mouths mimicking the performance of oral sex on a man.

Ofcom therefore examined the extent to which there were any particular editorial or contextual factors that might have limited the potential for offence. Ofcom noted that all four programmes were broadcast after 22:00, therefore after the watershed, and that viewers tend to expect stronger sexual material to be shown later at night. Ofcom also took account of the fact that the channels were positioned in the 'adult' section of the Sky EPG and that viewers tend to expect the broadcast of stronger sexual material on channels in this section of the EPG than would be expected to be included on other channels.

However, in these cases, given the prolonged and frequent scenes of a sexual nature and the inclusion of images of the presenters outer labial and anal areas (provided for the purpose of sexual arousal) Ofcom considered that the time of broadcast and location of the channel were not sufficient to justify the broadcast of the material. The material shown was so strongly sexual that we do not consider the broadcaster applied generally acceptable standards to the content on a channel without mandatory restricted access at this time. Ofcom is concerned in particular, that in the broadcast of *Tease Me 2* of 16/17 April, the presenter was shown simulating aggressive sex by forcefully spanking herself for prolonged periods leaving a noticeable mark, putting her hands around her throat, slapping her face and breast and pulling on her hair. In Ofcom's opinion, the degree of offence likely to be caused to viewers who might come across all of this material unawares and the extreme level of offensiveness at coming across material suggestive of violent sexual behaviour was of great concern. Ofcom concluded that this content was clearly not justified by the context and was in breach of generally accepted standards.

As a result of the serious and repeated nature of the breaches recorded in these current findings, and those recorded against Bang Channels Limited elsewhere in this Bulletin and previously in Bulletins 157 and 158, the Licensee is put on notice that these present contraventions of the Code are being considered for statutory sanction.

***Bang Babes, Tease Me, 25 February 2010, 22:00 to 22:30: Breach of Rules 2.1 and 2.3***

***Bang Babes, Tease Me, 16 April 2010, 22:00 to 22:50 : Breach of Rules of 2.1 and 2.3***

***Bang Babes, Tease Me 2, 16/17 April 2010, 22:30 to 23:15 and from 01:00: Breach of Rules 2.1 and 2.3***

***Bang Babes, Tease Me 3, 16 April 2010, 22.00 to 22:30 and from 23:55: Breach of Rules 2.1 and 2.3***

***Bang Babes, Tease Me, 7 May 2010, 22:00 to 22:45: Breach of Rules 1.18, 2.1 and 2.3***

On 29 July 2010 Ofcom published a statutory sanction against Bang Media (London) Limited and Bang Channels Limited for serious and repeated breaches of the Code as regards the broadcast of programmes between June 2009 and November 2009 and for breaches of Licence Conditions. Ofcom imposed a total financial penalty of £157,250 (see pages 7 to 9).

## In Breach

### Remember Palestine

*Press TV, 5 June 2010, 11:30*

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#### Introduction

Press TV is an Iranian international news network, which broadcasts in English. Press TV states it receives funding from: Iranian tax-payers, advertising revenue; sales from services provided in respect of the technical and engineering industry; and sales from its archives.

*Remember Palestine* is a current affairs programme, presented by the journalist Lauren Booth. The programme in question discussed the events during and following the interception by Israeli military forces of a pro-Palestinian aid convoy in international waters in the Mediterranean Sea on 31 May 2010. In the incident Israeli commandoes killed nine of the people aboard the convoy. Ofcom received a complaint that the programme criticised the actions of the Israeli military forces, and failed to air alternative views.

The programme started with a pro-Palestinian song set to anti-Israeli/pro-Palestinian imagery. *Remember Palestine* then went into a more traditional studio presentation, with a range of pre-recorded and live interviews. Some of the live interviews took place in the studio. One of the guests, permanently in the studio, was Usman Ali who was the brother-in-law of one of the people on board the flotilla. The programme included a range of statements, including the following, made by the presenter or people she interviewed, which could be interpreted as being highly critical of the actions of the Israeli government and its military forces in this case. For example:

Lauren Booth: *“Israeli commandoes...committed a massacre of innocent civilians sailing aid ships to the besieged Gaza strip”.*

Kevin Ovenden (Viva Palestina): *“[Israel’s] inhuman and illegal blockade of the people of Gaza...This was the use of lethal force for political ends”.*

Bahjat El-Helou (Palestinian Independent Commission for Human Rights): *“[Israel] is a state above the law”.*

Yousef Al-Helou (Press TV correspondent): *“Israel’s piracy in the Mediterranean Sea ended with a massacre”.*

Haidar Eid (Political analyst): *“The martyrdom of the supporters of the Palestinian people on the freedom flotilla”.*

Lauren Booth: *“This was obviously a barbarous attack on civilians...One thing is certain: As Turkey buries its murdered citizens and in Britain we welcome home our brave and injured, the brave men and women on those ships, in one move, have shifted world opinion against Israeli apartheid”.*

Ofcom asked Press TV for its comments as to how the programme, and in particular the above statements, complied with Rule 5.5 of the Code, which states:

“Due impartiality on matters of political or industrial controversy and matters relating to current public policy must be preserved on the part of any person providing a service. This may be achieved within a programme or over a series of programmes taken as a whole”.

## Response

Press TV said “It is accepted that Israel’s attack was a matter of political controversy”. In addition, the broadcaster maintained that it had complied with the due impartiality requirements of the Code. In its response, the broadcaster pointed to the following statements made by the presenter Lauren Booth, as providing the audience with “the Israeli viewpoint, which is a viewpoint shared by a small minority of those who have spoken out on the issue”:

*“There has been a lot of talk about violent terrorism; the Israeli army have said the sorts of people who want to go [on a Gaza aid convoy] are radicals...”*

*“We’ve been hearing that the poor commandos landed and were lynched, they didn’t mean to use force”.*

Press TV also defended the use of various comments made in the programme. For example, in relation to the use of the terms “*massacre*” and “*barbarous attack*”, the broadcaster said that “the intensity of the descriptions in the programme merely reflected the general atmosphere around the world”. Press TV also stated that the comment “[Israel] *is a state above the law*” was a “viewpoint shared by a large number of people and by many officials around the world”. In relation to these comments, the broadcaster quoted statements from representatives of various Governments and international institutions, who had condemned Israel’s actions in relation to the Palestinian aid convoy. Press TV also said that it should be borne in mind that some comments made in the programme, such as “*The martyrdom of the supporters of the Palestinian people on the freedom flotilla*” had been made “not by a Press TV reporter”, but by people interviewed in the programme.

