

# **Ofcom Broadcast Bulletin**

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## Introduction

Under the Communications Act 2003, Ofcom has a duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives<sup>1</sup>, Ofcom must include these standards in a code or codes. These are listed below.

The Broadcast Bulletin reports on the outcome of investigations into alleged breaches of those Ofcom codes, as well as licence conditions with which broadcasters regulated by Ofcom are required to comply. These include:

- a) Ofcom's Broadcasting Code ("the Code"), which, can be found at:  
<http://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/broadcast-code/>.
- b) the Code on the Scheduling of Television Advertising ("COSTA") which 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://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/advert-code/>.
- c) certain sections of the BCAP Code: the UK Code of Broadcast Advertising, which relate to those areas of the BCAP Code for which Ofcom retains regulatory responsibility. These include:
  - the prohibition on 'political' advertising;
  - sponsorship and product placement on television (see Rules 9.13, 9.16 and 9.17 of the Code) and all commercial communications in radio programming (see Rules 10.6 to 10.8 of the Code);
  - 'participation TV' advertising. This includes long-form advertising predicated on premium rate telephone services – most notably chat (including 'adult' chat), 'psychic' readings and dedicated quiz TV (Call TV quiz services). Ofcom is also responsible for regulating gambling, dating and 'message board' material where these are broadcast as advertising<sup>2</sup>.

The BCAP Code is at: [www.bcap.org.uk/The-Codes/BCAP-Code.aspx](http://www.bcap.org.uk/The-Codes/BCAP-Code.aspx)

- d) other licence conditions which broadcasters must comply with, such as requirements to pay fees and submit information which enables Ofcom to carry out its statutory duties. Further information on television and radio licences can be found at: <http://licensing.ofcom.org.uk/tv-broadcast-licences/> and <http://licensing.ofcom.org.uk/radio-broadcast-licensing/>.

Other codes and requirements 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://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/>

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.

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<sup>1</sup> The relevant legislation is set out in detail in Annex 1 of the Code.

<sup>2</sup> BCAP and ASA continue to regulate conventional teleshopping content and spot advertising for these types of services where it is permitted. Ofcom remains responsible for statutory sanctions in all advertising cases

## Note to Broadcasters

### Extension of pilot period: on air references to websites used for paid-for viewer participation and interaction

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#### The pilot period: background

In a Note to Broadcasters in issue 188 of the Broadcast Bulletin<sup>1</sup>, published on 22 August 2011, Ofcom announced the terms of a pilot period during which websites could be referred to on air as acceptable routes for paid-for audience participation or interaction with programmes, subject to certain conditions.

Rule 9.26 of the Code currently prohibits paid interaction with programmes other than by "...means of premium rate telephone services or other telephony services based on similar revenue-sharing arrangements". The pilot period was intended to offer an opportunity to test a potential relaxation of this rule, allowing the use of web-based routes for paid participation in viewer voting schemes and competitions publicised within programmes.

The pilot period began on Monday 22 August 2011 and is due to end on Monday 20 August 2012.

We anticipated that the pilot period would generate sufficient information about all aspects of web-based paid-for voting and competition entry to allow Ofcom to undertake a re-assessment of Rule 9.26. In particular, we hoped to be able to assess any effects the potential relaxation of Rule 9.26 may have on the prevalence of programme votes and competitions, on compliance processes and on the maintenance of editorial independence.

However, we are aware of only limited use by broadcasters of the greater freedoms for audience participation and interaction provided by the pilot period. In our view this limited use is not a sufficient basis to allow proper re-consideration of Rule 9.26.

In view of this, Ofcom is extending the pilot period for a further 12 months. The extended pilot period will therefore end on **Monday 19 August 2013**.

During the extended pilot period we will be seeking information from those broadcasters that have used web-based routes for paid voting or competition entry during the first year of the pilot period. We are also likely to contact some other broadcasters to seek comments on the pilot period and decisions they may have taken in light of it.

#### The pilot period: terms

We wish to reiterate the terms of the pilot period:

- **The pilot period that began on Monday 22 August 2011 will now end on Monday 19 August 2013.**

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<sup>1</sup> The announcement of the pilot period can be found at:  
<http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb188/obb188.pdf>

- **The pilot period applies only to audience voting and competition schemes.**  
The pilot period therefore does not allow on air references to websites as a means for paid-for audience interaction with or participation in programmes for any other reasons such as advice from a studio guest, submitting comments or views on news stories or taking part in TV call-ins.
- **A PRS means of entry must be one of the routes available, and third party verification will therefore apply across all available routes.**
- **Provided that all the above conditions are met, self-standing websites or apps downloadable to mobile phones and related devices, or both, may be referred to on air as means for viewers to vote or submit competition entries, subject to other relevant Code rules.**

Websites, apps and mobile devices are proprietary communication tools whose branding and web addresses amount to “products” under Ofcom’s rules (as opposed to generic means of communication such as the public telephone network). Broadcasters must be mindful of the need to ensure that **references to proprietary properties are not promotional or unduly prominent – in the context of voting shows and competitions – and must comply with Rules 9.1 to 9.5 of the Code.**

Where a vote or competition entry is free (including where no more than normal carriage cost is chargeable) any means of contact may be used: Rule 9.26 does not apply.

Ofcom will be paying close attention to the use of such interaction during the extended pilot period and reminds broadcasters of the need to carry out sufficient testing of new approaches to interaction (see Ofcom’s decisions regarding *Big Brother: Live Final*<sup>2</sup> and *Britain’s Got Talent*<sup>3</sup>).

After the extended pilot period Ofcom will assess its impact and associated issues. If appropriate in the light of that assessment we may decide to undertake a more wide-ranging formal review of this area of the Code and its application.

Broadcasters should contact John Stables at Ofcom ([john.stables@ofcom.org.uk](mailto:john.stables@ofcom.org.uk)) if they have any questions about the extended pilot period.

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<sup>2</sup> Ofcom Decision: *Big Brother: Live Final*, Channel 5, 11 November 2011, available to view at: 21:00<http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb2001/obb201.pdf>

<sup>3</sup> Ofcom Decision: *Britain’s Got Talent*, ITV1, 6 May 2012, available to view at: 19:30<http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb210/obb210.pdf>

## Standards cases

### In Breach

#### Sikh Channel Youth Show

*Sikh Channel, 26 April 2012, 22:00*

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##### Introduction

The Sikh Channel is in the religious section of the Sky Electronic Programme Guide (“EPG”), and is aimed at the Sikh community in the UK. The *Sikh Channel Youth Show* was a weekly live programme broadcast in Punjabi. The licence for the Sikh Channel is held by TV Legal Limited (“TV Legal” or “the Licensee”). This programme consisted of a live discussion, with a presenter and guest and an audience broadcast from a Sikh Gurdwara<sup>1</sup>.

The discussion touched on a range of subjects of interest to the Sikh community and various reported actions taken by the Indian Government towards the Sikh community in India, including Operation Blue Star<sup>2</sup>.

A viewer alerted Ofcom to the programme, stating that the broadcast contained “inflammatory” content about the Indian Government and “no alternative views” concerning the situation of the Sikh community in India. On assessing the content, Ofcom noted the following statements made within the programme:

*“All of this [i.e. negative attitudes towards the Sikh community in Canada] again organised at the behest of the Indian Government. The third agency within India, and be under no misconceptions about this, has been carrying out a cover war against the Sikhs in the diaspora outside...It’s not a myth: They’re at [indecipherable] Road – you can go and see their offices there – it’s the research and analysis wing of the Indian Government. They’re absolutely involved in this. There is example after example that will show that there is an agenda to malign the Sikh community outside of India”.*

*“[The Indian Government’s] problem really centres around the idea that we consider ourselves a nation, that we consider ourselves as a sovereign nation.”*

*“Since ’84, hopefully, I believe that the Sikh nation is coming to the conclusion that this is not a fight for independence, this is a fight for survival...The environment in India is so toxic that really Sikhism cannot survive there in its present form, and in its truest form, within India as it stands”.*

*“[In relation to hanging of a Sikh prisoner] The Indian legal system is a joke”.*

*“Our homeland is still in the Punjab, which happens to be under the occupation of India”.*

*“Is it always India to blame? Well in many cases, yes it is”.*

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<sup>1</sup> A Gurdwara is a Sikh place of worship.

<sup>2</sup> Operation Blue Star was the name given to the Indian military action in June 1984 against Sikh separatists occupying the Golden Temple in Amritsar, a Sikh holy place.

*“In the context of India, it’s almost impossible whilst we stay within India to have a political dialogue and have a true Sikh leader emerge from there”.*

*“We don’t have a future in the Indian State”.*

Ofcom considered the material raised issues warranting investigation under Rule 5.5 of the Code which states that:

“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”.

We therefore sought the Licensee’s comments as to how this material complied with this Rule.

## **Response**

The Licensee said *Sikh Channel Youth Show*, as a “live format show”, was subject to a “compliance assessment”. In common with all live programmes, once the subject matter of the programme was established, an “impartiality assessment” was conducted, and as appropriate “additional guests, responses or statements are sought as required”. TV Legal said that the programme was organised by members of the London Sikh community to discuss the “recent socio-political history of the Sikh community in India”. In addition, the Licensee said that the organisers and presenters of the programme were “well known to the Sikh Channel team with no history of complaints or problems attributed to them”.

TV Legal said that Sikh Channel is a “small community funded channel”, “always endeavours to get all viewpoints across in order to ensure impartiality” and conducts “crisis meetings” whenever “it is deemed that compliance or impartiality could or has been compromised.” In relation to the subject of this programme, TV Legal said: “The topic of establishment of a Sikh homeland is an old and complex issue”. According to TV Legal: “Given the nature of the subject...As viewpoints are often diametrically opposed, Sikh Channel has experienced difficulty in parties willing to attend the same platform. To counter this, we always offer, arrange and where possible broadcast shows covering the spectrum of views on this subject matter”.

