

Ofcom Broadcast Bulletin

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Introduction

Ofcom's Broadcasting Code ("the Code") took effect on 25 July 2005 (with the exception of Rule 10.17 which came into effect on 1 July 2005). This Code is used to assess the compliance of all programmes broadcast on or after 25 July 2005. The Broadcasting Code can be found at <http://www.ofcom.org.uk/tv/ifi/codes/bcode/>

The Rules on the Amount and Distribution of Advertising (RADA) apply to advertising issues within Ofcom's remit from 25 July 2005. The Rules can be found at <http://www.ofcom.org.uk/tv/ifi/codes/advertising/#content>

From time to time adjudications relating to advertising content may appear in the Bulletin in relation to areas of advertising regulation which remain with Ofcom (including the application of statutory sanctions by Ofcom).

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

Standards cases

In Breach

George Galloway

talkSPORT, 10 August 2007, 12:45

Introduction

George Galloway normally presents a twice weekly evening phone-in programme on talkSPORT, in which he debates a wide range of topical issues with listeners who are given the opportunity to challenge his views. On this occasion he was standing in for the regular morning host. Towards the end of the programme, he announced that he intended to stand in the next general election in the constituency of Poplar and Limehouse. During the course of his statement, he made a number of derogatory comments about the existing MP for this area, Jim Fitzpatrick.

We received three complaints from listeners who objected to the presenter using the programme in this manner to declare his political intentions and to criticise Mr Fitzpatrick, who did not have the opportunity to respond.

We asked talkSPORT to comment on this part of the broadcast in relation to Rule 5.5 (due impartiality on matters of political or industrial controversy) and 5.9 (presenters must not use the advantage of regular appearances to promote their views in a way that compromises the requirements for due impartiality) of the Code.

Response

talkSPORT accepted that, on this occasion, George Galloway's comments had compromised the need for due impartiality. It also acknowledged that Mr Galloway's criticism of Mr Fitzpatrick was inappropriate, particularly as his future opponent did not have the opportunity to defend himself.

The broadcaster assured us that the matter had been discussed with both the presenter and the producer and it was made clear to them that this item had fallen short of the Code's requirements regarding due impartiality. They both understood the issue and that the Code must, in the future, be observed. In mitigation, talkSPORT wished to point out that George Galloway had not mentioned the name of his political party and he did offer his opponent the opportunity to challenge him anywhere, anytime, in a public forum for a public debate.

Decision

Our consideration of the presenter's comments focussed on two Code Rules.

- Rule 5.5 is intended to ensure that due impartiality is preserved on matters of political controversy; and
- Rule 5.9 allows presenters of personal view programmes to express their own views on matters of political controversy or matters relating to current public policy. It goes on however to explain that due impartiality will be achieved in such programmes when alternative viewpoints are adequately represented either in the programme, or in a series of programmes taken as a whole.

Additionally, presenters must not use the advantage of regular appearances to promote their views in a way that compromises the requirement for due impartiality.

The focus of the main part of this phone-in programme was the controversial issue of identity cards. A wide range of views on this subject were included. However, at the end of the programme George Galloway announced his intention to seek the nomination of his party to stand in Poplar and Limehouse at the next general election and to challenge the existing MP, Mr Jim Fitzpatrick. He went on to make comments about Mr Fitzpatrick's role in various political matters, claiming that he was the Minister responsible for:

"...closing Post Offices, he is the Minister for the shambles at Heathrow. He is the former fire-fighter who betrayed his former workmates by opposing the great battle of the fire brigades union, indeed I think quite a lot of fire fighters will be with me in this fight - he is hated there, as a man who betrayed them".

He then went on to refer to Mr Fitzpatrick's voting record in the House of Commons on key issues since 2001:

"He voted very strongly against a transparent parliament. He voted moderately for introducing a smoking ban. He voted very strongly for introducing ID cards. He voted very strongly for introducing foundation hospitals. He voted very strongly for introducing student top up fees. He voted very strongly for Labour Anti-terrorist laws. He voted very strongly for the Iraq War. He voted very strongly against investigating the Iraq war. He voted very strongly for replacing Trident. He voted very strongly for the fox hunting ban, and he voted very strongly for equal gay rights. And all of these are the reasons why it is going to be the mother of all battles in Poplar and Limehouse".

Clearly the issues referred to by Mr Galloway in this section of the programme, including Mr Fitzpatrick's record and reputation as an MP, were either matters of political controversy or matters relating to current public policy. Alternative views on these controversial issues were not adequately represented. Nor did the broadcaster direct us to other programmes in which such views were included. While we noted that Mr Galloway did not name his political party and invited Mr Fitzpatrick to a public debate in a place of his choosing, these points were clearly insufficient to achieve due impartiality in this context. Ofcom considered that, by making these remarks, the presenter used this part of the programme as a platform for announcing and promoting his future political ambitions and views in such a way that the requirement for due impartiality was compromised.

Ofcom welcomed talkSPORT's recognition that the item had breached the Code and the subsequent measures it had undertaken internally to improve compliance. However, this was a serious breach of the Code where a sitting MP used his position as presenter on a radio station to promote his own possible candidacy in a parliamentary seat. Further, he used that position to attack a potential political opponent without giving him an opportunity to respond. Given the seriousness of this case, Ofcom considered whether to proceed to the consideration of sanction. However, this was the first occasion that Ofcom had found talkSPORT in breach of the due impartiality requirements. Nevertheless, the broadcaster should be aware that similar significant failure to ensure compliance with the due impartiality requirements will result in the consideration of further regulatory action.

Breaches of Rules 5.5 and 5.9

Inside Gaming

Xleague.tv, 23 May 2007, 11:15

Introduction

Xleague.tv broadcasts video games-based content. *Inside Gaming* is a regular programme which provides 'behind the scenes' information about video games. A viewer complained that an edition of *Inside Gaming* was sponsored or made by a games manufacturer and that, rather than providing an independent insight, it was a promotional film.

We noted that the edition in question appeared to be called "*Tom Clancy's Ghost Recon Advanced Warfighter 2 ("GRAW2"): Developer Diary*". Both the opening and closing credits indicated that the content was produced by the games manufacturer, Ubisoft.

We requested the broadcaster's comments under the Code, with regard to the rules in Section Nine of the Code (Sponsorship), in particular, Rules 9.4 (broadcaster's editorial independence must not be impaired by the sponsor) and 9.5 (any reference to the sponsor or its products etc within a programme must be non-promotional, editorially justified and incidental)¹.

Response

The broadcaster said it had maintained its editorial independence with respect to *Inside Gaming* at all times. The original audio visual content included in the programme was provided by Ubisoft, in response to a general request from the broadcaster for 'behind the scenes'-type material. The broadcaster said it then edited the content supplied by Ubisoft and that Ubisoft was not involved in that process in any way; nor had the broadcaster been paid in return for broadcasting the material.

The broadcaster felt it had taken reasonable steps to ensure that the focus of the programme was shifted away from the promotional purpose of the original content from Ubisoft. In the broadcaster's view, references to the particular game featured in the programme were editorially justified by reason of providing viewers with informational and entertainment value, and were not unduly prominent. It argued that viewers would not expect programmes of this type not to include "multiple on screen excerpts of the games themselves". It also suggested that viewers are aware of when they are watching a traditional 'review' of a game, or simply being given information about a forthcoming release.

The broadcaster said it conceded that the Ubisoft logos at the beginning and end of the programme were not justifiable in the context and should have been removed. It also said that since the particular edition was broadcast, its production team had slightly altered the programme-brief of *Inside Gaming* to include more elements directly created by the broadcaster, on and off location with games developers and manufacturers, including interviews and captions.

¹ At the time of the broadcast, these rules were numbered 9.5 and 9.6 respectively.

Decision

The Code defines a sponsored programme as:

“a programme that has had some or all of its costs met by a sponsor with a view to promoting its own or another’s name, trademark, image, activities, services, products or any other direct or indirect interest.”

In this case, the programme was a version of promotional content for the GRAW2 game provided to the broadcaster by Ubisoft, the maker of the game. The broadcaster did not pay Ubisoft for the programme. We considered that Ubisoft provided the content with a view to promoting one of its products and that the programme was a sponsored programme as defined under the Code. Therefore, it needed to comply with the rules on sponsorship.

One of the principles on which the sponsorship rules are based is editorial independence: the broadcaster must maintain editorial control and programmes must not be distorted for commercial purposes.

Rule 9.4 of the Code states that a sponsor must not influence the content or scheduling of a programme in such a way as to impair the editorial independence of the broadcaster. Whilst this does not preclude a sponsor from providing content, the broadcaster must take care to ensure that the programme is not - and it is not reasonable for a viewer to infer that the programme has been - distorted for commercial purposes. In this case, we noted the broadcaster’s view that it had edited the content supplied by Ubisoft to remove promotional references, and that Ubisoft had not been involved in those editorial decisions. However, we note that all the material for this item was supplied by the maker of the game, the item itself complained of was exclusively about the sponsor’s game, and the content was not sufficiently edited or contextualised to ensure that viewers would not reasonably perceive the broadcaster’s editorial independence as having been compromised. We therefore considered that the programme was in breach of Rule 9.4.

The programme contained frequent, positive references about the features of the game, and almost all of the screen time was taken up with excerpts of the game. The programme wholly comprised material provided by Ubisoft and there was no content provided by the broadcaster to balance or contextualise that material as would normally be the case in a review or ‘behind the scenes’ programme. As a result, on the facts of this case, the programme appeared to be a promotional vehicle for the game and was therefore in breach of Rule 9.5.

Breach of Rules 9.4 and 9.5

Win Win TV

The Hits, 27 June 2007, 00:00

Introduction

Win Win TV is an interactive quiz programme where viewers submit entries by text message. Ofcom received two complaints questioning the authenticity of some of the winning entries.

Response

The broadcaster was unable to provide us with a copy of the programme as it had experienced problems with its logging system.

Decision

In the absence of a recording we were unable to consider the complaints in this case. It is a condition of a Television Licensable Content Service licence that recordings of their output are retained for 60 days after transmission, and that they must provide Ofcom with any such material upon request. Failure to supply these recordings is a serious and significant breach of the broadcaster's licence. This will be held on record.

Breach of Licence Condition 11

Not in Breach

Dispatches: Undercover Mosque

Channel 4, 15 January 2007, 21:00

Introduction

Undercover Mosque was an edition of Channel 4's investigative current affairs series *Dispatches*. The programme reported the observations of an undercover reporter who visited a number of Mosques and Islamic organisations in Britain. The programme stated that it had discovered extremism being preached in this country: "...an ideology of bigotry and intolerance spreading through Britain with its roots in Saudi Arabia".

The programme included secretly filmed footage taken from Mosques and organisations. The undercover recordings featured the teachings of several speakers which the programme alleged to be homophobic, anti-Semitic, sexist and condemnatory of non-Muslims. The programme also included excerpts from books, CDs and DVDs that had been purchased from these Islamic centres, and from websites which were connected to the Mosques.

The programme included a number of excerpts from preachers and teachers such as:

"Allah created the woman deficient".

"...it takes two witnesses of a woman to equal the one witness of the man".

"By the age of ten, it becomes an obligation on us to force her [young girls] to wear hijab, and if she doesn't wear hijab, we hit her".

"...take that homosexual and throw him off the mountain".

"Whoever changes his religion from Al Islam to anything else – kill him in the Islamic state".

The views of representatives from mainstream Islam were also included, as were responses to the allegations made by the speakers and organisations who had been covertly filmed.

Viewers' complaints

Ofcom received 364 complaints soon after the programme was broadcast. There appeared to be evidence that the complaints were part of a campaign. The complaints were that:

- the programme was offensive to Muslims and demonstrated bias;
- speakers were shown espousing views that were offensive to non-Muslims;
- the programme glorified racism, anti-semitism, sexism and terrorism; and
- the portrayal of Mosque speakers covertly filmed for the programme was misleading.

Ofcom considered these complaints under Rule 2.2 (factual programmes must not materially mislead the audience) (see also complaint from West Midlands Police below), Rule 2.3 (the application of "generally accepted standards"), and Rule 3.1 (material likely to encourage or incite the commission of crime or lead to disorder must not be included in television programmes).

West Midlands Police Complaint

On 10 August 2007, West Midlands Police (“WMP”) complained to Ofcom about the programme.

West Midlands Police Major Investigation Unit had launched an investigation, immediately after the programme was transmitted, into whether criminal offences had been committed by those teaching or preaching at the Mosques and other establishments. In order to carry out this investigation, the WMP said that it required access to the material that was not broadcast. On the 26 March 2007, the WMP obtained a production order for the unseen secretly recorded footage from Channel 4. The findings of the WMP were presented to the Crown Prosecution Service (“the CPS”), who concluded that there was insufficient evidence to bring charges against any person featured in the programme.

However, the WMP stated that it and the CPS had then considered potential offences that may have been committed by those involved in the production and broadcast of the programme - specifically in relation to stirring up racial hatred. The CPS reviewed the available evidence and advised that “a realistic prospect of a conviction was unlikely”.

The WMP then referred the programme to Ofcom. It stated that it was “concerned with matters of public reassurance and the reduction of crime and disorder in all communities in the West Midlands area”. The WMP complained that:

- the programme had been subject to such an intensity of editing that those who had been featured in the programme had been misrepresented (creating an unfair, unjust and inaccurate perception of both some speakers and sections of the Muslim community within the West Midlands);
- the footage had been edited in a way that resulted in material being broadcast in a form so altered from the form originally delivered that it was “sufficient to undermine community cohesion”; and
- the programme was “likely to undermine feelings of public reassurance and safety of those communities in the West Midlands for which the Chief Constable has a responsibility”.

The WMP isolated five broadcast sequences as examples of instances where it said the editing process by the programme makers had led to a possible distortion of speakers’ comments (see Response below). It transcribed these five instances and asked for a comparison to be made between the original unedited speech and the extracts that were actually broadcast in the programme. On each occasion, the WMP highlighted what it called the “possible distortions as a result of editing”.

WMP also had some general concerns about the programme. These were that:

- the narrative provided in the programme potentially provided the viewer with pre-conceived ideas as to what a speaker was trying to convey;
- speeches from DVDs and internet broadcasts were played against footage from the Green Lane Mosque in Birmingham (“the Mosque”) which could have led to the perception that the speech was being delivered in the Mosque; and
- the programme may not have accurately reflected daily life in the Mosque.

Ofcom considered the WMP complaint under Rule 2.2 (factual programmes must not materially mislead the audience).

Response

Channel 4 said that WMP had made very serious allegations. However, the broadcaster added that, from a detailed consideration of the transcripts provided by the WMP and its own analysis of the making and broadcast of the programme, these allegations were "utterly without foundation".

In Channel 4's view, *Undercover Mosque* was an entirely responsible programme made in accordance with both the Code and best practice; and it raised issues very much in the public interest. Channel 4 said that WMP presented no case to answer in respect of the channel's obligations under the Code and wholly failed to support its damaging allegations about the making of the programme.

Channel 4 indicated that the investigation which resulted in *Undercover Mosque* involved not only surreptitious filming but a careful analysis of specialist internet broadcasts and DVDs sold at Mosques and other Islamic institutions. The programme was made and edited over a nine month period. A thorough and timely opportunity to respond to the programme's evidence and allegations was provided to the individuals and organisations featured critically in the programme and Channel 4 said its position was fairly reflected in the programme.

Channel 4 described how, after it had supplied the untransmitted material to WMP pursuant to the Court Order, it heard no more from WMP until the complaint by WMP to Ofcom. There had been no indication that the makers of the programme and Channel 4 would or had become the focus of the WMP investigation (as opposed to the preachers whose statements formed the basis of the Court Order).

It said that the compilation of five sequences from the programme contained in the WMP complaint and the transcript of the untransmitted sections provided in support was fundamentally inaccurate. Channel 4 said that WMP had not translated certain Arabic words and sentences, some of which carry a specialist meaning. The channel said it had engaged a firm of external solicitors and an experienced multi-lingual journalist and specialist in Middle East politics, Islamic Studies and Islamist organisations to correct the text. Channel 4 supplied Ofcom with what it viewed as this corrected transcript.

Channel 4 first made the general point that it appeared that WMP had a fundamental misunderstanding of the editing process by which television programmes are legitimately made. The channel said it was inevitable, in condensing a nine month investigation involving many hours of material, some secretly filmed, some from internet broadcasts and some from specialist DVDs, that there would be significant selection, distillation and subsequent editing of material and statements. However, the crucial principle is that no individual must have their words taken out of context or have their known views and position distorted or misrepresented so as to cause unfairness or mislead the audience. Channel 4 said that it seemed to be the view of the investigative team at WMP that selecting one or more sentences from a longer speech and editing these into a programme, sometimes with an internal edit not immediately apparent to the viewer, is of itself improper and misleading. Channel 4 said this betrayed "staggering naivety" about the process of television production.

In relation to the five sequences that had been isolated by WMP (examined in detail below), Channel 4 asked Ofcom to consider them in the full context of the

programme as a whole. The programme, it said, bore the clear and unambiguous message that extreme, anti-democratic and unpalatable views were being preached in a number of mainstream Mosques and Islamic organisations which claim to be committed to interfaith dialogue. The programme did not contend that any individuals were committing actual or potential criminal offences and all statements broadcast were shown in context and, where appropriate, the response of the individual concerned was fairly edited in the programme itself.

Five Sequences (as identified by WMP)

Channel 4 gave a detailed response to each allegation made by WMP. Below are the five sequences identified as misrepresented by WMP with the WMP's allegation alongside Channel 4's response.

Sequence 1

The programme introduced Dr Ijaz Mian as a "travelling speaker", who gives talks at different organisations in Britain. *Dispatches* said that he praised the Saudi religious police and wanted to see them operating on the streets. The programme then went on to say that, "*He has a radical plan for this country. Muslims shouldn't accept British democracy*". Dr Mian is then seen preaching saying:

"King, Queen, House of Commons. If you accept it, then you are part of it. You don't accept it, but you have to dismantle it. So you being a Muslim, you have to fix a target, there will be no House of Commons. From that White House to this black house, we know that we have to dismantle it".

WMP said that this quote suggests that "Dr Mian is inciting Muslims to target the public institutions of the UK and the West and directly dismantle them". It pointed out that in the unbroadcast footage, Dr Mian explained that you could "[not] detonate...and destroy the building". WMP therefore argued that it was clear that Dr Mian's means of dismantling is not through force but through persuasion. It said also that there are long sentences between comments edited together.

Channel 4 said that although there were several internal edits of Dr Mian's speech, none distorted the meaning of what Dr Mian was saying in his speech. In support of this argument Channel 4 quoted another extract from this particular speech in which Dr Mian says "I would like to replace all these with Masjid, Masjid, Masjids". According to Channel 4, Dr Mian was saying that he would like to replace churches and temples with Mosques. In the speech, he is seen saying "*...there will be a House of Commons but they will decide every issue in accordance with the Book of Allah and the example of the Prophet*".

