

OFCOM BROADCAST AND ON DEMAND BULLETIN

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Introduction

Under the Communications Act 2003 ("the Act"), Ofcom has a duty to set standards for broadcast content to secure the standards objectives¹. Ofcom also has a duty to ensure that On Demand Programme Services ("ODPS") comply with certain standards requirements set out in the Act².

Ofcom reflects these requirements in its codes and rules. The Broadcast and On Demand Bulletin reports on the outcome of Ofcom's investigations into alleged breaches of its codes and rules, as well as conditions with which broadcasters licensed by Ofcom are required to comply. The codes and rules include:

- a) [Ofcom's Broadcasting Code](#) ("the Code") for content broadcast on television and radio services licensed by Ofcom, and for content on the BBC's licence fee funded television, radio and on demand services.
- b) the [Code on the Scheduling of Television Advertising](#) ("COSTA"), containing rules on how much advertising and teleshopping may be scheduled on commercial television, how many breaks are allowed and when they may be taken.
- c) certain sections of the [BCAP Code: the UK Code of Broadcast Advertising](#), for which Ofcom retains regulatory responsibility for television and radio services. These include:
 - the prohibition on 'political' advertising;
 - 'participation TV' advertising, e.g. long-form advertising predicated on premium rate telephone services – notably chat (including 'adult' chat), 'psychic' readings and dedicated quiz TV (Call TV quiz services); and
 - gambling, dating and 'message board' material where these are broadcast as advertising³.
- d) other conditions with which Ofcom licensed services must comply, such as requirements to pay fees and submit information required for Ofcom to carry out its statutory duties. Further information can be found on Ofcom's website for [television](#) and [radio](#) licences.
- e) Ofcom's [Statutory Rules and Non-Binding Guidance for Providers of On-Demand Programme Services](#) for editorial content on ODPS (apart from BBC ODPS). Ofcom considers sanctions for advertising content on ODPS referred to it by the Advertising Standards Authority ("ASA"), the co-regulator of ODPS for advertising, or may do so as a concurrent regulator.

[Other codes and requirements](#) may also apply to broadcasters, depending on their circumstances. These include the requirements in the BBC Agreement, the Code on Television Access Services (which sets out how much subtitling, signing and audio description relevant licensees must provide), the Code on Electronic Programme Guides, the Code on Listed Events, and the Cross Promotion Code.

¹ The relevant legislation is set out in detail in Annex 1 of the Code.

² The relevant legislation can be found at Part 4A of the Act.

³ BCAP and ASA continue to regulate conventional teleshopping content and spot advertising for these types of services where it is permitted. Ofcom remains responsible for statutory sanctions in all advertising cases.

It is Ofcom's policy to describe fully television, radio and on demand content. Some of the language and descriptions used in Ofcom's Broadcast and On Demand Bulletin may therefore cause offence.

Note to Broadcasters¹

The scheduling of advertising breaks during coverage of formal Royal ceremonies

Rule 14 of the Code on the Scheduling of Television Advertising ('COSTA') states that:

"Broadcasts of a formal Royal ceremony may not include advertising or teleshopping breaks during the ceremony".

COSTA defines a formal Royal ceremony as:

"a formal ceremony or occasion of which the Sovereign or members of the British Royal Family enjoying the prefix 'Royal Highness' are the centre. It applies to occasions such as the State Opening of Parliament and Trooping the Colour".

Some broadcasters will be planning extensive coverage of the forthcoming wedding of His Royal Highness Prince Henry of Wales and Meghan Markle on 19 May 2018. This may include the lead up to the wedding service, crowds gathering and guests arriving, the service itself and celebrations afterwards.

To clarify, the restriction in Rule 14 applies to the formal ceremony only (i.e. the wedding service itself). Other elements of the coverage may carry advertising breaks, subject to other COSTA rules.

Broadcasters requiring further information should contact Ofcom's Standards and Audience Protection team at OfcomStandardsTeam@ofcom.org.uk.

¹ This document was first published on Ofcom's website on 25 April 2018.

Broadcast Standards cases

In Breach/Not in Breach

Free Speech

Al Hiwar, 21 July 2017, 16:00

Introduction

Al Hiwar is a satellite news channel broadcasting to Arab communities in the UK and the Middle East. The licence is held by Sage Media Limited ("Sage Media" or the Licensee").

During routine monitoring, Ofcom assessed the programme *Free Speech*, which broadcast in Arabic. Ofcom commissioned an independent English translation of the material and gave the Licensee the opportunity to comment on the accuracy of the translation. The Licensee did not raise any issues and we therefore used the translation for the purpose of this investigation.

Free Speech is a daily two-hour current affairs programme. Viewers are invited to call the programme to discuss major news stories of the day. The last 50 minutes of this edition included a discussion about the protests taking place across a range of Arab countries and elsewhere in reaction to the Israeli authorities installing electronic security gates at the al-Aqsa Mosque¹ in Jerusalem. The Israeli authorities' actions followed an armed altercation that had taken place on 14 July 2017 between Israeli police and Israeli Arab gunmen near the Mosque, which had resulted in the death of two Israeli policemen.

The presenter was sitting in front of a studio background of a screen with the text "*al-Aqsa Mosque and Al Nafeer [Day of Mobilisation]*"² set against an image of people standing in a street surrounded by clouds of smoke. He introduced the discussion about the al-Aqsa Mosque by saying:

"...we are going to devote [our discussion] to the al-Aqsa Mosque and the day of mobilisation in its support. Who joined the mobilisation? With a word? An action? A step? And who stayed hidden in their rooms enjoying the spectacle on TV?"

Reporting on the protests the presenter said:

"A Palestinian has been killed and dozens wounded in clashes with the forces of the Israeli occupation in Jerusalem and the West Bank, after the occupiers prevented thousands of Palestinians from going to the al-Aqsa Mosque for Friday prayers. All streets leading to the Mosque were shut, and that section of the Old City was designated a forbidden military zone. There were no prayers inside the al-Aqsa Mosque. Arabs and Muslims! No prayers in the most important religious site on Friday...Palestinian political

¹ The al-Aqsa Mosque is considered as the third holiest shrine in Islam and is located in the Old City of Jerusalem. Administration of the Mosque lies with an Islamic Trust, Waqf, but with Israel retaining control of the security of the site. The Palestinian authorities have disputed that Israel should have any jurisdiction over the Mosque.

² In this context, "Al-Nafeer" or "Day of Mobilisation" referred to the widespread protests that took place in reaction to events at the al-Aqsa Mosque.

and religious groups all across the Palestinian territories and within the Green Line³ have called for the closure of mosques within their cities and villages under the slogan 'al-Aqsa Mosque Fury'. They have also called for prayers to be held in areas adjacent to the forces of the Israeli occupation. Support for the holy al-Aqsa Mosque and protest against the policy of occupation of the al-Aqsa Mosque [inaudible]. Palestinian factions have called on Palestinians to travel to the al-Aqsa Mosque and storm its gates and those garrisoned inside in order to assert their rights in Jerusalem and the al-Aqsa Mosque. They launched large demonstrations after Friday prayers at mosques across the Gaza Strip following appeals by the Islamic Jihad Movement in Palestine and Hamas to support the holy al-Aqsa Mosque, and in protest against the criminal Israeli policy of occupying al-Aqsa Mosque and the city of Jerusalem...On the day of mobilisation in support of the holy al-Aqsa Mosque, there were calls for demonstrations and angry protests in Arab and Islamic capitals and cities, in support of the holy al-Aqsa Mosque and in protest against the work carried out at the site by the forces of the occupation and the electronic gates at the site".

