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[1], 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[2].

The BCAP Code is at: http://www.bcap.org.uk/Advertising-Codes/Broadcast-HTML.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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[1] The relevant legislation is set out in detail in Annex 1 of the Code.

[2] 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

Standards cases

In Breach

X-Men Origins: Wolverine

Channel 4, 26 August 2012, 18:55

Introduction

X-Men Origins: Wolverine is the fourth feature film in the X-Men comic book fantasy series. The film focuses on the background of Wolverine, a vigilante who produces metal talons from his knuckles and can recover from any wound. Wolverine becomes part of an experimental army unit with his brother but he leaves the unit after disagreeing about their motives and aims.

A complainant alerted Ofcom to violent scenes in the broadcast of this film before the 21:00 watershed on Channel 4. After viewing the material, Ofcom noted various examples of violence:

1) Wolverine as a young boy discovers bony talons emerging from his knuckles and then stabs and kills a man who is revealed subsequently to be his father;

2) a fantasy gun battle in which a swordsman kills two men by leaping and stabbing them in the chest (not shown in vision);

3) an intense sequence of surgery in which Wolverine's head and body are drilled with holes and liquid metal is injected into him;

4) Wolverine has two violent fights his brother; various stab wounds are shown;

5) Wolverine fights a mutant (who has had his mouth sewn shut and has a long sword coming out of each hand); various stab wounds are featured before the mutant is decapitated off screen; and

6) Wolverine is shot in the head at close range, although this does not kill him.

Ofcom considered the material raised issues warranting investigation under Rule 1.3 of the Code, which states:

> "Children must...be protected by appropriate scheduling from material that is unsuitable for them."

We therefore wrote to Channel 4 (or "the Licensee") for its formal comments on how the broadcast complied with this rule.

Response

The Licensee said that the Code had dispensed with regulating the scheduling of films on television by reference to their ratings from the British Board of Film Classification ("BBFC"), as had happened previously under the Independent Television Commission ("ITC") Programme Code. Channel 4 commented that "it is noteworthy that the film complained of would, under the ITC Programme Code, on the face of it been transmittable uncut at 8pm", given its 12A BBFC rating.

The Licensee added that in accordance with Ofcom's Guidance, as with any other content broadcast by Channel 4, "films, including 12A films, are scheduled appropriately in compliance with the provisions of the Code, in particular with a view to the "context" of the relevant content under Section Two [of the Code]".

Channel 4 said *X-Men Origins: Wolverine* had been "carefully edited" by a senior editor at the Licensee to reduce the level of violence in the film to make it suitable for the transmission time. Channel 4 listed 27 edits made to the film to reduce or remove the film's impact overall, including edits for language and violence. The Licensee said the film was "scheduled with care to avoid programmes specifically made for children" and was preceded in the schedule by 4thought.tv and Channel 4 News.

Channel 4's view was that the edits made demonstrated the "great care which was taken by the Channel to ensure the film was suitable for its time of transmission". The Licensee also pointed out that the film had been shown twice before on Channel 4.

Channel 4 responded to each of the specific examples of violence identified by Ofcom in the Introduction to this finding:

1) The Licensee said that, given the previous three films in the X-Men series, viewers would to a large extent have been aware of the "particular superhuman attributes of Wolverine and...not be surprised at his partial metamorphosis in this scene". Channel 4 added that "the stabbing itself is largely implicit and there is little or no blood" and that it had: edited out close-up shots of the claws emerging from Wolverine's knuckles; and dipped the sound to minimise the impact of the stabbing to death of a man who is subsequently revealed to be Wolverine's father.

2) Channel 4 pointed out that this scene is "clearly a fantasy battle" and the stabbing is not seen in vision and therefore only implied.

3) The Licensee disputed Ofcom's description of this scene, maintaining that the scene was "highly stylised" and "drill bits are not seen being drilled into Wolverine's body". It said that Wolverine had volunteered to undergo the operation to become a superhero and knew in advance it would involve pain: "There is no duress and no deliberate infliction of pain for pain's sake."

4) Channel 4 said it was important to bear in mind that the fights were "clearly stylised, fantasy fights" with little blood or graphic wounding and in which the wounds immediately healed up "while the participants fly and leap across rooms and through buildings". Although edits were made to these scenes to reduce their impact, the Licensee was of the view that they would not have been perceived as "real scenes of violence".

5) The Licensee argued that: this scene occurred from around 20:44 "shortly before the 9pm watershed"; the violence was highly stylised "with the protagonists repeatedly recovering from their wounds"; and, by this point in the film, viewers would have become familiar with the unrealistic nature of the violence in this "fantasy franchise". Channel 4 said it "is not clear" whether or not the mutant's mouth was "sewn shut" as indicated by Ofcom: the Licensee said it was "just clear that he [the mutant] has no mouth". It also pointed out that the decapitation of the mutant is not shown on screen and this only becomes apparent as his body falls from the building.

6) Channel 4 again highlighted the elements of fantasy violence in this sequence and viewer awareness that the main character would not be killed by bullets. The Licensee said "there is little or no blood or gore or, indeed, much suffering" and that it had edited the sequence to reduce the level of violence, including the removal of "a close-up shot of a point blank shot into Wolverine's head".

In conclusion, the Licensee reiterated that the X-Men film franchise is "well-known for its fantasy, comic book style" and that the violence within *X-Men Origins: Wolverine* reflects that style and is "consequently not realistic in the context of normal everyday life". Channel 4 added that its view of the audience's likely expectations could reasonably have been informed by the fact that this edited version of the film had been broadcast "a little earlier" on Sunday 25 September 2011 and had not attracted any complaints.

Channel 4 was therefore of the view that the film was appropriately scheduled given the careful edits it had made to the original version.

Decision

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, including that "persons under the age of eighteen are protected". This is reflected in Section One of the Code.

Rule 1.3 requires that children must be protected by appropriate scheduling from material that is unsuitable for them.

In applying Rule 1.3, Ofcom must have regard to the need for standards to be applied "in the manner that best guarantees an appropriate level of freedom of expression". The Code is drafted in accordance with Article 10 of the European Convention on Human Rights, which sets out the right of a broadcaster to impart information and ideas and the right of the audience to receive them without unnecessary interference by public authority. In accordance with the fundamental right to freedom of expression, the Code does not prohibit the broadcast of material unsuitable for children. However, broadcasters are required to ensure that children are protected from unsuitable material by appropriate scheduling.

Ofcom first assessed whether *X-Men Origins: Wolverine* contained material unsuitable for children.

The film contained dark fantasy and violent themes throughout and a number of scenes of violence, aggression and menace. By way of example, in one scene (example 3 above), to enable Wolverine to kill his brother (who had apparently killed his girlfriend), Wolverine voluntarily submitted to a surgical procedure to change his body skeleton – and talons – from bone to metal. To achieve this, the character was placed in an aquatic container and two rows of hot needles were drilled into Wolverine's body and head. The character clearly experienced excruciating pain, and a number of close-up shots were shown of the needles being drilled into Wolverine's cheeks and forehead.

In another scene (example 5), the climatic fight sequence showed Wolverine fight with another 'mutant' (the name the film series gives to those who have special abilities), a former soldier colleague of Wolverine who had been the subject of various experiments. The result of these experiments (not seen in the film) was that

this ‘mutant’ had a gruesome appearance: he was heavily scarred around the eyes and mouth and appeared to Ofcom to have had his mouth sewn shut so he could not speak. The mutant also had long swords extending from the knuckles of both hands. The fight involved various martial arts elements of jumping, punching and kicking but also, given the two characters had blades built in to their bodies, both characters stabbing each other a number of times (although both automatically healed themselves). The sequence concluded when Wolverine leapt towards the new mutant and slashed him aggressively across the neck. In the subsequent shot, it was clear that the mutant had been decapitated because his head was shown coming away from his body.

We took account of the intensity of the surgery sequence, and the repeated sequences of violence and stabbing (despite a number of the characters healing automatically from wounds) spread throughout the film. This material conveyed a continuing theme of dark fantasy violence which, in Ofcom’s view, made the content unsuitable for children to view, particularly younger children.

We then assessed whether the content was appropriately scheduled. Appropriate scheduling is judged against a number of factors including: the nature of the content; the likely number and age range of the audience; the start and finish time of the programme; and likely audience expectations.