Channel 4 said that once seen in context, it had accurately distilled and represented what Dr Mian was saying on this issue, i.e. that Muslims should reject and "dismantle" British democracy and democratic institutions and replace them with Islamic law and institutions.

Sequence 2

The programme introduced Abu Usamah. It stated that he preached at Birmingham's Green Lane Mosque and he was its main English speaking preacher. The programme's commentary then stated that Abu Usamah says that "*Christians and Jews are enemies to Muslims*", Abu Usamah is then seen preaching:

“It has come to pass that the Nassara..the Yahud, America, the UK, France, Germany, they have come against the religion of Islam. Why give up your religion and your long legacy of Islam, to please someone who is the enemy to you?”

WMP objected to the fact that eight minutes of comments were edited from Abu Usamah’s speech. It said that in those eight minutes nearly every region or race including Arabs is described as an “enemy of Islam”. It said that the broadcast version only included western countries and Jews. It also said that while the tenor of the unbroadcast speech was unconfidential, the comments were edited together presenting a more aggressive speech.

Channel 4 said that while there were two internal edits in this section, it in no way distorted the clear and ordinary meaning of Abu Usamah’s words. It also pointed out that, according to its expert translator, the police had omitted the sentence immediately preceding the second sentence broadcast. Channel 4 took the view that the translation of this statement clearly demonstrated that the editing process had not distorted the words of Abu Usamah. This was because the sentence showed Abu Usamah returning specifically to the topic of the Jews and the Christians immediately before that second sentence. According to Channel 4 he says (in Arabic): “Never will the Jews or the Christians be satisfied with thee unless thou follow their form of religion” (a quotation from the Qur’an: Chapter 2: verse 120).

Sequence 3

In this section of the programme, the voiceover states that the reporter had secretly filmed Abu Usamah teaching that *“jihad is coming against the unbelievers”*. Abu Usamah is then seen preaching:

“Verily Allah going to bring a group of people that he loves and they love him. These people will be soft and kind to the believers but they will be rough and tough against the kuffaar, they will fight in the cause of Allah.

I encourage all of you to be amongst them, to begin to cultivate ourselves for the time that is fastly approaching where the tables are going to turn and the Muslims are going to be in a position of being uppermost in strength, and when that happens, people won’t get killed – unjustly”.

WMP believed that this quote suggested that Abu Usamah was encouraging people to be in a group to fight non-believers in the cause of Allah. It referred to a final unbroadcast paragraph in the speech which, it says, makes it clear that Muslims should not kill because they have been oppressed.

Channel 4 maintained that there was no misrepresentation whatsoever of the natural and ordinary meaning of Abu Usamah’s words. It said that WMP overlooked the full context of the programme and had failed to translate one Arabic sentence in which the speaker says:

“Oh ye who believe! If any from among you turn back from His Faith soon will Allah produce a people whom He will love as they will love Him. Lowly would the Believers, mighty against the Rejecters, fighting in the way of Allah and never afraid of the reproaches of such as find fault.”

The independent translator employed by Channel 4 notes that Abu Usamah actually misquotes from the Qur’an, using the word which means “fight” instead of the word

which means “strive” or “struggle”. Channel 4 argued that the programme as a whole revealed that Abu Usamah did condemn what he refers to as “terrorism”. However, his speeches showed that he did not consider that “jihad” was actually terrorism and he prays that he and his listeners at the Mosque will be able to participate in this jihad soon against “the oppression of the kuffar”. Channel 4 quoted extensively from the programme to illustrate this point.

Sequence 4

The programme presents another invited speaker, and the commentary states that the speaker refers to a Muslim who joined the British Army and was killed fighting against the Taliban. The speaker, known as Abdul Basit, says:

“There was an individual who was killed in Afghanistan recently...it was a Muslim name. He came from a Pakistani family and do you know what they’ve written in the tabloid newspaper, ‘Hero of Islam’. ‘Hero of Islam’ who went into a Muslim Afghanistan to kill Muslims. Why? Because their crime is implementing Islam”.

The script says that the speaker then praises the Taliban fighters who killed him:

“The hero of Islam is the one who separated his head from his shoulders”.

WMP said that this comment was broadcast as it appeared in the undercover footage (although it was part of a longer speech).

Channel 4 said this section, as broadcast, was an entirely fair and accurate reflection of the views expounded by Abdul Basit to this audience.

Sequence 5

Here the commentary says that “kuffar” (described by Channel 4 to mean non-believer) is a word that the reporter often heard being used in a derogatory way. When referring to kuffar, Abu Usamah says:

“They are liars, they are terrorists themselves, liars. They will come before the people and talk and they are lying, you can’t believe them. He’s a pathological liar”.

WMP argued that the quote in the programme inferred that Abu Usamah is calling non-Muslims liars and terrorists. The full speech according to the WMP condemns terrorism. However, the WMP also states that “he [Abu Usamah] *delivers comments that could constitute inciting religious hatred*”.

With reference to the full transcript of the speech, Channel 4 insisted that Abu Usamah was calling all non-Muslims liars and terrorists and therefore it correctly and accurately represented what Abu Usamah said on this subject.

Channel 4 then addressed the general concerns of WMP as follows:

- Channel 4 said it was demonstrably not the case that “the programme potentially provided the viewer with preconceived ideas as to what the speaker was trying to convey”. All extracts from speeches shown were set in their clear, correct and proper context.

- Channel 4 denied that the programme could have created any confusion on the part of a reasonable viewer as to where and in what context speeches were given. In particular, it said all undercover footage, speeches from DVDs and internet broadcasts were clearly labelled as such on screen with a caption with the title of the DVD and name of the broadcast and date where relevant.
- Channel 4 said it was not the purpose of the programme to “accurately reflect daily life in the Mosques concerned” as the WMP suggested, but rather “to demonstrate, as it powerfully did, that extreme views were being preached in some mainstream Mosques and Islamic organisations”.

Decision

Investigative journalism plays an essential role in public service broadcasting and is clearly in the public interest. Ofcom considers it of paramount importance that broadcasters, such as Channel 4, continue to explore controversial subject matter. While such programmes can make for uncomfortable viewing, they are essential to our understanding of the world around us. It is inevitable such programmes which tackle highly sensitive subjects will have a high profile. Such controversial programmes may inevitably lead to a large number of complaints. However, investigative programming is amongst some of the most important content that broadcasters produce.

However, in dealing with such subject matters, broadcasters must always take care to ensure that the material broadcast is in accordance with both the general law and the Code. For instance, broadcasters must ensure that any offence caused is justified by the context, the content does not mislead viewers or those featured are not treated unfairly.

The vast majority of the audience understand that such documentaries are often edited down from hours of footage and, provided those featured in the programmes are not treated unfairly and that viewers are not materially misled, this is, of course, an acceptable practice.

It should be noted that complaints alleging misrepresentation of those featured in programmes - essentially allegations of unfair treatment of participants - can only be considered by Ofcom if made by those who participated in the programme and were the subject of that treatment or those with a sufficiently direct interest². However, broadcasters must ensure that factual programmes (and portrayal of factual matters) must not materially mislead the audience so as to cause harm or potential harm.

Ofcom therefore investigated the viewers and WMP’s complaints under the following relevant rules of the Code:

- Rule 2.2: Factual programmes...must not materially mislead the audience.
Rule 2.3: In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context.
Rule 3.1: Material likely to encourage or incite the commission of crime or lead to disorder must not be included in television...services.

² Ofcom has considered a fairness complaint from Kingdom of Saudi Arabia and the Royal Embassy of Saudi Arabia, and a fairness and privacy complaint from The Islamic Cultural Centre and the London Central Mosque. The decision on these cases can be found on pages 44 – 67 of this bulletin.

Viewer Complaints

There were 364 complaints from viewers who believed that the portrayal of Islam was offensive and biased. They stated that extremists were presented as representative of all Muslims and that the material broadcast was both racially and religiously offensive. Six of the complainants stated that the programme glorified racism, anti-semitism, sexism and terrorism and complained that the inclusion of racist and sexist comments throughout the covertly filmed footage was itself offensive.

It is the case that *Undercover Mosque* did contain views and material that many would find offensive. The undercover reporter had secretly filmed evidence, and Channel 4 broadcast material, that would be considered offensive on grounds of religion, race, discrimination and beliefs. However, the transmission of such material is not itself a breach of the Code. Where such material is transmitted, broadcasters must ensure that generally accepted standards are applied, for instance by justifying the material by the context. In this case, its transmission was clearly justified by the context and in accordance with the Code. This was an in-depth investigative documentary exploring the existence of religious intolerance and extremist views being either preached or made available in some of the UK's mainstream Mosques. Ofcom considered that, in view of the editorial content of the programme (investigating the nature of views being expressed in some of Britain's Mosques), the nature of the programme (a serious documentary focusing on an important issue of the day), Channel 4's distinctive remit, the expectations of any given audience to a *Dispatches* edition (a strand known for its provocative exploration of current issues) and the clear statement at the start of the programme concerning the issues it sought to expose, any potential offence was justified by the context.

By investigating extremism and intolerance which existed in Mosques and other places, Channel 4 did not imply either explicitly or implicitly that such views were representative of all Muslims. On the contrary, Channel 4 had contributions from more mainstream Islamic representatives, which clearly put such extremism in context, explained that it belonged to a minority and was in fact unacceptable. The programme included contributions from representatives from mainstream Islam, namely Dr Irfan Al Alawi of the Islamic heritage foundation, Abdal-Hakim Murad of Cambridge University, Dr Taj Hargey of the Muslim Educational Centre of Oxford, Mai Yamani, a Saudi author and Haras Rafiq of the Sufi Muslim Council. The allegations made by the programme regarding the covertly recorded speeches were clearly identified by the programme as concerning a particular form of radical Islamic ideology which was contrasted with the views of the representatives of mainstream Islam also featured. In accordance with generally accepted standards, the extremist views put forward by some speakers were put within the context of a fuller understanding of the Muslim religion and there was no 'bias' in the programme against Islam.

Not in breach of Rule 2.3

While the programme certainly contained strong and emotive language, Ofcom did not consider that the transmission of these clips, when taken in the context of an investigative documentary could, on any reasonable judgement, be considered to have incited the commission of crime (such as race hatred). Each and every quote was justified by the narrative of the programme and put fully in context ensuring that none of the statements could be seen to glorify or glamorise violence or extremism.

Accordingly, Ofcom did not consider that the programme was likely to encourage or incite the commission of crime or lead to disorder.

Not in breach of Rule 3.1

West Midlands Police Complaint

First, the WMP complained about five specific sequences in the programme which it said misrepresented speakers. Ofcom considered these complaints in so far as they related to (the standards objective) Rule 2.2 of the Code. This requires broadcasters to ensure that factual programmes do not “materially mislead the audience” so as not to cause harm or potential harm. Ofcom cannot consider complaints on the treatment and portrayal of those that featured in the programme unless it receives a complaint from (or on behalf of) those featured.

Sequence 1

In this section the WMP complained that the speaker, Dr Ijaz Mian, was misrepresented and appeared in the programme to be inciting Muslims to “target” public institutions. The WMP argued that the programme implied that the use of the term “dismantle” came across as a “forceful command” to dismantle British institutions.

In Ofcom’s view, taking into account the programme as broadcast and the unbroadcast material, Channel 4 did not portray or represent Dr Mian’s comments in a misleading way. It is clear from the programme that Dr Mian was not advocating violence or forceful action. Dr Mian’s comments were introduced by the programme, with the fact that he had a “*radical plan for this country*” and “*Muslims shouldn’t accept British democracy*”. The viewer would therefore understand that when Dr Mian said in his speech that he wanted to “dismantle” British institutions, this did not have violent undertones, but was in fact seeking support to reject and even bring down British institutions and democracy. In support of this, the unbroadcast footage is clear that Dr Mian was seeking to replace these British institutions with Islamic ones.

Further, it should be noted that the reason Dr Mian actually gives, in the unbroadcast footage, for not using violence was not moral or ethical, but because “...tomorrow they will build a bullet proof (sic) or do something different”.

For these reasons, Ofcom has concluded that this section of the programme was not materially misleading.

Not in breach of Rule 2.2

Sequence 2

In this sequence, the programme states that that preacher Abu Usamah said that Christians and Jews were the enemies of Islam. Abu Usamah is then heard saying:

“It has come to pass that the Nassara and the Yahud, America, the UK, France, Germany, they have come against the religion of Islam. Why give up your religion and your long legacy of Islam, to please someone who is the enemy to you?”

The WMP complained that Channel 4 omitted eight minutes of comments from Abu Usamah's speech. The WMP was also concerned that the programme implied that in his speech Abu Usamah referred to a number of countries as the enemy of Islam, yet in the programme he was only seen referring to Western countries and Jews (i.e. Christians, Jews, America, the UK, France and Germany).

The removal of eight minutes of speech is not in itself materially misleading, provided the speaker is not misrepresented.

Further, Ofcom does not consider that the representation of Abu Usamah's comments here was misleading. By omitting some of the nationalities or organisations referred to in the speech (the Communists, the Socialists, the Latinos, the Africans, the Europeans), the audience was not materially misled into believing that the speech was more confrontational since it only mentioned Western countries.

It is also relevant to note that, in the untransmitted footage, just before the last sentence where Abu Usamah refers to "the enemy to you", he quotes the Qur'an. He states "Walan tarda AAanka alyahoodu wala alnnasara hatta tattabiAAa millatahum"³. This is translated as, "...and never will Jews and the Christians approve of you until you follow their religion"⁴. It is therefore clear that the "enemy to you" in this part of the speech refers to Christians and Jews.

Ofcom has concluded that this section of the programme was not materially misleading.

Not in breach of Rule 2.2

Sequence 3

The WMP complained that Abu Usamah is seen, misleadingly, to be encouraging people to be in a group to fight non-believers. However, according to the WMP, Abu Usamah makes it clear that Muslims should not use their oppression as a reason to kill.

In Ofcom's view, the sections chosen by Channel 4 reflected Abu Usamah's speech in a way which did not materially mislead the audience. This section does not imply that Abu Usamah is encouraging or inciting people to violence. However, Abu Usamah states that when the Muslims are in the position of being "*uppermost in strength...people won't get killed unjustly*" [our emphasis]. It is therefore clear from the section chosen in the programme that Abu Usamah has qualified his threat of killing people (as he does in his speech generally, e.g. people should not be killed indiscriminately or because they have been oppressed in the past). Nevertheless, the unbroadcast footage does confirm what is broadcast - that is, that while Abu Usamah is not making a direct call to action, he does suggest that violence will occur.

Ofcom has concluded that this section of the programme was not materially misleading.

Not in breach of Rule 2.2

³ Qur'an: Chapter 2, verse 120.

⁴ Translation of the Meaning of the Qur'an. Translated by Saheeh International – Jeddah.

Sequence 4

Here the speaker, Abdul Basit, criticises the Muslim who was a member of the British Army and was killed in Afghanistan fighting the Taliban. He denounces newspapers for calling him a hero and says that the real hero was the *“one who separated his head from his shoulders”*.

The WMP accepted that this section was broadcast as it appeared in the undercover footage.

WMP acknowledged this quote from Abdul Basit’s speech is an unedited and direct quote from the speech - despite including this sequence in its complaint to Ofcom. Having viewed the untransmitted footage, it is clear that this quote is unedited and in context.

Ofcom has concluded that this section of the programme was not materially misleading.

Not in breach of Rule 2.2

Sequence 5

WMP complained that that the programme infers that Abu Usamah is calling non-Muslims liars and terrorists. While his full speech according to the WMP condemns terrorism, the WMP also says that “he delivers comments that could constitute inciting religious hatred”.

It is unclear to Ofcom how this section could be viewed as materially misleading. The quote is a direct quote. According to the WMP, the speaker condemns terrorism, but may incite religious hatred. However, it not clear why it is relevant that Abu Usamah condemns terrorism, when he is claiming that non-Muslims are liars and terrorists.

Ofcom has concluded that this section of the programme was not materially misleading.

Not in breach of Rule 2.2

In relation to the three general concerns raised by WMP, Ofcom found as follows:

- given that Ofcom has found that Channel 4 has not misrepresented any of the speakers (see above), it does not consider that the programme provided the viewers with pre-conceived ideas as to what the speakers were trying to convey;
- the programme made clear, either through the script or on-air captions, what the sources of DVD material or internet broadcasts were; and
- (with reference to WMP’s concern that the programme did not “accurately reflect daily life in the Mosque”) the choice of what material to include in a programme is an editorial decision for the broadcaster and not one on which Ofcom can or should intervene, unless there has been a breach of the Code. However, it is important to note that the programme neither explicitly nor implicitly gave the impression that this programme set out to show daily life in the Mosque. The programme clearly stated that it was an undercover

investigation into the promotion of extremist views and fundamentalist ideology in some of Britain's Mosques. It was made clear to the audience that the establishments featured were, in some cases, unaware that such activities existed in their midst.

Undercover Mosque was a legitimate investigation, uncovering matters of important public interest. Ofcom found no evidence that the broadcaster had misled the audience or that the programme was likely to encourage or incite criminal activity. On the evidence (including untransmitted footage and scripts), Ofcom found that the broadcaster had accurately represented the material it had gathered and dealt with the subject matter responsibly and in context.

Not in breach

Viewer competitions

Big Game TV!

Introduction

Big Game TV! (“BGTV”) was a dedicated Call TV quiz service produced by Big Game Television Limited. The channel launched in May 2005 and was re-branded as The Daily Quiz on 13 March 2006. It broadcast on the Sky Digital platform and was at times simulcast daily on ITV between 22:00 and 03:00. However, in April 2007, the channel closed down.

The channel’s content consisted of quizzes and puzzles and viewers were invited to call in with their answers by the on-screen presenter(s). The cost of the telephone calls, which were charged at premium rate, was displayed on-screen. Cash prizes were awarded for callers who provided correct answers on air.

As is common with Call TV quiz services, a significant percentage of the telephone calls made to the programme were automatically diverted to a recorded message which announced that the caller had been unsuccessful in their attempt to participate in the programme. However, the remaining calls were connected to a switchboard. A telephonist would then pick up these calls. In all cases, viewers were charged for the premium rate call.

Background

In 2006, a former employee of Big Game Television Limited (“BGTV Ltd”) made allegations of fraud in respect of its call TV quiz service BGTV. These allegations were made public on BBC Radio 4’s *You and Yours* programme.

As a result of these allegations, on 19 May 2006, the City of London Police raided the offices of BGTV Ltd and seized all the available evidence.

Ofcom will not normally proceed with an investigation where there is an ongoing criminal investigation or other legal proceeding into matters which substantially correspond to those matters before Ofcom. In this case, Ofcom agreed with the City of London Police that it would await the outcome of the police investigation before taking any further action.

In the course of its investigation, the City of London Police took statements from a number of witnesses including a former employee of BGTV Ltd. His statement detailed specific allegations about practices at BGTV Ltd. The statement also included for the first time references to some specific programming in which it was alleged competitions had been unfairly conducted.