The presenter talked of a number of protests in the Middle East against the Israeli authorities' decision to introduce security gates at the al-Aqsa Mosque. He also stated that the Palestinian and Arab communities in Europe were protesting outside embassies in the countries such as UK and Norway. The presenter expressed frustration that, despite the protest action being taken by citizens in certain countries, some "[Arab] rulers do nothing. And remain silent...You no longer hear anything from them, no speeches". In particular he said:

"Today, let's look at, or evaluate, who acted on the day of mobilisation. Who was with al-Aqsa, and who looked away, said nothing or hid their head in the sand. Let me also ask you. As far as you know, have any of your leaders said anything? From Noakchott to Baghdad? And in Islamic countries too of course. In Turkey there were clear and strongly-worded statements. But I'm talking about Arab countries...Which of them has mentioned al-Aqsa? I want to hear, and so do our viewers. Which of them has gotten angry or defended al-Aqsa? Why is there silence in the capitals of Arab countries?"

During the remainder of the programme, the presenter invited viewers to telephone in with "a summary of the news in [their] countries", with respect to protests or demonstrations which may have taken place there. He received a number of telephone calls from viewers, describing the protests that had taken place in their particular country in reaction to events at the al-Aqsa Mosque. One caller, for example, described events that were happening in Tunisia, where:

"[w]e are going to get out large crowds, and on Monday there will be millions of us praying...On Tuesday we will fast in support of our brothers in al-Aqsa, they are in our prayers".

Another caller, Muhammad from Libya, noted that "like our brother in Tunisia said, Friday sermons highlighted this topic", before stating that "[f]rankly, all Arab rulers, from those who rule the Arab peninsula to those who rule certain North African countries, talk but do nothing."

³ The Green Line: The demarcation line set out in the 1949 Armistice Agreements between the armies of Israel and those of its neighbours (Egypt, Jordan, Lebanon and Syria) after the 1948 Arab–Israeli War.

A further caller, Tawfik Muhammad, who was described by the presenter as a "Palestinian journalist", said:

"Regarding the events, things are very tense...there have been deaths during these demonstrations...We have seen reactions across Palestine both in a social context...as well as a united message in mosque sermons on the events at the holy al-Aqsa Mosque".

In relation to the actions that were being taken by the authorities in response to the protests specifically in Jerusalem, the journalist stated that "[p]eople have been arrested, wounded and killed".

Following Tawfik Muhammad's contribution, the presenter emphasized the importance of the issues surrounding the al-Aqsa Mosque and his personal conviction in bringing it to his audience's attention, stating:

"Listen, in al-Aqsa you are not a media figure, citizen or politician. You are all equal. Yes, media figures are supposed to have a certain professional detachment. However, when it concerns matters of national interest, life and death, there are no half measures. We speak on behalf of those who are weak. When it comes to people's rights, to oppression, we will stand beside the weak, even if it is in South America, and the same applies to our own people. So to those who say that I have crossed the line, that I'm acting outside of my professional role, that I'm violating professional principles. No. I was doing exactly what my profession requires of me....Wherever they are located in the Arab world. Look at the channels that focus on dance and obscenities while not touching the topic of al-Aqsa. In the Near East, from Britain to Baghdad. Any channel that is not covering al-Aqsa at the moment and does not support al Aqsa, we should all have doubts about their true loyalties".

Shortly afterwards, the presenter received a call from Fathi from Libya, where the following exchange took place:

Fathi: *"Mr. Saleh, to start off, we need to depend on the people and not on the treacherous and collaborationist Arab and Islamic rulers and regimes. With no exceptions, Mr. Saleh, no exceptions. There are no exceptions among the regimes that rule Arab and Islamic states. They are all Israeli [inaudible], they are all collaborationists and traitors. [inaudible, shouting] the al-Aqsa Mosque for years, and you and your media are evil, and your TV channels are evil. The media figures, sultans, princes, and presidents who look at al-Aqsa and the events ongoing there. Yes, we need to depend on the people, who are free, energised. Not on those [inaudible, shouting], traitors, collaborationists, who see this happen to their most important mosque and remain silent. As for the Arab League, those traitors, and that so-called Organisation of Islamic Cooperation, the Iranians who [inaudible, shouting] of Jerusalem, the Moroccan King who styles himself the head of the Jerusalem Committee, the King of Jordan [inaudible, shouting]. What about media figures and journalists who look on while [inaudible, shouting]. We need to depend on the people, on armed resistance within Palestine and abroad, [cut off]"*.

Presenter: *"Fathi, Fathi, I would like you to tell us about what's happening in Libya. What have people done there?"*

Fathi: *"Mr. Saleh, let me tell you, even the rulers of Libya, in the context of, as you know, Libya is going through a difficult period [inaudible, shouting], they haven't said anything, in the media, yes, but in the mosques, thank God, the preachers were nearly united, and now we are waiting to go out and protest once afternoon prayers are finished [inaudible, shouting] called on the people of Libya and in particular of the capital Tripoli to go out and protest, because your Mosque, al-Aqsa, is calling to you, al-Aqsa Mosque is calling to you, Arabs, Libyans, free people around the world, [cut off]"*.

Later in the programme, there was the following exchange between the presenter and a caller, Abu Abdelmalik ("AA") from Palestine:

Presenter: *"Hello, welcome, go ahead"*.

AA: *"First, God bless you for this programme. But, we need to identify the disease in order to find the cure. The problem Muslims around the world face is not the mobilisation of Islamic brothers in capitals around the worldwide. Our Islamic brothers have mobilised in capitals around the world for many years and for other reasons than this one. For massacres before this one, for violations of rights by the Zionists. I blame the media. I blame your channel, which does not send [inaudible] message to the Islamic peoples, which is to [inaudible] our armies, which are our shield, and which are currently in a sad state. We want the media and [inaudible] to show Muslims, that if they have weapons, they have to put them to use for the right cause, which is jihad. To open up the residences of these noble Muslim armies, which need to remove the rulers and return to the Muslim community. As for the mobilisation of Muslims around the world, with all my respect to them, from the Arab Peninsula to Tashkent, everywhere in Muslim countries, they are Muslims, their instincts are Islamic, they respect and revere their religion, there is no doubt about that. However, for our armies to remain in their residences and go to Yemen, to [inaudible] the people of Yemen, to go to Mosul to [inaudible] the people of Mosul, why? The noble free media needs to make Muslims understand that they have weapons they need to fight with. That they shouldn't fight [cut off]"*.

Presenter: *"Abdelmalik, Abu Abdelmalik, that's your role, the media gives you the chance to speak, to say what you think is appropriate, that's not my job. Please, go ahead"*.

AA: *"God bless you, and thank you for giving us the chance, thank you for giving us the chance, God bless you. However, [cut off]"*.

Presenter: *"Thank you, Abdullah from Palestine"*.

We considered this content raised issues under the following rules of the Code:

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 or radio services..."

Ofcom requested comments from the Licensee on how the content complied with these rules.

Response

The Licensee rejected "any suggestion that [the programme] sought in any way to encourage or incite people to commit crime or any other form of violence or disorder".

Sage Media said the background to this programme was that on 14 July 2017, "the Israeli police stopped access to the al-Aqsa Mosque compound...to men under the age of 50 [and a] little later the Israeli police closed the whole compound altogether". It added that the al-Aqsa Mosque is "one of the most holy sites in Islam and as such this turn of events attracted media attention throughout the world". Further, these events also "resulted in protests amongst the Muslim community, which resulted in the death of a number of Palestinians, before the al-Aqsa Mosque was re-opened on 28 July 2017". The Licensee said that in response to the actions of the Israeli police, "a peaceful protest was organised in Jerusalem to which the organisers themselves referred to as 'Al-Nafeer', meaning 'The Day of Mobilisation'" and these protests "attracted widespread media attention". It also said that the term "Al-Nafeer" when it is "translated appropriately and in context" does not "denote any violence whatever", and was not chosen by Sage Media "but rather by those who had organised the rallies". The Licensee added that "the world's press and media, including the BBC, referred to this event using this exact same terminology".