Concerning the compliance of this particular programme, the Licensee said that: “Given the nature of the topic, show producers contacted representatives of all major Sikh organisations, the Indian Government affiliates, Indian National Overseas Congress and BJP<sup>3</sup>”. However, the majority of organisations contacted either did not respond or said they would not be able to attend. This was “despite the persistent, determined and continuing efforts of our producers and researchers.” In light of this, TV Legal said that “participants were advised and agreed to our strict policy of impartiality...[and] Producers were provided with media sources to be used for references purposes during the course of the show”.

TV Legal said that the Sikh Channel has collated further and extensive documentation from Indian Government commissions on violence against Sikhs and information from Amnesty International, Human Rights Watch and other

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<sup>3</sup> Bharatiya Janata Party, a Hindu nationalist party and second biggest party in the Indian legislature.

organisations to provide the Indian Government and independent viewpoints for Sikh Channel programming where the Indian Government refuse interviews or comment. In addition, the Licensee said that it now convenes monthly meetings of a “senior advisory team” for “discussion and approval” of future programming. The team consists of “members from across the political, social and religious spectrum including leaders of Indian political parties and Government organisations”.

However, the Licensee said that “as a precautionary step, we have suspended all shows that have attracted complaints or allegations or impartiality” but this has “led to an impact upon on our programming schedule and ability to deliver impartial and independent news without succumbing to undue pressure”.

In conclusion, the Licensee said that: on being notified of the complaint in this case, it had “suspended the show pending our full investigations”; and “Sikh Channel has relied upon the goodwill of Executives in ensuring compliance with OFCOM regulations. We are willing to take on and implement any recommendations you make to ensure future compliance”.

## **Decision**

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for the content of programmes as appear to it best calculated to secure the standards objectives, including that the special impartiality requirements set out in section 320 of the Act are complied with.

This standard is contained in the Code. Broadcasters are required to comply with the rules in Section Five of the Code to ensure that the impartiality requirements of the Act are complied with, including that due impartiality is preserved on matters of political or industrial controversy and matters relating to current public policy.

In reaching this decision Ofcom has taken account of the right to freedom of expression, as set out in Article 10 of the European Convention on Human Rights. The right to freedom of expression includes the freedom to hold opinions and to receive and impart information and ideas without interference by public authority regardless of frontiers. The exercise of these freedoms may be subject to such restrictions and conditions as are prescribed by law and necessary in a democratic society, in the interests, for example, of national security, territorial integrity or public safety, for the prevention of disorder or crime, or the protection of the rights of others. 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 Code and the requirements of statutory and common law.

It is not part of Ofcom’s remit to question or investigate the validity of the political views expressed in a case like the current one, but to require the broadcaster to comply with the relevant rules in the Code. The Code does not prohibit broadcasters from discussing any controversial subject or including any particular point of view in a programme. To do so would be an unacceptable restriction on a broadcaster’s freedom of expression.

However, the broadcaster’s right to freedom of expression is not absolute. In carrying out its duties, Ofcom must balance the right to freedom of expression on one hand, with the requirement in the Code to preserve “due impartiality” on matters relating to political or industrial controversy or matters relating to current public policy. Ofcom 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. Therefore, while 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 firstly had to ascertain whether the requirements of Section Five of the Code should be applied: that is, whether the programme in his case concerned matters of political or industrial controversy or a matter relating to current public policy.

This broadcast consisted of a live discussion programme that covered a series of topics of interest to the Sikh community. We noted that at various times during the programme, various contributors referred to the policies and actions of the Indian Government towards the Sikh community in India and elsewhere. There were various references, as outlined in the Introduction, which dealt with: the current and past policies and actions of the Indian Government towards the Sikh community in India, and in particular, the Punjab; and, the political controversy surrounding the demands for an independent homeland for the Sikh community in India. Ofcom therefore considered that the programme dealt with matters of political controversy and relating to current public policy. Rule 5.5 was therefore applicable.

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 were: either critical of the Indian state’s policy and actions in relation to its treatment to the Sikh community in India; or could be interpreted as arguing the case for an independent homeland for the Sikh community in India. For example, within the programme, the Indian Government was accused, variously: of committing “*genocide*” against the Sikh community; “*malign[ing] the Sikh community outside of India*”; and putting the Punjab under “*occupation*”. In addition, there were views expressed demanding an independent homeland for the Sikh community in India, because, for example, the Sikhs “*don’t have a future in the Indian State*”, and “*Sikhism cannot survive [in India] in its present form, and in its truest form, within India as it stands*”.

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 policy and actions of the Indian State in relation to the Sikh community within India, and in particular, the Punjab; or supportive of the arguments against an independent homeland for the Sikh community within India. Therefore, this programme when considered alone gave a one-sided view on these matters of political controversy and current public policy.

Ofcom recognises that there may be a number of ways that broadcasters can ensure that alternative viewpoints are included within its programming. For example, they could: summarise within the programme what those alternative points of view are; or include interviewees to express alternative views. In this case, however the programme did not provide any alternative views on these matters of political

controversy and current public policy. Further, and importantly, the broadcaster did not provide any evidence of alternative views on these issues in any 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).

In reaching our decision, we took account of the representations made by TV Legal. First, we noted the Licensee's representation that it is a "small community funded channel". Ofcom points out in response that, irrespective of the size of any holder of an Ofcom television service licensee, it must comply with the Code, including the due impartiality requirements in Section Five.

Second, we noted the Licensee's submission that the programme's producers contacted various organisations, including "Indian Government affiliates" to participate in the programme. However, the various organisations contacted either did not respond or said they would not be able to attend. Merely by attempting to obtain the participation within the programme of an organisation to provide an alternative viewpoint, the broadcaster did not discharge its obligations under Section Five of the Code. We noted also other measures that TV Legal said it took to try to comply with the Code. These included advising "participants" about, and obtaining their agreement to, "our strict policy of impartiality" and providing the programme's producers "with media sources to be used for references purposes during the course of the show". Taken together however these compliance measures were clearly inadequate since they did not result in alternative views being expressed adequately in the broadcast.

It is essential that current affairs programmes are able to explore and examine such issues and contributors are able to take robust and highly critical positions. However, depending on the specifics of the issue, it may be necessary for the broadcaster, 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 some form.

We have noted the various steps taken by the Licensee set out in the Response section of this decision to ensure compliance with the Code in future. However, in this case, TV Legal did not provide alternative viewpoints as appropriate, in compliance with the Code. Given the above, therefore, Ofcom considered the programme to be in breach of Rule 5.5 of the Code.

We are concerned that the breach in this case comes after two previous contraventions of the Code rules covering due impartiality and elections recorded against TV Legal: in Ofcom Broadcast Bulletin 164<sup>4</sup>; and Ofcom Broadcast Bulletin 192<sup>5</sup>. In particular, we are concerned that the breach in this case follows relatively soon after a similar breach recorded in Broadcast Bulletin 192. In Ofcom's view, in the present case, the Licensee has not provided evidence as to how it had changed its compliance processes in relation to the due impartiality requirements of the Code, following the earlier breach of the Code. Ofcom is therefore requiring the Licensee to attend a meeting to explain its compliance procedures in this area. The Licensee is

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<sup>4</sup> <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb164/issue164.pdf>

<sup>5</sup> <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb192/obb192.pdf>

also put on notice that, following that meeting, any further similar contraventions of the Code will be considered for further regulatory action by Ofcom.

### **Breach of Rule 5.5**

## Not in Breach

### Homeland

Channel 4, 4 March 2012 and 8 April 2012, 21:00

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#### Introduction

*Homeland* is an intense US drama series about a soldier, Sergeant Nicolas Brody, taken prisoner during the invasion of Iraq in 2003 but who is rescued and returns to America after eight years in captivity. A CIA officer, Carrie Mathison, is however convinced that the intelligence that led to Sergeant Brody's rescue was suspect and that the soldier may be connected to an Al-Qaeda terrorist plot to be carried out in America.

A viewer alerted Ofcom to potentially inappropriate content – a sex scene – at the start of the programme broadcast on 4 March at 21:00. Separately another viewer alerted us to the fact that the opening titles of the programme shown on 8 April contained two uses of offensive language at approximately 50 seconds and 53 seconds into the broadcast.

The sex scene was between a Prince Farid of Saudi Arabia and his girlfriend, Lynne, who unknown to the Prince is spying on his activities for the CIA. This scene was broadcast at around 21:07 and lasted in total about 18 seconds. It featured consensual sex between the couple and, because the two characters were covered by bed clothes, showed no nudity below the waist.

Ofcom noted the opening titles of this programme of 8 April 2012 (and the whole series of eight programmes) contained a montage of real news footage and audio preceding and following actual terrorist attacks, interspersed with images of the main characters from the series. One sequence in the opening titles alludes to the fact that the Carrie Mathison missed an opportunity to intercept the terrorist attack in America on 11 September 2001 and how Sergeant Brody is questioning his actions:

(over an image of Sergeant Brody in a maze)

Sergeant Brody  
whispering:                   *"what the fuck are you doing?"*

(over an image of Sergeant Brody and Carrie Mathison in a maze)

Carrie Mathison:           *"Ah fuck. I missed something once before. I won't, I can't let that happen again."*

On viewing the opening titles, in Ofcom's opinion both examples of offensive language were not clearly audible.

Having viewed the material, we considered it raised issues warranting investigation under Rule 1.6 of the Code which states:

"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."

Ofcom therefore requested comments from Channel 4 Television Corporation ("Channel 4" or "the Licensee") about how the broadcast of this material - both the sex scene and the offensive language - complied with this rule.

## Response

The Licensee said that Rule 1.6 states that the strongest material should appear later in the schedule and that while the sex scene and language used in the first part of the programmes was strong, it was not the strongest material in these episodes.