Ofcom requested that the City of London Police take steps to ensure that any evidence obtained by it throughout its investigation was retained and made available to Ofcom when its investigation had concluded.

The police investigation lasted a number of months, but by the end of 2006, the City of London Police announced that the Crown Prosecution Service would not be proceeding against BGTV Ltd as there were insufficient grounds on which to base any charges.

In April 2007, in accordance with established procedures, the evidence seized by the City of London Police from the offices of BGTV Ltd was returned by the police to BGTV Ltd's solicitors. This evidence, together with other material gained by the police in the course of its enquiry, was then made available to Ofcom.

Ofcom therefore had available to it all the recordings which were seized during the raid and related to specific shows on BGTV (branded The Daily Quiz) from broadcasts on 27 and 28 March 2006.

The material provided by the police also included a selection of paperwork and, with the witnesses' consent, some (though not all) of the witness statements taken during the investigation.

Since Ofcom was now in possession of the available evidence, both from the police and from BGTV Ltd, Ofcom instigated its own investigation of practices at BGTV Ltd.

Summary of allegations considered by Ofcom

In summary, the types of unfair practices that were allegedly carried out in the conduct of competitions were as follows:

- if a caller rang in at an early stage of a broadcast competition/game with the right answer, producers at BGTV regularly changed the answer so as to encourage further calls;
- on one specific occasion in October 2005, a caller who had won the competition and who had been told by the programme makers that she would be called back, was not called back immediately and other calls were taken for a further 90 minutes, thus misleading viewers to call when there was no opportunity for them to win; and
- presenters would encourage calls to the station when there was no intention of answering them for extended periods, in order to increase the channel's premium rate telephony revenues.

All of the above raised potentially significant issues in relation to Rule 2.11 of the Code (see below), and the last also raised a potentially significant issue in relation Rule 10.10 (see below).

Code Rules

The relevant Rules provide as follows:

Rule 2.11:

"Competitions should be conducted fairly, prizes should be described accurately and rules should be clear and appropriately made known."

Rule 10.10

"Any use of premium rate numbers must comply with the Code of Practice issued by the Independent Committee for the Supervision of Standards of Telephone Information Services (ICSTIS)."

Ofcom therefore considered the available evidence in light of the requirements of these Code rules.

Ofcom's remit

Under the Communications Act 2003, Ofcom is required to set standards for the content of television and radio programmes. These standards are required to be those best calculated to achieve certain statutory objectives - including that adequate protection is provided to the public from the inclusion of harmful or offensive material in the content of television programmes.

In seeking to secure these standards Ofcom adjudicates on complaints where it is alleged that content included in a licensed broadcast service has caused, or was capable of causing, actual or potential harm to viewers or listeners. If a programme or programming is found by Ofcom to be in breach of the Code (and if that breach is considered to be serious) then Ofcom can consider the imposition of a range of statutory sanctions against the broadcaster.

In order to carry out this function properly and to reach fair and reasonable adjudications Ofcom must have before it robust evidence to support any finding that specific broadcast content has failed to comply with the rules set out in the Code.

In this case, Ofcom was required to consider whether there was evidence that BGTV had failed to conduct its viewer competitions fairly (Rule 2.11) and had failed to ensure that its use of a premium rate telephone service had complied with the Code of Practice issued by PhonepayPlus (then ICSTIS) (Rule 10.10).

Ofcom therefore examined the evidence available to it.

Evidence arising from the investigation by the City of London Police

The evidence obtained as a result of the investigation by the City of London Police included a number of witness statements from former employees of BGTV Ltd (including the former employee who first raised the matters); a witness statement from a current (at that time) employee of BGTV Ltd; and a witness statement from a customer of BGTV Ltd.

The evidence included a number of other documents including (but not limited to) internal email correspondence between employees of BGTV Ltd; other internal documentation; telephone bills of a customer of BGTV Ltd; and recordings of BGTV output broadcast on 27 and 28 March 2006.

Ofcom examined the material in light of the allegations and was particularly concerned to note that much of the documentary evidence did not specify any particular broadcast dates when the unfair conduct was alleged to have taken place. Where the documentary evidence did include specific instances of alleged unfair conduct, they did not relate to programmes contained in the recordings retained by the police.

An assessment of the material indicated that:

- there was a clear and irreconcilable conflict of evidence between the central allegations of unfair conduct outlined by the former employee of BGTV and the position of the broadcaster;

- the witness statements gathered by the police (many of which were from former employees) often contradicted each other in relation to the central allegations of unfair conduct at BGTV Ltd;
- some of the witness statements also contained inconsistencies;
- none of the specific allegations in the witness statements were effectively supported by evidence; and
- further, there was no other robust evidence available to support any of the central allegations.

Importantly, there was no information that would assist Ofcom in resolving the inherent conflicts between accounts provided in the bundle of evidence.

Recordings of broadcast material

Ofcom's Code sets standards for the content of broadcast material. It is therefore necessary in the majority of cases (particularly those where there is conflicting evidence) for Ofcom to have available to it, for the purpose of its investigations the relevant broadcast content that is alleged to be in breach of the Code.

This is particularly important when the content of each programme was central to assessing the validity of the allegations made (for example: that presenters would encourage calls on air when there was no intention of answering them, and that this deliberately misled the public into believing that there was a chance of winning, when there was not).

In this case, the recordings that were seized by the City of London Police, and then passed to Ofcom, related to two specific dates (27 and 28 March 2006). These recordings did not contain material relevant to any of the allegations.

The Communications Act 2003 requires that Ofcom imposes a condition in every broadcasting licence that the broadcaster retain recordings of the broadcast programmes in each of its licensed channels, for a reasonable period. Condition 11 of BGTV Ltd's licence therefore states that the Licensee "shall make and retain or arrange for the retention of a recording in sound and vision of every programme included in the Licensed Service for a period of 60 days from the date of its inclusion therein."

In April 2007 (when the evidence gained by the police in the course of their enquiry was made available to Ofcom), Ofcom requested that BGTV Ltd provide it with all relevant broadcast material in its possession, and particularly any recordings it possessed that related to the allegations that were the subject of the complaint. BGTV Ltd confirmed that all relevant broadcast material had been seized by the police and that due to the passage of time it no longer had recordings of the programmes that were relevant to the allegations outlined above.

In circumstances where there is no recording of relevant broadcasts available, Ofcom must consider whether or not it can reasonably and fairly adjudicate in the absence of those recordings. In order to do so there must be other robust evidence on which to base an investigation. Ofcom is not able to accept the strength of allegations at face value – they must be effectively corroborated by other evidence. In this case, the content of the programmes was key to assessing the validity of the allegations

and, as already noted above, the other evidence available to Ofcom was either not supportive of the allegations or was otherwise unconvincing or unreliable.

The allegations made against BGTV Ltd were extremely serious. However, there was no adequate evidence for Ofcom to determine whether the Code had been breached.

Fairness and Privacy Cases

Upheld in part

Complaint by Ms Jessica Rees

Inside Out, BBC1 Yorkshire & Lincolnshire, 26 January 2007

Summary: Ofcom has upheld part of Ms Rees' complaint of unfair treatment. Ofcom has not upheld Ms Rees' complaint of unwarranted infringement of privacy in the programme as broadcast.

This edition of *Inside Out* included a report about the work of a lip-reading expert, Ms Jessica Rees. The programme focused on three murder cases in which the expert advice provided by Ms Rees had been disputed. In all three cases, Ms Rees had transcribed video recordings of prison visit conversations on the basis of lip reading observations.

Ms Rees complained that she had been treated unfairly in the programme as broadcast in that the programme makers: misrepresented material facts relating to her role in the three cases; failed to balance the report with information from third party sources (despite assurances to the contrary); and unfairly edited the prison visit recordings and the contents of her letters to the police. Ms Rees also complained that her privacy was unwarrantably infringed in the programme as broadcast by the inclusion of: footage from the prison visit recordings (which included her voice); and extracts from her letters to the police.

Ofcom's Fairness Committee found as follows:

The Committee found the reporting of Ms Rees' role in the murder investigations was unfair in one respect only. In this case, the Committee found that viewers were likely to have falsely understood that Ms Rees' flawed lip-reading evidence was the sole reason why the defendant had been charged with murder, and why the case against the defendant had been dropped. The Committee also found that the programme was likely to have left viewers with the unfair impression that Ms Rees' evidence had been responsible for Mr Lucas imprisonment and therefore his early death. Accordingly the Committee has upheld this part of Ms Rees' complaint.

As regards Ms Rees' other heads of complaint, the Committee found the programme makers included information from third party sources, and fairly edited both the prison visit recordings and Ms Rees' letters to the police. The Committee also found that Ms Rees did not have a legitimate expectation of privacy in respect of either the broadcast of the prison visit recordings or extracts from her letters to the police. Accordingly Ofcom has not upheld these complaints.

Introduction

On 26 January 2007, BBC1 Yorkshire & Lincolnshire broadcast an edition of *Inside Out*. This regional current affairs programme included a report about the work of forensic lip-reading expert, Ms Jessica Rees. The programme referred to Ms Rees as the country's leading expert in the field for the last ten years. The programme focused on three murder cases in which the expert advice provided by Ms Rees had

been disputed. In all three cases, Ms Rees had lip-read and transcribed video recordings of prison visit conversations.

The first case (“the Lucas case”) related to Mr Glenn Lucas. The programme said he had been “*wrongly*” charged with conspiracy to murder a woman named Arlene Fraser. In this case, the transcript (created by Ms Rees) of part of a conversation Mr Lucas had with a friend he was visiting in prison, suggested that the two men spoke about disposing of a body. The programme explained that all charges against Mr Lucas had eventually been dropped. The programme included footage of Mr Lucas saying that he wanted an apology and compensation. The programme also stated that it had found “*disturbing new evidence*” that Mr Lucas was not the only person to be falsely accused in exactly the same way.

The second case (“the Mara case”) was that of Mr Bill Mara. The programme showed excerpts of a CCTV recording of a visit Mr Mara paid to a friend in prison. The recording had been voiced over by Ms Rees, with her interpretation of their conversation. She indicated that Mr Mara’s conversation related to a murder and the disposal of a body. The programme also stated that Ms Rees’ transcript of the prison visit conversation had been “*backed by a leading independent expert*”.

The programme explained that Mr Mara’s defence lawyers uncovered another disputed case in which Ms Rees had provided lip-reading translations. This case (the third featured in the programme, “the Kenyon case”) related to Ms Susan Bowen and Mr Graham Kenyon. In this case, Ms Rees had lip-read recordings of a visit Ms Bowen had made to Mr Kenyon in prison. Ms Rees’ transcript suggested that Ms Bowen and Mr Kenyon had been involved in the murder of Ms Bowen’s husband. The programme showed footage of this prison visit which included subtitles of Ms Rees’ lip-read transcript. According to this, during the conversation Mr Kenyon described to Ms Bowen how he had threatened to kill a teenage girl who witnessed him committing the murder. The programme’s reporter commented that in the prison footage Ms Bowen “*doesn’t seem surprised by what he said*”.

The programme also showed excerpts of a letter from Ms Rees to the police in which she described the difficulties of her job.

Towards the end of the programme, the reporter revisited the Lucas case and explained that four months before the programme was broadcast, Mr Lucas had died of a blood clot. The programme showed current footage of Mr Lucas’s widow and their child.

Ms Rees made a complaint to Ofcom that she was treated unfairly and that her privacy was unwarrantably infringed in the programme as broadcast.

The Complaint

Ms Rees’ case

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

- a) The programme misrepresented the facts of the three murder cases despite the programme makers being provided with accurate information by Ms Rees. Ms Rees said this led to an unfairly negative portrayal of her. Ms Rees’ complaint included the following elements:

The Lucas case

- i) Ms Rees said her evidence was only a very small part of a major case and the programme did not make it clear that Mr Lucas had been remanded in custody as a result of another investigation, not the one for which Ms Rees provided evidence.
- ii) The programme did not explain that the fact the case against Mr Lucas was dropped had nothing to do with her lip-reading evidence.⁵
- iii) Ms Rees said the misrepresentation of these facts, together with the programme makers' use of emotive footage of Mr Lucas' widow, unfairly insinuated that she had been responsible for Mr Lucas' premature death.

The Mara case

- iv) Ms Rees said that Mr Mara was not remanded in custody purely or even largely on the evidence that she had provided.
- v) The programme did not explain that part of the victim's remains had later been found on a road identified by Ms Rees' lip-reading, nor that Ms Rees' expert report referred to and centred around the core facts of the case, even though Ms Rees had no prior knowledge of any details before viewing the footage of Mr Mara's prison conversation.
- vi) The programme did not highlight that the accuracy of Ms Rees' expert report had been verified by a highly qualified expert. This fact was not given similar prominence as the defence's 'expert', whom Ms Rees said had little experience and no accreditation, and whose advice she had disputed.

The Kenyon case

- vii) The programme did not explain that she had provided the police with information that led to them gaining hard evidence against Ms Bowen and Mr Kenyon, which led to a conviction.
 - viii) The comment made by the presenter in response to the section of the prison footage, in which Ms Rees had lip-read that Mr Kenyon described how he threatened to kill a teenage girl who witnessed the murder, was unfair. Ms Rees said that presenter's comment that Ms Bowen "*doesn't seem surprised by what [Mr Kenyon] said*" was not accurate. Ms Rees said that the prison visit recording showed Ms Bowen's horrified reaction to the news, which would be visible even to a non lip-reader. Ms Rees said the comment implied that she was not a good lip-reader.
- b) The programme makers gave Ms Rees an undertaking to balance the report with a contribution by a lip-reading expert, Ms Jean Patera, and information from the Ministry of Defence ("the MoD"). This did not happen.
 - c) The programme makers unfairly edited the contents of Ms Rees' letters to the Staffordshire Police. Ms Rees said the letters were misused as they were her initial reaction to a situation which later turned out "not to be so bad after all". Ms

⁵ Head (a)(ii) was originally entertained as being part of Head (a)(i). Ofcom has decided that Ms Rees' complaint, the BBC's response to it and the Committee's finding in respect of it, are best reflected if the complaints relating to the Lucas case are divided into three parts. The separation of the complaint in this way, in no way affects the substance of Ms Rees' complaints in relation to the Lucas case or the response made by the broadcaster, the BBC.

Rees said that the BBC was aware of this but still used the most sensational parts of her letters to portray her in a negative light.

- d) The programme makers unfairly edited the CCTV prison footage, which contained her voiced-over lip-read interpretations. Ms Rees said the programme makers “cherry picked” sentences from her lip-read interpretations and showed them out of context.

Ms Rees also complained that her privacy was unwarrantably infringed in the programme as broadcast, in summary in that:

- e) The programme makers did not gain consent from Ms Rees to use the CCTV prison footage which contained her lip-read interpretations. Ms Rees said these recordings had not been used in court.
- f) The programme included quotes from Ms Rees’ letter to the Staffordshire Police without her consent. Ms Rees said that the use of the quotes was not warranted by a public interest as they had been used in a very unbalanced way.

The BBC’s case

The BBC provided a written statement in response to the complaint, and a transcript of the programme. The BBC also provided several appendices in support of its statement. These appendices included the judgment in the Court of Appeal’s 2004 case of *R v Luttrell* (“Luttrell”) which refers to the expert opinion offered by Ms Rees in a number of other cases.

- a) In response to Ms Rees’ complaint that the programme misrepresented the facts of the three murder cases, despite the programme makers being provided with accurate information by Ms Rees, the BBC responded as follows:

The Lucas case

- i) In relation to the Lucas case, the BBC said that the programme did not refer to Mr Lucas being remanded in custody and therefore there could be no implication in the programme that Ms Rees was responsible for him being placed in custody.

The BBC explained that the Lucas case had been referred to in a number of BBC programmes, including an edition of *Frontline Scotland*. This had been broadcast on 19 October 2005 and had been the subject of a complaint to Ofcom by Ms Rees. The BBC noted that Ofcom found that it had not been unfair for the programme to include the statement “*In a case with no body and built only on circumstantial evidence Jessica Rees’ report tipped the balance*”, when describing the importance of Ms Rees’ translation work in the Lucas case.

- ii) The BBC said the programme had only stated that “*Jessica Rees claimed they’d [Mr Lucas and a friend] been talking about disposing of a body*” and went on to say charges against Mr Lucas were dropped. The BBC said the programme made no comment about whether or not Ms Rees’ evidence was flawed, nor did it make any statement that might be taken as an explanation for why the charges were dropped. Therefore, the BBC said there was nothing stated or implied either about the decision to prosecute Mr Lucas or

the subsequent decision to drop the charges in this programme that was unfair to Ms Rees.

- iii) In response to the complaint that the programme insinuated that Ms Rees had been responsible for Mr Lucas' death, the BBC said the programme clearly stated that Mr Lucas' cause of death was a blood clot in his heart. The broadcaster said it was fair to include the comments of Mr Lucas' wife, Mia Lucas, about the devastating impact that being wrongly charged had had on her husband.

The Mara case

- iv) The BBC said that Mr Mara was charged on the basis of expert testimony provided by Ms Rees and referred to the case summary prepared by the prosecution at the time. This said "The prosecution contend that Jessica Rees, who clearly provides the primary evidence against these three defendants, is an expert witness who can give admissible evidence for a jury to assess". The BBC additionally referred to the Luttrell judgment which, when referring to the Mara case, stated: "Miss Rees provided lip-read interpretation of what was said. The prosecution did not rely upon her evidence and, we understand, offered no evidence against the defendants".

The BBC said that although it was true to say that Ms Rees bore no direct responsibility for Mr Mara's incarceration, her expert testimony was the sole basis for his arrest, charge and subsequent remand in custody. The BBC noted that the programme's only reference to custody came in an interview with Mr Mara's solicitor, Richard Marshall: "*Clearly Bill Mara should not have been in prison, he spent over three months, I think, in prison for a case that really had no substance to it at all*".

The BBC said the facts of the matter justified Mr Marshall's general comment about the overall injustice of the case.

- v) BBC said that the programme makers had good reason to be sceptical about Ms Rees' claim that her transcript had led to the discovery of part of the victim's remains. The BBC referred to the summary written by the Mara prosecution team which explained that the lower legs of the victim had been discovered in Norfolk on 17 April 2000 by a member of the public. It was a few days after this discovery that the police gave Ms Rees a copy of the relevant prison visit recording to interpret. The BBC said the chronology of events as given in the prosecution's summary was strong evidence that Ms Rees' claim, that the victim's body parts had been found as a result of her report, was untrue.

Notwithstanding this, the BBC said the programme makers took care to include the facts of the case. The programme explained Ms Rees' exceptional qualifications.

- vi) The BBC said that Ms Rees appeared to misread the programme when she complained that the defence expert was "no expert at all". The BBC said that the programme did not claim that he was. The programme transcript made it clear that his sole role was to alert Mr Mara's defence team to potential shortcomings in lip-reading evidence. The BBC said the programme highlighted Ms Rees' exceptional abilities and explained that doubts about her

work arose not because of her work on the Mara case itself but on a separate case (i.e. the Kenyon case).