We noted Channel 4’s reference to *X-Men Origins: Wolverine* being “on the face of it” acceptable to show uncut at 20:00 on Channel 4 under the ITC Programme Code, given its 12A BBFC certification. The ITC Programme Code was one of the set of regulations in place at the Independent Television Commission, one of the regulators responsible for broadcasting before Ofcom was created. The ITC Programme Code was in use until July 2005, when the Ofcom Broadcasting Code was first published. The broadcast of *X-Men Origins: Wolverine* on Channel 4 in 2012 can only be assessed against the Code.

Ofcom recognised that this is the fourth film in the X-Men series and that as a result the likely expectations of the audiences may have been established to some extent. We also acknowledged that *X-Men Origins: Wolverine* is a film based on a comic book series and that, as such, the violence in this film was not grounded in the real world. However, it was a concern to Ofcom that Channel 4’s defence of the violence in this film appeared to rely significantly on viewers’ recognition of the fantasy nature of the violence. While there were clear elements of fantasy to the scenes of violence in this film, in Ofcom’s view these elements did not mean that the effect of the violence on child viewers was necessarily minimised to an acceptable level. Violence – whether in a real or fantasy context – must be appropriately limited when included in programmes broadcast before the watershed. We also noted that this film had, according to the Licensee, been shown twice before on Channel 4 before the watershed (once at a similar time) with either no, or very few, complaints to Channel 4. At the times of those previous broadcasts, however, Ofcom did not receive any complaints about the scenes of violence in this film and so was unable to assess them against the Code.

Ofcom noted that the storyline of *X-Men Origins: Wolverine* was darker than that of the previous three films, dealing with issues of betrayal and violent revenge. The previous X-Men films looked collectively at a group of ‘mutants’ who had a range of special abilities which were not all connected with the ability to fight at close range. *X-Men Origins: Wolverine* focused almost entirely on its central character whose actions were very much prompted by anger and involved direct and personal violence against others using his metal talons to stab and slash opponents.

We took into account that Channel 4 had clearly taken measures to ensure the fantasy violence was toned down in the film by making a considerable number of edits. A number of graphic incidents of violence (such as decapitation or a point blank shot to the head) were edited out so that the violence was implied and not shown in vision. However, in Ofcom's view, these edits were insufficient to address the ongoing violent themes throughout the film, and in particular in some of the key scenes which were especially violent and are summarised above. For example, the surgery sequence (example 3) occurred at about 19:40 and lasted for approximately 180 seconds. This was an intense scene, with Wolverine apparently in great pain as hot needles drilled into his body and face. Although Wolverine may have volunteered to undergo this procedure, it appeared in Ofcom's view akin to a torture sequence.

The final fight sequence (example 5) was intercut with another storyline of teenage mutants being helped to escape their confinement. This fight began at about 20:40 and lasted for approximately five minutes. Again, there were multiple images of stabbing and Wolverine's final slash to decapitate the mutant was clearly shown (though as Channel 4 pointed out to Ofcom that the viewer did "not see the head being sliced from the body").

We took into consideration that the film was broadcast from 18:55 on a Sunday evening when there were likely to be children, and particularly younger children, in the audience, some of them potentially watching television unaccompanied by an adult. Audience figures indicated that out of a total of 969,000 viewers, 115,000 were children aged between four and fifteen (equating to almost 12% of the audience). 46,000 of the 115,000 children watching were aged between four and nine.

We noted that the film was preceded by a presentation announcement which stated: *"Film fantasy action now on 4. Hugh Jackman seeks revenge as the troubled superhero Wolverine. X-Men Origins."* In Ofcom's opinion, this announcement did not make sufficiently clear that the film would have a dark and violent theme and scenes of violence, aggression and menace throughout. We also noted that Channel 4 has recently shown films which have a wide family appeal such as *Inkheart*, *Ice Age: the Meltdown*, *Hairspray* and *The Golden Compass* in similar timeslots (although scheduled up to an hour earlier than 18:55).

Ofcom did not consider that viewers, and in particular parents, would have expected this level of intensity and violence to be shown on Channel 4 from 18:55 on a Sunday evening.

Ofcom therefore concluded that children were not in this case protected from unsuitable material by appropriate scheduling, and there was a breach of Rule 1.3.

Breach of Rule 1.3

In Breach

Leeds TV

Showcase 2, 26 October 2012, 18:30

Introduction

Showcase 2 is a general entertainment service broadcasting on the Sky digital satellite platform. The licence for Showcase TV 2 is held by Information TV Limited ("Information TV" or "the Licensee").

Leeds TV is an internet-based on-demand service comprising content produced by the Leeds community. On 26 October 2012 Showcase 2 broadcast a pre-recorded programme made by Leeds TV about a group of young artists' trip to California to participate in the Brave New Voice Youth Slam Poetry Festival.

A complainant alerted Ofcom to the broadcast of offensive language during the programme. When interviewed about the festival, a participant said:

> *"The greatest amount of courage is found in young people who feel like "Fuck it, I'm going to say it"."*

The programme also featured a clip from a performance containing the word "fuck".

Ofcom considered the material raised issues warranting investigation under Rule 1.14 of the Code, which states:

> "The most offensive language must not be broadcast before the watershed (in the case of television)[.]"

We therefore sought comments from Information TV as to how the material complied with this rule.

Response

The Licensee explained that all of its programmes are checked before broadcast but the offensive language was missed by production staff on this occasion. The Licensee apologised for failing to detect these instances of offensive language during its compliance checks and added that the programme would not be broadcast before the watershed in future.

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, including that "persons under the age of eighteen are protected". This objective is reflected in Section One of the Code.

Rule 1.14 of the Code states unequivocally that "the most offensive language must not be broadcast before the watershed". Ofcom research on offensive language[1] notes that the word "fuck" is considered by audiences to be amongst the most offensive language. The two uses of the word "fuck" in this programme broadcast before the watershed were therefore a clear breach of Rule 1.14.

Breach of Rule 1.14

[1] *Audience attitudes towards offensive language on television and radio*, August 2010 (http://stakeholders.ofcom.org.uk/binaries/research/tv-research/offensive-lang.pdf)

In Breach

The Breakfast Show

Key 103, 31 October 2012, 08:15

Introduction

Key 103 is a radio station owned and operated by Bauer Media ("Bauer" or "the Licensee"). The service plays a broad range of music and speech targeted at 15 to 44 year-old listeners in Greater Manchester.

A complainant alerted Ofcom to comments by a presenter which could be considered derogatory towards the gay community.

On assessing the material Ofcom noted an interview with members of the band The Wanted, during which the presenter referred to one band member's phobia about polka dots: *"Polka dots, what the hell? Are you...gay or something? You're scared of polka dots?!"*

Ofcom considered that the material raised issues warranting investigation under Rule 2.3 of the Code, which states:

> "In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context...Such material may include, but is not limited to...discriminatory treatment or language (for example on the grounds of…sexual orientation)."

Context includes (but is not limited to):

- the editorial content of the programme, programmes or series;
- the service on which the material is broadcast;
- the time of broadcast;
- the likely size and composition of the potential audience and likely expectation of the audience; and
- the effect of the material on viewers or listeners who may come across it unawares.

Ofcom therefore requested comments from the Licensee on how the material complied with this rule.

Response

The Licensee confirmed that the Programme Director picked up on the comment immediately, and called the breakfast team into a meeting following the show. At the meeting the team accepted that the comment made by the presenter could be construed as being derogatory towards homosexual people.

The Licensee said that the presenter was extremely apologetic and in no way set out to deliberately promote certain negative stereotypes based on sexual orientation. The

Licensee added that the remark was “a throw away comment made without due thought, and that she completely understands the reason it may cause offence”.

Bauer said it was confident that this was an error in judgement which will not occur again in the future, and has since reminded staff to be mindful of the Code requirements, particularly in relation to Rule 2.3.

Decision

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, including that “generally accepted standards are applied...so as to provide adequate protection for members of the public from the inclusion...of harmful and/or offensive material”. This objective is reflected in Section Two of the Code.

Rule 2.3 requires broadcasters to ensure that the broadcast of potentially offensive material must be justified by the context. The Rule specifically refers to “discriminatory treatment or language (for example on the grounds of…sexual orientation)”.

Ofcom considered first whether the presenter’s comment had the potential to cause offence.