Channel 4 said that it takes its scheduling obligations seriously and all programmes are carefully considered and scheduled at an appropriate time so that children are protected from material that is unsuitable for them. The Licensee explained that it takes care to avoid an abrupt transition to stronger language or scenes of a sexual nature at the watershed and has systems in place to ensure that all programmes that do contain more adult material are preceded by a clear and appropriate warning to viewers to this effect. Channel 4 said it is aware of and consults the guidance provided by Ofcom in "Protecting the Under-Eighteens: Observing the watershed on television and music videos"<sup>1</sup>.

### Sex scene

Channel 4 said that the series from the first episode contained "adult issues including sexual scenes". The relationship between Lynne and the Prince, the Licensee argued, was relevant to the narrative because Lynne is not only the Prince's girlfriend and sexual partner but also a CIA spy providing intelligence on the Prince's activities to Carrie Mathison, who suspects him of being involved in a terrorist plot. Immediately after having sex with the Prince, while Farid is out of the bedroom for a few moments, Lynne is shown downloading data from the Prince's Blackberry.

Channel 4 stated that the scene was editorially justified because it illustrates the nature of the relationship between Lynne and the Prince in the drama (Lynne is his girlfriend but is also in a subservient role as his employee, hiring girls for his sexual pleasure), and adds tension since it underlines that the Prince can kill Lynne at any moment if he discovers she is working for the CIA.

Channel 4 pointed out that the episode was preceded by a clear warning ("*Now on 4 tonight Homeland which contains nudity, sexual scenes and strong language from the very start and throughout*"), and that the sex scene was brief and was limited in the nudity featured.

### Offensive language in opening titles

The Licensee said that they are used to create a tense and dramatic build up to the programme and give viewers a real impression of what to expect from the series. Channel 4 said that the use of strong language was justified within the context of the opening titles as both uses of the word were considered carefully and editorially chosen to establish and reflect both Sergeant Brody's and Carrie Mathison's characters. Additionally, "the opening titles for a series are an increasingly important and legitimate tool used to draw the desired audience into sticking with the episode and indeed the series".

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<sup>1</sup> Published 30 September 2011:

<http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/watershed-on-tv.pdf>

Channel 4 argued that “[g]iven that it [Homeland] is an acquisition, we considered that it would have been very difficult to edit out the strong language without losing the drama and tension created by the opening titles”. It added that “the use of strong language in the opening titles of Homeland was integral stylistically to the sequence and given the nature of the drama series it was editorially justified”, but the Licensee decided that each episode must carry an appropriate warning for ‘strong language from the very start’” such as the one broadcast on 8 April 2012:

*“Setting a trap to catch a dead man now on Four in Homeland, which contains violent scenes and strong language from the very start and throughout.”*

The Licensee argued that Ofcom must take account of the relevant context, in particular that the episode complained of was one part of the eight in the series, and by 8 April the programme was sufficiently well established to meet the expectations of the audience as regards the opening titles. Further, it considered that given the opening titles were the same throughout the series and there had been editorially justified strong language in every episode, the audience would have expected strong language to run throughout the series from the start.

The Licensee said that taking into consideration its remit<sup>2</sup>, “we do not believe this material was beyond the likely expectations of a Channel 4 audience, and we do not believe it would have offended a majority of viewers”.

## Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, one of which is that “persons under the age of eighteen are protected”. This objective is reflected in Section One of the Code.

Rule 1.6 states that the transition to more adult material must not be unduly abrupt at the watershed, and adds that the strongest material should appear later in the schedule.

When applying the requirement to protect persons under the age of eighteen, 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 unnecessary interference by public authority. However, the broadcaster’s right to freedom of expression is not absolute. In carrying out its duties, Ofcom must balance the right to freedom of expression on one hand, with the requirement in the Code to protect under-eighteens.

As Ofcom noted in its recent guidance on observing the watershed on television<sup>3</sup>, “[c]ontent that commences after the watershed should observe a smooth transition to more adult content. It should not commence with the strongest material.”

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<sup>2</sup> Under the Communications Act 2003, Channel 4 has a public service remit to provide a broad range of high quality and diverse programming which, in particular: demonstrates innovation, experiment and creativity; appeals to the tastes and interests of a culturally diverse society; and exhibits distinctive character.

<sup>3</sup> Published 30 September 2011:  
<http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/watershed-on-tv.pdf>

Recognising that children may not have ceased viewing at exactly 21:00, Rule 1.6 is designed to avoid a sudden change to more adult material that would only be deemed suitable for a post-watershed broadcast.

### Sex scene

Ofcom considered first whether this scene broadcast on 4 March complied with the Code. It was broadcast at around 21:07 and had a duration in total of around 18 seconds. It showed the couple in bed having consensual sex and was largely filmed in wide shot. Since the couple were covered by sheets, Lynne's naked breasts were visible but no other nudity was shown. When the sexual act was over, the Prince left the room temporarily and Lynne used this opportunity – at great peril to herself – to pick up his mobile phone from the bed and download material.

Rule 1.6 is not prescriptive. It does not stipulate a certain set time after the watershed when broadcasters may start to transmit more challenging material – whether of a sexual nature or the most offensive language. What constitutes an “unduly abrupt” transition to more adult material under Rule 1.6 depends on the context: for example, factors such as the editorial content of the programme, the time it is broadcast, warnings given and the likely expectations of the audience.

Ofcom therefore examined the context to determine whether there was sufficient editorial justification for broadcasting this sex scene around seven minutes after the 21:00 watershed.

We noted that *Homeland* is an intense drama series of eight episodes set in the world of international terrorism and of the spies whose job is to combat that threat. The series revolves around a complex investigation into the true loyalties and motives of an American soldier who has been missing in action for eight years, and been imprisoned and tortured, before his unexpected return to the United States. Before the sex scene was shown, Carrie Mathison (who suspects Prince Farid is involved with a terrorist plot), had asked Lynne to download information from the Prince's mobile phone. Lynne had reluctantly agreed to do this, aware that if discovered she would be killed. Immediately after having sex with the Prince, in a tense scene Lynne picked up the mobile phone from the bed and downloaded the information. The sex scene was therefore linked to the plot of the thriller.

Ofcom observed that: the sex scene was quite brief, lasting around 18 seconds, and filmed in long and mid-shot; and contained no shots of nudity of either character below the waist. The sex scene and nudity included within it were therefore limited. Further we noted that previous episodes had featured fairly strong sex scenes (for example between Sergeant Brody and his wife in the first programme); and that the programme of 4 March was preceded by a clear warning of “*nudity, sexual scenes and strong language from the very start and throughout*”.

*Homeland* is a series that dealt with complex adult themes including terrorism and international security, and their powerful impact on the personal lives of the characters involved. Taking all these factors into account, Ofcom concluded that the sex scene in context did have sufficient editorial justification, did not exceed audience expectations, and the transition to more adult material after the watershed was not unduly abrupt.

Rule 1.6 was therefore not breached.

### Offensive language in opening titles

Ofcom noted that the opening titles used throughout this series of *Homeland* each contained two uses of the word “fuck”. These occurred 50 and 53 seconds into the broadcast on 8 April, which started at 21:00. This very strong language was therefore broadcast within the first minute after the 21:00 watershed. Ofcom’s research<sup>4</sup> confirms that the word “fuck” and other variations of this word are regarded as examples of the most offensive language with the capacity to cause a considerable degree of offence, particularly when used repeatedly.

As already pointed out Rule 1.6 is not prescriptive. It does not stipulate a certain set time after the watershed when broadcasters may start to transmit the most offensive language. However bearing in mind that there is an absolute prohibition on the most offensive language immediately before 21:00 (Rule 1.14), a broadcaster would need very strong reasons to justify starting to broadcast the most offensive language – especially when used repeatedly – in the period *immediately* after the 21:00 watershed. This is not a new principle when Ofcom applies Rule 1.6 but follows from the requirement that the “transition to more adult material must not be unduly abrupt at the watershed (in the case of television)...”. Ofcom’s concern to ensure that broadcasters should not use the most offensive language immediately after the watershed without sufficient justification was made clear in recent published findings<sup>5</sup>.

Ofcom therefore examined the context to determine whether there was sufficient editorial justification for broadcasting this strong language on two occasions one minute after the 21:00 watershed.

The opening titles of *Homeland* were very stylised and contained a montage of news footage and audio relating to the prelude to and aftermath of real terrorists attacks, interspersed with images of the main characters in the series. The opening titles provided a dramatic introduction to each episode, alluded to how Carrie Mathison missed an opportunity to stop the 9/11 terrorist attack and how the American war hero Sergeant Brody questioned his actions, so giving viewers an impression of what to expect from the series.

Ofcom noted that the strong language was not clearly audible: the two characters whispered the words and jazz music was playing simultaneously. The language was not broadcast in a simple linear narrative but in a fractured montage of sounds and images. This would therefore be likely to lessen the potential for offence. The potential for offence was also lessened by the fact that the character speaking was not shown and the words were not aimed at an individual: our research suggests that audiences find strong language more offensive when directed at an individual.

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<sup>4</sup> Audience attitudes towards offensive language on television and radio, August 2010 (<http://stakeholders.ofcom.org.uk/binaries/research/tv-research/offensive-lang.pdf>)  
Language and Sexual Imagery in Broadcasting: A contextual investigation, September 2005 (<http://stakeholders.ofcom.org.uk/binaries/research/radio-research/language.pdf>)

<sup>5</sup> See breach finding on *Playing it Straight* on E4 published on 11 June 2012 in Bulletin 207: <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/989142/obb207.pdf>  
See breach finding regarding Big Brother on Channel 5 published on 19 December 2011 in Bulletin 196: <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb196/obb196.pdf>.

Further, Ofcom considered it is likely that viewers of this series would have expected some degree of offensive language given the time of broadcast and nature of the channel and programme, and we noted the clear warning immediately before the programme started.