## Decision

Under the Communications Act 2003, and therefore the Code, due impartiality must be preserved by broadcasters in all matters of political or industrial policy. When interpreting due impartiality, Ofcom must take into account the broadcaster’s and audience’s right to freedom of expression. This is set out in Article 10 of the European Convention on Human Rights. Article 10 provides for the right of freedom of expression, which encompasses the right to hold opinions and to receive and impart information and ideas without interference by public authority. Applied to broadcasting, Article 10 therefore protects the broadcaster’s right to transmit material as well as the audience’s right to receive it as long as the broadcaster ensures compliance with the Rules of the Code and the requirements of statutory and common law. It should be noted the importance of the right of freedom of expression has been recognised to be at its highest in relation to political matters, including the manner of expression exercised by journalists in relation to political matters. The Convention continues:

*“The exercise of these freedoms, since it carries with it duties and responsibilities, may be subject to such formalities, conditions, restrictions or penalties as are prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder*

*or crime, for the protection of health or morals, for the protection of the reputation or rights of others...*

The broadcaster's right to freedom of expression is therefore not absolute. In carrying out its duties, Ofcom must balance the right to freedom of expression on one hand, with the need, in cases such as these, to preserve "due impartiality" on matters relating to political or industrial controversy or matters relating to current public policy. Therefore, whilst any Ofcom licensee should have the freedom to discuss any controversial subject or include particular points of view in its programming, in doing so broadcasters must always comply with the Code.

Ofcom also recognises that Section Five of the Code, which sets out how due impartiality must be preserved, acts to limit, to some extent, freedom of expression. This is because its application necessarily requires broadcasters to ensure that neither side of a debate relating to matters of political or industrial controversy and matters relating to current public policy is unduly favoured.

This programme dealt exclusively with the events surrounding, and the aftermath of, the interception by Israeli military forces of a pro-Palestinian aid convoy in the Mediterranean Sea on 31 May 2010. This is not surprising given that this was an issue that had dominated the news and was still attracting much controversy at the time the programme was broadcast a few days later. Given this, Ofcom considered, and noted that the broadcaster agreed, that the programme dealt with a matter of political controversy. Rule 5.5 was therefore applicable.

In the programme, presented by the journalist Lauren Booth, there were reports from two Press TV correspondents in Gaza. In addition, there were interviews, both live, either in the studio or via video-link, and pre-recorded with a number of people, including representatives of: the pro-Palestinian groups, Viva Palestina and the Palestinian Independent Commission for Human Rights; the International Solidarity Movement; Hamas; and the Turkish human rights organisation, IHH. In addition, a studio interview was conducted with, Usman Ali, a relative of a pro-Palestinian protester who had been on the aid convoy. Ofcom considered that all these contributions could reasonably be characterised as being from a pro-Palestinian viewpoint.

In assessing whether due impartiality has been applied in this case, the term "due" is important. Under the Code, it means adequate or appropriate to the subject and nature of the programme. Therefore, "due impartiality" does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. Due impartiality may be preserved in a number of ways and it is an editorial decision for the broadcaster as to how it ensures due impartiality is maintained.

In this case, Ofcom considered that the programme included a number of viewpoints, but all of them could be portrayed as being critical of the Israeli state's policy in this case to use military force against the aid convoy which led to nine deaths. In summary, the programme accused the Israeli government of a massacre, and of breaking international law and human rights. It also stated that Israeli government should be brought to justice and questioned the lengths the Israeli government would go "to punish the people of Palestine". We considered that the programme did not contain any alternative views, which could be reasonably and adequately classed as supportive of, or which sought to explain, the actions of the Israeli military forces in relation to the aid convoy, or of the Israeli state more generally.

In this respect, we noted the submissions of Press TV, that the programme contained two comments that were supportive of the Israeli position in relation to the aid convoy:

*“There has been a lot of talk about violent terrorism; the Israeli army have said the sorts of people who want to go are radicals...”* (“Comment 1”).

*“We’ve been hearing that the poor commandos landed and were lynched, they didn’t mean to use force”* (“Comment 2”).

However, these comments must be seen in context.

Both these comments were made not as the stated position of the Israeli government, but as part of questions put to guests on the programme. When seen in full context, it is apparent that these comments were not provided to give an alternative view, but in fact made to give the opportunity for the programme to criticise the Israeli government. Lauren Booth said Comment 1 to Usman Ali, a relative of a pro-Palestinian protester, as part of an interview asking for the interviewee’s perspective on his relative’s experiences during the events on the aid convoy. The presenter was seeking the interviewee’s comments on the character of his brother-in-law, who was a protestor on the flotilla. She asked him:

Lauren Booth: *“Why was your brother-in-law actually on the ship, because there has been a lot of talk about violent terrorism; the Israeli army have said the sorts of people who want to go are radicals. Does that describe your brother-in-law?”*

Usman Ali: *“No not at all...”* [the interviewee describes his brother-in-law]

Lauren Booth: *“He sounds like a nice guy...”*

We do not therefore believe that the above could be reasonably recognised as ensuring the programme adequately gave the Israeli government’s position.

In relation to Comment 2, it is important again to consider the full context. Lauren Booth said to a pro-Palestinian activist, Kevin Ovenden:

*“Kevin, there’s been a lot of Israeli propaganda, obviously, since the attack. We’ve been hearing that the poor commandos landed and were lynched, they didn’t mean to use force”.*

It is therefore clear that the presenter considered the pro-Israeli statements to be untrue. The reason for stating the Israeli position was in order to reinforce to the audience the view that Israel was guilty of promulgating propaganda on this issue. As such, Comment 2 cannot reasonably be seen as providing an alternative viewpoint.

In any event, we would not consider that two sentences (i.e. Comment 1 and Comment 2) - even if considered to represent the alternative view - within a half an hour programme could reasonably be described as an effective method for the licensee to achieve “due impartiality”.

It should be noted that it is possible for broadcasters to ensure due impartiality is preserved in particular circumstances, by a presenter or interviewer articulating alternative views in the form of questions and statements. However, in using such a technique, broadcasters must ensure that such questions and statements are

sufficiently in context to ensure that due impartiality is preserved either within a programme or a series of programmes taken as a whole. In particular, presenters or interviewers must ensure they are articulating alternative views in a duly objective manner or putting them to interviewees in a manner that achieves due impartiality. We do not consider that the example given here by Press TV fulfilled this.

In summary, given the above analysis of Comment 1 and Comment 2 above, we considered the broadcaster did not provide sufficient evidence of alternative views within the programme. Overall the programme gave a one-sided view on this matter of political controversy.

Furthermore and importantly, the broadcaster did not provide any evidence of alternative views on this issue in a series of programmes taken as a whole (i.e. more than one programme in the same service, editorially linked, dealing with the same or related issues within an appropriate period and aimed at a like audience). Given the above, Ofcom therefore considered the programme to be in breach of Rule 5.5.

It is important to note that the broadcasting of highly critical comments concerning the policies and actions of any one state (such as these here in this programme) is not, in itself, a breach of due impartiality. It is essential that current affairs programmes are able to explore and examine these issues and contributors are able to take robust and highly critical position. However, depending on the specifics of the issue, it may be necessary, in order to fulfil the requirements of due impartiality as set out in the Act as well as the Code to ensure that alternative viewpoints are broadcast. In this case, such viewpoints (i.e. the position of the Israeli government in this case) were not given either in the programme itself, or elsewhere on the licensed service within the series of programmes as a whole.