Ofcom noted that in her brief comment the presenter specifically sought to explain what many might regard as an unusual and irrational phobia of polka dots by reference to the band member being homosexual (*“Are you...gay or something? You’re scared of polka dots?!”*). We were concerned that this reference could have reasonably been interpreted by listeners as promoting certain negative stereotypes based on sexual orientation, namely that homosexual people were more likely to be irrational or weak. In Ofcom’s opinion, these comments making reference to sexual orientation in a pejorative context had the potential to cause offence to listeners. We noted that the Licensee acknowledged that the comment could be construed as being derogatory towards homosexual people.

Ofcom went on to consider whether the material was justified by the context.

Although Ofcom noted that the comment was an off-the-cuff put-down during a light-hearted discussion, we did not consider that this pejorative reference to homosexuality would have been in keeping with the likely expectations of the audience for a programme of this nature. The content was therefore not justified by the context.

Ofcom noted the measures the Licensee took after the broadcast to improve compliance in future, but nonetheless concluded that in this instance that the Licensee did not apply generally accepted standards. Consequently, we concluded that the programme breached Rule 2.3.

Breach of Rule 2.3

In Breach

Advertisement by UK Jubo League

ATN Bangla, 26 April 2012, 23:00

Introduction

ATN Bangla is a news and general entertainment channel broadcast in Bengali and serving a Bangladeshi audience. The licence for ATN Bangla is held by ATN Bangla UK Limited ("ATN Bangla" or "the Licensee").

A complainant drew Ofcom's attention to an advertisement placed on ATN Bangla by an organisation called the UK Jubo League. The complainant alleged that the advertisement promoted a political group in breach of the ban on political advertising contained within the Communications Act 2003 ("the Act").

The advertisement was broadcast in Bengali. Ofcom commissioned a translation. As translated, the voice-over in the advertisement said:

> *"The Triennial Conference of UK Jubo League 2012. Venue: Oasis Banqueting, 6-8 Thames Road, Barking, Essex. Alhaj Omar Faruk Chowdhury, Chair, Bangladesh Awami Jubo League will inaugurate the Conference. Chief guest is people's leader advocate Jahangir Kabir Nanok MP, Honourable State minister of Local Government and Rural Development. The main speaker is Mirza Azam MP, Honourable Whip of Bangladesh Parliament. Abul Kalam Mishlu, Co-Convenor Conference Preparing Committee will preside. Everyone is invited in with open arms. Time: Tuesday, 1st May at 12 noon. Contact us for details: Fakhrul Islam Modhu and Selim Ahmed Khan."*

The advertisement also contained text and pictures, displayed as static slides. The text (also in Bengali) repeated the voice-over but added telephone contact details for the people mentioned at the end of the voice-over and text. Also in text was a slogan saying, in translation:

> *"The reverberated call in the parade of freedom makes us feel as though we are Mujib ourselves."*

"Mujib" is a shortened version of the name of Sheikh Mujibur Rahman, formerly President of Bangladesh and head of the Awami League, a Bangladeshi political party.

The pictures were photographs of the following people:

- the late President of Bangladesh and former head of the Awami League, Sheikh Mujibur Rahman;
- Sheikh Hasina (the daughter of Sheikh Mujibur Rahman), current Prime Minister of Bangladesh and present leader of the Awami League;
- the late Sheikh Fazlul Haque Moni, the founding chairman of the Jubo League.

The Jubo League – properly The Bangladesh Awami Jubo League – is the youth wing of the Bangladesh Awami League.

Ofcom has a statutory duty, under section 319(2)(g) of the Act, to secure the standards objective "that advertising that contravenes the prohibition on political advertising set out in section 321(2) is not included in television or radio services".

Political advertising is prohibited on radio and television under the terms of sections 321(2) and 321(3) of the Act and Rule 7.2 of the UK Code of Broadcast Advertising[1] ("the BCAP Code"). Rule 7.2 reproduces the operative text of section 321 of the Act in respect of the prohibition on political advertising.

For most matters, the BCAP Code is enforced by the Advertising Standards Authority ("the ASA"). However, Ofcom remains responsible, under the terms of a Memorandum of Understanding between Ofcom and the ASA, for enforcing the rules on "political" advertising[2].

In this instance, Ofcom considered the material raised issues warranting investigation under Rule 7.2 of the BCAP Code, which states, among other things:

> "Advertising that contravenes the prohibition on political advertising set out below must not be included in television or radio services...
>
> 7.2.1 An advertisement contravenes the prohibition on political advertising if it is:
>
> (a) an advertisement which is inserted by or on behalf of a body whose objects are wholly or mainly of a political nature;
>
> (b) an advertisement which is directed towards a political end; or
>
> (c) an advertisement which has a connection with an industrial dispute.
>
> 7.2.2 For the purposes of this section objects of a political nature and political ends include each of the following:
>
> (a) influencing the outcome of elections or referendums, whether in the United Kingdom or elsewhere;
>
> (b) bringing about changes of the law in the whole or a part of the United Kingdom or elsewhere, or otherwise influencing the legislative process in any country or territory;
>
> (c) influencing the policies or decisions of local, regional or national governments, whether in the United Kingdom or elsewhere;

[1] http://bcap.org.uk/The-Codes/BCAP-Code.aspx

[2] http://stakeholders.ofcom.org.uk/binaries/consultations/reg_broad_ad/statement/mou.pdf

(d) influencing the policies or decisions of persons on whom public functions are conferred by or under the law of the United Kingdom or of a country or territory outside the United Kingdom;

(e) influencing the policies or decisions of persons on whom functions are conferred by or under international agreements;

(f) influencing public opinion on a matter which, in the United Kingdom, is a matter of public controversy;

(g) promoting the interests of a party or other group of persons organised, in the United Kingdom or elsewhere, for political ends."

Ofcom sought the Licensee's comments and, through the Licensee, those of the advertiser, as to how the advertisement complied with sections 321(2) and (3) of the Act and Rule 7.2 of the BCAP Code.

Response

The Licensee confirmed that three people mentioned in the advertisement (Abul Kalam Mishlu, Fakhrul Islam Modhu and Selim Ahmed Khan) had placed the advertisement as the UK Jubo League. The name "UK Jubo League" had been adopted in order to arrange a reception for two visiting dignitaries from Bangladesh, ATN Bangla said.

However, the Licensee told us that this advertiser was "not part of the Bangladesh Jubo League which is the youth arm of the Bangladesh Awami League".

Further, ATN Bangla told us that it had queried the nature of the UK Jubo League prior to broadcasting the advertisement because of the similarity of the name to the youth wing of the Bangladesh Awami League Party. It had been assured by the advertiser that it was not part of any political party.

The Licensee told us that the advertisement's purpose was "not wholly or mainly of a political nature, it was wholly or mainly of [a] social nature that stemmed out of communitarian feeling". Therefore, the Licensee said, the advertisement did not fall within the prohibition on political advertising.

The advertiser supplied comment through the Licensee. The advertiser confirmed: placing the advertisement; that the advertisement publicised a reception for important visitors from Bangladesh; and that the reception was arranged so that people could pay their respects to the visitors for their contributions to Bangladeshi expatriates living in the UK.

However, the advertiser said, the conference had to be cancelled as the invited guests could not confirm their attendance.

The Licensee quoted from sections 7.1 and 7.2 of the CAP Code[3] – the self-regulatory code that applies to *non-broadcast* advertising, and is therefore irrelevant

[3] The ASA adjudicates on both the CAP (non-broadcast) and BCAP (broadcast) codes, but the foundations of the two codes are quite distinct. Creation of the BCAP Code is the product of a statutory duty under the Act. Ofcom licensees are bound to observe the BCAP Code through their Ofcom licence. Responsibility for the day-to-day operation of the BCAP Code has been contracted out by Ofcom; but Ofcom remains ultimately responsible for that Code

to this matter – which state respectively that "[c]laims in marketing communications, whenever published or distributed, whose principal function is to influence voters in a local, regional, national or international election or referendum are exempt from the Code", and "[m]arketing communications by central or local Government, as distinct from those concerning party policy, are subject to the Code". The Licensee said that the advertisement did not influence voters in any election or referendum.

Finally, the Licensee requested Ofcom "to consider the underlying spirit of the advertisement which was primarily to create awareness of a reception meeting at community level and not political".