We noted the Licensee's argument that there might have been some practical difficulties in editing out the strong language from the opening titles (should this have been judged necessary) and it may have lessened its dramatic impact. We do not find this argument either credible or persuasive and remind broadcasters that they have a continuing responsibility to comply with the requirements of the Code. In cases such as this, where the material is an acquisition that was originally broadcast on a pay-per-view channel in America (i.e. not broadcast free to air), the UK broadcaster must take all necessary measures to comply with the Code.

However, on balance, taking particular account of the almost inaudible nature of the content, Ofcom's view is the repeated use of the most offensive language in the opening titles of a programme in this particular case would not have exceeded the expectations of viewers.

Ofcom reiterates to all broadcasters the need to take great care when considering whether to include strong language in opening titles immediately after the watershed because only limited context can be provided to viewers before they watch them and viewers may be more likely to come across the material unawares. Ofcom will only consider the use of the most offensive language in opening title sequences broadcast after the watershed to comply with the Code in exceptional circumstances, and Ofcom discourages the practice.

#### **Not in Breach of Rule 1.6**

## Advertising Scheduling cases

### In Breach

#### Advertising minutage

*UMP Movies, 2 to 14 April 2012, various times*

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##### Introduction

UMP Movies is an entertainment channel specialising in Bollywood films. It is owned and operated by UTV Entertainment Television Limited.

Rule 4 of the Code on the Scheduling of Television Advertising (“COSTA”) states:

“time devoted to television advertising and teleshopping spots on any channel in any one hour must not exceed 12 minutes.”

During its routine monitoring of COSTA compliance, Ofcom identified nine clock hours on UMP Movies between 2 and 14 April 2012 which contained more than the permitted 12 minutes of advertising. The amount of excess advertising in these hours ranged from 38 seconds to 310 seconds.

Date	Clock hour	Apparent minutage/seconds broadcast
02/04/2012	20	13:07
03/04/2012	23	14:35
06/04/2012	15	15:03
09/04/2012	17	17:10
10/04/2012	22	13:38
10/04/2012	23	12:34
11/04/2012	22	13:36
12/04/2012	28	14:16
14/04/2012	23	16:53

Ofcom considered the case raised issues warranted investigation in respect of Rule 4 of COSTA. We therefore asked UTV Entertainment Television Limited (or “the Licensee”) for its comments under this rule.

##### Response

The Licensee said that its analysis of the incidents revealed that discrepancies occurred “on account of overlapping break timings and the programme segments.”

The Licensee said that following its analysis, it urged relevant staff to generate reports to verify clock hours that contain an excess of 12 minutes of advertising and work alongside its ad sales team so that errors can be corrected prior to broadcast.

UTV Entertainment Television Limited regretted the errors and added that they occurred “unintentionally without any aim to derive benefits, gains or commercial minutage”.

## **Decision**

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content which it considers are best calculated to secure a number of standards objectives. One of these objectives is that “the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with”.

Articles 20 and 23 of the EU Audiovisual Media Services (AVMS) Directive set out strict limits on the amount and scheduling of television advertising. Ofcom has transposed these requirements by means of key rules in COSTA.

Ofcom noted that the Licensee significantly exceeded the permitted 12 minutes of advertising per clock hour on nine occasions. Therefore, the Licensee breached Rule 4 of COSTA in each case.

While Ofcom acknowledged the measures the Licensee put in place to improve compliance, it noted that Issue 204 of the Broadcast Bulletin<sup>1</sup> also contained breaches of Rule 4 of COSTA by UMP Movies. We were therefore concerned that similar and successive incidents had been identified in such a short space of time.

Given the extent of these breaches, Ofcom has serious concerns about the Licensee’s approach to compliance in this area. Following this finding, we do not expect any further breaches of a similar nature.

## **Breaches of Rule 4 of COSTA**

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<sup>1</sup> <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb204/obb204.pdf>

## In Breach

### Advertising scheduling

*Horse and Country, 2 to 15 May 2012*

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#### Introduction

Rule 17 of the Code on the Scheduling of Television Advertising (“COSTA”) stipulates the maximum number of advertising breaks programmes may contain:

Scheduled duration of programme (on non-PSB channels)	Number of breaks
< 26 minutes	One
26 – 45 minutes	Two
46 – 65 minutes	Three
66 – 85 minutes	Four
86 – 105 minutes	Five
106 – 125 minutes*	Six

\*for every additional 20 minutes of additional programming, a further break is permitted.

During monitoring of licensees’ compliance with COSTA, Ofcom noted that *Badminton 2011 - Cross Country* was broadcast on Horse and Country on seven occasions.

Each broadcast was approximately 300 minutes in length and contained 19 internal breaks – four more than permitted in programmes by Rule 17 of COSTA.

Ofcom considered the case raised issues warranting investigation in respect of Rule 17 of COSTA and therefore sought formal comments as to how the broadcasts complied with this rule from H&C TV Limited (or “the Licensee”), the licence holder for Horse and Country.

#### Response

The Licensee explained that the programme comprised five hours’ extended highlights of the Cross Country phase of the equestrian event. The Licensee said that it received the programme edited with four breaks per hour, and that the overruns arose due to a combination of oversight and misunderstanding of the COSTA rules on its part.

The Licensee confirmed that any future transmissions of this programme will comply with COSTA.

#### Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content which it considers are best calculated to secure a number of standards objectives. One of these objectives is that “the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with”.

Articles 20 and 23 of the EU Audiovisual Media Services (AVMS) Directive set out strict limits on the amount and scheduling of television advertising. Ofcom has transposed these requirements by means of key rules in COSTA. Ofcom undertakes routine monitoring of its licensees' compliance with COSTA.

In this case, the seven broadcasts in question contained four more breaks than were permitted, in breach of Rule 17 of COSTA. We note the Licensee's assurances on the steps taken to prevent further errors, but we were nevertheless concerned by its admission that it had misunderstood the requirements of COSTA. Ofcom will monitor Horse and Country to check its future compliance with COSTA.

### **Breach of Rule 17 of COSTA**

## In Breach

### Breach findings table

*Code on the Scheduling of Television Advertising compliance reports*

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Rule 4 of the Code on the Scheduling of Television Advertising (“COSTA”) states:

“... time devoted to television advertising and teleshopping spots on any channel must not exceed 12 minutes.”

Channel	Transmission date and time	Code and rule / licence condition	Summary finding
MTV Live <sup>1</sup>	17 May 2012, 16:00, 19:00 and 22:00	COSTA Rule 4	Ofcom noted, during monitoring, that the amount of advertising exceeded the permitted hourly allowance by 27, 22 and 17 seconds on this date, respectively.  <b>Finding: Breach</b>

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<sup>1</sup> This issue of the Broadcast Bulletin was amended after its original publication to include this decision. It was not published at the time due to an administrative error.

## Broadcast Licence Condition cases

### In Breach

#### Breach of Licence Condition

*Bay Radio (now Nation 80s) 14 – 16 March 2012*

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##### Introduction

Swansea Bay Radio Ltd, a subsidiary of Town & Country Broadcasting Ltd, owns and operates a local commercial radio service for the Swansea Bay area, which until recently was known as 'Bay Radio'.

The Licensee re-branded the Swansea Bay service during the first week of March 2012 as 'Bay Radio the 80s station'. Ofcom received a complaint which alleged that, since the re-launch, the station had changed its music policy, was broadcasting without presenters, provided only an hourly news service and was not providing local information. The station has since fully re-branded as 'Nation 80s'.

Ofcom has a statutory duty to ensure "a wide range of television and radio services which (taken as a whole) are both of high quality and calculated to appeal to a variety of tastes and interests." In local commercial radio Ofcom secures this by the use of Formats. Each station's Format includes a description of the output which each Licensee is required to provide, based on the promises originally made in its application to win the licence. Formats may be varied over time, but only with the approval of Ofcom.

The published Character of Service for the licensed service is (and remains) as follows:

A LOCAL SPEECH AND MUSIC STATION FOR THE SWANSEA AREA,  
WITH 24-HOUR NEWS, INFORMATION AND COMMENT AIMED  
PRIMARILY AT THE 35+ AGE GROUP, WITH A PREDOMINATELY GOLD  
AND EASY LISTENING MIX OF MUSIC, REGULARLY REFLECTING  
WELSH CULTURE AND LANGUAGE.

As part of the preliminary steps of investigating this complaint, the Licensee was asked to supply audio of the station's output during daytime (06.00 to 19.00 hours) for Wednesday 14, Thursday 15 and Friday 16 of March 2012.

With regards to the concerns highlighted by the complainant, we did not believe, based on the audio we heard, that the station was in breach of its Format in respect of either its music policy or the delivery of local news.

We noted that Bay Radio's music policy had indeed changed to an all "all-80s" proposition. The station's published Format requires it to play "A predominately Gold and Easy listening mix of music". Given the station's move to play tracks drawn exclusively from the 1980s, it comfortably met the requirement for 'Gold' music, albeit in a narrower sense than would have been originally intended at the time of licensing. We were also content that there were just enough tracks that could reasonably be categorised as 'easy listening', from artists such as Christopher Cross, Kenny Rogers, Air Supply and George Benson, to remain compliant with the musical aspect of the Format.

With regard to the provision of local news, Bay Radio was, contrary to the complainant's allegation, found to be broadcasting local news bulletins half-hourly during the breakfast and afternoon drive programmes. The local news bulletins were, taken as a whole across the three days, also found to be compliant with the local news requirements set out in the station's Format and were consistent with Ofcom's localness guidance.

However, with regard to the amount of speech aired by the station, we noted that Bay Radio was indeed broadcasting without presenters, except during the weekday breakfast show (07:00 -10.00). During the three hours of breakfast broadcasting on each day listened, there were five presenter links per hour, two of which focused mainly on the delivery of travel information. Outside of breakfast in the hours sampled, speech comprised solely news, travel news, twice-daily showbiz updates and hourly "What's on Where" bulletins. Over three days of listening the latter only promoted three events: a Sainsbury's Sport Relief Run in Swansea and the promotion of tickets for two shows, and a workshop, at the New Gwyn Hall in Neath.