The Kenyon case

vii) The BBC said the programme stated that “*A partial transcript from Jessica Rees suggested they were both [Ms Bowen and Mr Kenyon] involved in the killing*”. It did not accept that any further detail was necessary. As the programme made clear, Ms Rees’ testimony had been dropped and both Ms Bowen and Mr Kenyon were convicted of murder on the strength of other evidence. They are currently in prison.

The BBC said the sole reason for mentioning the Kenyon case was because an audio recording (of the prison visit which had been lip-read by Ms Rees) emerged which seemed to cast doubt on Ms Rees’ lip-reading testimony. The BBC said the programme detailed the questions arising from this discovery and noted that the complainant had not questioned the account given in the programme. The BBC did not accept that it was unfair to exclude further details about the Kenyon case, as the accuracy of the rest of Ms Rees’ lip-read transcriptions (in relation to this case) never became an issue because the whole of her evidence was dropped.

The BBC provided Ofcom with a transcript of the audio recording (referred to above) which had been made by the police at the time, together with a copy of Ms Rees’ transcript of the same prison visit conversation. The BBC said the two transcripts appeared to be significantly different from each other.

viii) The BBC did not accept that the presenter’s statement that Ms Bowen “*doesn’t seem surprised by what he said*” implied that the complainant was not a good lip-reader. The BBC said that whether someone’s facial reaction conveys horror is a matter of judgement that anyone can make and requires no lip-reading skills at all.

b) In response to Ms Rees’ complaint that the programme makers had given her an undertaking to balance the report with a contribution by lip-reading expert, Ms Jean Pateras, the BBC said that no such undertaking was given. The BBC referred to the email correspondence between Ms Rees and the programme maker, which it said showed that the programme maker had spoken to Ms Pateras and an MoD expert. During his conversations with these people, the programme maker was told that neither had detailed knowledge of the three cases discussed in the programme. The BBC contended that the programme maker’s decision not to interview either Mr Owen or Ms Pateras for the programme was rightly based on what they were able to contribute, which was, in essence, little more than a personal reference for Ms Rees. Their comments relating to Ms Rees were properly reflected in the programme as they formed the basis for the key paragraph which outlined Ms Rees’ lip-reading skills:

“Jessica Rees, though, is acknowledged as the best in her field, lip-reading conversations without background knowledge of people involved...”

c) The BBC denied that the programme used extracts from Ms Rees’ letters to the Staffordshire police out of context. The BBC said that in the first letter Ms Rees had admitted to shortcomings in her work, while in the second she had sought to excuse these shortcomings on the grounds of overwork. The BBC said these

points had been put to Ms Rees prior to broadcast and had also been referred to in the Luttrell judgment.

The BBC said that Ms Rees' claim in her complaint, that the situation "turned out not to be so bad after all" had been put to the programme makers during their meeting with Ms Rees, but remained her interpretation of events. The BBC said the programme pointed out the fact that the prosecution withdrew Ms Rees' testimony because (as a prosecution note revealed in the Luttrell judgment explains) it had "serious doubts about her reliability".

The BBC said the contents of Ms Rees' letters were presented in an entirely fair way. The programme drew no conclusions from them that were not supported by their content.

- d) In relation to the editing of the prison visit recordings which contained Ms Rees' voiced-over lip-read interpretations, the BBC said the programme introduced footage from these recordings with the following commentary: "*Here are some extracts made for the prosecution with Jessica Rees reading her own version of what was said*".

The BBC said it was clear that this footage had been included in the programme as an example of how Ms Rees' evidence is presented in court, not as a piece of argument. The precise sequences chosen were therefore irrelevant. The BBC also said that Ms Rees' lip-read transcript had implicated Mr Mara in the disposal of a corpse, so the extracts shown in the programme did not misrepresent her work. In the circumstances the BBC said that the material was used fairly.

Privacy

- e) In response to Ms Rees' complaint that the broadcast of the prison visit recordings unwarrantably infringed her privacy, the BBC noted that Ms Rees had not claimed that the recordings were her property or copyright. In the circumstances, the BBC did not believe she had the right to grant or withhold consent for its broadcast.

Furthermore, the BBC did not accept that simply broadcasting an extract from an audio recording made by an individual was necessarily a breach of privacy. Ms Rees' voice had been heard in numerous courts as part of her expert testimony and she had given interviews to BBC Television programmes in the past.

The BBC said that if Ofcom did decide that the broadcast of the material constituted a breach of privacy, it would argue that it was warranted by a clear public interest in observing Ms Rees' working methods. In the three cases considered in the programme, the relevant prosecution teams did not think these methods produced results which could be relied on.

- f) In relation to Ms Rees' complaint that the broadcast of her letters to the Staffordshire police unwarrantably infringed her privacy, the BBC said that no privacy or confidentiality could be attached to the content of the letters. The BBC noted that the letters had been referred to and quoted in open court, and were summarised in the Luttrell judgment. The BBC stated that a court judgment made in open court is a public document.

Notwithstanding this, the BBC said that if Ofcom considered that a document that has been referred to in detail in open court should remain private, then the

use of Ms Rees' letters would be warranted by the clear public interest in revealing Ms Rees' own admission in her letters that she had "completely failed to grasp the gist of the conversation" and had accepted that "this is of extreme concern".

Decision

Ofcom's statutory duties include the application, in the case of all television and radio services, of standards which provide adequate protection to members of the public and all other persons from unfair treatment in programmes included in such services. Where there appears to have been unfairness in the making of the programme, this will only result in a finding of unfairness, if Ofcom finds that it has resulted in unfairness to the complainant in the programme as broadcast.

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

Ms Rees' complaint was considered by Ofcom's Fairness Committee, its most senior decision making body in matters of Fairness and Privacy. In reaching its decision, the Committee carefully considered all the relevant material provided by both parties. This included viewing a recording of the programme as broadcast; reading the transcript; watching the untransmitted footage; and reading all the written submissions (which included supporting documents).

In its written submissions to Ofcom, the BBC referred to a *Frontline Scotland* programme which had re-visited the circumstances surrounding the murder of Mrs Arlene Fraser (the victim in the Lucas case). This programme - which had raised concerns about the accuracy of Ms Rees' lip-reading in the case - had been the subject of an earlier complaint of unfair treatment by Ms Rees. The *Frontline Scotland* programme, together with Ofcom's adjudication of Ms Rees' complaint relating to it, formed part of the material considered by the Committee.

- a) The Committee considered Ms Rees' first complaint that the programme makers misrepresented the facts of the three murder cases featured in the programme (despite Ms Rees providing them with accurate information). Ms Rees said this led to an unfairly negative portrayal of her. The complaint consisted of eight elements (Heads (a)(i) to (a)(viii)).

In reaching its decision in relation to Heads (a)(i) to (a)(viii), the Committee took account of Practice 7.9 of the Code. This states that "before broadcasting a factual programme, including programmes examining past events, broadcasters should take reasonable care to satisfy themselves that: material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation; and, anyone whose omission could be unfair to an individual or organisation has been offered an opportunity to contribute."

When deciding whether or not the programme resulted in unfairness to Ms Rees the Committee considered the likely effect that Heads (a)(i) to (a)(viii) would have, both separately and cumulatively.

The Committee's decisions in respect of Head (a) are set out below:

The Lucas case

- i) Ofcom first considered Ms Rees' complaint that the programme did not explain that her evidence was only a very small part of a major case, and that Mr Lucas had been remanded in custody as a result of another investigation, not the one for which Ms Rees had provided evidence.

The Committee noted that the senior investigating officer on the Arlene Fraser case had provided a description (in the *Frontline Scotland* programme referred to above) of the role that Ms Rees' lip-reading evidence had played in that case. Ofcom's adjudication on that complaint stated:

"It was clear from [the senior investigating officer's] interview that it was, in his opinion, Ms Rees' report along with the previous information they had that enabled the police to charge Mr Lucas and Mr Fraser [the victim's husband] with murder and conspiracy to murder".

The Committee was therefore of the opinion that Ms Rees' evidence did play a significant part in the Lucas case, so did not consider that viewers' opinion of Ms Rees would have been materially affected by the fact that her evidence had not been the original reason for remanding Mr Lucas in custody. In the circumstances, the Committee did not believe that the omission of this information resulted in unfairness to the complainant.

- ii) The Committee next considered Ms Rees' complaint that it was unfair for the programme not to explain that the reason the case against Mr Lucas was dropped had nothing to do with Ms Rees' lip-reading evidence. The Committee was aware (from the adjudication in relation to the *Frontline Scotland* programme), that the case against Mr Lucas was dropped because one of his co-defendants, Mr Dick, turned Queen's Evidence during the trial and testified that Mr Fraser had acted alone in arranging his wife's murder.

In reaching its decision about whether or not the omission of this information resulted in unfairness to the complainant, the Committee had regard to the BBC's response which stated:

"[The programme] said only that '*Jessica Rees claimed they'd [Mr Fraser and Mr Lucas] been talking about disposing of a body*', and then goes on to say charges against Mr Lucas were dropped. It makes no comment about whether or not Ms Rees' evidence was flawed, nor does it make any statement that might be taken as an explanation of why the charges were dropped".

However, having viewed the programme, the Committee took the view that the programme did allege that Ms Rees' evidence was flawed. Furthermore, the Committee considered that viewers were also likely to draw the conclusion from the programme, that the case against Mr Lucas had been dropped because of the stated flaws in Ms Rees' evidence.

The Committee noted that the programme introduction had stated that:

Commentary: *"Imagine you know someone who's in trouble, you go to see them, without your knowledge you're being*

*filmed. Then you end up in jail because of something you're supposed to have said. Can't happen very often can it? You'd be surprised. We found **three** cases where that's **exactly** what happened, and **they've all got one thing in common, lip-reading evidence**".*

The programme then provided information about Mr Lucas' case.

Commentary: *"Last year we told how Glen Lucas from Lincolnshire was charged with conspiracy after he was filmed visiting a friend in prison. **Jessica Rees claimed** they'd been talking about **disposing of a body**. Eventually, **all charges against Glen were dropped**, but back with his wife and family, he was still fighting to clear his name".*

The programme then introduced the other two murder cases by stating:

Commentary: *"...Glen [Lucas] isn't the only person to be **falsely accused in exactly the same way**".*

[All emphasis added by Ofcom].

In the Committee's opinion, viewers were very likely to understand (from the introduction and the above summary of Mr Lucas' case) that there was only one reason Mr Lucas had been "*falsely*" accused, of murder and conspiracy to murder. That was the "*one thing*" which was common to all three cases referred to in the programme: Ms Rees' lip-reading evidence. Furthermore, in the absence of any information as to why the case against Mr Lucas had been dropped, the Committee considered the programme gave the clear impression that it was because Ms Rees' lip-reading evidence was flawed.

In determining whether or not such an impression was unfair to Ms Rees, the Committee took account of Ms Rees' statement that she stood by her work in all three of the cases featured in the programme, and that information had been provided in the programme which attested to Ms Rees' lip reading abilities. It also acknowledged that Ms Rees' evidence in the Lucas case had suggested that Mr Lucas was involved in the disposing of Arlene Fraser's body, and that Mr Lucas was never convicted of the charge of murder or conspiracy to murder.

However, even taking these factors into consideration, the Committee took the view that the programme was likely to have left viewers with an unfairly negative impression about Ms Rees' evidence in the Lucas case. The Committee based this view on two factors. Firstly it considered that the programme gave viewers the false impression that it was because of Ms Rees' evidence alone that Mr Lucas had been charged with conspiracy to murder. As was clear from the *Frontline Scotland* programme this was not the case: it had been Ms Rees' evidence together with other information gathered by the police, which had led to Mr Lucas being charged with murder and conspiracy to murder. Secondly, the Committee considered that because *Inside Out* failed to explain that the reason why Mr Lucas' case had been dropped was because a co-defendant had turned Queen's Evidence, viewers were left with the impression that it was because of flaws in Ms Rees'

evidence. In the Committee's opinion the combination of overemphasising the importance of Ms Rees' evidence in the Lucas case, and failing to provide information about why the case against Mr Lucas was dropped, gave viewers the impression that Mr Lucas' "false" imprisonment and charge had been because of flawed evidence provided by Ms Rees.

The Committee considered that this was unfair and so has upheld Ms Rees' complaint in this respect.

- iii) The Committee next considered the third element of the complaint: that the programme makers' misrepresented the above facts and used them with emotive footage of Mr Lucas' widow to unfairly insinuate that Ms Rees had been responsible for Mr Lucas' premature death.

The Committee noted that the programme as broadcast referred to Mr Lucas' death as follows:

Presenter: *"...I'm back in Surfleet outside the Glenn Lucas family home... Glenn's son, Andrew, is two years old, sadly his father isn't here to see him, Glenn died four months ago because of a **blood clot in his heart**. His Russian wife, Mia, says he'd been determined to prove his innocence.*

Mia Lucas: *I'm afraid it's cost him a life, until this case will not sorted [sic] and then he will never rest in peace, it was really important for him and I'm afraid his heart didn't resist it".*

[All emphasis added by Ofcom].

In response to the complaint that the programme had insinuated Ms Rees was responsible for Mr Lucas' premature death, the BBC stated that:

"...the programme clearly stated the cause of Mr Lucas' death... "Glenn died four months ago because of a blood clot in his heart"... His wife, who is in a far better position to judge the impact of the case on her husband than Ms Rees, suggests that being wrongly charged was devastating for her husband. This is no more than fair comment".

The Committee is of the opinion that viewers were likely to have understood that Mr Lucas had died of a blood clot but were also likely to think that the stress of trying to prove his innocence had ultimately "cost him a life" (sic), i.e his life. In the Committee's opinion, the programme left the clear impression that Ms Rees' lip reading evidence had been responsible for Mr Lucas's imprisonment. It was this, according to his widow, that subsequently brought about the devastation in his life, which "cost him a life".

In the Committee's view, the effect of this, together with the misrepresentations listed at Head (a)(ii) of the programme (above) was likely to have left viewers with the unfair impression that Ms Rees' evidence had been responsible for Mr Lucas imprisonment and therefore his early death.

The Committee found this resulted in unfairness to Ms Rees and has upheld this element of her complaint.

The Mara case

- iv) The Committee next turned to the Mara case and considered Ms Rees' complaint that the programme failed to explain that Mr Mara had not been remanded in custody purely, or even largely, on the evidence that she had provided.

From the information before the Committee, it was not able to confirm the precise basis on which Mr Mara had been remanded in custody. However, it was evident that the transcripts provided by Ms Rees had formed the primary evidence against Mr Mara. In this regard, the Committee noted the prosecution summary in the Mara case, which stated: "*The Prosecution contend that Jessica Rees, who clearly provides the primary evidence against [three defendants including Mr Mara] is an expert witness who can give admissible evidence for a jury to assess*". In addition, a note from the Luttrell judgment indicated that the prosecution offered no evidence against the defendants once doubts were raised as to the reliability of Ms Rees' expert opinion.

In the circumstances, the Committee did not believe that any inference in the programme about the importance of Ms Rees' evidence in the Mara case, would have resulted in unfairness to the complainant. Hers was the primary evidence on which the prosecution initially planned to rely. Accordingly, the Committee has not upheld this part of Ms Rees' complaint.

- v) The Committee next considered Ms Rees' complaint that it was unfair for the programme not to explain that part of the victim's remains had later been found on a road identified by her lip-reading, or that her report referred to, and centred around, the core facts of the case even though she had no prior knowledge of any details before viewing the footage of Mr Mara's prison conversation.

The Committee noted from the information provided by both parties that without prior knowledge of the case Ms Rees had lip-read, from recordings of the Mara prison visits, information which corroborated the police's own investigation.

Although the programme did not give specific details about which parts of Ms Rees' transcription had been validated by the police's own work the programme did provide viewers with information about the quality of Ms Rees' work, both in general, and specifically in relation to the Mara case:

"Jessica Rees though is acknowledged as the best in her field, lip-reading conversations without background knowledge of the people involved. In one recent test she achieved an accuracy rate of more than 90%, she's often been able to lip-read footage other lip-readers can't work with. In Bill Mara's case the transcript was backed by a leading independent expert".

This not only recognised Ms Rees' lip-reading abilities but also made clear that Ms Rees' transcript had been independently verified. The Committee

considered that the references to Ms Rees' contributions in the Mara case did not result in unfairness to her.

In the circumstances, the Committee has not upheld this part of Ms Rees' complaint.

- vi) The Committee next turned to Ms Rees' complaint that the programme did not highlight that the accuracy of her report in relation to the Mara case had been verified by a highly qualified expert, and that this fact was not given similar prominence as the views of the defence's expert (whom Ms Rees said had little experience and no accreditation, and whose advice she had disputed).

The Committee noted that Ms Rees' complaint referred to the following segment of the programme:

Presenter: *"[The lip-read interpretations provided by Ms Rees] looked like compelling evidence, but soon there were doubts...Bill Mara's defence team wondered 'how could Jessica Rees be so sure?'"*

Richard Marshall
(Mr Mara's solicitor): *"So at four frames a second, our experts said you're not getting enough lip movement, facial movement, to actually interpret it, [the defence team's expert] could only interpret maybe a dozen words in the whole twenty, thirty minute tape".*

In determining whether this resulted in unfairness to Ms Rees, the Committee noted that the comments made no claims about the quality of the expert used. Rather, it provided information about the Mara defence team's case. The Committee also noted that directly after these statements the programme provided information about Ms Rees' lip-reading abilities, stating that she was *"the best in her field"*. It made clear that her transcript in the Mara case *"was backed by a leading independent expert"* (full statement set out above at (a)(v)).

In these circumstances, the Committee found that the programme's references to the advice of the defence expert did not result in unfairness to Ms Rees. In the Committee's view, the programme also took appropriate account of the quality of Ms Rees' lip-reading abilities.

Accordingly, the Committee has not upheld this part of Ms Rees' complaint.

The Kenyon case

- vii) The Committee next turned to Ms Rees' complaints in relation to the Kenyon case. The Committee first considered the complaint that the programme did not explain that Ms Rees had provided the police with information that allowed them to gain hard evidence against Ms Bowen and Mr Kenyon, which led to a conviction.

The Committee noted that the Kenyon case had been referred to in the programme because of the role it played in the Mara case. The programme explained that Mr Mara's defence team had been able to raise doubts about

Ms Rees' lip-reading abilities by referring to the Kenyon case, in which an audio recording of a prison visit appeared to contradict Ms Rees' lip-read interpretations of mute CCTV footage.

The Committee noted that the programme had explained that neither the audio recording nor Ms Rees' transcriptions had been used during the Kenyon trial. Ms Bowen and Mr Kenyon had been convicted on other evidence. The programme also explained that Ms Rees "*stand[s] by her work in all three cases*".