Decision

Under the Act, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure certain standards objectives, one of which is "that advertising that contravenes the prohibition on political advertising set out in section 321(2) is not included in television or radio services". Section 321(2) of the Act states that, for the purposes of this standards objective, an advertisement contravenes the prohibition if it is:

(a) "an advertisement which is inserted by or on behalf of a body whose objects are wholly or mainly of a political nature;

(b) an advertisement which is directed towards a political end; or

(c) an advertisement which has a connection with an industrial dispute."

Therefore, an advertisement may fall foul of the prohibition on political advertising either because of the character of the advertiser or because of the content and character of the advertisement.

The prohibition is replicated at paragraph 7.2.1 of the BCAP Code. In addition paragraph 7.2.2 describes what is included within the meaning of objects of a political nature and political ends (replicating the inclusive, non-exhaustive list of examples in section 321(3) of the Act):

(a) "influencing the outcome of elections or referendums, whether in the United Kingdom or elsewhere;

(b) bringing about changes of the law in the whole or a part of the United Kingdom or elsewhere, or otherwise influencing the legislative process in any country or territory;

(c) influencing the policies or decisions of local, regional or national governments, whether in the United Kingdom or elsewhere;

(d) influencing the policies or decisions of persons on whom public functions are conferred by or under the law of the United Kingdom or of a country or territory outside the United Kingdom;

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under the statute. The CAP code is drawn up by the advertising industry itself, is purely self-regulatory and carries no material penalties in the event of breach.

(e) influencing the policies or decisions of persons on whom functions are conferred by or under international agreements;

(f) influencing public opinion on a matter which, in the United Kingdom, is a matter of public controversy;

(g) promoting the interests of a party or other group of persons organised, in the United Kingdom or elsewhere, for political ends."

As noted above the ban contained in the Act and reproduced in the BCAP Code prohibits any form of advertisement by or on behalf of a body whose objects are wholly or mainly of a political nature. Such bodies are proscribed advertisers and are not allowed to place any advertisements on any licensed television or radio service in the UK.

Ofcom took into account the comments of both the Licensee and advertiser about the communitarian rather than political nature of the (aborted) event. Further, it gave full consideration to the Licensee's statement that it had sought and secured an assurance that the "UK Jubo League" had no connection to the Jubo League that is the youth wing of a Bangladeshi political party.

However, Ofcom was unable to accept the advertiser's account of the UK Jubo League being non-political in nature, in the face of the facts of the advertisement's actual content.

Other than the three persons identified by the Licensee as having placed the advertisement (Mishlu, Modhu and Khan), all of the people named in the advertisement are connected to the Awami League political party: Alhaj Omar Faruk Chowdhury – acknowledged in the advertisement itself to be Chair of the Bangladesh Awami Jubo League; Mirza Azam MP – General Secretary of the Bangladesh Awami Jubo League[4] and member of the Central Committee of the Bangladesh Awami League[5]; and Jahangir Kabir Nanok MP – Organising Secretary of the Awami League[6].

In addition, the advertisement bore the pictures of three significant Bangladeshi figures connected to the Awami League and its youth wing, the Jubo League: Sheikh Mujibur Rahman – former President of Bangladesh and Head of the Awami League; Sheikh Hasina (the daughter of Sheikh Mujibur Rahman), current Prime Minister of Bangladesh and President of the Bangladesh Awami League; and Sheikh Fazlul Haque Moni, the founding chairman of the Jubo League.

Ofcom also noted the advertisement's reference to the event being "the Triennial Conference", i.e. that this was one of a continuing cycle of conferences, not a one-off event such as might be held in honour of a person or group of people.

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[4] See: http://cloud.ibacsworkshop.co.uk/awami-juboleague/

[5] See: http://www.albd.org/english/index.php?option=com_content&view=article&id=193&Itemid=123

[6] See: http://www.albd.org/english/index.php?option=com_content&view=article&id=192&Itemid=124

Finally, in relation to the Licensee's comments on the CAP Code, this Code is adjudicated on by the ASA and applies to non-broadcast advertising and does *not* apply to broadcast advertising, i.e. advertising carried by TV or radio services.

In view of these facts, Ofcom concluded that the advertisement had been placed by or on behalf of a body whose objects are wholly or mainly of a political nature. This conclusion was in Ofcom's view supported by the otherwise extraneous text saying: "*The reverberated call in the parade of freedom makes us feel as though we are Mujib* [i.e. Sheikh Mujibur Rahman] *ourselves.*"

For these reasons Ofcom judged ATN Bangla to be in breach of section 321(2)(a) of the Act and therefore of Rule 7.2.1(a) of the BCAP Code.

Breach of Rule 7.2.1(a) of the BCAP Code

In Breach

Showbiz India

Sahara One, 23 September 2012, 20:00

Introduction

Sahara One is an Indian Hindi general entertainment channel broadcast on the Sky platform. *Showbiz India* is an hour-long Bollywood entertainment news programme, which includes Bollywood news, movie reviews, music videos and celebrity interviews.

This pre-recorded programme included a "Bollywood Top 5" music video segment, during which a logo for Emirates airline appeared for approximately two minutes.

A viewer was concerned that Emirates was given undue prominence within the programme.

The Licensee, Globosat Entertainment Limited ("Globosat" or "the Licensee") confirmed to Ofcom that neither it, the programme producer, nor any person connected with either[1], received payment or other valuable consideration for the inclusion of the reference to Emirates during the programme, and that therefore the reference had not been subject to any product placement arrangement.

Ofcom therefore considered the material raised issues warranting investigation under the Rule 9.5 of the Code, which states:

> "No undue prominence may be given in programming to a product, service or trade mark. Undue prominence may result from:
>
> - the presence of, or reference to, a product, service or trade mark in programming where there is no editorial justification; or
>
> - the manner in which a product, service or trade mark appears or is referred to in programming."

We therefore asked the Licensee for its comments on how the content complied with Rule 9.5.

Response

Globosat explained that the *Showbiz India* series is acquired from the USA and is usually edited to remove unduly prominent commercial references. The Licensee stated that when Ofcom contacted it about this issue, it conducted an internal investigation, which revealed that on this occasion the Emirates logo appeared in the programme due to a member of staff playing out the unedited version of the programme.

The Licensee said that it regretted that this error had occurred and that it has since reminded its staff about compliance with the Code and has implemented a "multiple

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[1] "Connected person" is defined in Part 1 of Schedule 2 of the Broadcasting Act 1990.

check point system at supervisory levels". The Licensee has also stopped broadcasting the programme on its channel.

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 specific standards objectives, one of which is "that the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with".

Article 19 of the EU Audiovisual Media Services Directive ("the AVMS Directive) requires, among other things, that television advertising is kept visually and/or audibly distinct from programming.

The purpose of this is to prevent programmes becoming vehicles for advertising and to protect viewers from surreptitious advertising. Further, Article 23 of the AVMS Directive requires that television advertising is limited to a maximum of 12 minutes in any clock hour.

The above requirements are reflected in, among other rules, Rule 9.5 of the Code, which prohibits products, services or trade marks being given undue prominence in programming. Rule 9.5 makes clear that undue prominence may result from the presence of, or a reference to, a product, service or trade mark in programming where there is no editorial justification; or the manner in which a product, service or trade mark appears or is referred to in programming.

In this case, Ofcom considered that there was no editorial justification for the Emirates logo to appear for approximately two minutes during the "Bollywood Top 5" music video segment of the programme.

Ofcom noted that the logo was broadcast as a result of human error. Nevertheless, the programme gave undue prominence to Emirates, in breach of Rule 9.5 of the Code.

Breach of Rule 9.5

Resolved

"Sex Season" (Trailer)

National Geographic Channel, 15 July 2012, 16:30

Introduction

National Geographic Channel broadcast the above trailer at 16:30 on a Sunday afternoon during a commercial break in an episode of its marine archaeology documentary series *Ghost Ships*.