Sage Media said that: "As is clear from the programme which was broadcast, the occupation of the al-Aqsa Mosque attracted very strong emotions not just within the Muslim community but throughout the world". It added that: "As such we considered that this was a matter upon which *Free Speech* was almost duty bound to report". It further added that at the beginning of the programme, the presenter made "it clear that the focus of Al-Nafeer was on peaceful demonstrations".

Concerning the callers who contacted the programme, the Licensee said that: "Given the nature of the programme, which is a live talk show, Sage Media does not seek to pre-select its callers or screen them prior to broadcast". Rather, it "provides for an opportunity for individuals to express their views and discuss matters freely and this can lead to robust, and sometimes even unpalatable, views being expressed live on air". However, the Licensee argued that it "will also invite people on to the programme to assist with the fair reporting of the issues in this case". It added that in this case an Israeli journalist Mr Tawfik Muhammad "was invited onto the show to provide context".

Sage Media also described the ways the presenter interacted with some callers. For example, the Licensee said that when Fathi from Libya called, this caller "plainly held very strong views on this issue [and the] presenter purposefully cut across that caller...and diverted him to a slightly different topic concerning Libya, to prevent him from continuing in that vein". Sage Media added that in relation to another caller, Abu Abdelmalik from Palestine, the presenter made "it clear that the views expressed are those of the caller and not of the presenter or the programme".

In conclusion, the Licensee said that since the broadcast of this programme, and mindful of its obligations under the Code, it had taken steps to improve compliance, namely the introduction of: further training for presenters and programming staff; "enhanced monitoring procedures" for live programming; and the appointment of an additional staff member to assist with "overseeing and monitoring live callers" on *Free Opinion*.

Decision

Reflecting our duties under the Communications Act 2003⁴, Section Two of the Code requires that generally accepted standards are applied so as to provide adequate protection for members of the public from the inclusion of offensive and harmful material. Section Three of the Code requires that material likely to encourage or incite the commission of crime or to lead to disorder is not included in television or radio services.

Ofcom has taken account of the audience's and broadcaster's right to freedom of expression set out in Article 10 of the European Convention on Human Rights ("ECHR"). We also had regard to Article 9 of the ECHR, which states that everyone "has the right to freedom of thought, conscience and religion". Ofcom must seek an appropriate balance between ensuring members of the public are adequately protected from harmful or offensive material and the right to freedom of expression and the right to freedom of thought, conscience and religion.

Rule 2.3

Rule 2.3 of the Code requires that:

"In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context...Such material may include, but is not limited to, offensive language, violence..."

Ofcom takes into account a range of factors when considering context, such as the editorial content of the programme, the service on which the material is broadcast, the time of broadcast, the degree of harm or offence likely to be caused by the inclusion of any particular sort of material in programmes, and the likely expectation of the audience.

We first considered the overall context of the programme. In this particular edition of *Free Speech*, the last 50 minutes of the programme comprised a live broadcast discussion of the protests taking place across the world, following a decision by the Israeli authorities in July 2017 to install electronic security gates at the al-Aqsa Mosque. The protests were described in the programme as a "*Day of Mobilisation*", where the presenter expressed his condemnation that "*thousands of Palestinians [had been prevented] from going to the al-Aqsa Mosque...the most important religious site on Friday*". The presenter reported the various protest actions which had been taken in support of "*al-Aqsa Mosque fury*", such as calls for prayers and the organisation of large demonstrations. After expressing frustration at what he perceived to be many "[Arab] rulers do[ing] nothing" and "*remain[ing] silent*", the presenter invited the audience to participate in a telephone discussion of the protest actions that had been taking place locally in their countries.

⁴ <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

During the discussion which followed, it was clear that the events which had taken place at the al-Aqsa Mosque were highly emotive. One caller stated that:

"[O]n Monday there will be millions of us praying...On Tuesday we will fast in support of our brothers in al-Aqsa, they are in our prayers".

Another caller echoed the frustrations expressed by the presenter, by stating:

"Frankly, all Arab rulers, from those who rule the Arab peninsula to those who rule certain North African countries, talk but do nothing".

Similarly, the presenter also said:

"When it comes to people's rights, to oppression, we will stand beside the weak...and the same applies to our own people...[a]ny channel that is not covering al-Aqsa at the moment and does not support al Aqsa, we should all have doubts about their true loyalties".

With the exception of two callers (Fathi from Libya and Abu Abdelmalik, discussed further below), both the presenter and the contributors to the programme spoke of "mobilisation" in terms of peaceful protest.

In the course of contributing to the programme, Fathi from Libya stated that "we need to focus on the people, on armed resistance within Palestine and abroad" before being cut off. Further, Abu Abdelmalik commented that:

"We want the media and [inaudible] to show Muslims, that if they have weapons, they have to put them to use for the right cause, which is jihad. To open up the residences of these noble Muslim armies, which need to remove the rulers and return to the Muslim community...The noble free media needs to make Muslims understand that they have weapons they need to fight with. That they shouldn't fight [cut off]".

In Ofcom's view, the statements made by Fathi from Libya and Abu Abdelmalik had the potential to cause material offence, in circumstances where both callers appeared to refer to the use of violence as a legitimate alternative to peaceful protest in opposing the actions of the Israeli authorities at the al-Aqsa Mosque. While members of the audience may have reasonably expected there to be a discussion of these events, and for contributors to express their views robustly, the audience would not, in Ofcom's view, have reasonably expected to hear such explicit references to "armed resistance" (Fathi from Libya) and the use of weapons for the purposes of jihad (Abu Abdelmalik).

We then went on to consider whether the broadcast of this content was justified by the overall context of the programme as broadcast.

Ofcom recognises that the al-Aqsa Mosque is considered to be one of the holiest sites amongst members of the Muslim community and that the decision by the Israeli authorities to introduce electronic security gates at the site was extremely controversial. We therefore recognised that the events relating to the al-Aqsa Mosque were likely to have been highly topical and relevant to members of the Muslim community and that the audience of Al Hiwar was likely to have expected this issue to be discussed on the channel.

We also took into account the Licensee's representations, that the events surrounding the al-Aqsa Mosque had provoked "very strong emotions not just within the Muslim community but throughout the world" and that, in its live broadcast of the programme, Sage Media had not sought "to pre-select its callers or screen them prior to broadcast", but to provide "an opportunity for individuals to express their views and discuss matters freely", where "this can lead to robust, and sometimes even unpalatable, views being expressed live on air."

Further, the Licensee said that when Fathi from Libya made comments which were not considered acceptable, the presenter "diverted [this caller] to a slightly different topic concerning Libya, to prevent him from continuing in that vein", and that, in relation to the call from Abu Abdelmalik, the presenter made "it clear that the views expressed are those of the caller and not of the presenter or the programme". We also took into account that the views expressed by these two contributors did not appear to represent the views of the others.

However, in Ofcom's view, given the highly offensive nature of the two callers' comments about "*armed resistance*" and "*jihad*", we did not consider that the overall context of the programme was sufficient to justify this level of offence.

It is an editorial matter for broadcasters as to how they ensure that their programming complies with the Code. Presenters of programmes which involve audience participation have a crucial role in maintaining control over the general direction in which the discussion proceeds, and to challenge or rebut potentially offensive statements by contributors so as to place such statements in appropriate context. This is particularly important in circumstances where the subject matter is likely to be controversial or highly emotive, as in this case. While there is no requirement under the Code for broadcasters to screen callers before they participate in a live broadcast phone-in, this is one technique which may help manage the risk of contributors making potentially offensive statements which are not justified by the context of the programme. In any event, broadcasters should take care to ensure that potentially offensive statements are contextualised appropriately, for example, by presenters providing a counter-balance to callers' views.