Our preliminary view, based upon listening to the audio, was that Bay Radio was not delivering enough speech, including local material and 'comment', for its output to be compliant with the Character of Service set out in the station's existing published Format, which requires it to be "A local speech and music station for the Swansea area, with 24-hour news, information and comment." We also had concerns as to how the overall paucity of speech on the station diminished the Licensee's ability to regularly reflect "Welsh culture and language".

Ofcom wrote to the Licensee on 15 June to for its views on how, if at all, Swansea Bay Radio Ltd considered it was complying with Licence Condition 2(4) contained in Part 2 of the Schedule to the Licence. The relevant licence condition states that:

"The Licensee shall ensure that the Licensed Service accords with the proposals set out in the Annex so as to maintain the character of the Licensed Service throughout the licence period." (Section 106(1) of the Broadcasting Act 1990).

In this letter, we noted that during daytime (06.00-19.00) on the days sampled, speech represented less than 12% of the station's output (excluding advertising and sponsorship credits and promotional trails). This equated to, over the 13 hours of daytime programming, less than six minutes of speech per hour. This minutage also included news bulletins, which were usually of between two or three minutes duration.

## **Response**

In its response to Ofcom, the Licensee explained that in electing to trial Bay 80s by experimenting with a new station style, it took the view that removing the traditional presentation resource in favour of "better researched and presented local information" would result in a more popular service with "less clutter, more music and a distinctive position in the market".

It added that it should have been clear that Bay Radio was simply experimenting with its output to improve its market position in what it stated was one of the UK's most mature and competitive radio markets, and that it would have hoped Ofcom "supports and believes in innovation and experimentation by Licensees to ensure radio remains relevant and compelling in the modern media marketplace". The Licensee stated that it has always believed that Ofcom should give operators flexibility to alter services

within their agreed Format, as ultimately market forces will determine the success or failure of the commercial enterprise.

The Licensee observed that speech percentages are no longer used in any commercial radio station Formats, and that if Ofcom had felt that a certain level of speech was a defining characteristic of this service, then it had the opportunity to retain this when the station's Format was revised in 2008.

In conclusion the Licensee wrote: "Nation 80s [formerly Bay Radio] takes format compliance very seriously and whilst we believe the frequency and quality of speech and information broadcast in March was in format, should Ofcom come to a conclusion that it was not, we would wish to discuss the remedial measures to resolve the matter as quickly as possible."

## Decision

We noted the points made in the Licensee's representations.

On the basis of the audio we heard, we could not agree with the Licensee's contention that the removal of the presenters on the station (outside of breakfast) had resulted in "better researched and presented local information".

While Ofcom is supportive of the principle of radio broadcasters striving to improve their services in ways that benefit listeners, and is acutely aware of the commercial pressures faced in competitive local radio markets, broadcasters are reminded that any experiments with output should under no circumstances take the broadcast service 'out of Format'. It was also noted that the Licensee had made no attempt to discuss the proposed changes with Ofcom in advance, so it was not clear at all that Bay Radio was "experimenting" with its output.

The Licensee in its representations argued that Ofcom was seeking to prescribe a required level of speech retrospectively, and in effect returning to an earlier regulatory regime. In the case of Bay Radio, its 'Character of Service' is drawn directly from the Format written by the Licensee itself at the time of its application for the Swansea licence in 2005. Ofcom's position is that we rely on Licensees to take a reasonable view on the words in the Character of Service and their meaning, although we have always reserved the right to re-introduce 'quotas' to individual station Formats if we consider that stations are not complying with the spirit of the Format. On this occasion, the 12% speech figure used with regard to Bay Radio's monitored output was simply used as illustrative evidence that it was delivering a very low level of speech for a station that is licensed to be "*A local speech and music station for the Swansea area, with 24 news, information and comment.*"

Based on the three days monitored but also taking into account the Licensee's representations, we concluded that the overall levels of speech, including local material, were unacceptably low for a station whose Character of Service in its published Format requires it to be "*A local speech and music station for the Swansea area, with 24 hour news, information and comment.*" While the news bulletins provided by the station were in Format, they did not in themselves compensate for the lack of speech elsewhere in the output. Furthermore, the lack of speech content also largely prevents the station from "*regularly reflecting Welsh language and culture,*" although we did note the station's extensive Six Nations rugby coverage and that some of the speech content in the breakfast show was delivered in Welsh.

It should be noted that the removal of presenters per se was not the determining factor in the Licensee being found in breach, but rather a reflection of the particular nature of Bay Radio's Format, which has clear commitments to delivering speech and comment, and the fact that there was not sufficient speech material (such as pre-recorded programming, for instance) provided by way of an alternative to live DJ presentation.

The Licensee is put on notice that, should further investigation prove that the service broadcast is not in compliance, further regulatory action may be considered.

**Breach of Licence Condition 2(4) in Part 2 of the Schedule to the commercial radio licence held by Swansea Bay Radio Ltd (licence number AL306).**

## Tor-Amod

### Torri Amod Trwydded

*Bay Radio (bellach Nation 80s) 14 – 16 Mawrth 2012*

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#### Rhagarweiniad

Mae Swansea Bay Radio Ltd, sy'n is-gwmni i Town & Country Broadcasting Ltd, yn berchen ar ac yn rhedeg gwasanaeth radio masnachol lleol ar gyfer ardal Bae Abertawe, tan yn ddiweddar o dan yr enw 'Bay Radio'.

Yn ystod yr wythnos gyntaf ym mis Mawrth 2012 ail-frandiodd Ddaliwr y Drwydded y gwasanaeth i Fae Abertawe yn 'Bay Radio the 80s station'. Derbyniodd Ofcom gŵyn yn honni, ers ei hail-lansio, bod yr orsaf wedi newid ei pholisi cerddoriaeth, ei bod yn darlledu heb gyflwynwyr, ei bod ond yn darlledu newyddion unwaith yr awr ac nad oedd yn darparu gwybodaeth leol. Ers hynny mae'r orsaf wedi'i hail-frandio'n llwyr fel 'Nation 80s'.

Mae gan Ofcom ddyletswydd statudol i sicrhau "ystod eang o wasanaethau teledu a radio sydd (gyda'i gilydd) o ansawdd uchel ac wedi eu dyfeisio i apelio at amrywiaeth o ddiddordebau a chwaeth." Gyda radio masnachol lleol, mae Ofcom yn sicrhau hyn drwy ddefnyddio Fformatau. Mae Fformat pob gorsaf yn cynnwys disgrifiad o'r allbwn y mae'n ofynnol i bob Daliwr Trwydded ei ddarparu, ar sail yr addewidion a wnaethant yn wreiddiol yn eu cais i ennill y drwydded. Gellir amrywio fformatau dros amser, ond dim ond gyda chaniatâd Ofcom.

Mae'r Cymeriad Gwasanaeth fel a gyhoeddwyd ar gyfer y gwasanaeth trwyddedig fel a ganlyn:

GORSAF SIARAD A CHERDDORIAETH LEOL I ARDAL ABERTAW, YN DARLLEDU GWYBODAETH, SYLW A NEWYDDION 24 AWR AC WEDI'I HANELU'N BENNAF AT Y GRŴP OED 35+, GYDA CHYMYSGEDD O GERDDORIAETH HAWDD GWRANDO AC AUR YN BENNAF, SY'N ADLEWYRCHU'R IAITH A'R DIWYLLIANT CYMREIG YN GYSON.

Fel rhan o'r camau rhagarweiniol o ymchwilio i'r gŵyn hon, gofynnwyd i Ddaliwr y Drwydded gyflenwi tâp sain o allbwn yr orsaf yn ystod y dydd (0600 -1900) ar gyfer dydd Mercher 14, dydd Iau 15 a dydd Gwener 16 Mawrth 2012.

O ran y pryderon y tynnodd yr achwynydd sylw atynt, ni chredwn fod yr orsaf, ar sail y tâp sain a glywsom, wedi torri amodau'r Fformat o ran ei pholisi cerddoriaeth nac ychwaith o ran darparu newyddion lleol.

Nodwyd gennym fod polisi cerddoriaeth Bay Radio wedi newid a'i bod bellach yn cynnig miwsig yn llwyr o'r 80au. Yn unol â'r Fformat a gyhoeddwyd ar gyfer yr orsaf, mae'n ofynnol iddi chwarae "Cymysgedd o gerddoriaeth Hawdd Gwrando ac Aur yn bennaf". O ystyried bod yr orsaf wedi newid i chwarae traciau o'r 80au'n llwyr, mae'n cwrdd â'r gofyniad i chwarae miwsig 'Aur' yn gyffyrddus, er mewn ystyr gulach na'r bwriad gwreiddiol pan roddwyd y drwydded iddi. Roeddem hefyd yn fodlon ei bod yn chwarae jest digon o draciau y gellid eu categorïo i fod yn 'wrando hawdd', gan artistiaid fel Christopher Cross, Kenny Rogers, Air Supply a George Benson, i sicrhau ei bod yn cydymffurfio â'r elfen gerddoriaeth o'r Fformat.

O ran darparu newyddion lleol, cafwyd bod Bay Radio, yn groes i honiad yr achwynydd, yn darlledu bwletinau newyddion lleol pob hanner awr yn ystod y rhaglenni amser brecwast a phrynhawn 'yn y car'. Cafwyd bod y bwletinau newyddion lleol, ar y cyfan dros y tridiau, hefyd yn cydymffurfio â'r gofynion newyddion lleol a nodir yn y Fformat ar gyfer yr orsaf ac yn gyson â chanllawiau darlledu lleol Ofcom.