The trailer was approximately 30 seconds in duration and showed computer generated images representing a stylised 'red light district'. One of the first images in the trailer was a graphic representation of a neon sign, which read *"Sex Season"* accompanied by commentary which stated *"National Geographic presents a season of sex".* Then, over footage of women's legs, the words *"American Escort"* were superimposed accompanied by a woman saying: *"He grabbed me by my neck and slammed me on the ground. Why? Because I said no."* This was followed by a montage of images of teenage girls, one of whom was clearly pregnant, with the graphic text *"Teen Sex"* superimposed. Over this part of the trailer, a young female voice stated: *"I would say that one third of my class mates have had sex."* A different female voice was then heard to say: *"I still feel like a kid, but having a baby makes me feel more mature."*

Finally the text *"21st Century Sex Slave" was* superimposed over a montage of footage while the commentary stated: *"National Geographic Channel opens the door into the forbidden world of sex with an eye-opening new season, Thursday at nine."* The trailer ended with a four second long graphic which read: *"Premiere, Sex Season, Thursday, 9pm."*

Ofcom received a complaint that the broadcast of the trailer at a time when children could have been watching was inappropriate because of the trailer's sexual content.

Ofcom considered that the material warranted investigation under Rule 1.3 of the Code, which states:

> "Children must...be protected by appropriate scheduling from material that is unsuitable for them."

Ofcom therefore asked NGC Europe Limited ("NGC Europe" or "the Licensee") for comments on how the broadcast of the trailer complied with this rule.

Response

NGC Europe apologised and said that the broadcast of the trailer had happened as the result of an error on the part of an employee who had failed to follow the Licensee's compliance procedures. The employee, having viewed the visual content of the trailer and found it not to be "offensively graphic", failed to consider the overall suitability of the trailer for pre-watershed broadcast having regard to the tone and content of the commentary when considered in conjunction with the visual content.

The Licensee stated it had implemented various new measures to ensure that such an error did not occur again. These included:

- Weekly meetings of the editorial staff responsible for producing the Licensee's promotional content to discuss the tone, anticipated audience and transmission times of promotional content. Each of these meetings will be attended by a member of the compliance team.

- Trailers for programmes that the Licensee considers to be "inherently" post-watershed will now no longer include content from these programmes and will not be transmitted before the watershed.

- All trailers must be viewed and approved by the Licensee's compliance department before they are broadcast.

- There will be compulsory compliance training for all technical and editorial staff involved with the production and broadcast of trailers.

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, including that "persons under the age of eighteen are protected". This is reflected in Section One of the Code.

Rule 1.3 requires that children must be protected by appropriate scheduling from material that is unsuitable for them. Ofcom has issued guidance in relation to Rule 1.3 which includes advice on the scheduling of trailers[1]. In this guidance we emphasise the importance of ensuring that "trailers for post-watershed content scheduled pre-watershed include only content that is appropriate for a pre-watershed audience". This is particularly important because viewers come across trailers unawares and broadcasters are unable to provide any context or warning to viewers in advance about the material they are about to see.

Ofcom considered first whether the material broadcast was unsuitable for children.

We noted that the trailer was for a programme series about sex, sexual subjects and adult themes and clearly designed for post-watershed broadcast. The trailer included: various references to sex, including sexual violence (Ofcom noted in particular the woman saying, *"He grabbed me by the neck and slammed me on the ground. Why? Because I said no"*); and, the repeated use of the words "sex" and related words as captions in vision throughout the trailer (for example *"Sex Season"*, *"American Escort", "Teen Sex"*, *"21st Century Sex Slave"*, and *"Premiere, Sex Season, Thursday, 9pm"*). Although the visual material in the trailer was not particularly graphic, in Ofcom's opinion the trailer was unsuitable for children because of its focus on adult sexual themes.

Ofcom therefore assessed whether the trailer had been appropriately scheduled. In deciding this, Ofcom took into account such factors as: the nature of the content; the likely age range and number of children in the audience; the time at which the material complained of was broadcast; and the nature of the channel and the audience's likely expectations at a particular time on a particular day.

[1] http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/watershed-on-tv.pdf

We noted first that National Geographic Channel is a specialist documentary channel aimed at adults that does not present itself as being a general entertainment channel. In addition, Ofcom noted that the BARB viewing figures for the channel for the time and date at which the trailer was broadcast suggested no children were watching at this time.

However, children would have been available to view at this time (16:30 on a Sunday) and some of them could have been unaccompanied by an adult. Further, bearing in mind that the trailer was broadcast during a break in a programme which might have held some appeal for children (*Ghost Ships*), in Ofcom's opinion this trailer would have not have been in keeping with the likely expectations of many in the audience – especially parents. Ofcom therefore concluded that this trailer was not appropriately scheduled and its broadcast was in breach of Rule 1.3.

Ofcom noted that the Licensee apologised unreservedly for the error that led to the breach, and has made a number of improvements to its compliance arrangements as a result of this incident. Ofcom therefore considers the case to be resolved.

Resolved

Other Programmes Not in Breach

Up to 17 December 2012

Programme	Broadcaster	Transmission Date	Categories
Girls (trailer)	Sky1	04/10/2012	Scheduling
Girls (trailer)	Sky1	07/10/2012	Scheduling
Sky Sports News	Sky Sports News	29/10/2012	Materially misleading
WEC (trailer)	Extreme	29/10/2012	Scheduling

Complaints Assessed, not Investigated

Between 27 November and 17 December 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
4thought.tv	Channel 4	11/12/2012	Sexual orientation discrimination/offence	1
5 Live Breakfast	BBC Radio 5 Live	10/12/2012	Generally accepted standards	1
5 News	Channel 5	07/12/2012	Generally accepted standards	1
8 Out of 10 Cats	Channel 4	26/11/2012	Generally accepted standards	1
8 Out of 10 Cats	Channel 4	10/12/2012	Generally accepted standards	1
8 Out of 10 Cats	Channel 4	13/12/2012	Generally accepted standards	1
A Girl's Guide to 21st Century Sex	5*	03/12/2012	Gender discrimination/offence	1
Adult Channels	n/a	n/a	Generally accepted standards	1
Afternoon Play	BBC Radio 4	30/11/2012	Offensive language	1
Album Show	Endeavour Radio	02/12/2012	Scheduling	1
Alien Investigations	Channel 4	02/12/2012	Materially misleading	1
American Dad!	BBC 3	14/12/2012	Violence and dangerous behaviour	1
Anadin's sponsorship of Deal or No Deal	Channel 4	23/11/2012	Gender discrimination/offence	1
Any Answers	BBC Radio 4	08/12/2012	Sexual orientation discrimination/offence	1
BAMMA 11: Alex Reid Returns	Channel 5	01/12/2012	Violence and dangerous behaviour	1
BBC	BBC Radio Lancashire	n/a	Outside of remit / other	1
BBC Digital Radio promotions	BBC channels	n/a	Materially misleading	1
BBC Digital Radio promotions	BBC 1	09/12/2012	Materially misleading	1
BBC News	BBC	10/12/2012	Generally accepted standards	1
BBC News	BBC 1	20/11/2012	Outside of remit / other	1
BBC News	BBC 1	05/12/2012	Generally accepted standards	2
BBC News	BBC News Channel	02/11/2012	Violence and dangerous behaviour	1
BBC News	BBC News Channel	30/11/2012	Outside of remit / other	1
BBC News	BBC News Channel	23/11/2012	Animal welfare	1
BBC News	BBC News Channel	30/11/2012	Outside of remit / other	1