While we acknowledged that the presenter did intervene, asking Fathi from Libya to describe how people in Libya had been reacting to the events at the al-Aqsa Mosque, no challenge was provided to the caller's statement regarding the need to depend "*on armed resistance within Palestine and abroad*". Further, although the presenter interjected in response to what Abu Abdelmalik had said, he did not counter, rebut or otherwise challenge the caller's positive references to violent action. In our view, this lack of challenge or counter-balance in the programme was likely to have increased the potential for offence in this case.

In reaching our Decision, we took account of the various steps the Licensee had taken to improve compliance. However, in Ofcom's view, taking into account all of the factors above, we considered that the statements made by Fathi from Libya and Abu Abdelmalik were not consistent with generally accepted standards in the UK and the likely expectation of UK viewers for Ofcom licensed channels. Further, Ofcom was of the view that the contextual factors did not justify the broadcast of this material. Our Decision therefore was that Rule 2.3 was breached.

Rule 3.1

Rule 3.1 of the Code requires that:

“Material likely to encourage or incite the commission of crime or lead to disorder must not be included in television or radio services...”.

Under Rule 3.1, the Code makes clear that material may include but is not limited to: content which directly or indirectly amounts to a call to criminal action or disorder; material promoting or encouraging engagement in terrorism or other forms of criminal activity or disorder; and/or hate speech which is likely to encourage criminal activity or lead to disorder.

When considering whether material is in breach of Rule 3.1, Ofcom is required to assess the likelihood of material encouraging or inciting the commission of crime or leading to disorder. Ofcom is not required to identify any causal link between the content broadcast and any specific acts of disorder or criminal behaviour. Ofcom takes account of all the relevant circumstances, the nature of the content, its editorial context and its likely effects.

We again started by considering the overall context of the programme, where the relevant factors have already been set out above. We took into account the fact that the presenter and the majority of the contributors to the programme referred to mobilisation in terms of peaceful protest, and that the statements made by Fathi from Libya and Abu Abdelmalik did not appear to be representative of the majority of views expressed in the programme. Further, neither Fathi from Libya nor Abu Abdelmalik appeared to be people who were well-known or authoritative, or who might have otherwise been in a position to exert influence over the audience. Given these factors, it was Ofcom's view that, while the statements made by Fathi from Libya and Abu Abdelmalik were highly offensive and not justified by the context, they were not likely to encourage or incite the commission of crime or lead to disorder when taken together with all the other statements included in the programme.

On this basis, Ofcom's Decision was that there was no breach of Rule 3.1 in this case.

Breach of Rule 2.3

Not in breach of Rule 3.1

Broadcast Fairness and Privacy Cases

Not Upheld

Complaint by Angus Energy PLC, made on its behalf by Schillings International LLP

BBC London News, BBC 1, 9 March 2017

Summary

Ofcom has not upheld this complaint by Angus Energy PLC ("Angus Energy"), made on its behalf by its legal representatives, Schillings International LLP ("Schillings"), of unjust or unfair treatment in the programme as broadcast.

The programme featured a report about a dispute between Angus Energy and Surrey County Council ("SCC", or the "Council") about whether the drilling carried out by Angus Energy at the Brockham oil site in Surrey had been authorised.

Ofcom found that:

- The broadcaster took reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to Angus Energy.
- Angus Energy was given an appropriate and timely opportunity to respond to the allegations reported in the programme and its position was adequately and fairly reflected.

Programme summary

On 9 March 2017, BBC1 broadcast an edition of its regional evening news programme for the London area, which included a report about claims made by SCC that *"an energy company carried out unauthorised drilling on green-belt land"*.

The report was introduced by the studio presenter:

"Surrey County Council claims that a company has carried out unauthorised drilling in green-belt land. Angus Energy has drilled a new side-well at an existing site near Brockham. The Council says it's deeply disappointed at the conduct of the company. Angus Energy, which announced last week that new reserves of oil were found at the site, denies the claims".

The reporter said:

"Convoys of trucks carrying heavy equipment for the Brockham oil site started arriving last December. Some activists didn't give them a warm welcome".

A man was shown standing with a group of police officers in front of a truck. As one of the officers tried to speak, the man interrupted and said:

"We've blocked the highway, you have to stop. We aren't moving".

Footage of men working at night at an oil site was shown as the reporter said:

"An activist filmed this allegedly when the company had no permission to operate at night. Angus Energy told the Council this was maintenance, called a workover. The Council granted this permission, and sent officials to the site to check, they were assured it was repair work, but it now appears that another side-track well was being drilled. The Council says this was unauthorised and that they only found out last week, after it appeared on the internet. They say that the company then admitted to drilling a new side track well".

Text from a statement by SCC was shown as the reporter said:

"A Surrey County Council spokesman said that they had been misled. In a statement, they said: 'we were extremely disappointed to find out that Angus Energy has acted without planning permission, and contrary to our advice and guidance. So, we are meeting with them this week as a matter of urgency to resolve this'. We met one local Councillor who's been trying for months to find out exactly what's been going on at the site".

The reporter was shown speaking to Mr Clayton Wellman, a Councillor for Mole Valley District Council. Mr Wellman said:

"What that does is it removes from me all faith in the way these companies operate. If we don't know what they are doing, and we don't know how they are going about it, then how can we make any measure of whether it's being done properly?"

Text from a statement by Angus Energy was shown as the reporter said:

"Asked to respond to the claims, a spokesman for Angus Energy told us: 'in our opinion, we did not breach the planning consents. Our professional team had a very constructive meeting with the Surrey County Council planners today and the way forward in relation to oil production and obtaining any further consents in the future is now clear'. However, Surrey County Council says this meeting has yet to take place".

A number of women in a fitness studio were shown as the reporter said:

"Most of those we spoke to in Brockham were relaxed about the current oil operation. We asked some people at a lunch time pilates class what they thought now".

One woman said to the reporter:

"I think it's being monitored quite well, so, if anyone has concerns I'm sure they could ask questions".

A second woman said:

"Everyone has to abide by planning rules, certainly a company drilling for oil needs to abide by planning rules".

Concluding the report, the reporter said:

“The potential oil in the Weald Basin can be seen as vital to the UK’s energy independence. However, the conduct of one of the companies involved in exploration is being called into question”.

There was no further reference to the complainant included in the programme.

Summary of the complaint and broadcaster’s response

The complaint

a) Schillings complained that Angus Energy was treated unjustly or unfairly in the programme as broadcast because material facts were presented, disregarded or omitted in a way that was unfair. In particular:

i) the programme alleged that Angus Energy had misled SCC about the nature of works carried out at the Brockham oil site and that it had drilled a new, separate well without the requisite planning permission.

Schillings said that the BBC’s description of the works carried out at the Brockham oil site was misleading and inaccurate. It said that the works did not amount to the drilling of a new well and that Angus Energy was permitted to carry out the works under the terms of the existing planning permission for the site.

ii) the programme alleged that a meeting between Angus Energy and SCC, which Angus Energy had referred to in its statement on the programme, had not taken place. Schillings said this was inaccurate and implied to viewers that Angus Energy’s statement was “dishonest and misleading”.

Schillings said that there was “incontrovertible proof” that the meeting between Angus Energy and SCC had happened. It added that the BBC had conceded that the meeting had happened, yet it still refused to correct the allegation.

iii) the programme stated that a local councillor, Mr Wellman, had been “trying for months” to investigate the works. Schillings said that Angus Energy had no record of Mr Wellman attempting to contact the company, and that this statement implied to viewers that Angus Energy had “evaded” enquiries about the works being carried out at the site.

b) Angus Energy was not given an appropriate and timely opportunity to respond to the allegations made about it in the programme. In particular, it said that Angus Energy was not given an opportunity to reply in respect of the allegations that it had:

- lied about meeting with SCC on 8 March 2017;
- carried out works at night without permission; and,
- evaded Councillor Wellman’s enquiries.