Fodd bynnag, o ran faint o siarad oedd yn cael ei ddarlledu gan yr orsaf, nodwyd bod Bay Radio yn darlledu heb gyflwynwyr ac eithrio yn ystod y sioe frecwast yn ystod yr wythnos (07:00 - 10:00). Yn ystod y tair awr o ddarlledu amser brecwast ar bob un o'r tridiau, roedd pum cyswllt cyflwynydd pob awr, dau ohonynt yn canolbwyntio'n bennaf ar ddarparu gwybodaeth i deithwyr. Ar wahân i amser brecwast yn ystod oriau'r sampl, roedd y siarad yn bennaf yn ddim ond newyddion, newyddion teithio, bwletin byd adloniant ddwywaith y dydd a bwletinau "Beth sy mlaen ymhle" pob awr. Dros dridiau o wrando, dim ond tri digwyddiad a hyrwyddwyd yn y bwletinau olaf: Ras Redeg Sport Relief gan Sainsbury's a hyrwyddo tocynnau ar gyfer dwy sioe, a gweithdy yn Neuadd Gwyn yng Nghastell Nedd.

Ein barn ragarweiniol, ar sail gwrandao ar y tâp sain, oedd nad oedd Bay Radio'n darparu digon o gynnwys siarad, gan gynnwys deunydd lleol a 'sylv', i'w hallbwn gydymffurfio â'r Cymeriad Gwasanaeth a nodir yn y Fformat fel a gyhoeddwyd ar gyfer yr orsaf, sy'n gofyn iddi fod yn "Orsaf siarad a cherddoriaeth leol i ardal Abertawe, yn darlledu gwybodaeth, sylw a newyddion 24 awr." Roedd gennym hefyd bryderon bod y diffyg siarad ar y radio yn golygu nad oedd Daliwr y Drwydded yn adlewyrchu'r "laith a'r diwylliant Cymreig" yn gyson.

Ysgrifennodd Ofcom at Ddaliwr y Drwydded ar 15 Mehefin i ofyn am ei farn ynghylch sut, os o gwbl, oedd Swansea Bay Radio Ltd yn ystyried ei bod yn cydymffurfio ag Amod Trwydded 2(4) yn Rhan 2 yr Atodlen i'r Drwydded. Mae'r amod berthnasol yn y drwydded yn nodi:

"Rhaid i Ddaliwr y Drwydded sicrhau bod y Gwasanaeth Trwyddedig yn cydymffurfio â'r cynigion a nodir yn yr Atodiad er mwyn cynnal cymeriad y Gwasanaeth Trwyddedig drwy gydol cyfnod y drwydded." (Adran 106(1) o Ddeddf Darlledu 1990).

Yn y llythyr hwn, nodwyd gennym fod siarad yn ystod y dydd (0600 – 1900) ar y diwrnodau a samplwyd, yn llai na 12% o holl allbwn yr orsaf (ac eithrio credydau hysbysebu a noddi a llwybrau hyrwyddo). Dros y 13 awr o raglenni yn ystod y dydd, roedd hyn yn llai na chwe munud o siarad yr awr. Roedd y munudau hyn hefyd yn cynnwys bwletinau newyddion a oedd fel arfer yn para rhwng dau a thri munud.

## **Ymateb**

Yn ei ymateb i Ofcom, eglurodd Ddaliwr y Drwydded ei fod, wrth ddewis treialu Bay 80s drwy arbrofi ag arddull newydd ar gyfer yr orsaf, o'r farn y byddai dileu'r adnodd cyflwyno traddodiadol o blaid "gwybodaeth leol wedi'i hymchwilio a'i chyflwyno'n well" yn arwain at wasanaeth mwy poblogaidd "llai anniben, mwy o gerddoriaeth a sefyllfa fwy unigryw yn y farchnad".

Ychwanegodd y dylai fod yn glir fod Bay Radio ond yn arbrofi â'i hallbwn er mwyn gwella ei sefyllfa yn un o'r marchnadoedd radio mwyaf aeddfed a chystadleuol yn y Deyrnas Unedig, a'i bod yn gobeithio y byddai Ofcom wedi "cefnogi Daliwr y Drwydded i arloesi ac arbrofi i sicrhau bod y radio'n aros yn berthnasol ac yn parhau i ddenu gwrandawyr yn y farchnad gyfryngau fodern". Dywedodd Ddaliwr y Drwydded

ei fod bob amser wedi credu y dylai Ofcom roi'r hyblygrwydd i weithredwyr amrywio gwasanaethau o fewn eu Fformat, oherwydd yn y pen draw y byddai grymoedd y farchnad yn penderfynu llwyddiant neu fethiant y fenter.

Dywedodd Ddaliwr y Drwydded nad oedd canrannau siarad yn cael eu defnyddio mwyach mewn Fformat unrhyw orsaf radio fasnachol, ac os oedd Ofcom yn teimlo y dylai canran siarad benodol fod yn un o nodweddion diffiniol y gwasanaeth hwn, y cawsant gyfle i gadw hyn wrth ddiwygio Fformat yr orsaf yn 2008.

Wrth gloi, ysgrifennodd Ddaliwr y Drwydded: "Mae Nation 80s (Bay Radio'n flaenorol) yn cymryd y gofyniad i gydymffurfio â Fformat o ddifrif ac, er y credwn fod amllder ac ansawdd y siarad a'r wybodaeth a ddarledwyd ym mis Mawrth o fewn ein Fformat, os daw Ofcom i'r casgliad nad ydoedd, dymunwn drafod mesurau i ddatrys y mater hwn cyn gynted â phosibl."

## **Penderfyniad**

Nodwn y pwyntiau a wnaed yn sylwadau Daliwr y Drwydded.

Ar sail y tâp sain a glywsom, ni allwn gytuno â honiad Daliwr y Drwydded fod gwneud i ffwrdd â chyflwynwyr yr orsaf (y tu allan i amser brecwast) wedi arwain at "wybodaeth leol wedi'i hymchwilio a'i chyflwyno'n well".

Er bod Ofcom o blaid yr egwyddor bod darlledwyr radio'n ceisio gwella eu gwasanaethau er budd i'w gwrandawyr, ac yn ymwybodol iawn o'r pwysau masnachol a wynebwr mewn marchnad radio leol gystadleuol, atgoffir y darlledwyr na ddylai unrhyw arbrofi ag allbwn, o dan unrhyw amgylchiadau, fynd â'r gwasanaeth a ddarledir 'y tu allan i'w Fformat'. Nodwyd hefyd na wnaeth Ddaliwr y Drwydded unrhyw ymdrech i drafod y newidiadau arfaethedig ag Ofcom ymlaen llaw, ac felly nad oedd yn glir o gwbl mai "arbrofi" â'i hallbwn oedd Bay Radio.

Roedd Daliwr y Drwydded yn ei sylwadau wedi dadlau bod Ofcom yn ceisio rhagnodi lefel ofynnol o siarad yn ôl-weithredol, ac mewn gwirionedd yn dychwelyd at drefn reoleiddio gynharach. Yn achos Bay Radio, daw ei 'Chymeriad Gwasanaeth' yn uniongyrchol o'r Fformat a ysgrifennwyd gan Ddaliwr y Drwydded ei hun pan wnaeth ei gais am drwydded i Abertawe yn 2005. Safiad Ofcom yw y dibynnwn ar Ddaliwr y Drwydded i ystyried y geiriau yn y Cymeriad Gwasanaeth a'u hystyr yn rhesymol, er y ceidw'r hawl gennym i ailgyflwyno 'cwotâu' i Fformatau gorsafoedd unigol os credwn nad yw gorsafoedd yn cydymffurfio ag ysbryd eu Fformat. Y tro hwn, defnyddiwyd y ffigur siarad o 12% ar gyfer allbwn Bay Radio dros y cyfnod monitro fel tystiolaeth eglurhaol ei bod yn darparu lefel isel iawn o siarad ar gyfer gorsaf sydd wedi'i thrwyddedu i fod yn "Orsaf siarad a cherddoriaeth leol i ardal Abertawe, gyda gwybodaeth, sylw a newyddion 24 awr."

Ar sail y tridiau inni eu monitro ond hefyd ar ôl ystyried sylwadau Daliwr y Drwydded, daethom i'r casgliad bod lefel gyffredinol y siarad, gan gynnwys deunydd lleol, yn annerbyniol o isel ar gyfer gorsaf lle mae ei Chymeriad Gwasanaeth yn ei Fformat fel a gyhoeddwyd yn gofyn iddi fod yn "Orsaf siarad a cherddoriaeth leol i ardal Abertawe, gyda gwybodaeth, sylw a newyddion 24 awr." Er bod y bwletinau newyddion a ddarledir gan yr orsaf o fewn ei Fformat, nid oeddent ynddynt eu hunain yn gwneud iawn am y diffyg siarad yn yr allbwn yn gyffredinol. Yn ogystal, mae'r diffyg siarad i raddau helaeth yn rhwystro'r orsaf rhag "adlewyrchu'r iaith a'r diwylliant Cymreig yn gyson." er, mi wnaethom nodi'r sylw helaeth a roddwyd gan yr orsaf i Gampwriaeth rygbi'r Chwe Gwlad a bod peth o gynnwys ar lafar y sioe frecwast drwy gyfrwng y Gymraeg.

Dylid nodi nad oedd cael gwared ar gyflwynwyr yn un o'r prif ffactorau dros benderfynu bod Daliwr y Drwydded wedi torri amodau ei drwydded, ond yn hytrach yn adlewyrchiad o natur neilltuol Fformat Bay Radio, sydd ag ymrwymïadau clir i ddarparu siarad a sylw, a'r ffaith nad oedd digon o ddeunydd siarad (fel rhaglenni wedi eu recordio ymlaen llaw, er enghraifft) yn lle'r cyflwyno byw gan gyflwynwyr.