BBC News	BBC News Channel	14/12/2012	Scheduling	1
BBC News	BBC World News	20/11/2012	Race discrimination/offence	1
BBC News at One	BBC 1	29/11/2012	Sexual orientation discrimination/offence	1
BBC News at One	BBC 1	05/12/2012	Generally accepted standards	2
BBC News at Six	BBC 1	10/12/2012	Generally accepted standards	1
BBC News at Ten	BBC 1	05/12/2012	Generally accepted standards	1
BBC Newsline	BBC 1 Northern Ireland	18/10/2012	Harm	1
BBC Parliament	BBC	n/a	Disability discrimination/offence	1
BBC Radio 4	BBC Radio 4	n/a	Outside of remit / other	1
BBC Sports Personality of The Year	BBC 1	16/12/2012	Voting	3
BBC World News	BBC 2	19/11/2012	Due impartiality/bias	1
Ben Clark	Radio Exe	27/11/2012	Sexual material	1
Body of Proof	Channel 5	04/12/2012	Outside of remit / other	1
Bondai Rescue	CBS Drama	01/12/2012	Offensive language	1
Brainiac: Science Abuse	Challenge	26/11/2012	Sexual material	1
Breakfast	BBC 1	24/11/2012	Disability discrimination/offence	1
Breakfast	BBC 1	03/12/2012	Due accuracy	1
Breakfast with Stuart and Amy	BBC Radio Stoke	07/11/2012	Race discrimination/offence	1
British Comedy Awards 2012	Channel 4	12/12/2012	Generally accepted standards	1
British Comedy Awards 2012	Channel 4	12/12/2012	Offensive language	1
Capital Breakfast	Capital FM	07/12/2012	Generally accepted standards	1
Casualty	BBC 1	22/07/2012	Violence and dangerous behaviour	1
CBeebies	CBeebies	17/12/2012	Generally accepted standards	1
Celebrity Juice	ITV2	06/12/2012	Generally accepted standards	1
Celebrity Juice (trailer)	ITV2	05/12/2012	Generally accepted standards	1
Celebrity Who Wants to be a Millionaire?	ITV1	09/12/2012	Competitions	1
Celebrity Who Wants to be a Millionaire?	ITV1	09/12/2012	Sexual orientation discrimination/offence	1
Channel 4	Channel 4	n/a	Outside of remit / other	1
Channel 4 News	Channel 4	26/11/2012	Due accuracy	1
Channel 4 News	Channel 4	06/12/2012	Generally accepted standards	1
Channel 4 News	Channel 4	11/12/2012	Generally accepted standards	1

Channel promotion	Comedy Central	17/11/2012	Hypnotic and other techniques	1
Chat Girl TV	Adult Channel	27/11/2012	Sexual material	3
Chat Girl TV	Adult Channel	04/12/2012	Sexual material	1
Chat Girl TV	Adult Channel	14/12/2012	Sexual material	1
Chat Girl TV	GirlGirl	13/12/2012	Sexual material	1
Chat Girl TV X	GirlGirl	29/11/2012	Sexual material	1
Chat Girl TV X	GirlGirl	30/11/2012	Sexual material	2
Chat Girl TV X	GirlGirl	01/12/2012	Sexual material	1
Chat Girl TV X	GirlGirl	05/12/2012	Sexual material	1
Chorley FM	Chorley FM	26/11/2012	Generally accepted standards	1
Christmas 24 promotion	Christmas 24	28/11/2012	Animal welfare	1
Classic FM News	Classic FM	05/12/2012	Due impartiality/bias	1
Click	BBC 1	01/12/2012	Outside of remit / other	1
Come Dine with Me	Channel 4	07/12/2012	Outside of remit / other	1
Continuity announcement	BBC 4	25/11/2012	Outside of remit / other	1
Coronation St / Emmerdale	ITV1	n/a	Scheduling	1
Coronation Street	ITV1	23/11/2012	Undue prominence	1
Coronation Street	ITV1	26/11/2012	Product placement	1
Coronation Street	ITV1	26/11/2012	Violence and dangerous behaviour	25
Coronation Street	ITV1	28/11/2012	Generally accepted standards	3
Coronation Street	ITV1	30/11/2012	Drugs, smoking, solvents or alcohol	1
Coronation Street	ITV1	02/12/2012	Drugs, smoking, solvents or alcohol	2
Coronation Street	ITV1	13/12/2012	Disability discrimination/offence	1
Countryfile	BBC 1	16/12/2012	Outside of remit / other	1
Crabbies's sponsorship of ITV Christmas	ITV1	01/12/2012	Sponsorship	1
Dara O Briain's Science Club	BBC 2	04/12/2012	Animal welfare	1
Daybreak	ITV1	27/11/2012	Fairness	1
Daybreak	ITV1	30/11/2012	Gender discrimination/offence	1
Deal or No Deal	Channel 4	30/11/2012	Generally accepted standards	1
Deal or No Deal	Channel 4	03/12/2012	Outside of remit / other	1
Derren Brown: Fear & Faith	Channel 4	16/11/2012	Harm	1
Dickinson's Real Deal	ITV1	28/11/2012	Generally accepted standards	1
Dickinson's Real Deal	ITV1	04/12/2012	Outside of remit /	1

			other	
Dispatches	Channel 4	26/11/2012	Due impartiality/bias	1
Doc Martin (trailer)	ITV3	n/a	Violence and dangerous behaviour	1
Doctor Who	BBC 3	n/a	Generally accepted standards	1
Don't Tell the Bride	Really	09/12/2012	Offensive language	1
Dragons' Den	BBC 2	26/11/2012	Generally accepted standards	1
Drive Time	Talksport	12/11/2012	Commercial communications on radio	1
EastEnders	BBC 1	27/11/2012	Generally accepted standards	1
EastEnders	BBC 1	03/12/2012	Outside of remit / other	1
EastEnders	BBC 1	13/12/2012	Materially misleading	1
EastEnders	BBC 1	14/12/2012	Race discrimination/offence	1
EastEnders	BBC 1	n/a	Religious/Beliefs discrimination/offence	1
Eggheads	BBC 2	28/11/2012	Generally accepted standards	1
Emmerdale	ITV1	23/11/2012	Disability discrimination/offence	1
FA Cup 2nd Round Live	ITV1	02/12/2012	Due impartiality/bias	2
Falcón	Sky Atlantic	22/11/2012	Generally accepted standards	1
Farm Life	Quest	10/11/2012	Scheduling	1
Foyle's War	ITV3	24/11/2012	Sponsorship credits	1
Frank Skinner	Absolute Radio	24/11/2012	Transgender discrimination/offence	1
Freddie Flintoff: Lords to the Ring	Sky1	30/11/2012	Materially misleading	1
Freeview	Freeview	n/a	Digital Switchover	1
Futurama	Sky1	15/11/2012	Scheduling	1
Futurama (trailer)	Sky2	04/11/2012	Materially misleading	1
General Comments	All	n/a	Outside of remit / other	1
Geoff Lloyd's Hometime Show	Absolute Radio	27/11/2012	Race discrimination/offence	1
Get Well Soon	CBeebies	02/10/2012	Offensive language	1
Get Well Soon	CBeebies	14/11/2012	Generally accepted standards	65
Goodnight Britain	BBC 1	28/11/2012	Materially misleading	1
Gyan ki Ayei Aahdi	Sangat TV	21/11/2012	Fairness	1
Gyankiandhi	Sangat TV	07/11/2012	Generally accepted standards	1
Harry and Paul	BBC 2	02/12/2012	Offensive language	1
Harry and Paul	BBC 2	02/12/2012	Race discrimination/offence	1
Hatton vs Schkenko	Prime Time Boxing	24/01/2012	Outside of remit / other	4
Have I Got a Bit More	BBC 1	10/12/2012	Religious/Beliefs	1

News for You			discrimination/offence	
Hollyoaks	E4	30/11/2012	Materially misleading	1
Hollyoaks	E4	05/12/2012	Materially misleading	1
Home Essentials	Price Drop TV	01/12/2012	Harm	1
Howard Goodall	Classic FM	17/11/2012	Due impartiality/bias	1
Hugh's Three Good Things	More4	06/12/2012	Race discrimination/offence	1
I Want to Change My Body	BBC 3	20/11/2012	Violence and dangerous behaviour	1
Iain and Dodge (trailer)	CBBC	21/01/2012	Scheduling	1
I'm a Celebrity, Get Me Out of Here Now!	ITV2	28/11/2012	Race discrimination/offence	2
I'm a Celebrity, Get Me Out of Here!	ITV1	15/11/2012	Animal welfare	1
I'm a Celebrity, Get Me Out of Here!	ITV1	17/11/2012	Drugs, smoking, solvents or alcohol	1
I'm A Celebrity, Get Me Out of Here!	ITV1	17/11/2012	Drugs, smoking, solvents or alcohol	1
I'm A Celebrity, Get Me Out of Here!	ITV1	18/11/2012	Drugs, smoking, solvents or alcohol	2
I'm A Celebrity, Get Me Out of Here!	ITV1	22/11/2012	Drugs, smoking, solvents or alcohol	1
I'm a Celebrity, Get Me Out of Here!	ITV1	24/11/2012	Advertising minutage	1
I'm a Celebrity, Get Me Out of Here!	ITV1	26/11/2012	Advertising minutage	1
I'm a Celebrity, Get Me Out of Here!	ITV1	26/11/2012	Animal welfare	1
I'm a Celebrity, Get Me Out of Here!	ITV1	27/11/2012	Generally accepted standards	1
I'm a Celebrity, Get Me Out of Here!	ITV1	28/11/2012	Offensive language	1
I'm a Celebrity, Get Me Out of Here!	ITV1	29/11/2012	Animal welfare	1
I'm a Celebrity, Get Me Out of Here!	ITV1	29/11/2012	Competitions	1
I'm a Celebrity, Get Me Out of Here!	ITV1	29/11/2012	Nudity	1
I'm a Celebrity, Get Me Out of Here!	ITV1	30/11/2012	Animal welfare	16
I'm a Celebrity, Get Me Out of Here!	ITV1	30/11/2012	Gender discrimination/offence	1
I'm a Celebrity, Get Me Out of Here!	ITV1	01/12/2012	Voting	1
I'm A Celebrity, Get Me Out of Here!	ITV1	n/a	Animal welfare	1
I'm A Celebrity, Get Me Out of Here!	ITV1	n/a	Drugs, smoking, solvents or alcohol	1
I'm a Celebrity, Get Me Out of Here! (trailer)	ITV1	01/12/2012	Generally accepted standards	1
ITV News at Ten and Weather	ITV1	03/12/2012	Due accuracy	1
Jamie and Jimmy's Food Fight Club	4Seven	09/12/2012	Generally accepted standards	1
Jamie and Jimmy's Food Fight Club	Channel 4	06/12/2012	Generally accepted standards	1