Schillings said that when the BBC had contacted Angus Energy, it had not made the subject matter of the broadcast, or the allegations it would make, clear. It said that no reasoning or evidence was provided to Angus Energy that supported the allegation that

the company had, as a matter of fact, breached planning laws. This resulted in Angus Energy not being able to respond, other than to state its position that no breach had occurred.

The broadcaster's response

Background

The BBC said that the report presented a "fair and accurate summary" of a case where the company and the relevant local authority took opposing views on whether to drill a "side-track well" was permitted under existing planning permissions. It said that Angus Energy had maintained at the time of the report that it did not require additional planning permission to drill the side-track well whereas SCC maintained that the nature of the proposed work was such that a new planning application was required.

The BBC said that there were currently three separate oil wells at the Brockham site. It explained that a side-track well from an existing well at the site was drilled in January 2017 at the same time as Angus Energy had been conducting routine maintenance work, and that this was the drilling which had been the subject of the *BBC London News* report.

Response to the complaint

- a) The BBC said the report gave an accurate description of the work which was carried out, in that it presented the allegation made by SCC that the drilling was carried out without the necessary planning permission and accurately reflected Angus Energy's response.
- i) The BBC said that the introduction to the report stated: "*Surrey County Council claims that a company carried out unauthorised drilling in green-belt land*" and went on to say: "*Angus Energy, which announced last week that new reserves of oil were found at the site, denies the claims*". The BBC said that this established at the outset that it was SCC's view that unauthorised drilling had taken place and that this was denied by Angus Energy. The BBC said that the report made it clear that the matter was one of dispute and it was reasonable to assume that viewers would have understood that the subsequent report would explore the basis of the planning dispute. The BBC said that viewers would judge the content of the report in that context.

The BBC said that Angus Energy had suggested in its complaint that viewers would have assumed the company had drilled "a new, separate well". The BBC assumed that this meant that a new borehole had been drilled at the surface, rather than new drilling below the surface. The broadcaster said that the report only referred to a "new side well", or a "side-track well" and that it believed that the consistent use of the word "side" in the context of the report would have "guarded against such an understanding". The broadcaster said that even if the audience had assumed that the report was about an entirely new well, Angus Energy had not explained in what way this would have had a material effect on the audience's understanding of the work which was carried out. The BBC said that it believed that viewers would have understood Angus Energy to have been drilling without the required permission, which was the point of contention, regardless of where the new drilling had occurred. It said, therefore, that it did not accept that the description of the work carried out was unfair to Angus Energy.

The BBC said that the report had used the same language as used by both SCC and Angus Energy to describe the drilling. It said that the introduction to the report, for instance, had referred to *"a new side well at an existing site"*. The reporter had also stated that *"it now appears that another side-track well was being drilled"* during approved repair work, and that it had been reported that SCC had claimed Angus Energy had *"admitted to drilling a new side-track well"*. The BBC said that it was not misleading to use the formal description employed by those in the industry and to mirror the language used by the parties in this case. It said that at no stage during the report was it either said, or implied, that a new well had been drilled from the surface.

The BBC said that the report accurately and fairly summarised the SCC's concern that Angus Energy had misled it over the nature of the work carried out at the Brockham site. It said that SCC had made clear in its correspondence that it had understood the work taking place to have been limited to *"work-over"* maintenance and that it had not been informed by Angus Energy that it proposed to drill a new side-track well at the same time. It said that the BBC had contacted SCC to confirm SCC's understanding of the work Angus Energy had carried out asking: *"Just to be clear: Inspectors were misled by Angus contractors in January when they were being told that the work on the site was just for maintenance purposes?"*. The BBC said that SCC had responded by stating: *"Yes, that's correct, and we weren't aware the drilling had been done until they admitted to it afterwards"*. Therefore, the BBC said that the report gave an accurate summary of SCC's position, which was that it had been misled by Angus Energy in regard to the work carried out at the Brockham site.

- ii) The BBC said that it accepted that the meeting between Angus Energy and SCC had taken place at the time the programme was broadcast, and that it was a matter of regret that it was not able to confirm this at the time. The broadcaster said that the report included the statement from Angus Energy which stated that it had held *"a very constructive meeting"* with SCC and had also included the Council's assertion that the meeting had not yet taken place. The BBC said that it did not believe that this description, based on the information given to it by the parties, was unfair to Angus Energy, or that it would have led viewers to assume that the company was dishonest.

The BBC explained that a statement had been given to it on 8 March 2017 by SCC which had said *"...we are meeting with them [Angus Energy] this week as a matter of urgency to resolve this"*. The BBC said that the SCC statement had been forwarded by the BBC to Angus Energy's spokesperson the same morning and that it had requested Angus Energy's response, Angus Energy replied the same day and its statement was subsequently included in full in the report:

"Asked to respond to the claims, a spokesman for Angus Energy told us: 'In our opinion we did not breach the planning consents. Our professional team had a very constructive meeting with the Surrey County Council planners today. The way forward in relation to oil production and obtaining any further consents in the future is now clear'".

The BBC said that Angus Energy's statement had subsequently been *"promptly"* sent to SCC to clarify if the meeting had in fact taken place. It said that SCC had responded

by stating that: "A meeting is due to take place this week about the breach. The drilling wasn't covered by the planning application which was approved, and any further work would need an additional planning application". The BBC said that SCC's email was then forwarded to Angus Energy, who responded by stating: "That is the same meeting that I referred to – it happened today".

The BBC said that it was clear from the correspondence that there had been conflicting views from both parties about whether the meeting had taken place. Therefore, on the morning of the 9 March 2017, it had subsequently attempted to clarify what had happened with SCC by telephone. Additionally, it had sent an email to SCC at 12:06 on 9 March 2017 stating: "will you please let me know if a meeting takes place – I am taking from what you said yesterday that it hasn't yet". The BBC said that SCC had responded the same day at 12:13 by stating: "I will let you know when a meeting takes place and what happens in that meeting. Understand it's later this week, so hasn't taken place yet".

The BBC said that the evidence showed that it had taken adequate and appropriate steps to ascertain the truth about the meeting and that it was fair and reasonable in the circumstances to reflect the conflicting versions from both parties in the report. Additionally, it said that the outcome of the meeting did not change the position of either Angus Energy or SCC with regard to the need for planning permission and, as such, had no material effect on the substance of the report.

- iii) The BBC said that the report made it clear that Mr Wellman was a Councillor for Mole Valley District Council, rather than SCC [i.e. a county council]. As such, it was reasonable to assume that viewers would have understood him to have approached SCC, the appropriate local authority, to address any concerns he had about work at the Brockham site and any relevant planning permissions, rather than Angus Energy.

The BBC said that Mr Wellman was described in the report as someone "*who's been trying for months to find out exactly what's been going on at the site*". It said that viewers would have understood from this that Mr Wellman had an interest in what was happening at Brockham and had sought clarification of what was going on. The BBC said that it saw no basis for Schillings' assertion that viewers would assume he had sought information from Angus Energy and that it would infer the company had been "evasive". The BBC said that it believed that it was more reasonable to assume that a district councillor would understand the planning process and would therefore seek information from the relevant county council, which, in this case, was SCC.

- b) The BBC said that it had initially contacted Angus Energy via email at 16:18 on 7 March 2017 summarising the likely scope of the report and clearly setting out the BBC's interest in discussing SCC's concern that a side-track well had been drilled at the Brockham site without the required planning consent:

"To make this clear – I am looking in to a story for tomorrow's six o'clock news on the oil find you have made at Brockham. I am reading reports that it could be as significant as the Gatwick Gusher? It would be good to find out exactly what was found and what the potential is. I would also like to talk to you about the apparent breach of planning conditions. I have been told that the side track well BR-X4Z was not authorised by Surrey County Council and that they find the news that you drilled

the well 'extremely disappointing'. Ideally, we would be looking to do an interview tomorrow for our piece tomorrow night".