### **Breach of Rule 5.5**

## In Breach

### Lincoln City Radio

31 May 2010

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#### Introduction

Lincoln City Radio is a community radio station which began broadcasting on 4 May 2010. Ofcom received a complaint alleging that the station promoted products and services in programming, contrary to the requirements of the Code. Ofcom requested a recording of the programme referred to by the complainant in order that we could make an assessment under the Code.

The station advised us that it was unable to supply the recording because its recording machinery was disconnected. This resulted in no recordings of output being made for a period of three days between Saturday 29 May 2010 and Tuesday 2 June 2010.

We therefore sought the licensee's comments with regard to its obligations under condition 8(2) of its licence to broadcast. This states that the Licensee shall: a) make and retain, for a period of 42 days from the date of broadcast, a recording of every programme included in the Licensed service together with regular time reference checks; b) at the request of Ofcom forthwith produce to Ofcom any such recording for examination or reproduction.

#### Response

The station responded that they were installing a new mixing console over the weekend of 29 and 30 May 2010 and it was for this reason that its recording equipment was disconnected. It apologised for its mistake and advised that this was an error arising from its inexperience. It said that the correct course of action would have been to contact Ofcom and seek advice when realising its recording equipment was to be disconnected.

#### Decision

It is a condition of all radio licences that the licensee adopts procedures for the retention of recordings and produces recordings to Ofcom forthwith on request.

Given the absence of any recordings, Ofcom has been unable to assess the material relating to the original complaint of commercial promotion within programmes. This failure to provide recordings was a breach of the station's licence, which will be held on record.

#### **Breach of Licence Condition 8, Part 2 General (Retention and Production of recordings)**

## Scottish Government sponsorship of programmes *STV, 2008 and 2009, various dates and times*

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[the STV findings were originally published on 26 July 2010]

### 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

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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.

“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 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.

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

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

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

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 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."

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

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.

### Summary of investigation

In the course of its investigation of these matters, Ofcom conducted a detailed assessment of the **12 Homecoming programmes** (11 of which were 60 minutes in duration and one of which was 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.

## 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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[this finding was originally published on 26 July 2010]

## **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.

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<sup>1</sup> See pages 31 to 35 for further information.

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. According to 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.

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

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 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:

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

- 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."

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

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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.

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 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

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

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".

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 phoneline 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 47 above.

#### Rule 9.5

As detailed on page 48 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

## 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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[this finding was originally published on 26 July 2010]

#### **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*.

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<sup>1</sup> See pages 31 to 35 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>

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 30 minute 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 31), 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.

#### 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:

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<sup>6</sup> See finding on page 36.

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

*“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 30 minute episode.

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**

## Fairness and Privacy Cases

### Not Upheld

#### Complaint by Mr David Maclean

*The One Show, BBC1, 3 December 2009*

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**Summary:** Ofcom has not upheld this complaint of unfair treatment and unwarranted infringement of privacy made by Mr David Maclean.

This edition of the programme reported, among other things, that a private security guard in Southampton had been found guilty of trying to dupe people into thinking he was a police officer. The programme broadcast footage of the security guard, his SIA<sup>1</sup> badge and his company logo, over which a graphic device of bars had been superimposed. The security guard, Mr Maclean, complained to Ofcom that he was treated unfairly and that his privacy was unwarrantably infringed in the programme as broadcast.

In summary Ofcom found the following:

- The programme did not suggest either that Mr Maclean had received a prison sentence or that he had tricked clients into believing he was a police officer.
- The omission of information that Mr Maclean was appealing against his conviction was not unfair to him.
- Mr Maclean did not have a legitimate expectation of privacy in relation to the broadcast footage of him, his company logo or his SIA badge number.

#### Introduction

On 3 December 2009, BBC1 broadcast an edition of *The One Show*, its evening magazine programme, which includes topical reports, features and interviews from around the UK.

This edition included an item on the increasing number of private security firms paid for by members of the public to patrol their streets. A reporter went out on patrol with a private security firm, and the programme included the views of the security firm, members of the public and the police about the pros and cons of paying for such a service.

The programme included footage of a private security officer, his SIA badge and his company logo, over which a graphic device of bars had been superimposed. The programme explained that he ran a private security service and had been convicted of “*trying to dupe people into thinking he was a police officer*”.

Mr David Maclean, the security officer included in the footage and referred to in the commentary, complained to Ofcom that he was treated unfairly and that his privacy had been unwarrantably infringed in the programme as broadcast.

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<sup>1</sup> The Security Industry Authority, an independent government body responsible for regulating and licensing the private security industry in the UK.

## The Complaint

### Mr Maclean's case

In summary, Mr Maclean complained that he was unfairly treated in the programme as broadcast in that:

- a) He was unfairly portrayed because:
  - i) when reporting his conviction, by superimposing bars over footage of him, his SIA badge and his company logo, the programme wrongly and unfairly suggested that he had received a prison sentence for the offence;
  - ii) the programme wrongly and unfairly suggested that he had tricked clients into believing he was a police officer; and
  - iii) the programme unfairly reported his conviction even though his appeal was pending.

In summary, Mr Maclean complained that his privacy was unwarrantably infringed in the programme as broadcast in that:

- b) Footage which showed his face, SIA badge number and company logo was broadcast in connection with the claims made in the programme.

### The BBC's case

In summary, the BBC responded to the complaint of unfair treatment made by Mr Maclean as follows:

- a) The BBC first responded to the complaint that Mr Maclean was unfairly portrayed.
  - i) The BBC addressed the complaint that when reporting his conviction, by superimposing bars over footage of him, the programme wrongly and unfairly suggested that he had received a prison sentence for the offence.

The BBC said that it did not agree that the visual device used in this, and other parts of the programme, carried the suggestion that Mr Maclean had received a sentence of imprisonment for the offences for which he was convicted at Southampton Magistrates' Court in October 2009. The BBC said that the device used did not represent bars but railings, as was apparent when it was first used in the foreground of a piece to camera by the reporter, some 50 seconds before Mr Maclean actually appeared. The BBC said that the device was then carried on in a more stylised form and was superimposed over two shots of former Metropolitan Police Commissioner Sir Ian Blair. The BBC said that when Sir Ian was interviewed he made a specific reference to "*gated communities*" which the BBC believed made clear beyond doubt that the device was supposed to represent security railings rather than prison bars. The BBC said that the device was reintroduced when Sir Ian finished speaking, and was superimposed over pictures of Mr Maclean, by which time its purpose, to represent security railings, had been clearly established.

- ii) The BBC addressed the complaint that the programme suggested that Mr Maclean had tricked clients into believing he was a police officer.

The BBC said that it was stated in the programme that Mr Maclean, who was not named, *“was found guilty of trying to dupe people into thinking that he was a police officer”*. The BBC provided two contemporaneous press reports recording Mr Maclean’s conviction on two counts of dressing in a uniform calculated to deceive members of the public that he was a police officer. The BBC said that the reports said that Mr Maclean was dressed in dark clothes, tactical vest, body armour and other paraphernalia, some made from recycled police uniforms and that the magistrates were reported as saying, specifically, that his dress was “calculated to deceive”.