Jamie's 15 Minute Meals	Channel 4	27/11/2012	Outside of remit / other	1
JK and Lucy	Heart 100.7FM	17/11/2012	Competitions	1
JK and Lucy	Heart South Coast	05/12/2012	Fairness & Privacy	1
Jo & Sparky	Free Radio Birmingham	03/12/2012	Generally accepted standards	1
John Bishop's Big Year	BBC 1	30/11/2012	Generally accepted standards	1
John Bishop's Big Year	BBC 1	07/12/2012	Generally accepted standards	2
Jon Donnison	Twitter	19/11/2012	Outside of remit / other	1
Julia Hartley Brewer	LBC 97.3FM	26/11/2012	Race discrimination/offence	1
Keith Lemon's Keithmas (Trailer)	ITV2	28/11/2012	Scheduling	1
Kookyville	Channel 4	25/11/2012	Generally accepted standards	4
Last Tango in Halifax	BBC 1	27/11/2012	Materially misleading	1
Last Tango in Halifax	BBC 1	27/11/2012	Offensive language	1
Lee Evans	Channel 4	30/11/2012	Generally accepted standards	1
Lemon La Vida Loca	ITV2	09/12/2012	Sexual material	1
Lemon La Vida Loca: Merry Keithmas (trailer)	ITV2	04/12/2012	Generally accepted standards	1
Let's Do Christmas with Gino and Mel	ITV1	17/12/2012	Generally accepted standards	1
Live at the Apollo	BBC 1	01/12/2012	Gender discrimination/offence	1
Lookaround	ITV1 Border (English)	26/11/2012	Outside of remit / other	1
Looney Tunes	Boomerang	08/12/2012	Violence and dangerous behaviour	1
Loose Women	ITV1	04/12/2012	Advertising scheduling	1
Loose Women	ITV1	04/12/2012	Competitions	1
Lorraine	ITV1	05/12/2012	Competitions	1
Lynx's sponsorship of Misfits	E4	03/12/2012	Generally accepted standards	1
Made in Chelsea	E4	19/01/2009	Gender discrimination/offence	1
Masle	Sangat TV	21/11/2012	Fairness	1
MasterChef: The Professionals	BBC 2	11/12/2012	Offensive language	1
Match of the Day	BBC 1	01/12/2012	Outside of remit / other	2
Midsomer Murders	ITV3	11/12/2012	Offensive language	1
Mike & Chelsea in the Morning	Key 103	29/11/2012	Competitions	1
Misfits	E4	02/12/2012	Sexual orientation discrimination/offence	1
Mock the Week	Dave	22/11/2012	Generally accepted standards	1
Mystery Voices competition	Magic 105.4FM	30/11/2012	Competitions	1

Naked States	Sky Arts 1	10/12/2012	Nudity	1
New Girl	E4	26/11/2012	Sexual material	1
New tricks	ABC	30/11/2012	Outside of remit / other	1
News	BBC / Sky / Al Jazeera	n/a	Generally accepted standards	1
News	BBC 1 / ITV1	05/12/2012	Generally accepted standards	1
News	BBC Radio Five Live	04/12/2012	Outside of remit / other	1
News	BBC1/ITV1	27/11/2012	Due accuracy	1
News	Capital Scotland	30/11/2012	Due accuracy	1
News	Classic FM	15/11/2012	Due impartiality/bias	1
News, Sport, Weather	Sky News	18/11/2012	Due impartiality/bias	1
News, Sport, Weather	Sky News	10/12/2012	Due accuracy	1
On the Run	ITV1	11/12/2012	Crime	1
Ooglies	BBC 1	07/12/2012	Violence and dangerous behaviour	1
Panorama	BBC 1	26/11/2012	Hypnotic and other techniques	1
Panth Time	Sikh Channel	19/10/2012	Due accuracy	1
Patrick Kielty Live	Dave	21/11/2012	Violence and dangerous behaviour	1
Phones 4U's sponsorship credit	Channel 4	01/12/2012	Sexual material	1
Phones 4U's sponsorship of Films on 4	Film4	05/12/2012	Generally accepted standards	1
Programme promotions	BBC Radio 2	13/11/2012	Outside of remit / other	1
Programming	4Music	23/11/2012	Generally accepted standards	1
Programming	Capital TV	11/11/2012	Violence and dangerous behaviour	1
Programming	Various	n/a	Gender discrimination/offence	2
Programming	Various	n/a	Religious/Beliefs discrimination/offence	1
QI	BBC 2	23/11/2012	Race discrimination/offence	1
QI XL	BBC 2	01/12/2012	Generally accepted standards	1
Refried Breakfast with Danny Wallace	XFM	08/12/2012	Materially misleading	1
Renegade Rock Show	Koast Radio	n/a	Outside of remit / other	1
Rennies' sponsorship of ITV Christmas	ITV3	n/a	Generally accepted standards	1
Ricky Hatton Fight	Prime Time	24/11/2012	Materially misleading	1
Rod Stewart's Christmas	STV	08/12/2012	Outside of remit / other	1
Rolf's Animal Clinic	Channel 5	29/11/2012	Generally accepted standards	1
Rules of Engagement	E4	04/12/2012	Sexual material	1
Rush Hour 2	Channel 5	02/12/2012	Race	1

			discrimination/offence	
Sangat TV	Sangat TV	10/10/2012	Gender discrimination/offence	1
Scott on Kiss	Kiss FM	08/12/2012	Sexual material	1
See No Evil, Hear No Evil	5USA	17/11/2012	Gender discrimination/offence	1
Shool	UMP Movies	06/11/2012	Scheduling	1
Simon Mayo	BBC Radio 2	06/12/2012	Outside of remit / other	1
Sky News	Sky News	05/12/2012	Generally accepted standards	1
Sky News	Sky News	07/12/2012	Due accuracy	1
Sky News at 5 with Andrew Wilson	Sky News	30/11/2012	Cross/self promotions	1
Sky News at 6 with Andrew Wilson	Sky News	07/12/2012	Due accuracy	1
Sky News at 6 with Jeremy Thompson	Sky News	28/11/2012	Generally accepted standards	1
Soccer A.M.	Sky Sports 2	15/12/2012	Race discrimination/offence	1
Some Girls (trailer)	BBC 1	05/11/2012	Generally accepted standards	1
South Park (trailer)	Comedy Central	24/11/2012	Scheduling	1
Spartacus: Gods of the Arena (trailer)	Sky News	24/11/2012	Scheduling	1
Stalkers	TV3	07/11/2012	Generally accepted standards	1
Start the Week	BBC Radio 4	03/12/2012	Religious/Beliefs discrimination/offence	1
Stephen King's Bag of Bones (trailer)	Channel 5	12/12/2012	Scheduling	1
Steve Allen	LBC 97.3FM	04/12/2012	Generally accepted standards	2
Steve Allen	LBC 97.3FM	05/12/2012	Generally accepted standards	1
Stevie Street Back2Basics	Peace FM	11/12/2012	Sexual orientation discrimination/offence	1
Strictly Come Dancing	BBC 1	17/11/2012	Flashing images/risk to viewers who have PSE	1
Strictly Come Dancing	BBC 1	24/11/2012	Race discrimination/offence	1
Strictly Come Dancing	BBC 1	01/12/2012	Scheduling	2
Strictly Come Dancing	BBC 1	n/a	Generally accepted standards	1
Strictly Come Dancing	BBC 1	n/a	Outside of remit / other	1
Strictly Come Dancing	BBC 1 Wales	20/10/2012	Generally accepted standards	1
Strictly Come Dancing	BBC 1 Wales	03/11/2012	Generally accepted standards	2
Strictly Come Dancing	BBC 1 Wales	24/11/2012	Generally accepted standards	1
Studio 66 days	Studio 66	04/12/2012	Participation TV - Harm	1
Studio 66 TV 2 Days	Studio 66 TV	30/11/2012	Generally accepted	1