Taking these factors into account and the fact that Kenyon and Bowen were both convicted for the parts they played in the murder of Ms Bowen's husband, the Committee did not believe it was incumbent on the programme makers to go into detail about Ms Rees' exact transcriptions. Stating that Ms Rees' stood by her transcriptions, and that she is recognised as "*the best in her field*", was enough.

Accordingly the Committee has not upheld this part of Ms Rees' complaint.

- viii) The Committee next considered Ms Rees' complaint that the presenter's comment in the programme, that Ms Bowen "*doesn't seem surprised by what he said*", was not accurate. The complainant said Ms Bowen's horrified reaction was visible and that this statement implied that she was not a good lip-reader.

The Committee noted that this complaint related to the following voice over of footage of Ms Bowen visiting Mr Kenyon's in prison:

Presenter: "*A partial transcript from Jessica Rees suggested they were both involved in the killing. In Jessica Rees' version, Kenyon threatens to kill a teenage girl who witnessed him committing the murder. Bowen doesn't seem surprised by what he says*".

The Committee watched the relevant segments of the CCTV recordings, of this visit, which was recorded without sound. The Committee did not note any visible signs of surprise in Ms Bowen's facial expression. However, given Ms Bowen's subsequent conviction for conspiracy to murder her husband, the Committee considered that this could be attributed to the fact that she was herself complicit in some way, as much as it could be an observation relating to the accuracy of Ms Rees' lip-read translation. The Committee took the view, that regardless of the reason for Ms Bowen's expression, the probable effect of highlighting Ms Bowen's 'lack of surprise', was that viewers would question the overall reliability and accuracy of Ms Rees' lip-read transcriptions in the case.

The Committee went on to consider whether raising doubts, in this way, resulted in unfairness to Ms Rees. It noted that Ms Rees herself had admitted significant failings in relation to some of her work on the Kenyon case. The programme itself quoted two of these admissions, reading from her letters to the Staffordshire police:

'[Ms Rees, in her letters to the police] says that at one point she'd completely failed to 'completely failed to grasp the gist of the conversation' and that she'd been at fault for taking on too much

work: 'I can only apologise for this [i.e. taking on too much work] as I was genuinely unaware then of the dangers of trying to stretch myself too thinly, however obvious it may look now'."

With this in mind the Committee concluded the presenter's comment in this segment of the programme that "*Bowen doesn't seem surprised by what he said*", did not result in unfairness to Ms Rees.

Therefore the Committee has not upheld this element of Ms Rees' complaint.

- b) The Committee next considered Ms Rees' complaint that the programme makers failed to balance the programme with a contribution by lip-reading expert, Ms Jean Patera, and information from the MoD despite giving her an undertaking to do so.

In reaching its decision the Committee took account of Practice 7.7 of the Code which states that guarantees given to contributors, for example relating to the content of a programme, should normally be honoured.

The Committee reviewed the pre-broadcast correspondence between the programme maker and the complainant. It noted that the first reference to Ms Pateras and the MoD came on 19 January 2007. In her email to the programme maker, Ms Rees wrote:

"In the interest of balance I feel you should contact the author of the letter from the MoD of recent tests and also the foreign language interpreter – Jean Pateras".

Following further emails about how these people could be contacted, the programme maker emailed Ms Rees on 24 January 2007 and explained that:

"I have spoken to Gari Owen [the relevant person at MoD] and Jean Pateras and, in the film, we will take into account what they say".

The Committee found from this that the programme maker had told Ms Rees that information provided by the MoD and Ms Pateras would be "taken into account" in the programme. It did so by acknowledging Ms Rees as the "*best in her field*". However, the Committee found nothing to support the suggestion that the programme maker had given Ms Rees an undertaking to refer to the contributors by name.

The Committee therefore found that it was not unfair to Ms Rees not to refer to Ms Pateras or the MoD by name.

The Committee has not upheld this part of Ms Rees complaint.

- c) The Committee next turned to Ms Rees' complaint that the programme makers unfairly edited the contents of her letters to the Staffordshire Police. The Committee considered Ms Rees' statement that the letters had been her initial reaction to a situation which she said had later turned out not to be so bad, and that though the BBC were aware of this they still used the most sensational parts of her letter to portray her in a negative light.

In reaching its decision the Committee took account of Practice 7.9 of the Code.

The programme referred to Ms Rees' letters to the Staffordshire police as follows:

"In two letters to the police, Jessica Rees acknowledged the difficulties of her job. She says that at one point she'd 'completely failed to grasp the gist of the conversation' and that she'd been at fault for taking on too much work: 'I can only apologise for this as I was genuinely unaware then of the dangers of trying to stretch myself too thinly, however obvious it may look now'."

The Committee compared the above extracts with Ms Rees' full letter to the Staffordshire police of 19 July 1999, and the relevant page of her letter of 5 August 1999 (provided by the broadcaster). In the Committee's view, the extracts taken from these letters had been presented in the programme in the same context as they had appeared in the original letters. Furthermore, the Committee considered that the admissions of errors in the Kenyon transcripts made by Ms Rees in her letters were relevant to the subject matter of the programme, and served to support the programme's questioning of the accuracy of Ms Rees' past lip-reading evidence.

In the circumstances, the Committee found that the programme makers did not present the contents of Ms Rees' letters to the Staffordshire police in an unfair way. The Committee has not upheld this part of Ms Rees' complaint.

- d) The Committee next considered Ms Rees' complaint that the programme unfairly edited CCTV prison footage, which contained her voiced-over lip-read interpretations of the conversation, by "cherry-picking" sentences and showing them out of context.

In reaching its decision the Committee took account of Practice 7.9 of the Code.

The programme included a number of extracts of CCTV prison footage which showed Ms Rees' lip-read interpretation of the conversations. The Committee compared these with the unedited footage of the relevant CCTV prison footage together with Ms Rees' transcription of them.

While the Committee acknowledged that only brief extracts of the full CCTV prison visits were shown, it considered from viewing the full untransmitted material that the extracts had been presented in the correct context and their inclusion was relevant to the programme. In the Committee's view, the extracts selected by the programme makers clearly illustrated the central point of the programme, i.e. that Ms Rees' had lip-read that during prison visits individuals had discussions in relation to murders, discussions which were denied by the individuals involved.

Taking these factors into account, the Committee found that the editing of the CCTV prison footage did not result in unfairness to Ms Rees.

- e) The Committee next considered Ms Rees' complaint that her privacy was unwarrantably infringed by the broadcast because the programme makers did not have her consent to use the CCTV footage, which included her voiced-over commentary.

In Ofcom's view, the line to be drawn between the public's right to information and the citizen's right to privacy can sometimes be a fine one. In considering complaints about the unwarranted infringement of privacy, Ofcom will therefore,

where necessary, address itself to two distinct questions: First, has there been an infringement of privacy? Second, if so, was it warranted? (as per Rule 8.1 of the Code).

In reaching a decision about whether the programme as broadcast infringed Ms Rees' privacy, the Committee sought to determine whether Ms Rees had a legitimate expectation of privacy in respect of the CCTV footage containing her voiced-over commentary. In its deliberations, the Committee noted that Ms Rees did not claim to own the recordings. Given this, the Committee considered that Ms Rees would only have a legitimate expectation of privacy in respect of the recordings if they contained or conveyed some information that was private or sensitive to her.

The Committee noted that the dialogue of the recordings, i.e. the words themselves, did not relate to Ms Rees. They were the interpreted words of individuals involved in the prison visits, and did not mention or refer to the complainant. In relation to Ms Rees' actual voice, the Committee acknowledged - from information provided by her and in the programme - that Ms Rees is a protected witness. However, the Committee noted that Ms Rees' voice was already in the public domain, having been broadcast in television interviews in the past and heard publicly in court.

Taking these factors into account, the Committee found that Ms Rees did not have a legitimate expectation of privacy in relation to the broadcast of CCTV footage which contained her voiced-over commentary. There was therefore no infringement of Ms Rees' privacy in the programme as broadcast. In these circumstances, it was not necessary for the Committee to go on to consider whether or not any infringement was warranted.

Ofcom has not upheld this part of Ms Rees' complaint.

- f) The Committee finally considered Ms Rees' complaint that her privacy was unwarrantably infringed by the broadcast. This was because the programme included extracts from her letters to the Staffordshire police and did so without her consent.

In reaching a decision about whether the programme as broadcast infringed Ms Rees' privacy, the Committee first sought to determine whether Ms Rees had a legitimate expectation of privacy in respect of the contents of her letters to the Staffordshire Police. The Committee considered the nature of the letters. It noted that Ms Rees had written to the police in her capacity as an expert witness who had been employed by a public body. The contents of the letters related to problems which had arisen during the discharging of this duty. The Committee also noted that the extracts from the letters (which were included in the programme) related solely to Ms Rees' role as an expert witness. Furthermore, the extracts used had already been disclosed in a public judgment in court and so were in the public domain.

Taking these factors into consideration, it is the Committee's view that Ms Rees did not have a legitimate expectation of privacy in respect of these letters. Accordingly, the Committee found that Ms Rees' privacy was not unwarrantably infringed by their inclusion in the programme. In these circumstances, it was not necessary for the Committee to go on to consider whether or not any infringement was warranted. Ofcom has not upheld this part of Ms Rees' complaint.

In conclusion, parts of Ms Rees' complaint of unfair treatment in the programme as broadcast have been upheld. The Committee has not upheld Ms Rees' complaint of unwarranted infringement of privacy in the programme as broadcast.

The BBC has been found in breach of Rule 7.1 of the Code in relation to part of the complaint at Head (a).

Not Upheld

Complaint by the Kingdom of Saudi Arabia & the Royal Embassy of Saudi Arabia brought on their behalf by Schillings solicitors

Dispatches: Undercover Mosque, Channel 4, 15 January 2007

Summary: Ofcom has not upheld this complaint by the Kingdom of Saudi Arabia and the Royal Embassy of Saudi Arabia (“the Kingdom of Saudi Arabia”), of unfair treatment.

On 15 January 2007, Channel 4 broadcast an edition of its investigative programme *Dispatches*, entitled *Undercover Mosque*. The programme reported the findings of an undercover reporter who visited a number of Mosques and Islamic organisations in Britain. The programme stated that it had discovered extremism being preached in this country: “...an ideology of bigotry and intolerance spreading through Britain with its roots in Saudi Arabia”.

The Kingdom of Saudi Arabia’s complaint was considered by Ofcom’s Fairness Committee, its most senior decision making body in matters of Fairness and Privacy.

In summary, the Committee found the following:

In the Committee’s view, the programme made allegations against individuals from or trained in Saudi Arabia, and organisations based there. The Committee found these did not equate to allegations of wrongdoing by the Kingdom of Saudi Arabia (i.e. the country’s government and monarchy).

In these circumstances, in the interests of fairness, there was no obligation on the broadcaster to provide the complainant with an opportunity to respond to the programme’s allegations. Notwithstanding this, the Committee noted that the programme makers did allow the complainant to submit a statement, and it was included in the programme, unedited. The Committee found that the inclusion of this statement reinforced the position of the Kingdom of Saudi Arabia in relation to extremists. In the Committee’s opinion, viewers would have understood from the statement that the Kingdom of Saudi Arabia did not condone or promote such radical views.

Accordingly, the Committee found no breach of the Code.

Introduction

On 15 January 2007, Channel 4 broadcast an edition of its investigative programme *Dispatches*, entitled *Undercover Mosque*. The programme reported the findings of an undercover reporter who visited a number of Mosques and Islamic organisations in Britain. The programme stated that it had discovered extremism being preached in this country: “...an ideology of bigotry and intolerance spreading through Britain with its roots in Saudi Arabia”.

The programme included secretly filmed footage taken from mosques and organisations including the Green Lane Mosque and the Sparkbrook Centre in Birmingham, and the London Central Mosque. The undercover recordings featured

the teachings of several Islamic speakers which the programme alleged to be homophobic, anti-Semitic, sexist and condemnatory of non-Muslims. The programme also included excerpts from books, CDs and DVDs that had been purchased from the Islamic centres, and from websites which were connected to the mosques.

A statement from the Kingdom of Saudi Arabia was read out and shown on-screen during the programme.

Ofcom received a complaint from the Kingdom of Saudi Arabia and the Royal Embassy of Saudi Arabia ("the complainant"), which was brought on their behalf by Schillings solicitors ("Schillings"). The complaint stated that the complainant had been treated unfairly in the programme as broadcast.

The Complaint

The Kingdom of Saudi Arabia and the Royal Embassy of Saudi Arabia's case

In summary the complaint stated that the Kingdom of Saudi Arabia and the Royal Embassy of Saudi Arabia had been treated unfairly in the programme as broadcast in that:

- a) The programme falsely alleged that the complainant was aware of, supportive of and ultimately responsible for the alleged spread of a "*radical ideology*" of "*intolerance and bigotry*" to British Mosques and Islamic organisations in Britain. The complainant said the programme suggested that it promotes and condones extremism, when it clearly does not.
- b) That the programme failed to give due weight to all views and to present a wide range of views, in that:
 - it failed to interview or include the views of any figure recognised in the United Kingdom as a spokesperson for mainstream Islam, or anyone from the Muslim Council of Great Britain, or any of the 400 organisations listed on the Muslim Council of Great Britain's website; but
 - included the comments of five people whose views were used to attempt to demonstrate the truth of the allegations against the complainant and condemn Islam. The complainant said these individuals were not in any way representative of mainstream Islam and are known to be critics of the complainant. In support of the complaint, background information was provided on each of the five individuals referred to.
- c) The complainant was not provided with an appropriate and timely opportunity to respond to the programme in that:
 - The programme makers failed to approach the complainant for any comment before or after the programme had been broadcast. The complainant explained that following several requests for a right to reply, including a final request from their solicitors, the programme makers permitted them to provide a short statement, just hours before the broadcast of the programme.
 - The complainant's statement for broadcast was prepared without the benefit of knowing the exact contents of the programme, as the complainant was denied an opportunity to preview it. Schillings argued that had the

complainant been properly informed about the programme it would have been able to include specific information in relation to the complainant's views about extremist Muslim scholars; and also provide examples of what the complainant has done (and continues to do) to combat extremism.

- The programme makers limited the complainant's statement to 150 words. The complainant said the inclusion of this statement (which was drafted without knowing the exact contents of the programme and at short notice) was insufficient to reply to the critical views included in the programme.

Channel 4's case

Channel 4 provided a written statement in response to the complaint. In summary, the broadcaster responded to the complaint as follows:

- a) Channel 4 stated that it was firmly of the view that the complainant was not entitled to be given any opportunity to respond to the contents of the programme, because no criticisms or allegations were made against either the "Kingdom of Saudi Arabia" or the "Royal Embassy of Saudi Arabia". Channel 4 said the Kingdom of Saudi Arabia should not be defined more widely than the Saudi government and/or the Saudi monarchy, and being so defined it could not be authorised to complain on behalf of "mainstream Islam".

Channel 4 denied that the programme alleged that the complainant was aware of, supportive of, or ultimately responsible for the spread of extremism throughout the British Islamic community. Nor did the programme suggest the Kingdom of Saudi Arabia promoted or condoned extremism. Channel 4 said the programme had been carefully scripted and whilst the programme did allege that the fundamentalist ideology being described "*had its roots*" in Saudi Arabia and was spreading "*from the Saudi religious establishment*" the complainant was not implicated.

Channel 4 said that if Ofcom considered that the programme did make significant allegations against the complainant, which it denied, it would maintain that the complainant was not treated unfairly. Channel 4 said this was because it had agreed to include a statement in the programme which addressed all of the allegations which the complainant claimed had been made about it.

- b) In response to the complaint that due weight was not given to all views and a wide range of views could and should have been shown, Channel 4 said that the programme represented a sufficiently wide range of views. These views included those from contributors which could be described as representing "mainstream Islam". Furthermore the programme included a number of experts who Channel 4 said could not be simply dismissed as being "critics of the complainant" (as described in the complaint to Ofcom). In support of its case, Channel 4 provided background information for five of the programme contributors (four of whom had been referred to in the Schillings complaint). The background information provided by Channel 4, described the contributors as experts and academics who were able to explain and contextualise the evidence of extremism revealed by the programme's investigation.

Channel 4 also said that the programme contained no less than 14 responses to the allegations and evidence, including one from the complainant. Channel 4 said that it and the programme makers could not have been more thorough in seeking responses from the relevant individuals and organisations.

c) In response to the complaint that the complainant was not offered a fair opportunity to respond to the allegations, Channel 4 reiterated that it was firmly of the view that there was no obligation to provide an opportunity to respond. Notwithstanding this, Channel 4 went on to say that if Ofcom was of a different opinion, it would submit that no unfairness was caused to the complainant for the following reasons:

- Channel 4 decided to allow the complainant to submit a detailed response to the allegations which the complainant believed the programme was making and included this in the programme.
- Channel 4 said the complainant's statement for broadcast had been submitted with the benefit of the complainant seeing a letter from Channel 4 to the Director General of the London Central Mosque. Channel 4 said this letter set out in detail the thesis of the programme and the proposed programme content relating to the London Central Mosque.

Channel 4 submitted that it was somewhat misleading for the complainant to assert that they were put at a disadvantage because they did not know "the exact contents of the programme". In Channel 4's view it was likely that the complainant had been in receipt of a draft script of the programme on or around 8 January 2007. Channel 4 based this assertion on conversations which took place prior to broadcast, between representatives of the complainant and Channel 4's commissioning editor. Channel 4 also said that a copy of the transcript had been posted on the internet prior to broadcast of the programme.

- Channel 4 said it did not set an absolute word limit of 150 words but rather merely and quite reasonably suggested that the statement be approximately 100-150 words. In its letter to the complainant, Channel 4 stated "we suggest that to avoid editing by us [the statement] is in the region of 100-150 words". Channel 4 said that given that the statement was included in its full 161 word format, the complainant was provided with more than an adequate platform on which to refute the allegations which they considered were being made.

Decision

Ofcom's statutory duties include the application, in the case of all television and radio services, of standards which provide adequate protection to members of the public and all other persons from unfair treatment in programmes included in such services. Where there appears to have been unfairness in the making of the programme, this will only result in a finding of unfairness, if Ofcom finds that it has resulted in unfairness to the complainant in the programme as broadcast.

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

The Kingdom of Saudi Arabia and the Royal Embassy of Saudi Arabia's complaint was considered by Ofcom's Fairness Committee, its most senior decision making body in matters of Fairness and Privacy. In reaching its decision, the Committee

carefully considered all the relevant material provided by both parties. This included viewing a recording of the programme as broadcast; reading the transcript; and reading all the written submissions (which included supporting documents).

The Committee considered each of the complaints below:

- a) The Committee first considered the complaint that the programme falsely alleged that the complainant was aware of, supportive of, and ultimately responsible for the alleged spread of a “*radical ideology*” of “*intolerance and bigotry*” to British Mosques and Islamic organisations in Britain. The complainant said the programme suggested that it promotes and condones extremism, when it clearly does not.