Felly rhybuddiwn Ddaliwr y Drwydded, os bydd ymchwiliad pellach yn profi nad yw'r gwasanaeth a ddarlledir yn cydymffurfio, y byddwn efallai'n ystyried camau rheoleiddio pellach.

**Torri Amod Trwydded 2(4) yn Rhan 2 o'r Atodlen i'r drwydded radio fasnachol a ddelir gan Swansea Bay Radio Ltd (rhif y drwydded AL306).**

## Other Programmes Not in Breach

Up to 23 July 2012

Programme	Broadcaster	Transmission Date	Categories
Advertisements	The Africa Channel	01/05/2012	Advertising scheduling
Leverage	FX	13/06/2012	Offensive language
Very Important People	Channel 4	27/04/2012	Under 18s in programmes

## Complaints Assessed, Not Investigated

Between 3 and 23 July 2012

This is a list of complaints that, after careful assessment, Ofcom has decided not to pursue because they did not raise issues warranting investigation.

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
118 118's sponsorship of ITV Movies	ITV4	18/07/2012	Generally accepted standards	1
5USA trailers	Channel 5	22/07/2012	Scheduling	1
A Touch of Frost	ITV1	04/07/2012	Scheduling	1
Agatha Christie's Marple	ITV3	12/06/2012	Television Access Services	1
Anglia News and Weather	ITV1 Anglia	24/06/2012	Generally accepted standards	1
Awake	Channel 5	14/07/2012	Information/warnings	1
Babylon AD	Film 4	05/07/2012	Offensive language	1
Bangladesh Catering Association (promotion)	Channel S / Channel I / Bangla TV	n/a	Elections/Referendums	1
Barking Mad? Tonight	ITV1	28/06/2012	Materially misleading	1
Barking Mad? Tonight	ITV1	28/06/2012	Generally accepted standards	5
Batman	CN Too	21/07/2012	Outside of remit / other	1
BBC News	BBC	n/a	Outside of remit / other	1
BBC News	BBC 1	07/07/2012	Outside of remit / other	1
BBC News	BBC 1	14/07/2012	Race discrimination/offence	1
BBC News	BBC 1	15/07/2012	Race discrimination/offence	1
BBC News	BBC 1	15/07/2012	Outside of remit / other	1
BBC News	BBC News Channel	15/07/2012	Outside of remit / other	1
BBC News at Ten	BBC 1	09/07/2012	Offensive language	1
BBC News at Ten	BBC 1	19/07/2012	Outside of remit / other	1
BBC Radio 5 Live	BBC Radio 5	19/07/2012	Generally accepted standards	1
Big Fat Gypsy Weddings	More4	12/07/2012	Generally accepted standards	1
Blue Peter	CBBC	12/07/2012	Materially misleading	1
Bluebird Daytime	Sportxxxgirls	20/06/2012	Participation TV - Offence	1
Boots Web MD's sponsorship of Embarrassing Bodies	Channel 4	n/a	Generally accepted standards	1
Boxing DOG	Box Nation	06/07/2012	Advertising/editorial distinction	1
Breakfast with Martin & Su	Heart FM	05/07/2012	Animal welfare	1
Casualty / Holby City	BBC	n/a	Product placement	1
Celebrity Bitchslap	BBC	14/07/2012	Outside of remit / other	1

News				
Channel 4 News	Channel 4	02/07/2012	Religious/Beliefs discrimination/offence	1
Channel 4 News	Channel 4	09/07/2012	Offensive language	1
Channel 4 News	Channel 4	12/07/2012	Scheduling	1
Channel 4 News	Channel 4	19/07/2012	Due impartiality/bias	1
China: Triumph and Turmoil	Channel 4	12/03/2012	Materially misleading	1
Classic FM	Classic FM	05/07/2012	Generally accepted standards	1
Cobra	Channel 5	15/07/2012	Information/warnings	1
Come Dine with Me	Channel 4	30/06/2012	Nudity	1
Come Dine with Me	More 4	25/06/2012	Generally accepted standards	1
Continuity preceding American Pie	ITV2	05/07/2012	Sexual material	1
Coronation Street	ITV1	29/06/2012	Product placement	1
Coronation Street	ITV1	13/07/2012	Harm	3
Coronation Street	ITV1	13/07/2012	Violence and dangerous behaviour	1
Cricket Writers on TV	Sky Sports 1	15/07/2012	Offensive language	1
CSI: Crime Scene Investigation	Sky Living	21/05/2012	Scheduling	1
Daetari Guru Damm	Sikh Channel	12/07/2012	Religious/Beliefs discrimination/offence	1
Date Night	Channel 4	21/07/2012	Generally accepted standards	1
EastEnders	BBC 1	04/07/2012	Sexual material	1
EastEnders	BBC 1	09/07/2012	Harm	1
EastEnders	BBC 1	09/07/2012	Scheduling	1
EastEnders	BBC 1	10/07/2012	Religious/Beliefs discrimination/offence	1
EastEnders	BBC 1	10/07/2012	Generally accepted standards	1
EastEnders	BBC 1	13/07/2012	Sexual orientation discrimination/offence	1
Embarrassing Bodies	Channel 4	26/06/2012	Generally accepted standards	1
Embarrassing Bodies	Channel 4	03/07/2012	Generally accepted standards	2
Embarrassing Bodies	Channel 4	11/07/2012	Generally accepted standards	1
Emmerdale	ITV1	09/07/2012	Generally accepted standards	1
Emmerdale	ITV1	11/07/2012	Offensive language	1
Emmerdale	ITV1	12/07/2012	Generally accepted standards	1
Episodes (trailer)	BBC HD	30/06/2012	Sexual material	1
Estings promotion	E4	05/07/2012	Generally accepted standards	1
Everyone's Talking About . . . Live!	4Music	11/07/2012	Outside of remit / other	1
Extreme Fishing with Robson Green	Channel 5	11/07/2012	Offensive language	1

Farm Life	Quest	07/07/2012	Animal welfare	1
Fear Itself (trailer)	5*	02/07/2012	Scheduling	1
FindMyPast's sponsorship of More4	More4	27/06/2012	Sponsorship credits	1
Food Factory	BBC 1	02/07/2012	Harm	1
Four Rooms	Channel 4	12/07/2012	Generally accepted standards	1
Frank Skinner	Absolute Radio	07/07/2012	Disability discrimination/offence	2
Freshly Squeezed	Channel 4	06/07/2012	Sexual material	1
Geordie Shore	MTV	26/06/2012	Generally accepted standards	1
Gordon Behind Bars	Channel 4	26/06/2012	Crime	1
Gordon Behind Bars	Channel 4	03/07/2012	Crime	1
Gordon Behind Bars	Channel 4	03/07/2012	Generally accepted standards	1
Gordon Behind Bars	Channel 4	10/07/2012	Generally accepted standards	2
Grimefighters	ITV1	13/07/2012	Animal welfare	1
Halfords' sponsorship of Happy Motoring on Dave	Dave	04/07/2012	Generally accepted standards	1
Harry Hill's TV Burp	ITV1	n/a	Animal welfare	1
Heart FM competition	Heart FM	28/06/2012	Competitions	1
Heart FM competition	Heart FM 106.2	25/06/2012	Competitions	1
Hollyoaks	Channel 4	05/07/2012	Scheduling	1
Hollyoaks	E4	03/07/2012	Product placement	5
Hollyoaks	E4	17/07/2012	Disability discrimination/offence	1
Hostel: Part II	Channel 5	30/06/2012	Generally accepted standards	1
I'm Sorry I Haven't a Clue	BBC Radio 4	02/07/2012	Gender discrimination/offence	1
iCarly	Nickelodeon	n/a	Advertising content	1
Incredible Edibles	CBBC	02/07/2012	Generally accepted standards	1
Incredible Edibles	CBBC	05/07/2012	Violence and dangerous behaviour	1
ITV News at Ten and Weather	ITV1	04/07/2012	Due impartiality/bias	1
Jeremy Vine	BBC Radio 2	06/07/2012	Generally accepted standards	1
Jo Brand's Big Splash	Dave	17/07/2012	Offensive language	1
Judge John Deed	Alibi	16/06/2012	Animal welfare	1
Julia Hartley Brewer	LBC 97.3FM	11/07/2012	Race discrimination/offence	1
Katie	Sky Living	26/06/2012	Disability discrimination/offence	2
Kreo Challenge	Disney XD	14/06/2012	Advertising/editorial distinction	1
Look East	BBC 1	25/06/2012	Due accuracy	1
Marco Pierre White's Kitchen Wars	Channel 5	05/07/2012	Violence and dangerous behaviour	2