	2		standards	
STV News at Six	STV	23/11/2012	Due accuracy	1
Sunday Brunch	Channel 4	02/12/2012	Race discrimination/offence	1
Sunday Brunch	Channel 4	09/12/2012	Offensive language	1
T4	Channel 4	02/12/2012	Scheduling	6
Takbeer TV	Takbeer TV	11/10/2012	Charity appeals	1
Take Me Out	ITV1	01/12/2012	Drugs, smoking, solvents or alcohol	1
Teenage Kicks with Rick Jackson	Wave 105.2	18/11/2012	Offensive language	1
Teletext	ITV / Channel 4	n/a	Outside of remit / other	1
The 15-Stone Babies	Channel 4	13/12/2012	Generally accepted standards	1
The All New Gadget Show	Channel 5	03/12/2012	Violence and dangerous behaviour	13
The All New Gadget Show	Channel 5	08/12/2012	Violence and dangerous behaviour	2
The Andrew Marr Show	BBC 1	02/12/2012	Outside of remit / other	1
The Choir	BBC 1 Wales	20/11/2012	Generally accepted standards	1
The Chris Evans Breakfast Show	BBC Radio 2	26/11/2012	Religious/Beliefs discrimination/offence	1
The Curious Case of the Clark Brothers	Channel 4	29/11/2012	Fairness	1
The Departed	Film4	28/11/2012	Offensive language	1
The Dirty Dozen	Channel 5	09/12/2012	Sexual material	1
The Jeremy Kyle Show	ITV1	04/12/2012	Generally accepted standards	1
The Martin Lewis Money Show	ITV1	11/12/2012	Outside of remit / other	1
The McFly Show	ITV1	08/12/2012	Outside of remit / other	1
The Morning Programme	BBC Radio 4	01/12/2012	Fairness	1
The One Show	BBC 1	28/11/2012	Outside of remit / other	1
The Only Way is Essex	ITV2	02/12/2012	Offensive language	1
The Politics Show	BBC 1	25/11/2012	Outside of remit / other	1
The Radio 1 Breakfast Show with Nick Grimshaw	BBC Radio 1	12/11/2012	Offensive language	1
The Radio 1 Breakfast Show with Nick Grimshaw	BBC Radio 1	12/12/2012	Drugs, smoking, solvents or alcohol	1
The Radio 1 Breakfast Show with Nick Grimshaw	BBC Radio 1	12/12/2012	Sexual material	1
The Radio 1 Breakfast Show with Nick Grimshaw	BBC Radio 1	n/a	Scheduling	1
The Royal	ITV3	30/11/2012	Offensive language	1
The Royal Variety Performance	ITV1	03/12/2012	Outside of remit / other	1
The Simpsons	Channel 4	29/11/2012	Offensive language	1
The Today Programme	BBC Radio 4	06/12/2012	Outside of remit / other	1

The Today Programme	BBC Radio 4	12/12/2012	Scheduling	1
The Town	ITV1	05/12/2012	Drugs, smoking, solvents or alcohol	1
The Truth Behind Karbala	Ummah Channel	13/11/2012	Religious/Beliefs discrimination/offence	1
The Wright Stuff	Channel 5	27/11/2012	Generally accepted standards	1
The Wright Stuff	Channel 5	03/12/2012	Due accuracy	1
The Wright Stuff	Channel 5	11/12/2012	Generally accepted standards	1
The Wright Stuff	Channel 5	12/12/2012	Generally accepted standards	1
The Wright Stuff	Channel 5	13/12/2012	Due impartiality/bias	1
The X Factor	ITV1	24/11/2012	Generally accepted standards	9
The X Factor	ITV1	24/11/2012	Offensive language	1
The X Factor	ITV1	24/11/2012	Race discrimination/offence	1
The X Factor	ITV1	01/12/2012	Voting	3
The X Factor	ITV1	08/12/2012	Competitions	1
The X Factor	ITV1	08/12/2012	Generally accepted standards	2
The X Factor	ITV1	08/12/2012	Scheduling	3
The X Factor	ITV1	n/a	Competitions	1
The X Factor	ITV1	n/a	Voting	1
The X Factor Results Show	ITV1	25/11/2012	Advertising/editorial distinction	1
The X Factor Results Show	ITV1	25/11/2012	Drugs, smoking, solvents or alcohol	1
The X Factor Results Show	ITV1	02/12/2012	Voting	1
The X Factor Results Show	ITV1	09/12/2012	Voting	17
The Xtra Factor	ITV2	24/11/2012	Offensive language	2
The Xtra Factor	ITV2	24/11/2012	Violence and dangerous behaviour	1
The Xtra Factor	ITV2	02/12/2012	Offensive language	1
The Xtra Factor	ITV2	09/12/2012	Drugs, smoking, solvents or alcohol	3
The Xtra Factor	ITV2	09/12/2012	Voting	1
This Morning	ITV1	23/11/2012	Due accuracy	1
This Morning	ITV1	30/11/2012	Due impartiality/bias	1
This Morning	ITV1	04/12/2012	Outside of remit / other	1
This Morning	ITV1	07/12/2012	Generally accepted standards	1
This Morning	ITV1	13/12/2012	Competitions	2
This Week	BBC 1	29/11/2012	Outside of remit / other	1
Time Team: The Mystery of the Roman Treasure	More4	22/11/2012	Generally accepted standards	1
Today	BBC Radio 4	24/11/2012	Crime	1
Top Gear	BBC 3	15/12/2012	Violence and dangerous behaviour	1

True Stories	Channel 4	29/11/2012	Generally accepted standards	1
True Stories: Captive - The Sex Slave Girl (trailer)	Channel 4	29/11/2012	Scheduling	1
Unknown	BBC Radio 1	n/a	Scheduling	1
War on Britain's Roads	BBC 1	05/12/2012	Materially misleading	17
War on Britain's Roads	BBC 1	05/12/2012	Outside of remit / other	1
Who Do You Think You Are?	BBC 1	06/12/2012	Race discrimination/offence	1
xxXpanded TV	xxXpanded TV	21/11/2012	Participation TV - Protection of under 18s	1
Young Apprentice	BBC 1	29/11/2012	Generally accepted standards	1
You've Been Framed!	ITV1	03/11/2012	Sexual material	1
You've Been Framed!	ITV1	10/11/2012	Religious/Beliefs discrimination/offence	1
Zack and Miri Make a Porno (trailer)	Channel 5	12/12/2012	Scheduling	1
Zack and Miri Make a Porno (trailer)	Channel 5	14/12/2012	Scheduling	2
Zane Lowe: Masterpieces 2012	BBC Radio 1	04/12/2012	Offensive language	2

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 6 and 19 December 2012.

Programme	Broadcaster	Transmission date
Advertising minutage	RT	Various
Advertising scheduling	Extreme Sports	Various
Channel 4 News	Channel 4	7 December 2012
Ice Road Truckers	History	23 November 2012
Live coverage: Leeds United v Leicester City	Yorkshire Radio	26 December 2010
Obese: A Year To Save My Life	Sky 1 HD	30 January 2012
Raj Karega Khalsa	Sangat TV	18 October 2012
Sahara One	Sahara One	9 November 2012
Senna	Sky Sports F1	25 November 2012
Shastho Protidin	NTV	3 November 2012
Tony Horne Radio Show	NE1 FM	27 October, 3 and 10 November 2012
Youth Show	Sangat TV	7 October 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/.