In the circumstances, the BBC said that it did not believe that it was inaccurate or unfair to describe Mr Maclean’s conviction in the terms in which it was reported in the programme.

- iii) The BBC addressed the complaint that the programme unfairly reported Mr Maclean’s conviction even though his appeal was pending.

The BBC said that at the time of broadcast it was a matter of public record that Mr Maclean stood convicted of the offences, and he had indicated publicly after his conviction that he accepted the verdict of the Magistrates’ Court. The BBC said that Mr Maclean was reported as saying “I just think the decision has been made and we accept that, so it’s a very important ruling which affects many people in the industry”. The BBC said that it did not believe that any unfairness could attach to reporting those convictions, which were a matter of fact, particularly as Mr Maclean had indicated his acceptance of the outcome.

In summary, the BBC responded to the complaint of unwarranted infringement of privacy as follows:

- b) The BBC said that the footage used showed Mr Maclean, his SIA badge and his company logo in the context of reporting his convictions, which were a matter of public record, during a report about the growth of private security schemes. The BBC said that it believed that investigating the issue was in the public interest, as was illustrating by example that sensitive legal issues might arise at the point where police and private security functions overlapped. The BBC said that the footage used was shot by the BBC in Southampton with Mr Maclean’s co-operation. The BBC said that it believed that Mr Maclean could only have a very limited expectation of privacy in relation to footage, filmed with his agreement, showing him going about his business in public and wearing identifying marks intended to allow the public to recognise him and his company’s business. The BBC said that any residual expectation of privacy was further reduced by the public interest served in reporting on this issue.

## **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.

In reaching its decision, Ofcom considered all the relevant material provided by both parties. This included a recording and transcript of the programme as broadcast and both parties' written submissions and supporting documentation.

### Unfair treatment

- a) Ofcom first considered the complaint that Mr Maclean was unfairly treated in the programme as broadcast because he was unfairly portrayed.

In considering this complaint, Ofcom took into account Rule 7.1 of Ofcom's Broadcasting Code ("the Code"), which states that broadcasters must avoid unjust or unfair treatment of individuals in programmes. Ofcom also had regard to whether the broadcaster had taken reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to an individual or organisation (as outlined in Practice 7.9 of the Code).

- i) Ofcom considered the complaint that when reporting his conviction, by superimposing bars over footage of him, the programme wrongly and unfairly suggested that Mr Maclean had received a prison sentence for the offence.

Ofcom noted that on 22 October 2009 Mr Maclean was convicted of two counts of wearing a uniform which gave him an appearance so nearly resembling that of a member of a police force as to be calculated to deceive and that he was fined £1,000. At the time of broadcast, Mr Maclean's convictions were the subject of appeals which were subsequently successful.

Ofcom noted that brief footage of Mr Maclean (which included a close up of his SIA badge and showed his company logo on his uniform) was used in the programme to illustrate the second part of the following narrative:

*"Private patrols have a chequered history, with the distinction between a reassuring presence and a vigilante organisation often becoming blurred. Just six weeks ago, a private security guard in Southampton was found guilty of trying to dupe people into thinking he was a police officer. He too ran a service claiming to protect locals".*

Ofcom also noted that a graphic device was used by the programme makers that appeared to superimpose bars over the footage which illustrated the whole of the above narrative, or project that footage behind a set of bars or railings.

Ofcom considered that, if viewed in isolation, the bars superimposed over the footage of Mr Maclean did resemble prison bars and that viewers may have been led to believe in such circumstances that Mr Maclean had received a prison sentence for the offence referred to, rather than a fine. However, Ofcom considered that viewers were unlikely to have viewed the above extract of the programme in isolation and noted that the bars were not only superimposed over the footage of Mr Maclean in the programme, but also appeared over earlier footage of the presenter (in which she was seen walking behind the bars or railings) and over footage of uniformed police officers, including former Metropolitan Police Commissioner, Sir Ian Blair. In the context of this particular report in the programme, which discussed the

merits of private security firms, and given that the same device had been used earlier in the programme in a context which clearly did not indicate imprisonment, Ofcom considered that viewers would be unlikely to have interpreted the bars superimposed over the footage of Mr Maclean as indicating that he had received a custodial sentence. Ofcom therefore considered that the programme makers had taken reasonable care not to present material facts in a way that was unfair to Mr Maclean.

In light of the above, Ofcom has not upheld the complaint in this respect.

- ii) Ofcom considered the complaint that the programme wrongly and unfairly suggested that Mr Maclean had tricked clients into believing he was a police officer.

As set out at decision head a)i) above, Ofcom noted that the offences Mr Maclean was convicted of related to wearing a uniform which gave him an appearance so nearly resembling that of a member of a police force as to be calculated to deceive.

Ofcom noted that in reporting Mr Maclean's conviction, the programme stated that he had been "*trying to dupe people into thinking he was a police officer*". Ofcom recognised that it is usual practice for the media to summarise criminal offences and to use more accessible language, and noted that the term "calculated to deceive" was interpreted as "*trying to dupe people*".

Ofcom considered that it was not unreasonable for the BBC to make this interpretation and to report Mr Maclean's conviction in the way that it did as the two phrases were likely to be understood by viewers in much the same way.

Ofcom also noted that the BBC's summary of the offence was immediately followed by: "*He too ran a service claiming to protect locals*". While Ofcom understood why Mr Maclean felt that the two sentences amounted to an allegation that he had been trying to trick his clients, Ofcom did not consider that was the message viewers were likely to have received because, in Ofcom's view, the programme did not link the members of the public who had allegedly been duped and Mr Maclean's security service.

As a result, while Ofcom considered that a fuller description of the offence would have been clearer, it did not consider that the programme suggested that Mr Maclean had tricked clients into believing he was a police officer and has not upheld the complaint in this respect.

- iii) Ofcom considered the complaint that the programme unfairly reported Mr Maclean's conviction even though his appeal was pending.

Ofcom noted that at the time of broadcast Mr Maclean had been found guilty of the offence referred to in the programme and that the conviction had not at that stage been overturned on appeal. In the circumstances, Ofcom considered that it was not unfair to Mr Maclean not to establish and state that he intended to appeal his conviction, and the programme was not unfair as a result of the omission of reference to the appeal lodged by Mr Maclean.

Ofcom has not therefore upheld the complaint in this respect.

## Privacy

- b) Ofcom considered the complaint that Mr Maclean's privacy was unwarrantably infringed because footage which showed his face, SIA badge number and company logo was broadcast in connection with the claims made in the programme.

In Ofcom's view, the individual's right to privacy has to be balanced against the competing rights of broadcasters to freedom of expression. Neither right as such has precedence over the other and where there is a conflict between the two, it is necessary to focus on the comparative importance of the specific rights. Any justification for interfering with or restricting each right must be taken into account and any interference or restriction must be proportionate.