The BBC said that Angus Energy had responded an hour later by stating: "Just a heads up, there is no breach so please do not assume that is factual. I'll explain when we chat". The BBC said Angus Energy's response confirmed that it had prior knowledge of SCC's concerns surrounding planning permission for the side-track well and that it was reasonable to assume Angus Energy was aware of the specific details. The BBC said it had responded to Angus Energy at 19:15 on 7 March 2017 giving further details of the SCC concerns as follows:

"Thanks for getting back to me so quickly. Yes, it would be good to hear your opinion both on the significance of the find and also on the planning issue. SCC say in emails that you had permission just to do maintenance for the existing well - not to drill a new one".

The BBC said that it subsequently had further contact with SCC regarding the planning issue and that it had received a formal statement from SCC. It said that SCC's formal statement was immediately forwarded to Angus Energy at 11:31 on 8 March 2017, the day before the programme was broadcast, and it was invited to respond:

"I look forward to finding out how the find might feed in to the UK energy mix. In the meantime, I just wondered what your response might be to Surrey County Council who sent this to us today? Please see the statement below for our response. A county council spokesman said: 'We were extremely disappointed to find out that Angus Energy has acted without planning permission and contrary to our advice and guidance, so we are meeting with them this week as a matter of urgency to resolve this.'"

The BBC said that Angus Energy was, therefore, aware of the formal statement which had been issued by SCC and was aware that it had been invited to offer a formal response, which it provided 20 minutes later at 11:50:

"In our opinion, we did not breach the planning consents. Our professional team had a very constructive meeting with the SCC Planners today and that the way forward in relation to oil production and obtaining any further consents that are necessary in the future is now clear".

The BBC said that it believed these email exchanges, when taken together with the various telephone conversations between the BBC and Angus Energy, demonstrated that Angus Energy had a clear understanding of the subject matter of the report. Also, that it was given sufficient time and sufficient information to provide a considered response to the concerns which had been raised by SCC, and that its response was broadcast in full in the report.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View in this case that Angus Energy's complaint, made on its behalf by Schillings, should not be upheld. Both parties were given the opportunity to make representations on the Preliminary View. The complainant made representations which are

summarised insofar as they are relevant to the complaint, below. The broadcaster did not submit any representations.

Representations on behalf of Angus Energy

Schillings said that it disagreed with Ofcom that viewers would have understood from the programme that it was reporting on a dispute between SCC and Angus Energy about the nature of the work at the Brockham site, and whether the company had the required planning permission to carry it out. It said that the programme was distorted and one-sided in that it appeared that the BBC had “chosen a side” and so “adopted” the allegations. Schillings said that each of the allegations included in the programme was extremely serious, and that Angus Energy should have been given an opportunity to specifically answer them prior to the broadcast of the programme.

Schillings said that even if, on the basis of the opening language, viewers initially considered the broadcast to be a neutral report about a dispute between the parties and that the allegations against Angus Energy were attributable to SCC, they would have been unlikely to conclude their viewing of the programme with the same opinion. It said that, despite the fact that SCC had not yet determined its legal position regarding the planning conditions, the BBC itself reached a conclusion that Angus Energy had drilled “another side-track well” without permission. Further, Schillings said that the programme’s narrative reinforced the inaccurate and unfair impression that SCC’s position was correct, and that Angus Energy was, and admitted to, being culpable for drilling without planning permission.

In relation to the inclusion of Mr Wellman’s quote that “it removes from me all faith in the way these companies operate”, Schillings said that it did not agree with Ofcom’s conclusion that viewers would have understood Mr Wellman’s comments to be a reflection of his general frustration and concern about the lack of information available, rather than to make an accusation about either Angus Energy or SCC. Schillings stated that Mr Wellman’s reference to “companies” indicated “companies in the operation of oil exploration and production in the county council region”, such as Angus Energy. It said that this statement could only suggest that at least some of his enquiries were directed to Angus Energy.

In relation to the claim that the meeting between Angus Energy and SCC did not happen, Schillings said that the BBC’s reference to the meeting with SCC was not neutral or impartial. It said the BBC chose to include Angus Energy’s “correct” statement that the meeting had happened and its description of the outcome, followed immediately by reference to SCC’s “incorrect” statement that the meeting had yet to take place. Schillings said that the inclusion of the statements and the manner in which it was done invited viewers to infer that SCC’s position and statements were correct and that Angus Energy was again behaving dishonestly and seeking to mislead people. It said that viewers would see Angus Energy in a “negative light”.

Schillings said that Angus Energy also did not accept the finding of Ofcom’s Preliminary View that the BBC had demonstrated it had taken reasonable steps to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair. It said that the BBC took no “palpable steps” pre-broadcast to properly investigate the underlying facts or the nature of the allegations levelled. As a consequence, critical pieces of material information in the public domain such as existing planning permissions, planning laws and the regulatory ambit within which the works took place were disregarded and omitted from the broadcast. It also said that the BBC had not conducted sufficient research into the nature

of the works taking place at Brockham and therefore disregarded information that might have assisted viewers to understand the substantive issues which unfairly impacted Angus Energy.

Schillings said that the BBC had made incorrect factual assertions and misleading statements in its response to the complaint, including that Angus Energy was aware prior to BBC's initial contact that there was a dispute with SCC in relation to the works at Brockham. Schillings said that Angus Energy was only made aware of the dispute when it was contacted by the BBC and that this was made clear to the BBC by the spokesman for Angus Energy at the time.

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 unjust or unfair treatment in programmes in such services.

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

In reaching this Decision, we carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast and transcript of it and both parties' written submissions and supporting documentation. Ofcom also took careful account of the representations made by Schillings in response to Ofcom's Preliminary View.

When considering complaints of unjust or unfair treatment, Ofcom has regard to whether the broadcaster's actions ensured that the programme as broadcast avoided unjust or unfair treatment of individuals and organisations, as set out in Rule 7.1 of Ofcom's Broadcasting Code ("the Code").

In addition to this rule, Section Seven (Fairness) of the Code contains "practices to be followed" by broadcasters when dealing with individuals or organisations participating in, or otherwise directly affected by, programmes, or in the making of programmes. Following these practices will not necessarily avoid a breach of Rule 7.1 and failure to follow these practices will only constitute a breach where it results in unfairness to an individual or organisation in the programme.

- a) Ofcom considered Angus Energy's complaint, made on its behalf by Schillings, that it was treated unjustly or unfairly in the programme as broadcast because material facts were presented, disregarded or omitted in a way that was unfair.

In considering this head of complaint, Ofcom had particular regard to the following practices of the Code:

Practice 7.9 states:

"before broadcasting a factual programme..., 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...".

Practice 7.13 states:

“where it is appropriate to represent the views of a person or organisation that is not participating in the programme, this must be done in a fair manner”.

Ofcom's role is to consider whether a programme has caused unfairness to an individual or organisation. In particular, we consider whether material facts have been presented, disregarded or omitted in a way that was unfair to people or organisations. This will depend on all the particular facts and circumstances of the case including the nature of the material and the context within which it was broadcast.

Ofcom considered each sub-head of complaint in turn in deciding whether Angus Energy was treated unfairly in the programme as broadcast.

- i) We first considered whether the programme caused unfairness to Angus Energy by alleging that it had misled SCC about the nature of works carried out at the Brockham oil site and that it had drilled a new, separate well without the requisite planning permission.

Ofcom carefully watched the programme and took particular account of what was said by the programme's presenter and the reporter about the works being carried out at the Brockham site. Ofcom considered that viewers were likely to have understood from these comments that there was a dispute between SCC and Angus Energy about the nature of the work at the site and whether the company had the required planning permission to carry it out. In particular, we considered that it was within this context, i.e. the reporting on the fact there was a dispute between the parties, that the comments were made. As set out in the “Programme summary” section above, the presenter introduced the report by saying that:

“Surrey County Council claims that a company [Angus Energy] has carried out unauthorised drilling in green-belt land... Angus Energy, which announced last week that new reserves of oil were found at the site, denies the claims”.