Marco Pierre White's Kitchen Wars	Channel 5	12/07/2012	Violence and dangerous behaviour	2
Marco Pierre White's Kitchen Wars	Channel 5	19/07/2012	Violence and dangerous behaviour	1
Michael McIntyre's Comedy Roadshow	BBC 1	13/07/2012	Race discrimination/offence	1
Mike Graham	Talksport	03/07/2012	Due impartiality/bias	1
Mock the Week	BBC 2	01/07/2012	Generally accepted standards	3
Mock the Week	BBC 2	08/07/2012	Race discrimination/offence	1
Mola Ali	Ummah Channel	09/06/2012	Due impartiality/bias	1
Mola Ali	Ummah Channel	09/06/2012	Due impartiality/bias	1
Olympics' Most Amazing Moments	BBC 3	22/07/2012	Fairness	1
Outlook	BBC Radio 4	11/07/2012	Religious/Beliefs discrimination/offence	1
P***** and Pregnant	Sky Living	18/06/2012	Materially misleading	1
Panorama: Euro 2012: Stadiums of Hate	BBC 1	28/05/2012	Generally accepted standards	2
Playboy	Playboy	02/07/2012	Sexual material	1
Playboy TV Chat	Playboy TV Chat	13/07/2012	Generally accepted standards	1
Playboy TV Chat	Playboy TV Chat	20/07/2012	Sexual material	1
Programming	BBC Radio 4	11/06/2012	Outside of remit / other	1
Programming	The Hits	08/07/2012	Offensive language	1
Psychic Today	Big Deal	12/07/2012	Materially misleading	1
Puppy SOS	Sky Livingit	24/06/2012	Animal welfare	1
Question Time	BBC 1	05/07/2012	Generally accepted standards	1
Question Time	BBC 1	05/07/2012	Offensive language	1
Rich Planet	Showcase TV	22/06/2012	Generally accepted standards	1
Rising Damp	ITV3	13/07/2012	Race discrimination/offence	1
Room 101	BBC 1	08/07/2012	Race discrimination/offence	1
Rules of Engagement	E4	12/07/2012	Under 18s in programmes	1
Sam and Amy	Gem 106	25/06/2012	Sexual material	1
Scott Mills	BBC Radio 1	28/06/2012	Sexual material	1
Scottish Open Golf	Sky Sports 1 HD	13/07/2012	Outside of remit / other	1
Scuzz Essential	Scuzz TV	27/06/2012	Drugs, smoking, solvents or alcohol	1
Secrets of the Shoplifters	Channel 4	10/07/2012	Race discrimination/offence	1
Sexcetera	Sky Living it	01/07/2012	Sexual orientation discrimination/offence	1
Sexcetera	Sky Livingit	09/07/2012	Gender discrimination/offence	1
Silent Assent	Sikh Channel	15/07/2012	Religious/Beliefs discrimination/offence	2
Sinbad	Sky1	08/07/2012	Violence and dangerous behaviour	8

Sky News	Sky News	12/06/2012	Due impartiality/bias	1
Sky News coverage of Rio Summit 2012	Sky News	various	Outside of remit / other	1
Sky Sports	Sky	n/a	Generally accepted standards	1
Sky Sports News	Sky Sports News	12/06/2012	Violence and dangerous behaviour	1
Sky Sports News	Sky Sports News	13/06/2012	Violence and dangerous behaviour	1
Snog, Marry, Avoid?	BBC 3	25/06/2012	Transgender discrimination/offence	1
Snog, Marry, Avoid?	BBC 3	01/07/2012	Transgender discrimination/offence	1
Spartacus: Blood and Sand	Sky1	23/05/2012	Generally accepted standards	1
Spartacus: Blood and Sand	Sky1	30/05/2012	Generally accepted standards	1
Spartacus: Gods of the Arena	Sky1	16/07/2012	Generally accepted standards	1
Sportsworld	BBC Radio 5 Live	22/07/2012	Outside of remit / other	1
Stargate Universe	Pick TV	16/06/2012	Flashing images/risk to viewers who have PSE	1
Sterling Furniture's sponsorship of Superstar	STV	15/07/2012	Generally accepted standards	1
Steve & Karen's Breakfast Show	Metro Radio	09/07/2012	Offensive language	1
Steve & Karen's Breakfast Show	Metro Radio	10/07/2012	Offensive language	1
Steve Allen	LBC 97.3FM	11/07/2012	Due impartiality/bias	1
Strike Back Project Dawn	Sky1	16/07/2012	Violence and dangerous behaviour	1
STV News at Six	STV	28/06/2012	Generally accepted standards	1
Summer Daze (trail)	E4	12/07/2012	Scheduling	1
Sunrise	Sky News	23/06/2012	Materially misleading	1
Sunrise	Sky News	26/06/2012	Generally accepted standards	1
Sunrise	Sky News	16/07/2012	Race discrimination/offence	1
Superstar	ITV1	15/07/2012	Generally accepted standards	1
Superstar	ITV1	15/07/2012	Promotion of products/services	1
Superstar	ITV1	15/07/2012	Scheduling	1
Superstar	ITV1	16/07/2012	Religious/Beliefs discrimination/offence	1
Superstar	ITV1	17/07/2012	Outside of remit / other	1
Superstar	ITV1	18/07/2012	Religious/Beliefs discrimination/offence	1
Superstar	ITV1	19/07/2012	Outside of remit / other	1
Superstar	ITV1	20/07/2012	Religious/Beliefs discrimination/offence	1
Superstar (trailer)	ITV1	15/07/2012	Religious/Beliefs discrimination/offence	1

Take Me Out	ITV1	22/07/2012	Generally accepted standards	1
Templars: The Last Stand	National Geographic	30/06/2012	Materially misleading	1
The Bachelor	Channel 5	29/06/2012	Disability discrimination/offence	1
The Chris Evans Breakfast Show	BBC Radio 2	03/07/2012	Generally accepted standards	1
The Chris Moyles Show	BBC Radio 1	11/07/2012	Drugs, smoking, solvents or alcohol	1
The Daily Politics	BBC 2	02/07/2012	Offensive language	1
The Daily Show (trailer)	Comedy Central	09/07/2012	Generally accepted standards	1
The Daily Show (trailer)	Comedy Central	10/07/2012	Generally accepted standards	1
The Fabulous Baker Brothers	Channel 4	10/07/2012	Offensive language	1
The Graham Norton Show	BBC 1	22/06/2012	Race discrimination/offence	1
The Hotel Inspector	Channel 5	10/07/2012	Nudity	2
The Jeremy Kyle Show	ITV1	03/07/2012	Generally accepted standards	1
The Jeremy Kyle Show	STV	22/07/2012	Outside of remit / other	1
The Mark Lima Show	Citybeat 102.5 FM	03/07/2012	Offensive language	1
The Million Pound Drop	Channel 4	20/07/2012	Drugs, smoking, solvents or alcohol	3
The Million Pound Drop Live	Channel 4	29/06/2012	Competitions	1
The Nation's Favourite Number 1 Single	ITV1	08/07/2012	Materially misleading	1
The One Show	BBC 1	03/07/2012	Outside of remit / other	6
The One Show	BBC 1	16/07/2012	Due impartiality/bias	25
The Reith Lectures	BBC Radio 4	19/06/2012	Outside of remit / other	1
The Simpsons	Sky1	06/07/2012	Offensive language	1
The Today Programme	BBC Radio 4	20/07/2012	Materially misleading	1
The Wright Stuff	Channel 5	05/07/2012	Disability discrimination/offence	1
The Wright Stuff	Channel 5	06/07/2012	Gender discrimination/offence	1
This Morning	ITV1	10/07/2012	Advertising scheduling	1
This Morning	ITV1	10/07/2012	Generally accepted standards	1
This Morning	ITV1	10/07/2012	Scheduling	1
This Morning	ITV1	11/07/2012	Scheduling	5
This Morning	ITV1	20/07/2012	Competitions	1
This Morning (Trailer)	ITV1	11/07/2012	Nudity	1
Tipping Point	ITV1	04/07/2012	Gambling	1
Titanic	Film 4	20/07/2012	Offensive language	1
Today at Wimbledon	BBC 2	04/07/2012	Sexual orientation discrimination/offence	1
Top Gear	Dave	13/07/2012	Outside of remit / other	1
Top of the Pops: 1977	BBC 4	18/07/2012	Generally accepted standards	1

Total Emergency	ITV1	16/05/2012	Fairness & Privacy	1
Tour De France 2012 Highlights	ITV4	02/07/2012	Violence and dangerous behaviour	1
Tour De France 2012 Live	ITV1	21/07/2012	Competitions	1
Tour De France 2012 Live	ITV4	09/07/2012	Advertising minutage	1
Turn Back Time: The Family	BBC 1	26/06/2012	Under 18s in programmes	1
TV Licensing promo	BBC 1	15/07/2012	Generally accepted standards	1
Undercover Boss	Channel 4	16/07/2012	Outside of remit / other	1
Wallander	BBC 1	08/07/2012	Violence and dangerous behaviour	1
Wannabes	CITV	02/07/2012	Generally accepted standards	1
Wave Breakfast	The Wave 96.4M	04/07/2012	Sexual material	1
Wimbledon 2012	BBC	n/a	Outside of remit / other	1
Wimbledon 2012	BBC 2	08/07/2012	Generally accepted standards	1
Would I Lie to You?	BBC 1	22/07/2012	Disability discrimination/offence	1
X-Ray	BBC 1 Wales	25/06/2012	Religious/Beliefs discrimination/offence	1
You've Been Framed!	ITV1	30/06/2012	Generally accepted standards	1
You've Been Framed!	ITV2	05/07/2012	Generally accepted standards	1
Zathura: A Space Adventure	Channel 5	08/07/2012	Offensive language	1

## Investigations List

If Ofcom considers that a broadcast may have breached its codes, it will start an investigation.

Here is an alphabetical list of new investigations launched between 19 July and 8 August 2012.

Programme	Broadcaster	Transmission Date
Big Deal	Psychic Today	02/06/2012
Bombardier's sponsorship of Dave	Dave	28/07/2012
Chat Box	Chat Box	29/06/2012
Got to Dance	Sky1	04/03/2012
Hollyoaks	Channel 4	17/07/2012
Hollyoaks	Channel 4	31/07/2012
Olympics 2012	BBC 3	06/08/2012
PC World sponsor Absolute Radio	Absolute Radio	30/06/2012
Political advertising	ATN Bangla	26/04/2012
Political advertising	Channel I	Various
Ria: Diary of a Teen Transsexual	Channel 4	12/06/2012
Scottish Open Golf	Sky Sports 2	13/07/2012
Sex Season (trailer)	National Geographic HD	15/07/2012
Sky Sports News	Sky Sports News	15/07/2012
Takbeer / Dawn News	Takbeer TV	09/06/2012
The Islam Channel News	The Islam Channel	08/06/2012
You Deserve This House	Channel 4	27/06/2012

**It is important to note that an investigation by Ofcom does not necessarily mean the broadcaster has done anything wrong. Not all investigations result in breaches of the Codes being recorded.**

For more information about how Ofcom assesses complaints and conducts investigations go to:

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/>.

For fairness and privacy complaints go to:

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/fairness/>.