In considering the complaint by the Kingdom of Saudi Arabia and the Royal Embassy of Saudi Arabia, the Committee took account of Practice 7.9:

“Before broadcasting a factual programme, including programmes examining past events, broadcasters should take reasonable care to satisfy themselves that:

- material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation; and
- anyone whose omission could be unfair to an individual or organisation has been offered an opportunity to contribute”.

In its complaint to Ofcom, the Kingdom of Saudi Arabia and the Royal Embassy of Saudi Arabia stated that the central thesis of the programme was “the alleged spread from the Kingdom of Saudi Arabia and its “*religious establishment*” of a “*radical ideology*” of “*intolerance and bigotry*” to British Mosques and Islamic organisations in Britain, of which the complainant was aware, supportive and ultimately responsible for”.

However, it was the Committee’s view that the programme’s central thesis was to present evidence of an extreme Islamist ideology being preached (and being made available for purchase) in Britain, and identifying that some of those responsible for its spread had roots in Saudi Arabia. In the programme as broadcast, the Committee noted that neither the Saudi Arabian government nor its monarchy (on behalf of whom Ofcom considered the complaint was made) was alleged to have been responsible for the spread of this fundamentalist ideology. Rather, this allegation was levelled at various individuals and organisations such as: individual clerics and speakers (many of whom had received training in Saudi Arabia or were based in Saudi Arabia); Saudi Arabian universities; internet sites maintained by groups and individuals based in Saudi Arabia; Saudi Arabian providers of fundamentalist literature; and British mosques selling fundamentalist literature and recordings. The Committee noted that these were collectively at times referred to as “*the Saudi religious establishment*”.

While the programme did focus on the fact that those allegedly spreading the ideology of “*intolerance and bigotry*” had “*roots*” in Saudi Arabia, it is the Committee’s view that this did not equate to an allegation of wrongdoing against the Saudi Arabian government or monarchy. The Committee considered that although a state (i.e. the government and monarchy) has authority to represent and speak on behalf of its people, it does not follow that allegations of wrongdoing against some of its people or some organisations based within it, are by default allegations of wrongdoing against the country’s government and/or

monarchy. The Committee therefore did not consider that the programme had alleged that the complainant had been responsible for spreading this extremist ideology.

The Committee next considered those references which had been made in the programme to the Saudi Arabian government and monarchy, with a view to determining whether they had resulted in unfairness to the complainant.

The Committee noted that the Saudi Arabian government and monarchy were specifically referred to in the programme in relation to their funding of British Muslim institutions. The two references that were made were as follows:

Commentary: *“Dr Taj Hargey set up the Muslim Educational Centre of Oxford to promote an Islam of tolerance and peaceful co-existence.*

He’s opposed to Saudi influence over British Muslim life.

Dr Hargey: *The Saudi funding of British Muslim institutions comes from a variety of official, semi-official and private sources, in addition to **government funding through the Ministry of Religious Affairs and other government agencies**”.*

and

Commentary: *“Money from Saudi has reached the most famous mosque in Europe. London Central Mosque, better known as Regent’s Park Mosque, is the most recognisable symbol of moderate, mainstream Muslim life in Britain. It says it acts on behalf of the whole Muslim community in dealing with the government. **The Saudi monarchy** gave two million pounds to help build it, and in the 1990s, they built its educational and administrative wing”.*

[Emphasis added by Ofcom].

In the Committee’s opinion, these references to the Saudi Arabian government and the Saudi Arabian monarchy were not allegations of wrongdoing. The Committee considered the references to be factual statements which did not link the actions of the complainant to the extremist views explored in the programme, or suggest that the Saudi Arabian government or monarchy was supportive of fundamentalists.

In summary, the Committee found that: the programme gave specific information about who it alleged was responsible for the spread of the “*radical ideology*” referred to in the programme; the programme did not contain any allegations of wrongdoing against the Saudi Arabian government or monarchy; and there was no evidence to suggest that viewers were likely to have gained the impression that either the Kingdom of Saudi Arabia or the Royal Embassy of Saudi Arabia was aware of, supportive of, or responsible for the spreading of extremism in Britain.

Accordingly, the Committee concluded that there had been no unfairness to the Kingdom of Saudi Arabia or the Royal Embassy of Saudi Arabia and has not upheld this head of the complaint.

- b) The Committee next turned to the complaint that due weight was not given to all views, and a wide range of views could and should have been shown. The complainant said the programme makers' failure to do this resulted in unfairness. The Committee considered the complaint that the programme makers had: failed to interview those representing mainstream Islam; but, had included the comments of people hostile towards the complainant who were in no way representative of mainstream Islam.

In reaching a decision about this complaint the Committee took account of Practice 7.9 which relates to the proper consideration of facts (detailed in full above).

This head of the complaint was entertained by Ofcom only in so far as it was capable of resulting in unfairness to the Kingdom of Saudi Arabia or the Royal Embassy of Saudi Arabia.

In the Committee's view, the matters complained of at Head (b) of the complaint could only be capable of resulting in unfairness to the complainant if the Committee had found that the Kingdom of Saudi Arabia and the Royal Embassy of Saudi Arabia had been the subject of the allegations complained about under Head (a). In other words, had the Committee found that the complainant was the subject of the allegations, then the Committee felt that it would have been incumbent on it to consider under this head of the complaint whether the programme makers had taken steps to ensure that material facts were not presented, disregarded or omitted in a way that was unfair to the complainant; and whether anyone whose omission could be unfair to the complainant had been offered an opportunity to contribute.

However, for the reasons given at Head (a) above, the Committee did not consider that the complainant was the subject of the allegations in the programme. Having reached this decision, it is the Committee's view that the matters complained of at Head (b) did not result in unfairness to either the Kingdom of Saudi Arabia or the Royal Embassy of Saudi Arabia.

Accordingly, in these circumstances, Ofcom has not upheld this part of the complaint.

- c) Lastly, the Committee considered the complaint that the Kingdom of Saudi Arabia and the Royal Embassy of Saudi Arabia were not provided with an appropriate and timely opportunity to respond to the programme. Specifically the Committee considered the complaint that:

- The programme makers failed to approach the complainant for any comment, and that the programme makers only permitted the complainant to provide a short statement, just hours before the broadcast of the programme;
- The statement was prepared without the benefit of knowing the exact contents of the programme, as the complainant had been denied an opportunity to preview it; and

- The programme makers limited the complainant's statement to 150 words.

In reaching a decision about this complaint the Committee took account of Practice 7.11 which states that:

"If a programme alleges wrongdoing or incompetence or makes other significant allegations, those concerned should normally be given an appropriate and timely opportunity to respond".

For the reasons already set out above under the preceding heads of complaint, the Committee considered that the complainant was neither the focus of the programme, nor the subject of allegations of wrongdoing. Therefore it was not incumbent on the programme makers, in the interests of fairness, to offer the complainant "an appropriate and timely opportunity to respond" to the allegations in accordance with Practice 7.11.

The Committee noted, however, that Channel 4 nevertheless did allow the complainant to submit a statement. The complainant's statement was shown and read out in the programme as broadcast, unedited, as follows:

"The Kingdom of Saudi Arabia told us: 'The Kingdom of Saudi Arabia is an Islamic state, governed in accordance with the teachings of the Shari'a.

Islam is a religion of tolerance and respects the human rights of all people, regardless of gender, age, religion or race. Islam is a religion without national borders. There is no such thing as "the religious establishment" in Saudi Arabia.

Here as in every society, one can find extremists as well as conservatives and moderates.

Saudi Arabia does not support radical or extreme ideology, but strongly condemns all those seeking to politicise Islam: preaching, inciting or fostering hatred and violence, or legitimizing terrorist activities. To this end many Imams have been re-educated in recent years and a misguided few have been dismissed.

Any financial donations, public or private, are scrutinized according to the highest international standards to ensure that no funds are sent to extremist groups.

Saudi Arabia has pioneered calls for greater international cooperation for the exchange of timely and specific information'."

The complainant was not the subject of any allegations. The statement broadcast on the programme would have only reinforced the position of the Saudi Arabian government and monarchy in relation to extremists and viewers would have understood further from this that the complainant did not condone, or promote such radical views.

In these circumstances, Ofcom found no unfairness to the complainant and has not upheld this head of the complaint.

Accordingly, Ofcom has not upheld the Kingdom of Saudi Arabia or the Royal Embassy of Saudi Arabia's complaint of unfair treatment in the programme as broadcast.

Complaint by the Islamic Cultural Centre and the London Central Mosque brought on their behalf by Carter Ruck solicitors

Dispatches: Undercover Mosque, Channel 4, 15 January 2007

Summary: Ofcom has not upheld this complaint by the Islamic Cultural Centre and the London Central Mosque (“the ICC”), of unfair treatment and unwarranted infringement of privacy.

On 15 January 2007, Channel 4 broadcast an edition of its investigative programme *Dispatches*, entitled *Undercover Mosque*. The programme reported the findings of an undercover reporter who visited a number of Mosques and Islamic organisations in Britain. The programme stated that it had discovered extremism being preached in this country: “...an ideology of bigotry and intolerance spreading through Britain with its roots in Saudi Arabia”.

Archive footage of the interior of the London Central Mosque was used in the programme. This footage showed a visit to the Mosque by Jack Straw MP and worshippers at the Mosque. The programme also included surreptitiously recorded footage of the undercover reporter visiting a bookshop at the Mosque and highlighted excerpts from DVDs and CDs purchased there.

The ICC’s complaint was considered by Ofcom’s Fairness Committee, its most senior decision making body in matters of Fairness and Privacy.

In summary, the Committee found the following:

The Committee found that allegations made in the programme against the ICC had been presented in a clear, straightforward way and resulted in no unfairness.

In the Committee’s view, the programme reflected the London Central Mosque’s reputation as a symbol of moderate mainstream Muslim life in Britain and referred to the ICC’s commitment to interfaith and cross-cultural understanding. The Committee found within this context, the programme raised the legitimate concern that the ICC had been unaware that a bookshop at the Mosque was selling material of an extremist nature.

The Committee found that viewers would not have understood from the programme that the ICC condoned the teachings of the speakers featured in the material purchased from the bookshop. Nor did the programme suggest that the ICC was otherwise associated with these speakers.

The Committee found the complainant did not have a legitimate expectation of privacy in relation to the archive footage. This was because the footage had been obtained openly, was likely already to be in the public domain and did not reveal any information about the ICC that was of a private or sensitive nature. The Committee also took the view that the archive footage illustrated the programme’s commentary that the Mosque was “*the most recognisable symbol of moderate, mainstream Muslim life in Britain*” which “*acts on behalf of the whole Muslim community in dealing with the government*”. In these circumstances, the Committee found the use of the archive footage did not infringe the privacy of the complainant.

The Committee found the filming and broadcast of surreptitious recordings, of the reporter's visit to the bookshop, infringed the privacy of the ICC. This was because appropriate consent to film inside the grounds of the ICC and to broadcast those images, had not been gained. However, the Committee took the view that it was in the public interest for the programme makers to investigate whether Islamist extremism was being promoted or spread in Britain, and to broadcast its findings. Therefore the Committee found that the infringement of the ICC's privacy was warranted.

Accordingly, the Committee found no breach of the Code.

Introduction

On 15 January 2007, Channel 4 broadcast an edition of its investigative programme *Dispatches*, entitled *Undercover Mosque*. The programme reported the observations of an undercover reporter who visited a number of mosques and Islamic organisations in Britain. The programme stated that it had discovered extremism being preached in this country: "...an ideology of bigotry and intolerance spreading through Britain with its roots in Saudi Arabia".

The programme included secretly filmed footage taken from mosques and organisations including the Green Lane Mosque and the Sparkbrook Centre in Birmingham, and the London Central Mosque. The undercover recordings featured the teachings of several speakers which the programme alleged to be homophobic, anti-Semitic, sexist and condemnatory of non-Muslims. The programme also included excerpts from books, CDs and DVDs that had been purchased from the Islamic centres, and from websites which were connected to the mosques.

Footage of the interior of the London Central Mosque was used in the programme. This footage showed a visit to the mosque by Jack Straw MP and worshippers at the Mosque.

The programme also included surreptitiously filmed footage of the undercover reporter visiting a bookshop, located on the site of the London Central Mosque. This footage showed the area immediately outside the bookshop and the interior of the bookshop itself. The programme then highlighted excerpts from DVDs and CDs that had been purchased by the undercover reporter at the bookshop. One of the CDs contained the teachings of the speaker, Murtaza Khan, claiming the Qur'an condemned Jews and Christians. While playing subtitled audio excerpts of this CD, the programme showed footage of the exterior of the London Central Mosque.

A statement from Dr Ahmed Al-Dubayan, the Director General of the Islamic Cultural Centre and the London Central Mosque was included in the programme. The programme also included a statement from the company that operates the bookshop at the London Central Mosque.

Ofcom received a complaint from the Islamic Cultural Centre and the London Central Mosque ("the complainant"), which was brought on their behalf by their solicitors, Carter Ruck. The complaint stated that the complainant had been treated unfairly in the programme as broadcast, and that its privacy had been unwarrantably infringed in both the making and broadcast of the programme.

The Islamic Cultural Centre and the London Central Mosque (which is part of the Islamic Cultural Centre) are collectively referred to below as "the ICC". Where the London Central Mosque is referred to, it is as "the Mosque".

The Complaint

The ICC's case

In summary, the ICC complained that it had been treated unfairly in the programme as broadcast in that:

- a) The programme gave the misleading impression that the ICC was dominated by religious teachings of Saudi Arabia, said by the programme to promote bigotry and intolerance. In addition the programme falsely implied that extremist views attributed to Saudi Arabia were promoted by the complainant. The complaint referred to the following actions by the programme makers, which the complainant said gave this false and misleading impression.

The programme makers:

- i) prominently featured in the programme material found on sale at the independently run bookshop located on the site of the Mosque. This conveyed the false impression that the complainant endorsed the extremist views expressed in this material;
 - ii) refused an offer by Dr Al-Dubayan to provide himself and an Islamic scholar, Shafiq ur-Rahman, for a recorded interview on camera; and failed to interview at least one of the three Imams of the ICC; and
 - iii) failed to mention the ICC's commitment to its work on interfaith and cross-cultural understanding.
- b) The programme gave the false impression that the speaker, Murtaza Khan, was from or was associated with the Mosque. The complainant said that he has never spoken at the Mosque or at any of its activities or programmes.

The ICC also complained that its privacy was unwarrantably infringed in both the making and broadcast of the programme in that:

- c) The programme broadcast footage without the permission of the ICC, from a source unknown to the complainant. The footage showed worshippers at the Mosque, and a visit to the Mosque by Jack Straw MP. Carter Ruck said that permission to use footage of worshippers inside the Mosque would have been refused if it had been sought by Channel 4. The complainant strongly objected to the use of this footage which, it said, was intended for one purpose and was used by Channel 4 for an entirely different programme.
- d) The programme included surreptitiously recorded footage taken from outside and inside the bookshop at the Mosque. The complainant said the use of surreptitious recordings was not warranted. In addition the footage did not provide (and nor was it likely to have provided) any "material evidence", nor was it necessary to the credibility and authenticity of the programme.

Channel 4's case

Channel 4 provided a written statement in response to the complaint. In summary, the broadcaster responded to the complaint as follows:

- a) Channel 4 denied the programme alleged or suggested that the Mosque was “dominated by the religious teachings of Saudi Arabia”. Channel 4 said the Mosque was only referred to in one discrete section of the programme. This section was quite specific in what it said in relation to the Mosque and, thus, the ICC. Channel 4 said that the programme made no direct allegations against the ICC, beyond stating that a bookshop located within the Mosque was selling fundamentalist and unacceptable material. Given the location of the bookshop, the programme makers brought the evidence of this activity to the attention of the Director General of the ICC and a response was sought.

Channel 4 said that, aside from this specific allegation, the programme only included factual references. These stated that the Mosque had received funds from the Saudi Monarchy and that the Director General of the ICC is a Saudi diplomat. Channel 4 added that in relation to the latter reference, the programme had included the Director General’s statement that his diplomatic status was extended to him as a courtesy by the Saudi Arabian government, following his appointment as Director General. This had also been the case with his predecessors of different nationalities.

Channel 4 argued that the programme’s statements did not amount to a suggestion that the Mosque was “dominated” by the Saudi religious establishment. Channel 4 said the term “*Saudi religious establishment*” was a generic term which was chosen to denote a wide range of organisations and individuals which the programme referred to as the source of the fundamentalist ideology spread throughout the UK. Channel 4 said this would have been understood from the context in which the expression had been used.

However, Channel 4 said that if the programme could be understood to mean what the complainant alleged, it would refer to the fact that the programme had included the following statement from the ICC:

‘[Dr Al Dubayan] said it is false and misleading to make the sweeping generalisations that religious teachings from Saudi Arabia promote extremism and it is also false to assert that the ICC is dominated by the influence of such teachings’.

- i) In response to the complaint that the programme prominently featured the material purchased from the bookshop to convey the false impression that the complainant endorsed the extreme views taken from the material, Channel 4 stated the programme raised legitimate concerns about the material found on sale on the ICC premises.

Channel 4 said the programme did feature prominently the material which had been bought at the bookshop, but denied that the programme suggested that the complainant endorsed the views contained within this purchased material.

Channel 4 said the programme clearly stated the fact that the bookshop was not operated by the Mosque itself or by the ICC. The programme also included a number of responses from relevant individuals and organisations. Channel 4 said the complainant’s position in relation to the material on sale at the bookshop was made clear in the following statement from the ICC:

‘[Dr Al Dubayan] ... said the Mosque bookshop was run independently and he was seriously concerned to hear that inappropriate materials may be on offer. The materials had been removed immediately until it was

ascertained whether they were 'damaging to the principles of tolerance, multiculturalism and equal rights'.

Channel 4 maintained that viewers would not have understood the programme to be suggesting that the complainant endorsed the material featured in the programme.

- ii) In response to the complaint that the programme makers refused an offer by Dr Al-Dubayan to provide himself and another interviewee for a recorded interview; and, did not interview at least one of the three Imams of the ICC, Channel 4 said the complainant was given an appropriate and timely opportunity to respond to the programme.

Furthermore, Channel 4 said the statement by the ICC that was included in the programme fairly conveyed the complainant's position on all relevant matters.

Channel 4 said the decision not to include an on-camera interview with Dr Al-Dubayan or any of the Mosque's resident Imams did not in any way result in unfairness to the complainant. In any event, Channel 4 said that there was no regulatory obligation for a broadcaster to offer an on-camera interview, as editorial control remains with the broadcaster.

- iii) Channel 4 said it strongly disagreed with the ICC's complaint that the programme makers failed to mention the ICC's commitment to its work on interfaith and cross-cultural understanding.

Channel 4 said that one of the points made in the programme was that organisations which claim to be committed to moderation and tolerance increasingly have extremists in their midst. Channel 4 said the ICC's work on interfaith and cross-cultural understanding was irrelevant to this specific point being made.