We considered it was made explicitly clear to viewers from the outset of the report that the allegations being made about Angus Energy were attributable to SCC. It was also clear that Angus Energy denied SCC's claim. We also took into account that later in the report, further detail of the allegations made by SCC were included, as was a statement from Angus Energy denying that it was in “breach [of] planning consents”.

Ofcom took into account Schillings' representations on the Preliminary View that the programme's narrative reinforced the unfair impression that SCC's position was correct, and that the BBC had “chosen a side” in the dispute. However, we disagreed. We considered that the allegations made about Angus Energy in the programme were clearly attributable to SCC and presented in the context of a dispute over planning permission between the company and the Council, which was clearly denied by Angus Energy and stated as such in the programme. We recognised the concerns expressed by Schillings in its representations about the accuracy of the technical references used to describe the nature of the drilling work in the programme. However, we also took into account the nature of the report and the context in which it was broadcast, namely as one of a number of brief items which

appeared in a thirty-minute overview of news developments in the London area. In our view, the purpose of this report was to alert viewers to the fact that a dispute had arisen between the parties, rather than to provide an investigation into the detailed technical nature or respective merits of that dispute. In that context, Ofcom considered that the programme's description of the technical nature of the work was sufficient to enable viewers to understand in general terms the cause of the dispute and that there were two sides to the argument. Given this, we considered that sufficient information was presented in the programme to enable viewers to understand that there was a dispute and that it had yet to be settled at the time of broadcast. Ofcom considered therefore that the programme did not cause unfairness to Angus Energy in this respect.

- ii) We also considered the complaint that the programme alleged a meeting between Angus Energy and SCC, which Angus Energy had referred to in its statement on the programme, had not taken place. Schillings said this was inaccurate and implied to viewers that Angus Energy's statement was "dishonest and misleading".

Ofcom took into account that, as set out in the "Programme summary" section above, the programme included a statement from Angus Energy which stated that: "*Our professional team had a very constructive meeting with the Surrey County Council planners today...*". The programme's presenter then stated that SCC had told the BBC "*this meeting has yet to take place*".

Ofcom acknowledged the BBC's statement that at the time of the broadcast, the meeting between SCC and Angus Energy had, in fact, taken place, despite it being reported in the programme that SCC had told the BBC that "this meeting has yet to take place". We also took into account Schilling's representations, that viewers may have inferred that Angus Energy was behaving dishonestly and that it was seeking to mislead the public. We further noted Schilling's statement that, had Angus Energy been told that SCC had specifically said that a meeting had not taken place, it would have provided irrefutable evidence that this was wrong.

In considering whether or not the inclusion of this inaccurate statement may have resulted in unfairness to Angus Energy, Ofcom had particular regard to Practice 7.9 of the Code. In particular, we considered the steps that the BBC had taken to satisfy themselves that the information they had been provided prior to the broadcast was correct and that it was reasonable to rely on it for inclusion in the programme.

We took into account the BBC's representations on this point (as set out in detail above) that SCC had provided it with a statement which confirmed that a meeting with Angus Energy was "due to take place this week", and that, when the BBC had shared the statement with Angus Energy, it had told the BBC that the meeting had in fact already taken place, providing the BBC with its own statement as to what had occurred. When the BBC sought to verify Angus Energy's statement with the SCC, they were explicitly told "I will let you know when a meeting takes place and what happens in that meeting. Understand it's later this week, so hasn't taken place yet". In the absence of being able to establish a consensus as to what had occurred, it appears that the BBC broadcasted both the SCC's and Angus Energy's version of events, where Angus Energy's statement was set out in full. It was only after the broadcast that the BBC realised that there had been a factual error.

We agreed with the BBC that it was regrettable that the programme makers had not been able to confirm with the SCC whether a meeting had taken place at the time of the broadcast. However, we also considered that the programme makers had taken reasonable steps to seek clarification from the parties about whether or not the meeting had occurred. In our view, the BBC had relied on the information provided by both SCC and Angus Energy in good faith and had reflected in the report the disparity between both parties' accounts. In our view, the BBC had exercised reasonable care as required under Practice 7.9 of the Code, insofar as it is difficult to see what further steps could have been taken to confirm the correct position with the SCC.

Given the context of the wider dispute between Angus Energy and SCC, we did not consider it likely that viewers would have understood from the inclusion of the two conflicting statements about the meeting that Angus Energy was "dishonest or misleading". Therefore, in all these circumstances, Ofcom did not consider that the way the material was presented in the programme caused unfairness to Angus Energy.

- iii) We next considered the complaint that the programme stated a local Councillor, Mr Clayton Wellman, had been "*trying for months*" to investigate the works. Schillings said that Angus Energy had no record of Mr Wellman attempting to contact the company, and that this statement implied to viewers that Angus Energy had "evaded" enquiries about the works being carried out at the site.

As set out in the "Programme summary" section above, the programme included an interview with Mr Wellman, a councillor from Mole Valley District Council, who the programme stated had been "*trying for months to find out exactly what's been going on at the site*".

In Ofcom's view, the statement that Mr Wellman had been "*trying for months*" to find out what had been going on at the site made clear to viewers that Mr Wellman had an interest in the works at the site and had been trying to get clarification on what was going on there. Additionally, it was made clear by Mr Wellman during his subsequent interview in the report that his attempts to "*find out exactly what was going on at the site*" had proved to be unsuccessful. Ofcom considered that the inclusion of the statement that Mr Wellman had been "*trying for months*" served to reflect Mr Wellman's general frustration and concern about the lack of information available, rather than to make an accusation about either Angus Energy or SCC having evaded his enquiries. In its representations on the Preliminary View, Schillings said that Mr Wellman's statement that "*it removes from me all faith in the way these companies operate*" was clearly referring to Angus Energy and that this could only suggest that some of his enquiries were directed towards Angus Energy. However, we considered that, although Mr Wellman's comment made clear he was concerned about the operations of Angus Energy at the Brockham site, it was unlikely that viewers would have understood the comment to be an allegation that he had made enquiries to Angus Energy directly, or that it had been evasive in any way. Given the context of the report's wider focus on the dispute between Angus Energy and SCC, we did not consider that the inclusion of Mr Wellman's comments, in themselves, caused unfairness to Angus Energy, particularly given that Angus Energy's response that it had not breached any planning consents was reflected in the report.

Having considered heads a) i) to iii) of the complaint, and taken into account the context of the report as a whole, Ofcom was satisfied that, in this case, the broadcaster had taken reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in the programme as broadcast in a way that portrayed Angus Energy unfairly.

- b) Ofcom next considered the complaint that Angus Energy was not given an appropriate and timely opportunity to respond to the allegations made about it in the programme.

Practice 7.11 states:

“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”.

As above, Practice 7.13 states:

“where it is appropriate to represent the views of a person or organisation that is not participating in the programme, this must be done in a fair manner”.

In considering this aspect of the complaint, we took particular account of the nature of the material included in the programme and the context within which it was broadcast. While we recognised that the allegations about Angus Energy having carried out work at the Brockham oil site without the required planning permission were clearly attributable in the programme to SCC, they did constitute a significant allegation of wrongdoing. Therefore, in accordance with Practice 7.11, the programme makers were required to provide Angus Energy with a timely and appropriate opportunity to respond to it in order to avoid unfairness.

Ofcom took into account both parties' submissions as summarised above addressing the extent to which Angus Energy was provided with the opportunity to respond to the statements made about it in the programme. We took the view that while Angus Energy did not dispute that it was not given an opportunity to respond at all, it did dispute that it was given sufficient information about the specific allegations made in the programme; namely, that it had lied about the meeting with SCC, carried out works without planning permission, and had evaded Mr Wellman's enquiries.