This is reflected in how Ofcom applies Rule 8.1 of the Code which states that any infringement of privacy in programmes, or in connection with obtaining material included in programmes, must be warranted.

In considering whether Mr Maclean's privacy was unwarrantably infringed in the programme as broadcast, Ofcom first considered the extent to which he could have expected that footage of him (including images of his face, his SIA badge number and company logo) would not be broadcast on this programme.

Ofcom noted that the footage of Mr Maclean used in the programme had been filmed previously by the BBC with his co-operation and showed him in uniform upon which his company's logo was visible. The footage also showed a close up of his SIA badge upon which the badge number was clearly readable.

### *Face and logo*

In relation to images of Mr Maclean's face and company logo, Ofcom noted that when Mr Maclean started offering security patrols in the Southampton area, both he and his company received publicity in national and local newspapers and on local television programmes. This publicity included pictures of Mr Maclean dressed in his uniform, on which his company logo appeared.

As a result, Ofcom considered that Mr Maclean's image and the company logo on his uniform were already in the public domain and that he could not have had a legitimate expectation of privacy in relation to them, regardless of the context in which they were used in the programme.

### *SIA badge number*

Ofcom then considered the broadcast of footage disclosing Mr Maclean's SIA badge number. Ofcom noted that, in accordance with the requirements of the SIA, Mr Maclean's badge had to be worn in a prominent position on his uniform and that it had therefore appeared in the prior publicity photographs and footage of Mr Maclean. Although the badge number had not been visible in that publicity, Ofcom considered that while Mr Maclean was out on patrol, his badge and badge number would have been visible to members of the public. In addition, Ofcom noted that the SIA is statutorily required to maintain a public register of SIA licence holders listing, among other things, the licence holder's name and licence number.

As a result, given that the information was on display to the public when he was out on patrol and was included in a public register, Ofcom did not consider that it was information in which Mr Maclean had a legitimate expectation of privacy.

In light of the above facts, Ofcom found that there was no unwarranted infringement of privacy in relation to the broadcast of Mr Maclean's face, SIA badge number or company logo in connection with the claims made in the programme and has not upheld the complaint in this respect.

**Accordingly Ofcom has not upheld Mr Maclean's complaint of unfair treatment and unwarranted infringement of privacy in the programme as broadcast.**

## Not Upheld

### Complaint by Mr Michael Reynolds

*ITV News at Ten, ITV1, 31 March 2010*

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**Summary:** Ofcom has not upheld this complaint of unfair treatment and unwarranted infringement of privacy made by Mr Michael Reynolds.

A report in this programme discussed the “*contentious issue*” of immigration and the approaches of the main political parties to it in the build up to the 2010 General Election. The report included brief footage which showed a crowd of people, including Mr Reynolds, walking along a busy street.

Mr Reynolds complained that he was unfairly treated in the programme and that his privacy was unwarrantably infringed in the making and broadcast of the programme.

In summary, Ofcom found the following:

- The programme did not portray Mr Reynolds as an immigrant and so was not unfair to him in that respect.
- Mr Reynolds did not have a legitimate expectation of privacy in relation to the making or the broadcast of the programme, as he was filmed in a public place and the footage did not include information about him of a sensitive or private nature.

#### Introduction

On 31 March 2010, ITV1 broadcast an edition of *ITV News at Ten* which reported that, within hours of the then Prime Minister, Gordon Brown, calling for politicians to be extra careful when discussing the issue of immigration, it had “*transpired*” that he had quoted immigration statistics which did not compare like with like to demonstrate that net inward migration to the country was coming down.

The programme referred to immigration as a “*contentious issue*” and a “*hot political topic*” and referred to the immigration policies of the three main political parties. The programme also included brief footage of a busy street in which two people appeared more prominently than others.

Mr Reynolds, who described himself as being of mixed race and was one of the people who appeared more prominently than others in the footage, complained to Ofcom that he had been treated unfairly in the programme as broadcast and that his privacy had been unwarrantably infringed in both the making and broadcast of the programme.

#### The Complaint

##### Mr Reynolds’ case

In summary, Mr Reynolds complained that he was treated unfairly in the programme as broadcast in that:

- a) He was unfairly portrayed as an immigrant.

By way of background, Mr Reynolds said that he was contacted by several friends who alerted him to the footage and that, being of mixed race, he found it very upsetting that the programme implied he was an immigrant.

In summary, Mr Reynolds complained that his privacy was unwarrantably infringed in the making of the programme in that:

- b) He was filmed without his knowledge or consent.

By way of background, Mr Reynolds said that he thought the footage of him must have been archived and retained on file for many years because he had not had his hair as long as it was in the footage since about the year 2000.

In summary, Mr Reynolds complained that his privacy was unwarrantably infringed in the programme as broadcast in that:

- c) Footage of him was broadcast in a programme about immigration without his consent.

### **ITV's case**

In summary, ITV responded to Mr Reynolds' complaint that he had been treated unfairly in the programme as follows:

- a) ITV said that Mr Reynolds' inclusion in the item was clearly incidental, as part of a general street scene. The footage featuring Mr Reynolds, amongst others, was very brief. He was on screen for a short time, in a sequence lasting less than 10 seconds. ITV said that there was no particular focus on Mr Reynolds in the footage – he was one of a large number of people in shot, apparently drawn from a variety of ethnic origins, with no particular emphasis on him.

ITV said that the voiceover during the footage stated "*But immigration remains an area where Labour struggles to be heard. Today's statistical slip up won't exactly help them get that message across*". ITV said that this generic "stock" footage was clearly intended to illustrate a cross-section of the British public, to which the incumbent government was stated to be struggling to get their message across. ITV said that Britain is a multi-ethnic society, and as such it should be expected that generic crowd footage would feature people from a variety of cultural and ethnic backgrounds.

ITV said that generic general view shots of this nature, showing crowds walking along the street, were a long established filming device to denote the public generally. ITV said it did not therefore accept that Mr Reynolds was "depicted as an immigrant" as he suggested. ITV said that the footage was recorded some years ago, and it appeared from Mr Reynolds' complaint that his appearance had in any event changed since the recording. ITV said that presumably those who recognised Mr Reynolds, and alerted him to his presence in the footage, would also know his personal background already. In any event, ITV said that they could not reasonably have understood from the report that it was suggesting anything in particular about Mr Reynolds, much less that it was seeking to suggest he was an immigrant.

In summary, ITV responded to Mr Reynolds' complaint that his privacy had been unwarrantably infringed in the making of the programme as follows:

- b) ITV said that the footage was clearly taken in a public place, and Mr Reynolds was recorded walking along the street as part of a large crowd of people. ITV said that there was nothing about his location or his activity that could give rise to any reasonable expectation of privacy. Given these circumstances, his consent to be recorded was not required, either as a matter of law or by Ofcom's Broadcasting Code. ITV said that notwithstanding that Mr Reynolds might conceivably not have noticed the camera crew at the time, and therefore might have been unaware of the filming, it did not believe that the recording of the footage of itself infringed his privacy.