Channel 4 said the ICC's position on all relevant matters was fairly included within the programme.

- b) In response to the complaint that the programme gave the false impression that the speaker, Murtaza Khan, was from or was associated with the Mosque, Channel 4 said this was "simply untrue".

Channel 4 said the programme did not allege that Murtaza Khan was "from or was associated with the Mosque" nor did it claim that he had spoken at the Mosque or at any of its activities.

Channel 4 said that it could only assume the complaint had been made in reference to the one line in the programme that stated "*And they [the bookshop] sell audio CDs of Murtaza Khan, a preacher who speaks in many UK Mosques*".

Channel 4 said that these words should be understood (as they were likely to be) in their natural and ordinary meaning, i.e. simply, that Murtaza Khan speaks in many UK Mosques.

- c) In response to the complaint that the re-use of archive footage from the Mosque unwarrantably infringed the privacy of the ICC, Channel 4 said the relevant footage, i.e. 3-4 seconds of people praying, mostly in wide shot; 3-4 seconds of

people leaving the Mosque after prayer in wide shot; 3-4 seconds of footage of Jack Straw visiting the Mosque, did not unwarrantably infringe the ICC's privacy and was merely used to help illustrate what the commentary was saying.

Channel 4 said the footage had been sourced through a reputable TV library and that similar footage from within the Mosque is and has been frequently shown before. Furthermore, the footage revealed nothing of a private nature in relation to the ICC and had not been used in a critical or negative context.

However, Channel 4 said that if Ofcom considered that the broadcast of the footage infringed the complainant's privacy then it would submit that any infringement would be miniscule and more than adequately justified by a public interest. Channel 4 said that it was in the public interest to use the pictures to support the programme's claims and put the Mosque in context. In other words, the Mosque represents mainstream Muslim life in Britain as well as the Muslim community in its dealings with the government. For this reason, Channel 4 included pictures of a broad cross-section of people praying (many of whom were in Western dress) and the pictures of Jack Straw, a government Minister and ex-Home Secretary visiting the Mosque.

- d) In response to the complaint that the surreptitiously recorded footage taken from outside and inside the bookshop at the Mosque unwarrantably infringed the privacy of the ICC, Channel 4 said the programme contained only a very small amount of secret filming from within the Mosque. This consisted of footage of the reporter approaching the Mosque bookshop and footage inside the store showing books and videos on the shelves.

Channel 4 said the filming and broadcast of the footage did not amount to an infringement of privacy. This was because the footage did not identify any individuals, it did not film any one engaged in an activity which could reasonably be described as private and it did not reveal information of a private nature about the complainant. Channel 4 said that if there was any infringement it was minimal and amounted to no more than the simple act of filming in a public part of the building and broadcasting that footage without the Mosque's consent. Channel 4 said it was clearly in the public interest that the official bookshop of the Mosque was selling material which contained the fundamentalist and extremist views revealed in the programme.

In relation to whether the surreptitious filming was warranted, Channel 4 said the inclusion of the footage within the programme was necessary to the credibility and authenticity of the story. Channel 4 said the programme makers could clearly not have filmed openly and the footage was necessary for a number of reasons:

- to illustrate to viewers the fact that the mosque has a bookshop;
- to show that the store is actually located within the Mosque itself;
- to show that it sells books and videos like the ones bought; and
- to demonstrate that the programme's reporter actually visited the Mosque store to buy the material later shown in the programme.

Decision

Ofcom's statutory duties include the application, in the case of all television and radio services, of standards which provide adequate protection to members of the public

and all other persons from unfair treatment and unwarranted infringement of privacy in, or in the making of, programmes included in such services.

Where there appears to have been unfairness in the making of the programme, this will only result in a finding of unfairness, if Ofcom finds that it has resulted in unfairness to the complainant in the programme as broadcast.

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

The ICC's complaint was considered by Ofcom's Fairness Committee ("the Committee"), its most senior decision making body in matters of Fairness and Privacy. In reaching its decision, the Committee carefully considered all the relevant material provided by both parties. This included viewing a recording of the programme as broadcast; reading the transcript; and reading all the written submissions (which included supporting documents).

- a) The Committee first considered the ICC's complaint that the programme gave the misleading impression that the ICC is dominated by religious teachings from Saudi Arabia, said by the programme to promote bigotry and intolerance. This part of the complaint also alleged that the programme falsely implied that extremist views attributed to Saudi Arabia were promoted by the complainant.

In considering each element of the ICC's complaint at Head (a), as set out below, the Committee took account of Practice 7.9:

"Before broadcasting a factual programme, including programmes examining past events, broadcasters should take reasonable care to satisfy themselves that:

- material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation; and
- anyone whose omission could be unfair to an individual or organisation has been offered an opportunity to contribute".

- i) The ICC complained that the programme makers prominently featured in the programme material found on sale at the independently run bookshop located on the site of the Mosque. This conveyed, according to the complainant, the false impression that the ICC endorsed the extreme views taken from this material:

Having viewed the programme, the Committee considered that it presented evidence of an extreme Islamist ideology being preached around the UK. The programme also included evidence that various recordings and publications, containing such ideology, were on sale in Britain. The programme stated that those responsible for the spread of this ideology had roots in Saudi Arabia.

Within this context, the programme made specific references to the ICC, which in the Committee's view were well defined. In the section of the programme which featured the ICC, viewers were told that the ICC is the "*most recognisable symbol of moderate mainstream Muslim life in Britain*" and that "*Regular interfaith meetings with other religions take place at this Mosque*".

Against this backdrop, the programme then stated that the Director General of the ICC was from Saudi Arabia and is a serving Saudi diplomat. It also made clear that the Mosque's official bookshop was run by a British company called Darussalam, whose head office is in Saudi Arabia. The programme went on to allege that Darussalam sold material which promoted bigotry and intolerance.

Towards the end of the segment of the programme relating to the ICC, the following statement by the ICC was included:

‘[The Director General of the ICC] told us his diplomatic status has been extended to him as a courtesy by the Saudi Arabian government following his appointment, as with his predecessors of different nationalities.

He said the Mosque bookshop was run independently and he was seriously concerned to hear that inappropriate materials may be on offer.

The materials had been removed immediately until it was ascertained whether they were ‘damaging to the principles of tolerance, multiculturalism and equal rights’. He said ‘It is false and misleading to make the sweeping generalisation that religious teachings from Saudi Arabia promote extremism and it is also false to assert that the ICC is dominated by the influence of such teachings’.”

The Committee noted that the Mosque's reputation as a symbol of moderate mainstream Muslim life in Britain, was reflected in the programme. Within this context, the Committee considered that it was significant that material of an extremist nature had been found on sale at its official bookshop. In the Committee's view, the programme makers were justified, therefore, in featuring this evidence in one segment of the programme because it demonstrated that elements of extremism could be found even in the most mainstream of British Muslim organisations. The Committee considered the programme was very clear that the reporter was going undercover in the ICC's bookshop to see what was on sale. It was also the Committee's opinion that the programme presented the evidence that was found as a result of going undercover in a very clear, straightforward and fair manner.

Furthermore, the Committee considered that the position of the ICC had been made clear in the programme in relation to any stated links to Saudi Arabia, and in response to the material found on sale at the bookshop. The Committee took the view that viewers would have understood this from the ICC's statement, which clearly stated that:

- it has always been the case that the Director General of the ICC is granted diplomatic status (*“a courtesy by the Saudi Arabian government...as with his predecessors of different nationalities”*);
- the ICC was not aware that the independently run bookshop was selling extremist material (*“seriously concerned to hear that inappropriate materials may be on offer”*);
- that action had been taken to address the sale of the material (*“The materials had been removed immediately”*); and
- the ICC believed in the principles of tolerance, multiculturalism and equal rights and was not itself influenced by extremists teachings (*“It is false and misleading to make the sweeping generalisation that religious*

teachings from Saudi Arabia promote extremism and it is also false to assert that the ICC is dominated by the influence of such teachings”).

In the circumstances, the Committee found the programme makers had taken reasonable care in presenting information relating to the material found on sale at the bookshop at the Mosque. Furthermore, the Committee considered that the programme did not leave viewers with the false impression that the ICC endorsed the extreme views found in the material on sale at the bookshop. Rather, in the opinion of the Committee, the programme very clearly made the point that the ICC was unaware of the material and it clearly distanced the ICC from the sale of this material. However, it was legitimate and fair to raise the issue that a bookshop on the premises of a mosque, noted for its interfaith work, was selling material of this nature.

Accordingly the Committee has not upheld this element of the ICC’s complaint of unfair treatment.

- ii) The Committee next considered the complaint that the programme makers refused an offer by Dr Al-Dubayan to provide himself and Shafiq ur-Rahman (an Islamic scholar) for a recorded interview and did not interview at least one of the three Imams of the ICC:

In considering this complaint the Committee took account of Practice 7.9 (detailed above) and Practice 7.11 which states that:

“If a programme alleges wrongdoing or incompetence or makes other significant allegations, those concerned should normally be given an appropriate and timely opportunity to respond”.

In the Committee’s view, the programme was very clear about the allegations which were being made about the ICC. The Committee noted that the allegations did not refer to the Mosque or implicate any of the Imams at the Mosque (the programme clearly stated that the Mosque is the “*most recognisable symbol of moderate, mainstream Muslim life in Britain*”). Rather, the allegations focused on the administration of the ICC by highlighting that the ICC was not aware that a bookshop on its site was selling extremist material.

In light of these allegations, the Committee considered that the person most appropriate to respond on behalf of the ICC was its Director General, Dr Al-Dubayan. It was clear from the programme and from the submissions from both parties that Dr Al-Dubayan was given such an opportunity. The Committee had regard to the correspondence between the complainant and the broadcaster. It noted that the programme makers wrote to Dr Al-Dubayan about the programme on 28 December 2006, and that he sent a response on 8 January 2007. In light of this response, the programme makers included the following commentary (which has already been referred to above) in the programme:

Commentary: “[Dr Al Dubayan] said the Mosque bookshop was run independently and he was seriously concerned to hear that inappropriate materials may be on offer.

The materials had been removed immediately until it was ascertained whether they were ‘damaging to the principles of tolerance, multiculturalism and equal rights’.

He said: 'It is false and misleading to make the sweeping generalization that religious teachings from Saudi Arabia promote extremism and it is also false to assert that the ICC is dominated by the influence of such teachings'."

Having given due consideration to the correspondence between the parties and the programme's summary of Dr Al-Dubayan and the ICC's position, the Committee found that Dr Al-Dubayan's views, which he put forward on behalf of the ICC, had been represented in a fair manner. As already discussed in relation to Head (a)(i) above, the Committee considered it would have been clear to viewers from the programme's summary of Dr Al-Dubayan's response that the ICC was unaware of the material found on sale at the bookshop.

In all the circumstances, therefore, Ofcom found that the programme makers had appropriately sought and included Dr Al-Dubayan and the ICC's response in the programme as broadcast.

In relation to the ICC's complaint that the programme makers refused an offer by Dr Al-Dubayan to provide himself and an Islamic scholar, Shafiq ur-Rahman, for a recorded interview, the Committee considered that this is a matter of editorial discretion for programme makers so long as that decision does not result in unfairness.

Rule 7.1 requires broadcasters to avoid unjust or unfair treatment of individuals or organisations in programmes, but it is for the broadcaster to decide how best to achieve this. Practices 7.9 and 7.11 include measures for broadcasters to follow in order to ensure that the views of those concerned by a programme's allegations are appropriately represented. However, the Code does not require broadcasters to present these views in a particular way (such as an on-camera interview as opposed to reading out a statement or reporting the views that they have put forward to the broadcaster). Similarly, it is a matter for the broadcaster to decide who it wishes to invite to contribute to a programme, to ensure fairness is achieved.

On this basis, the Committee considered whether it was incumbent on the broadcaster to interview, or otherwise represent the views of, Shafiq ur-Rahman or at least one of the three Imams. The Committee noted that none of these individuals was the subject of allegations made in the programme and nor were their views fundamental to its focus. The programme's focus was not the teachings of the ICC, the Mosque, its Imams or the fundamentals of the Islamic faith; rather, it presented an examination of how an extreme Islamist ideology was gaining footholds in British Muslim mosques and organisations.

In summary, therefore, the Committee found the programme makers' decision not to accept Dr Al-Dubayan's offer of an interview with himself or other Islamic experts did not result in unfairness to the ICC. The ICC was offered an appropriate opportunity to respond to the programme's allegations and Dr Al-Dubayan's response on its behalf was represented in a fair manner. The Committee was therefore satisfied that the position of the ICC was made clear in the programme as broadcast.

In conclusion, Ofcom has not upheld this element of the ICC's complaint of unfair treatment.

- iii) In relation to the ICC's complaint that the programme makers failed to mention its commitment to its work on interfaith and cross-cultural understanding:

The Committee took account of Practice 7.9 of the Code (as detailed above) which relates to the proper consideration of facts.

In considering this element of the complaint the Committee again noted the programme's statements that the Mosque is "*the most recognisable symbol of moderate, mainstream Muslim life in Britain*" and that "*Regular interfaith meetings with other religions take place at this Mosque*". In addition, the Committee noted that the programme had reflected the ICC's statement that it had taken steps to prevent damaging its principles of "*tolerance, multiculturalism and equal rights*".

The Committee considered that these statements clearly highlighted the ICC's work on interfaith and cross-cultural understanding. In fact, the Committee recognised that including these statements in the programme enabled it to put into context the discovery of the extremist material found on sale at the bookshop. This allowed viewers to understand the full significance of that discovery. In other words, that elements of extremism were found in even in the most mainstream of British Muslim organisations.

In the circumstances, therefore, the Committee found that the programme makers had taken reasonable steps to ensure that material facts relating to the ICC's commitment on interfaith and cross-cultural understanding were not presented, disregarded or omitted in a way that was unfair to the complainants.

In conclusion, the Committee has found no unfairness to the complainant in this respect.

Accordingly, the Committee has decided that no unfairness resulted to the complainants and, therefore, has not upheld this head of complaint.

- b) The Committee next turned to the ICC's complaint that the programme gave the false impression that the speaker, Murtaza Khan, was from, or was associated with the Mosque. The complainant said that Murtaza Khan has never spoken at the Mosque or at any of its activities or programmes:

When considering this complaint, the Committee took account of Practice 7.9 of the Code which relates to proper consideration of facts (detailed in full above).

The Committee noted that the ICC's complaint related to a segment of the programme that featured extracts from DVDs, videos and audio recordings which had been purchased from the bookshop at the Mosque. The segment showed video footage of the speakers Sheikh Feiz, Skeikh Khalid Yasin and Abu Usamah and also contained audio extracts from a CD by the speaker, Murtaza Khan.

The Committee noted that audio extracts of Murtaza Khan's teachings were introduced in the programme in the following way:

Commentary: "And they [the bookshop] sell audio CDs of Murtaza Khan, a preacher who speaks in many UK Mosques..."

The programme then showed video footage of Murtaza Khan speaking, with the caption "*21st Century Pharaohs' Ahlussunnah wal Jamaa'ah*".

The commentary went on to describe: *"In this CD from the Mosque, [Murtaza Khan] claims the Qur'an condemns Jews and Christians"*, and played audio extracts of the CDs purchased from the bookshop at the Mosque. The audio recordings were accompanied by subtitles which were shown against a background of footage of the exterior of the Mosque. These background shots included close-up images of the Mosque building. The titles of the audio CDs, from which the recordings had been taken, were captioned at the top left hand corner of the screen.

The Committee noted that the audio extracts were broken up with programme commentary on two occasions. The programme commentary was accompanied by video footage (with very limited sound) of Murtaza Khan speaking. This footage had been taken from the DVD *"21st Century Pharaohs' Ahlussunnah wal Jamaa'ah"*.

Having viewed the programme and considered its presentation of the video footage of Murtaza Khan, it is the Committee's opinion that the programme was clear that Murtaza Khan's teachings and words were from an extract of an audio CD and DVD. In the Committee's view, the audience was likely to have understood that the programme was not suggesting that the footage showed Murtaza Khan had spoken at the Mosque, for the following reasons:

- The Committee considered that the programme makers had made it clear, through the commentary and captions that the audio recordings of Murtaza Khan had been purchased from the bookshop, at the Mosque.
- The Committee also considered that viewers were likely to understand that the images of Murtaza Khan speaking had been taken from a DVD recording, as this was indicated by the on-screen caption *"21st Century Pharaohs' Ahlussunnah wal Jamaa'ah"*.
- In relation to the background shots of the Mosque which had accompanied the audio recording (which unlike other video footage in the programme had no visual content), the Committee considered it was evident that the footage had been selected to illustrate the programme's discovery that the teachings of Murtaza Khan had been found on sale at the bookshop at the Mosque. At no time did the programme give the impression that this speech took place in the Mosque.

Taking into account these considerations, the Committee found that Channel 4 took reasonable steps to ensure the programme did not present the material featuring the speaker, Murtaza Khan, in a way that was unfair to the complainant. In the Committee's view, therefore, the programme did not give the false impression that Murtaza Khan was from, or was associated with the Mosque.

Accordingly, there was no unfairness to the ICC and the Committee has not upheld this part of the ICC's complaint.

- c) The Committee next considered the ICC's complaint that the programme broadcast footage of the interior of the Mosque without its permission from a source unknown to the complainant. The complaint referred to footage of worshippers at the Mosque, and footage showing a visit to the Mosque by Jack Straw.

Rule 8.1 of the Code requires that any infringement of privacy in programmes, or in connection with obtaining material included in programmes must be warranted.

In considering this head of complaint, the Committee took account of Practice 8.10:

“Broadcasters should ensure that the re-use of material i.e. use of material originally filmed or recorded for one purpose and then used in a programme for another purpose or used in a later or different programme, does not create an unwarranted infringement of privacy. This applies both to material obtained from others and the broadcaster’s own material”.

In Ofcom’s view, the line to be drawn between the public’s right to information and the citizen’s right to privacy can sometimes be a fine one. In considering complaints about the unwarranted infringement of privacy both in relation to the making and the broadcast of the programme, Ofcom must consider two distinct questions: First, has there been an infringement of privacy? Secondly, if so, was it warranted?

Before it could consider whether the making or broadcast of the footage in question infringed the ICC’s privacy, the Committee first had to determine whether the ICC had a legitimate expectation of privacy in relation to that footage.

The Committee noted Channel 4’s statement that these pieces of footage had been obtained through a “reputable TV library”. In the Committee’s view, the original footage also appeared to have been obtained openly. In reaching this view, the Committee noted that the footage had been filmed from a clear vantage point and did not display any of the signs of poor quality that are usually associated with surreptitious filming (such as graininess, shaking or obstruction).

In the case of the footage showing Jack Straw’s visit to the Mosque, the Committee noted that this appeared to be an official visit from a government minister. In support of this, the Committee noted the presence of other members of the media in the shot. This indicated to the Committee that the visit by Jack Straw had been covered and reported in the media at the time.

Taking all these factors into account, it appeared to the Committee that both pieces of footage were likely to have already been in the public domain.

As regards whether the use of the archive footage infringed the privacy of the ICC, the Committee noted that ICC had not claimed in its complaint that the footage had been obtained without its permission. The complaint was that its permission had not been sought or given for the footage to be re-used in the programme as broadcast.

In relation to the re-use of the material, the Committee noted that the footage had been used to accompany the commentary that the Mosque was “*the most recognisable symbol of moderate, mainstream Muslim life in Britain*” which “*acts on behalf of the whole Muslim community in dealing with the government*”. In the Committee’s opinion, the footage of some worshippers in Western attire and a visit to the Mosque by a prominent British politician visually supported the programme’s commentary. Furthermore, the Committee was unable to find that

the pieces of footage contained or showed any information about the ICC which was of an inherently private or sensitive nature. In the Committee's view, the footage merely illustrated that members of the public visited the Mosque to worship and the Mosque had at one time hosted a visit by Jack Straw.

Taking into account all the factors detailed above, it is the Committee's view that the ICC did not have a legitimate expectation of privacy in relation to the pieces of footage, and the re-use of the material in the programme as broadcast did not infringe the ICC's privacy.

Having found that the making and use of the footage within the programme did not infringe the ICC's privacy, it was not necessary for the Committee to consider whether any infringement had been warranted.

Therefore, the Committee has not upheld the ICC's complaint of unwarranted infringement of privacy in this respect.

- d) Finally, the Committee considered the ICC's complaint that the programme's use of surreptitiously recorded footage of the bookshop at the Mosque unwarrantably infringed its privacy in both the making and broadcast of the programme.

The ICC said the use of surreptitious recordings was not warranted and that the footage did not provide any "material evidence", nor was it likely to have done so. In the ICC's view the footage of the bookshop was not necessary to the credibility and authenticity of the programme.

In reaching its decision, the Committee had regard to Rule 8.1 of the Code (detailed above) and also took account of Practice 8.8 which relates to the filming and broadcast of footage of institutions and potentially sensitive places, where permission should be obtained from the relevant authorities unless it is warranted.

The Committee first noted that the footage of the bookshop had been gained surreptitiously, and showed the reporter's approach to the bookshop at the Mosque, and the interior of the bookshop itself.

In determining whether the ICC had a legitimate expectation of privacy in respect of this footage, the Committee weighed up a number of different factors. On the one hand, the Committee noted the accessibility of the area which was filmed (i.e. the area immediately outside the bookshop and the bookshop itself). The Committee noted that these areas are accessible to members of the public and therefore it could be said that the filming took place in a semi-public place which diminished any expectation of privacy. On the other hand, the Committee took account of the fact that these areas were on the site of the Mosque, which - as a place of worship - is of particular sensitivity. It was also noted that the filming had been carried out surreptitiously without the knowledge or consent of the ICC. Taking all of these factors into account, the Committee considered that the ICC did have a legitimate expectation of privacy in respect of this footage.

In the Committee's view, the public's access discussed above did not necessarily extend to the filming of those areas for the purpose of broadcasting to the public. Furthermore, the Committee considered that the surreptitious nature of the filming prevented the ICC from having knowledge of the filming and denied the ICC an opportunity to restrict access to the filming. In these circumstances, the Committee found that the surreptitious filming and subsequent broadcast of

footage of the inside of the Mosque site did infringe the privacy of the ICC in both the making and broadcast of the programme.

The Committee next considered whether the infringement of the ICC's privacy was warranted.

Practice 8.13 states that an infringement of privacy may be warranted where:

- there is prima facie evidence of a story in the public interest;
- there are reasonable grounds to suspect that further material evidence could be obtained; and
- it is necessary to the credibility and authenticity of the programme.

Practice 8.14 additionally states that material gained by surreptitious filming and recording should only be broadcast when it is warranted.

In the Committee's view, the surreptitious filming and broadcast of footage of the bookshop, satisfied these criteria. In reaching this decision, the Committee considered the subject of the programme in the context of the recent terrorist attacks in Britain, that were found to have been carried out by British Islamist extremists. In these circumstances the Committee considered that an investigation which looked at whether Islamic extremism is being promoted or spread by individuals in, or associated with, British Mosques or Islamic organisations was in the public interest. In terms of the decision to film on the ICC's premises, the Committee took account of the fact that the Mosque is Britain's most well known moderate, mainstream Mosque; and its reputation for its interfaith work and the promotion of cross-cultural understanding. Within this context, the Committee considered that it was not unreasonable for the programme makers, when selecting mosques and Islamic organisations for investigation, to select the London Central Mosque for investigation.

In the Committee's opinion, the surreptitious nature of the filming was warranted in this case. The Committee considered that an attempt to gain consent for open filming would have alerted both the bookshop and the ICC to the investigation. Furthermore, the Committee considered that the programme maker's decision to include the surreptitiously filmed footage in the programme as broadcast was necessary to the authenticity and credibility of the investigative report. In the Committee's view, the footage demonstrated to viewers unfamiliar with the Mosque that the bookshop in question is located on the site of the Mosque, and that the undercover reporter actually visited the bookshop to buy from it the material featured in the programme.

Therefore, in all the circumstances and for the reasons discussed above, the Committee found that the infringement of the ICC's privacy was warranted by the public interest in relation to the filming and broadcast of the footage taken inside the Mosque grounds.

In conclusion, Ofcom has not upheld the ICC's complaint of unwarranted infringement of privacy in the making or broadcast of the programme under this head of the ICC's complaint.

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

Other Programmes Not in Breach/Out of Remit

31 October to 13 November 2007

Programme	Trans Date	Channel	Category	No of Complaints
Are You Smarter Than a Ten Year Old?	14/10/2007	Sky One	Generally Accepted Standards	1
Arrow FM	08/09/2007	Arrow FM	Generally Accepted Standards	1
Autopsy: Emergency Room	06/11/2007	Channel 4	Generally Accepted Standards	1
BBC News	26/10/2007	BBC1	Offensive Language	1
BBC News	11/10/2007	BBC1	U18's in Programmes	1
BBC News	05/10/2007	BBC1 South	Generally Accepted Standards	1
Babestation Live 2	29/08/2007	Get Lucky TV	Commercial References	1
Beauty & the Geek	03/11/2007	E4	Offensive Language	1
Beauty Addicts: How Toxic Are You?	11/10/2007	Channel 4	Inaccuracy/Misleading	4
Beauty Addicts: How Toxic Are You?	11/10/2007	Channel 4	Generally Accepted Standards	1
Boys Of St. Vincent's	24/10/2007	True Movies	Sex/Nudity	1
Breakfast	08/10/2007	Channel M	Generally Accepted Standards	1
Breakfast Show	30/09/2007	BBC Radio 5 Live	Generally Accepted Standards	1
Breakfast Show	10/10/2007	Heart FM	Animal Welfare	1
Breakfast with Wogan	26/10/2007	BBC Radio 2	Generally Accepted Standards	1
Britain's Best Dish	11/10/2007	ITV1	Offensive Language	1
Britz	01/11/2007	Channel 4		1
Californication	11/10/2007	Five	Religious Offence	3
Californication (trailer)	16/10/2007	Five US	Sex/Nudity	1
Central News	18/10/2007	ITV1	Violence	1
Channel 4 News	18/08/2007	Channel 4	Inaccuracy/Misleading	1
Channel 4 at 25: Brass Eye	07/10/2007	More4	Generally Accepted Standards	3
Chute	01/11/2007	BBC1	Violence	1
Competition	15/06/2007	Talksport	Use of Premium Rate Numbers	1
Coronation Street	-	ITV1	Violence	4
Coronation Street	29/10/2007	ITV1	Animal Welfare	3
Coronation Street	09/11/2007	ITV1	Generally Accepted Standards	1
Coronation Street	12/08/2007	ITV1	Generally Accepted Standards	1
Crime Stories	25/10/2007	Crime & Investigation Network	U18 - Coverage of Sexual/other	1
Darts	12/10/2007	Sky Sports 2	Generally Accepted Standards	1
Deal or No Deal	24/10/2007	Channel 4	Generally Accepted Standards	1
Deal or No Deal	09/10/2007	Channel 4	Generally Accepted Standards	1

Deal or No Deal	15/10/2007	Channel 4	Generally Accepted Standards	1
Deepam TV	02/11/2007	Deepam TV	Crime (incite/encourage)	2
Dick & Dom on Sunday	14/10/2007	BBC Radio 1	Offensive Language	1
Dickinson's Real Deal	08/10/2007	ITV1	Competitions	2
Discovery Channel Sverige	10/07/2007	Discovery	Dangerous Behaviour	1
Doc Martin	15/10/2007	ITV1	Sex/Nudity	10
Doc Martin	15/10/2007	ITV1	Animal Welfare	2
Dog the Bounty Hunter	06/11/2007	Bravo	Generally Accepted Standards	1
Eastenders	12/10/2007	BBC1	Substance Abuse	1
Eastenders	11/10/2007	BBC1	Generally Accepted Standards	1
Eastenders	09/10/2007	BBC1	Generally Accepted Standards	1
Eastenders	29/10/2007	BBC1	Generally Accepted Standards	1
Emmerdale	09/10/2007	ITV1	Violence	1
Emmerdale	09/10/2007	ITV1	Offensive Language	1
Emmerdale	10/10/2007	ITV1	Generally Accepted Standards	2
F1: Brazilian Grand Prix Live	21/10/2007	ITV1	Advertising	4
Fifth Gear	08/10/2007	Five	Generally Accepted Standards	3
Fifth Gear	08/10/2007	Five	Dangerous Behaviour	1
Five News	28/10/2007	Five	Due Impartiality/Bias	1
Freefalling	19/10/2007	BBC Radio Scotland	Offensive Language	1
Friday Night With Jonathan Ross	12/10/2007	BBC1	Offensive Language	1
GMTV	15/10/2007	ITV1	Generally Accepted Standards	1
GMTV	17/10/2007	ITV1	Generally Accepted Standards	1
GMTV	24/09/2007	ITV1	Due Impartiality/Bias	1
George Galloway	06/10/2007	Talksport	Religious Offence	2
George Galloway	06/10/2007	Talksport	Generally Accepted Standards	1
George Galloway	22/09/2007	Talksport	Religious Issues	1
George Galloway	05/10/2007	Talksport	Generally Accepted Standards	1
Granada Reports	01/10/2007	ITV1	Due Impartiality/Bias	1
Greased lightnin'	05/05/2007	ITV2	Advertising	1
Harveys Sponsorship/Coronation Street	01/10/2007	ITV1	Religious Offence	1
Hell's Kitchen USA	24/10/2007	ITV2	Offensive Language	1
Hit Me Baby One More Time	07/05/2007	ITV1	Use of Premium Rate Numbers	1
Holby City	09/10/2007	BBC1	Offensive Language	1
Home Time Henry Time (trailer)	14/10/2007	ITV1	Harm/Food	1
How to Have Sex after Marriage	24/10/2007	Five	Sex/Nudity	1
Howard's Review	07/09/2007	Genesis TV	Religious Offence	1
Howard's Review	11/09/2007	Genesis TV	Religious Offence	1

ITV News	10/10/2007	ITV1	Due Impartiality/Bias	1
ITV News	15/10/2007	ITV1	Generally Accepted Standards	1
Iftari	-	Awaz FM	Format	1
In Demand with Rich & Luce (Key 103)	-	Key 103	Inaccuracy/Misleading	1
Inside Out	17/10/2007	BBC1 (West)	Generally Accepted Standards	2
J-Com Radio	05/11/2007	101.4	Offensive Language	1
Jack Osbourne: Adrenaline Junkie	23/09/2007	ITV2	Animal Welfare	1
Jeremy Kyle Show	15/10/2007	ITV1	Animal Welfare	1
Jeremy Kyle Show	09/10/2007	ITV1	Generally Accepted Standards	1
Jerry Springer	22/10/2007	Living 2	Generally Accepted Standards	1
John Bishop's Sunday Service	14/10/2007	Radio City	Animal Welfare	1
Jon Gaunt	24/08/2007	Talksport	Due Impartiality/Bias	2
Jon Gaunt	24/08/2007	Talksport	Commercial References	1
Jon Gaunt	24/08/2007	Talksport	Generally Accepted Standards	1
Jonathan	19/09/2007	S4C	Generally Accepted Standards	1
KNTV	02/10/2007	Channel 4	Animal Welfare	1
Kismet Radio	-	Kismet Radio	Due Impartiality/Bias	1
Ladyhawke	14/10/2007	Five	Generally Accepted Standards	1
Live Champions League Football	07/11/2007	Sky One	Scheduling	2
Live Earth	07/07/2007	BBC1	Generally Accepted Standards	1
Live Roulette	08/09/2007	FTN	Competitions	1
Location, Location, Location	17/10/2007	Channel 4	Generally Accepted Standards	1
Location, Location, Location	17/10/2007	Channel 4	Due Impartiality/Bias	2
London to Brighton	07/10/2007	Sky Movies Premiere	U18s in Programmes	1
Make Your Play	29/08/2007	ITV1	Competitions	1
Make Your Play	18/10/2007	ITV1	Competitions	1
Monster Cafe	03/11/2007	CBeebies	Generally Accepted Standards	2
Murphy's Law	01/10/2007	BBC1	Dangerous Behaviour	1
My Boy Jack	11/11/2007	ITV	Offensive Language	1
My Crazy Media Life	01/11/2007	Channel 4	Sex/Nudity	1
Newlyweds	23/10/2007	TMF	Offensive Language	1
News	20/10/2007	BBC Radio 1	Generally Accepted Standards	1
News	03/10/2007	XFM	Due Impartiality/Bias	1
Newspaper Review	07/10/2007	Sky News	Generally Accepted Standards	1
Nick Ferrari Breakfast Show	26/10/2007	LBC	Generally Accepted Standards	1
Not Going Out	12/10/2007	BBC1	Religious Offence	1
Old Harry's Game	25/10/2007	BBC Radio 4	Religious Offence	1
Question Time	25/10/2007	BBC1 Wales	Other	1

Question Time	-	BBC1	Use of Premium Rate Numbers	1
Quizcall	22/09/2007	Five	Competitions	1
RFC Charity	-	Channel 5	Crime (payment)	1
Radio Awaz	-	Radio Awaz	Format	1
Rebus	12/10/2007	ITV1	Generally Accepted Standards	1
Road Wars	06/11/2007	Sky One	Generally Accepted Standards	1
Robin Hood	06/10/2007	BBC1	Violence	1
Rugby World Cup Coverage	-	SKY/ITV	Due Impartiality/Bias	1
Rugby World Cup Live	06/10/2007	ITV1	Generally Accepted Standards	1
Russell Brand	13/10/2007	BBC Radio 2	Sex/Nudity	1
Sa Re Ga Ma Pa	13/10/2007	Zee TV	Other	1
Sara Cox	11/10/2007	BBC Radio 1	Generally Accepted Standards	1
Series 7: The Contenders	23/10/2007	Channel 4	Violence	1
Setanta Promo	01/10/2007	Setanta Sports 1	Inaccuracy/Misleading	1
Shipwrecked: Battle of the Islands	01/11/2007	E4	Generally Accepted Standards	1
Skins	18/09/2007	Channel 4	Use of Premium Rate Numbers	1
Sky News	01/10/2007	Sky News	Due Impartiality/Bias	1
Sky News	25/10/2007	Sky News	Inaccuracy/Misleading	1
Sky News	03/10/2007	Sky News	Generally Accepted Standards	1
Smooth Radio	-	Smooth FM	Format	1
Star Plus	-	Star Plus	Flashing images	1
Star Trek competition	26/09/2007	The Box	Competitions	1
Stephen Fry: Guilty Pleasures	29/09/2007	BBC2	Generally Accepted Standards	1
Streetmate	23/10/2007	ITV2	Sex/Nudity	1
Strictly Come Dancing	28/10/2007	BBC1	Sex/Nudity	1
Super Bears	13/10/2007	Five	Animal Welfare	1
Supermarket Sweep	15/10/2007	Challenge	Generally Accepted Standards	1
Football coverage	23/05/2007	TV6 Sweden	Due Impartiality/Bias	1
The Adrian Durham & Ian Wright Show	15/10/2007	Talksport	Generally Accepted Standards	1
The Alan Titchmarsh Show	16/10/2007	ITV1	Sex/Nudity	1
The Cult of the Suicide Bomber	08/10/2007	Channel 4	Religious Offence	1
The Football Factory	05/11/2007	Channel 4	Generally Accepted Standards	1
The Jeremy Kyle Show	05/11/2007	ITV1	Generally Accepted Standards	1
The KNTV Show	12/10/2007	Channel 4	Generally Accepted Standards	1
The Kylie Show	10/11/2007	ITV1	Generally Accepted Standards	1
The Life and Times of Vivienne Vyle	04/10/2007	BBC2	Generally Accepted Standards	1
The Life and Times of Vivienne Vyle	18/10/2007	BBC2	Offensive Language	1

The Matt Brown Shown	11/11/2007	Northants 96-96.6FM	Crime (incite/encourage)	1
The McCanns: Questions of Evidence	17/09/2007	ITV1	Due Impartiality/Bias	16
The McCanns: Questions of Evidence	17/09/2007	ITV1	Other	2
The McCanns: Questions of Evidence	17/09/2007	ITV1	Inaccuracy/Misleading	2
The ONE Show	09/10/2007	BBC1	Animal Welfare	1
The ONE Show	16/10/2007	BBC1	Offensive Language	1
The Peter Serafinowicz Show	04/10/2007	BBC2	Generally Accepted Standards	1
The Simpsons	31/10/2007	Channel 4	Offensive Language	1
The Twelfth	12/07/2007	BBC1 NI	Generally Accepted Standards	1
The Weakest Link	10/10/2007	BBC2	Generally Accepted Standards	1
The Wild Gourmets	16/10/2007	Channel 4	Animal Welfare	3
The X Factor	07/10/2007	ITV1	Competitions	1
The X Factor	07/10/2007	ITV1	Other	1
The X Factor	20/10/2007	ITV1	Competitions	1
This Morning	18/09/2007	ITV1	Competitions	1
Today	27/10/2007	BBC Radio 4	Due Impartiality/Bias	1
Toni Philips	05/10/2007	Southern FM	Offensive Language	3
Tony Horne	25/10/2007	Metro Radio	Format	1
Top Gear	14/10/2007	BBC2	Generally Accepted Standards	4
Trapped	05/10/2007	BBC1	U18s in Programmes	1
Ugly Betty	10/10/2007	E4	Generally Accepted Standards	2
Unreported World	12/10/2007	Channel 4	Generally Accepted Standards	1
Vauxhall sponsorship of My Time	-	Dave	Dangerous Behaviour	1
Weakest Link	18/10/2007	BBC2	Generally Accepted Standards	1
What The F**k?!! (trailer)	06/10/2007	Bravo	Sex/Nudity	1
Wife Swap	14/10/2007	Channel 4	Generally Accepted Standards	1