In summary, ITV responded to Mr Reynolds' complaint that his privacy had been unwarrantable infringed in the programme as broadcast as follows:

- c) ITV said that, as stated above, this was "stock" footage of a crowded street, and there was nothing in the circumstances that gave rise to a reasonable expectation of privacy on Mr Reynolds' part. There was therefore no infringement of his privacy in broadcasting the footage, and his consent to be included in the report in this very limited context was not required.

ITV said that the fact that this was a report about immigration did not alter the position as to privacy, given that the programme did not seek to refer specifically to Mr Reynolds.

ITV also said that it would constitute a serious and chilling effect on the conventions of news reporting and factual programme making, and the freedom of expression of broadcasters generally, if wholly generic filming of this sort in a public place, and the broadcast of such footage, was found to constitute an infringement of privacy.

ITV said that for the reasons set out above, it did not accept that the report portrayed Mr Reynolds unfairly, or that his privacy was infringed either in the recording of the footage or its broadcast. However, as a matter of courtesy to Mr Reynolds, given his concerns about the footage, ITV said that it could confirm that ITN's archive records had now been amended, making it clear there had been a complaint about this footage, and very careful consideration would be given before this footage was used in future.

## **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.

In reaching its decision, Ofcom considered all the relevant material provided by both parties. This included a recording and transcript of the programme as broadcast and both parties' written submissions.

## Unfair treatment

- a) Ofcom considered the complaint that Mr Reynolds was unfairly portrayed in the programme as an immigrant.

In the context of this head of complaint Ofcom took account of Rule 7.1 of Ofcom's Broadcasting Code ("the Code") which provides that broadcasters must avoid unjust or unfair treatment of individuals or organisations in programmes. Ofcom also had regard to Practice 7.9 of the Code, which states that broadcasters must take reasonable care to satisfy themselves that material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation.

Ofcom noted that the footage complained of had been filmed approximately 10 years ago when Mr Reynolds said that his hair had been much longer than it was now. The footage showed members of the public of mixed ethnicity on a busy street, it lasted for approximately 10 seconds and a graphic device had been used which provided a tunnel view of the footage, in that the footage only appeared in a circle centrally on the screen, the rest of the screen was dark.

Ofcom considered that in the brief footage (which had been focused towards the centre by the tunnel view graphic device), two men walking towards the camera who appeared centrally and for longer than others, did appear more prominently. The first of the two was Mr Reynolds. Despite the fact that Ofcom considered that Mr Reynolds appeared more prominently than others in the footage, he still featured very briefly and was not singled out in any other way. In Ofcom's view, to most viewers, Mr Reynolds would have been just another face in the crowd. Ofcom did accept however that viewers who recognised Mr Reynolds from what he looked like approximately 10 years before would be likely to have paid particular attention to him.

Ofcom went on to consider the context in which the footage was used in the programme and the message conveyed. Ofcom noted that this item was broadcast in the build up to the General Election and reported on a "*statistical slip up*" by the then Prime Minister, Gordon Brown, when quoting figures to show that immigration was coming down. The programme noted that immigration was a "*contentious issue*" and briefly referred to the different immigration policies of the major political parties. The narrative over the footage complained of was as follows:

*"But immigration remains an area where Labour struggles to be heard. Today's statistical slip up won't exactly help them to get their message across".*

Ofcom considered that television viewers would be accustomed to views of crowded streets such as this being used in news programmes and documentaries to depict the British public and that, in the absence of any comment or narrative over the footage making specific allegations, viewers generally, and even viewers who recognised Mr Reynolds from the footage, would be unlikely to have understood the programme to be suggesting that the people shown, or Mr Reynolds in particular, were immigrants.

In any event, given that the length of Mr Reynolds' hair had changed over the last 10 years, Ofcom considered that only people who knew him well were likely to

have recognised him from the brief footage and that they were likely to have been aware of his true status already.

In the circumstances, Ofcom was satisfied that the programme makers had taken reasonable care not to present information in way that portrayed Mr Reynolds as an immigrant.

Ofcom has not therefore upheld the complaint in this respect.

### Privacy

In Ofcom's view, an individual's right to privacy has to be balanced against the competing rights of broadcasters to freedom of expression. Neither right as such has precedence over the other and where there is a conflict between the two it is necessary to focus on the comparative importance of the specific rights. Any justification for interfering with or restricting each right must be taken into account and any interference or restriction must be proportionate.

This is reflected in how Ofcom applies Rule 8.1 of the Code which states that any infringement of privacy in programmes, or in connection with obtaining material included in programmes, must be warranted.

- b) Ofcom considered Mr Reynolds' complaint that his privacy was unwarrantably infringed in the making of the programme in that he was filmed without his knowledge or consent.

Ofcom first considered whether or not Mr Reynolds had a legitimate expectation of privacy in relation to being filmed.

Ofcom noted that Mr Reynolds was filmed without his knowledge approximately 10 years ago while he was walking along a busy public street.

In Ofcom's view, any individual who goes out in public, even 10 years ago, must accept that they will not only be seen by other members of the public, but that they may be photographed or filmed. In Ofcom's view therefore, in the absence of other factors or aggravating circumstances, individuals would generally have no legitimate expectation that they would not be photographed or filmed while walking along a public street.

In this case, Ofcom noted that Mr Reynolds was not a public figure, that he was filmed going about his private business in a public place and that the broadcast footage of him did not disclose any information of a personal or sensitive nature or show him in an embarrassing situation. While Mr Reynolds appears to have been unaware that he was being filmed and was not therefore in a position to provide or withhold his consent, there was no suggestion that he was filmed surreptitiously or that Mr Reynolds was specifically targeted.

In the circumstances, while Ofcom noted Mr Reynolds' disquiet upon discovering that footage of him existed and continued to be stored for possible future use over which he has no control, in the absence of any special factors in relation to the filming, Ofcom did not consider he could have had a legitimate expectation of privacy in relation to the filming. Given this, it was not necessary for Ofcom to consider whether any intrusion into Mr Reynolds' private life was warranted.

Ofcom therefore found that there was no unwarranted infringement of Mr Reynolds' privacy in the making of the programme and has not upheld the complaint in this respect.

- c) Ofcom considered Mr Reynolds' complaint that his privacy was unwarrantably infringed in the programme as broadcast in that footage of him was broadcast in a programme about immigration without his consent.

Ofcom first considered whether or not Mr Reynolds had a legitimate expectation of privacy in relation to the footage of him that was broadcast in the programme.

Having found at decision head b) above that there were no special factors in relation to the filming which gave rise to a legitimate expectation of privacy, Ofcom considered whether there were any additional factors to be taken into account in relation to the footage as broadcast. Ofcom noted that Mr Reynolds was concerned that the programme had wrongly labelled him an immigrant and considered that a person's immigration status could be considered to be a private matter. However, as set out at decision head a) above, Ofcom did not consider that the programme labelled Mr Reynolds as an immigrant. As a result, in Ofcom's view there were no special factors such as those highlighted above in relation to the broadcast footage of Mr Reynolds which meant that he had a legitimate expectation of privacy in relation to the footage. Given this, it was not necessary for Ofcom to consider whether any intrusion into Mr Reynolds' private life was warranted.

Ofcom therefore found that there was no unwarranted infringement of Mr Reynolds' privacy in the programme as broadcast and has not upheld the complaint in this respect.

**Accordingly Ofcom has not upheld Mr Reynolds' complaint of unfair treatment or unwarranted infringement of privacy in either the making or broadcast of the programme.**

## Other Programmes Not in Breach

Up to 12 July 2010

Programme	Transmission Date	Broadcaster	Categories	Number of complaints
960 Babes	11/04/2010	Live 960	Sexual material	1
Age 8 and Wanting a Sex Change	19/10/2009	Channel 4	Generally accepted standards	1
America's Got Talent	27/06/2010	ITV2	Sexual material	1
BBC News	11/07/2010	BBC 1	Under 18s in programmes	2
Best of Oops TV	07/07/2010	Sky1	Animal welfare	1
Big Brother 11	09/06/2010	Channel 4	Outside of remit / other	1
Big Brother 11	18/06/2010	Channel 4	Sexual orientation discrimination/offence	1
Big Brother 11	24/06/2010	Channel 4	Generally accepted standards	7
Big Brother 11	29/06/2010	Channel 4	Religious/Beliefs discrimination/offence	15
Big Brother 11	30/06/2010	Channel 4	Religious/Beliefs discrimination/offence	5
Big Brother 11	30/06/2010	Channel 4	Generally accepted standards	1
Big Brother 11	02/07/2010	Channel 4	Premium rate services	1
Big Brother 11	02/07/2010	Channel 4	Disability discrimination/offence	2
Big Brother 11	04/07/2010	Channel 4	Generally accepted standards	2
Big Brother 11	04/07/2010	Channel 4	Drugs, smoking, solvents or alcohol	1
Big Brother 11	05/07/2010	Channel 4	Offensive language	1
Big Brother 11	08/07/2010	Channel 4	Religious/Beliefs discrimination/offence	1
Big Brother 11	08/07/2010	Channel 4	Sexual orientation discrimination/offence	1
Big Brother Live	28/06/2010	Channel 4	Generally accepted standards	1
Big Brother Live	09/07/2010	Channel 4	Religious/Beliefs discrimination/offence	1
Big Brother's Big Mouth	25/06/2010	E4	Sexual orientation discrimination/offence	1
Big Brother's Little Brother	11/07/2010	Channel 4	Gender, including Transgender discrimination	1
Britain's Got Talent	03/06/2010	ITV1	Premium rate services	1
Britain's Next Top Model	03/07/2010	Livingit	Nudity	1
Capital Breakfast With Johnny and Lisa	01/07/2010	Capital Radio	Under 18s - Coverage of sexual and other offences	1
Channel 4 News	02/07/2010	Channel 4	Due impartiality/bias	1
Channel promotion	09/06/2010	Viva	Generally accepted standards	1
Channel promotion	25/06/2010	Viva	Generally accepted standards	1
Continuity announcement	02/07/2010	Dave	Generally accepted standards	1
Continuity announcement	25/06/2010	Dave Ja Vu	Race discrimination/offence	1
Coronation Street	01/07/2010	ITV1	Due impartiality/bias	1
Coronation Street	30/06/2010	ITV1	Generally accepted	1

			standards	
Coronation Street	05/07/2010	ITV1	Race discrimination/offence	6
Dave Walls	22/06/2010	Radio Hartlepool	Drugs, smoking, solvents or alcohol	1
Did You Hear About the Morgans?	n/a	Sky Box Office	Animal welfare	1
Don't Tell the Bride	29/06/2010	BBC 3	Animal welfare	1
EastEnders	08/07/2010	BBC 1	Violence and dangerous behaviour	6
EastEnders	08/07/2010	BBC 1	Religious/Beliefs discrimination/offence	17
EastEnders	08/07/2010	BBC 1	Race discrimination/offence	3
EastEnders Omnibus	11/07/2010	BBC 1	Violence and dangerous behaviour	1
Emmerdale	07/07/2010	ITV1	Drugs, smoking, solvents or alcohol	1
Fat Families: Second Helpings	10/07/2010	Sky1	Generally accepted standards	1
Five News update	02/07/2010	Five	Violence and dangerous behaviour	1
Footballers' Wives (trailer)	04/07/2010	CBS Reality	Offensive language	1
Freerange Fridays	n/a	Food Network	Animal welfare	1
Fresh New Tunes	01/07/2010	Chart Show TV	Offensive language	1
GMTV	06/07/2010	ITV1	Age discrimination/offence	1
GMTV	01/07/2010	ITV1	Due accuracy	1
GMTV (trailer)	04/07/2010	ITV1	Race discrimination/offence	1
Grey's Anatomy	01/07/2010	Living	Generally accepted standards	1
Hannibal Rising	03/07/2010	ITV1	U18's in Programmes	1
Hard Talk	26/03/2010	BBC News Channel	Generally accepted standards	1
Have I Got a Bit More News for You	03/07/2010	BBC 2	Offensive language	1
Hawksbee and Jacobs	26/06/2010	Talksport	Race discrimination/offence	1
Holby City	06/07/2010	BBC 1	Offensive language	1
Hollyoaks	29/06/2010	Channel 4	Race discrimination/offence	1
Hollyoaks	28/06/2010	Channel 4	Generally accepted standards	1
Hollyoaks	01/07/2010	Channel 4	Race discrimination/offence	1
Hollyoaks	30/06/2010	Channel 4	Race discrimination/offence	1
Hollyoaks	05/07/2010	Channel 4	Generally accepted standards	1
Hollyoaks	06/07/2010	Channel 4	Generally accepted standards	3
Hollyoaks	09/07/2010	Channel 4	Generally accepted standards	1
Hollyoaks	02/07/2010	E4	Generally accepted standards	1
Hollyoaks	05/07/2010	E4	Generally accepted standards	1
Hollyoaks Music Show	26/06/2010	Channel 4	Under 18s in programmes	1
iCarly	30/04/2010	Nickelodeon	Violence and dangerous behaviour	1
Identity	05/07/2010	ITV1	Generally accepted standards	2
Identity (trailer)	06/07/2010	ITV1	Generally accepted	1

			standards	
Igam Ogam	03/07/2010	Five	Offensive language	1
I'm Sorry I Haven't a Clue	27/06/2010	BBC Radio 4	Offensive language	1
I'm Sorry I Haven't a Clue	28/06/2010	BBC Radio 4	Offensive language	1
I'm Sorry I Haven't a Clue	28/06/2010	BBC Radio 4	Race discrimination/offence	1
I'm Sorry I Haven't a Clue	04/07/2010	BBC Radio 4	Offensive language	1
Isle of Wight Festival 2010 Highlights	14/06/2010	ITV2	Offensive language	1
ITV News	02/07/2010	ITV1	Violence and dangerous behaviour	1
ITV News	06/07/2010	ITV1	Due accuracy	1
ITV News	29/06/2010	ITV1	Generally accepted standards	2
ITV News	01/07/2010	ITV1	Generally accepted standards	1
ITV News	28/06/2010	ITV1	Race discrimination/offence	1
Jonas (trailer)	03/07/2010	Disney Channel	Harm	1
Kate Lawler	06/07/2010	Kerrang Radio	Generally accepted standards	1
Lady Gaga - Alejandro	04/07/2010	4Music	Sexual material	1
Lady Gaga - Alejandro	06/07/2010	4Music	Sexual material	1
Law and Order: Special Victims Unit	29/06/2010	Hallmark	Animal welfare	1
Lee Nelson's Well Good Show	15/06/2010	BBC 3	Generally accepted standards	1
Lee Nelson's Well Good Show	14/06/2010	BBC 3	Generally accepted standards	1
Lee Nelson's Well Good Show	01/07/2010	BBC 3	Generally accepted standards	1
Live at Five	07/07/2010	Sky News	Crime	1
Live from Studio Five	29/06/2010	Five	Generally accepted standards	1
Location, Location, Location	01/07/2010	Channel 4	Violence and dangerous behaviour	1
Loose Women	21/06/2010	ITV1	Due impartiality/bias	1
Match of the Day Live	29/06/2010	BBC 1	Race discrimination/offence	1
Match of the Day Live	23/06/2010	BBC 1	Generally accepted standards	1
Midsomer Murders	28/06/2010	ITV1	Offensive language	2
My Family	09/07/2010	BBC 1	Disability discrimination/offence	2
My Family Christmas Special	30/06/2010	Gold	Animal welfare	1
Never Mind the Buzzcocks	04/07/2010	Dave	Race discrimination/offence	1
New Home DIY	26/06/2010	Discovery Shed	Harm	1
News	16/06/2010	Press TV	Due accuracy	1
Newsnight	05/07/2010	BBC 2	Disability discrimination/offence	1
Newspaper Review	12/07/2010	Sky News	Generally accepted standards	1
North East Tonight	24/06/2010	ITV1 Tyne Tees	Due impartiality/bias	1
Peckham Finishing School for Girls	17/06/2010	BBC 3	Race discrimination/offence	1
Peckham Finishing School	01/07/2010	BBC 3	Race discrimination/offence	1

for Girls				
Peckham Finishing School for Girls	16/06/2010	BBC 3	Race discrimination/offence	1
Pineapple Dance Studios Finale	28/06/2010	Sky1	Disability discrimination/offence	1
Psychic Sally	22/06/2010	Living TV	Generally accepted standards	1
Rev	28/06/2010	BBC 2	Religious/Beliefs discrimination/offence	1
Rev	05/07/2010	BBC 2	Religious/Beliefs discrimination/offence	1
Rihanna "Rude Boy"	01/07/2010	Galaxy Birmingham	Sexual material	1
Roast På Berns	10/05/2010	Kanal 5	Race discrimination/offence	1
Roberto	07/07/2010	Capital Radio	Religious/Beliefs discrimination/offence	1
Rope	01/07/2010	Film 4	Under 18s - Coverage of sexual and other offences	1
Russell Brand: Scandalous	03/07/2010	Channel 4	Religious/Beliefs discrimination/offence	1
Russell Brand: Scandalous	03/07/2010	Channel 4	Generally accepted standards	1
Russell Brand: Scandalous	03/07/2010	Channel 4	Offensive language	2
Saturday Kitchen Live	03/07/2010	BBC 1	Harm	1
Sky News	30/06/2010	Sky News	Race discrimination/offence	2
Sky News	01/07/2010	Sky News	Due accuracy	1
Sky News	02/07/2010	Sky News	Violence and dangerous behaviour	1
Sky News	03/07/2010	Sky News	Offensive language	1
Sky News	04/07/2010	Sky News	Animal welfare	1
Sky News	07/07/2010	Sky News	Crime	1
Sky News	07/07/2010	Sky News	Generally accepted standards	1
Stand Up for the Week	25/06/2010	Channel 4	Drugs, smoking, solvents or alcohol	2
Stand Up for the Week	25/06/2010	Channel 4	Generally accepted standards	4
Stand Up for the Week	09/07/2010	Channel 4	Race discrimination/offence	1
Stand Up for the Week	11/07/2010	Channel 4	Generally accepted standards	1
The 5 O'Clock Show	30/06/2010	Channel 4	Sexual material	1
The Bill	29/06/2010	ITV1	Suicide and self harm	1
The Bill	29/06/2010	ITV1	Generally accepted standards	2
The Early Show	24/06/2010	BBC Radio Devon	Gender, including Transgender discrimination	1
The Fox Attack Twins	01/07/2010	BBC 1	Violence and dangerous behaviour	1
The Jeremy Kyle Show	08/07/2010	ITV1	Generally accepted standards	1
The Morning Show	15/06/2010	Radio Hartlepool	Drugs, smoking, solvents or alcohol	1
The Untold Great Fire of London	30/06/2010	Channel 4	Violence and dangerous behaviour	3
The Weakest Link	05/07/2010	BBC 1	Sexual material	1
The West Country Tonight	01/07/2010	ITV1 West	Generally accepted	1

			standards	
This Morning	05/07/2010	ITV1	Sexual material	1
This Week	24/06/2010	BBC 1	Race discrimination/offence	4
Time Team Special	28/06/2010	Channel 4	Materially misleading	1
Today	29/06/2010	BBC Radio 4	Race discrimination/offence	1
Tom and Jerry	25/06/2010	Boomerang	Under 18s in programmes	1
Top 5 UK RawTalent	30/06/2010	Flava	Disability discrimination/offence	1
Top Gear	30/06/2010	BBC 2	Crime	1
Top Gear	23/06/2010	Dave Ja Vu	Race discrimination/offence	1
Tour De France 2010 Live	05/07/2010	ITV4	COSTA	1
Trisha Goddard	11/06/2010	Five	Premium rate services	1
Two and a Half Men	20/06/2010	Paramount Comedy	Sexual orientation discrimination/offence	1
Underage and Having Sex	05/07/2010	Channel 4	Generally accepted standards	1
World Cup Live	n/a	ITV1	Advertising/editorial separation	1
World Cup Live	23/06/2010	ITV1	Race discrimination/offence	2
World Cup Live	26/06/2010	ITV1	Race discrimination/offence	1
World Cup Live	28/06/2010	ITV1	Race discrimination/offence	3
World Cup Live: Holland v Uruguay	06/07/2010	ITV1	Due impartiality/bias	1
World Cup Live: Uruguay v Ghana	02/07/2010	ITV1	Race discrimination/offence	2
World Cup Live: Uruguay v Ghana	02/07/2010	ITV1	Due impartiality/bias	3
Wynsors Shoes sponsorship of ITV Granada Weather	11/07/2010	ITV1 Granada	Sponsorship	1