We took into account the BBC's submissions on this point, (as set out in detail above) that it had first emailed Angus Energy on 7 March 2017 in which it summarised the “likely scope of the report” and set out its interest in discussing SCC's concern that a side-track well had been drilled without the required planning permission. In response, Angus Energy said that there had been “no breach”. Later the same day, the BBC had replied to Angus Energy with more detail of SCC's concern about the permission it had granted to Angus Energy. On 8 March 2017, the BBC had sent a further email to Angus Energy with a statement from SCC in which it claimed that the company had acted without planning permission and that it would be meeting with them to resolve the matter. A response to this from Angus Energy was received and included in the programme in its entirety.

In Ofcom's view, the focus of the report was on the fact of a dispute between SCC and Angus Energy about whether the company had the required planning permission to carry

out the works at the Brockham oil site. Therefore, in this context, the BBC had contacted Angus Energy about the claim made by SCC, set out in broad terms the issue the programme would be exploring and had sought its response to the allegation. From the contact between the BBC and Angus Energy, it was clear to Ofcom that the company was made aware of the allegations made about it and would have understood the subject matter of the report. Therefore, while some of the more specific details about the claims to be made in the programme were not provided to Angus Energy, we considered that sufficient information about the main subject matter of the report had been provided in order to afford them with an appropriate and timely opportunity to respond. Further, both the position of SCC, and Angus Energy's denial that it had breached any planning permission requirements, were clearly represented in the report. We took into account Schillings' representations on the Preliminary View that had the specific allegations been raised to Angus Energy before the programme was broadcast, it would have been able to adjust its statement accordingly to properly address them. However, given our view in heads a) ii) and a) iii) above, it was not necessary for the BBC to have sought specific representations in those respects to have avoided potential unfairness in the programme. In these circumstances, therefore, Ofcom considered that Angus Energy had been provided with an appropriate and timely opportunity to respond to the allegations made about it by SCC and reported in the programme, and that Angus Energy's position was adequately and fairly reflected.

Taking all these factors into account, Ofcom considered that there was no unfairness to Angus Energy in this respect.

Ofcom has not upheld Angus Energy's complaint, made on its behalf by Schillings, of unjust or unfair treatment in the programme as broadcast.

Not Upheld

Complaint by Mr Gary Manning, made on his own behalf and on behalf of TV Aerial Company Limited *Watchdog*, BBC 1, 2 August 2017

Summary

Ofcom has not upheld Mr Gary Manning's complaint, made on his own behalf and on behalf of TV Aerial Company Limited ("TV Aerial Company") of unjust or unfair treatment in the programme as broadcast and of unwarranted infringement of privacy.

Watchdog is a consumer affairs television programme. This episode included a report about Mr Manning and his company, TV Aerial Company (also trading as Aerialforce and Satellites & Aerials). Mr Manning complained that TV Aerial Company was treated unjustly or unfairly in the programme as broadcast because: the programme implied that TV Aerial Company's advertising practices were "morally wrong"; the programme was edited unfairly to give the impression that its engineers were charging customers for unnecessary work and parts; and, Mr Manning was not provided with an appropriate opportunity to respond to claims made about the company in the programme. Mr Manning also complained that his privacy had been infringed both in connection with the obtaining of material included in the programme and in the programme as broadcast because the programme included footage filmed of him during an attempted interview.

Ofcom found that:

- The broadcaster had taken reasonable care to satisfy itself that material facts had not been presented, disregarded, or omitted in a way that was unfair to TV Aerial Company.
- Mr Manning was provided with an appropriate and timely opportunity to respond to the allegations made against TV Aerial Company in the programme.
- Mr Manning did not have a legitimate expectation of privacy in the obtaining of the material included in the programme or in its subsequent broadcast. We therefore considered that there was no unwarranted infringement of his privacy in either the obtaining or the broadcast of the material complained of.

Programme summary

On 2 August 2017, BBC1 broadcast an edition of its consumer affairs programme, *Watchdog*. A report about Mr Gary Manning and his company, TV Aerial Company, was included in the *Rogue Traders* section of the programme.

The programme's presenter introduced the report:

"The Television Aerial Company Limited, based in Whyteleafe Surrey, slightly confusingly go by a few different names like 'Aerialforce', and 'Aerials and Satellites' or 'Satellites and Aerials' as their website says. Are you still with us? Good. We featured them before back in 2011 when they spectacularly oversold to us items which we needed about as much as a chocolate ironing board. We put them to the test three times, misaligning two perfectly

good satellite dishes and damaging a connecting cable. Our dishes needed to be realigned, our cable needed to be repaired but each time the engineer told us that we needed something we didn't...I caught up with the boss at the time, sort of. I say sort of because I've got to be honest with you I actually don't think it was my best effort. Let's put a clock on the face time".

Footage from 2011 of the presenter trying to question the previous director of the company was shown. The presenter said: *"Three engineers, all three of them misdiagnosed"*, before the director got into a vehicle and drove away. The presenter said:

"I mean that just wasn't long enough was it? I think we as a team can do better...Whatever we did in 2011, it might have had some effect because in January of 2012 the director removed himself from the Television Aerial Company Limited..."

Footage of the presenter was then shown as he spoke with a previous customer of TV Aerial Company, Mr Andy Nash. The presenter explained that Mr Nash had called TV Aerial Company after buying a new television which he could not get to work, and that an engineer had been sent to his house to fix the problem. The presenter said that the TV Aerial Company engineer had *"discovered quickly that the issue was just a faulty HDMI cable"* but that he had *"claimed that Andy may have a further problem"*.

Mr Nash said:

"As he finished the job, he said 'well only two of your four channels on your satellite dish are working at 100%' and he said 'shall I go and have a peek at your satellite dish?'"

The presenter explained that despite the fact that Mr Nash had never experienced problems with his satellite dish before, the engineer proceeded to examine the dish, and that he *"came back down with some alarming news"*. Mr Nash said:

"He hit me with the immortal line 'I have to tell you, your satellite dish is virtually at the end of its life, it's totally rusted through' he said the only answer was a replacement dish".

The presenter said that Mr Nash had agreed to purchase the new dish, and had paid TV Aerial Company £238.28.

Mr Nash said:

"The following day the satellite dish was just put on the ground, I went to look at it and immediately realised that I had made a huge mistake".

Footage of Mr Nash's satellite dish was shown as the presenter said:

"Andy found that although his dish was showing superficial signs of rust, it was far from rusted through. We've since had his dish tested and found it to be in perfect working order".

Mr Nash said:

"He'd taken advantage of me and I'd fallen for it. I'd trusted this guy and, you know, I regret that now".

Mr Nash then sang a song about his experience with the company:

"...My story needs telling to warn any others, that rogues and bandits who are happy to cheat, will sooner or later face critical heat. Please share this ditty with friends far and wide, so TV Aerial Company have nowhere to hide. They may think that cheating's an acceptable trend, but they'll find that they're wrong and will lose in the end".

The presenter then said:

"So, if the previous director is no longer involved, who's in charge now? Well, it's Gary and Tabby Manning [photographs of Mr and Mrs Manning were shown]. I think it's time we put them to the test. And, that's exactly what we do".

The programme showed a property being set up for a test, with secret cameras and an actress, Liz, posing as a customer. An expert, Ian, was introduced, and was shown setting up a fault in the property's television installation by cutting the input cable to the set-top box. The presenter described the fault created by the expert as being *"so simple an aerial engineer should be able to find and fix this problem in just five minutes"* and said that the job should only cost the diagnostic fee of £59.99 plus VAT.

Secretly filmed footage of TV Aerial Company engineer, Nathan, was then shown as he arrived at the property in a company branded vehicle. Nathan entered the house and asked Liz what he could do for her. Liz responded:

"Well, the Sky television's gone funny".

Nathan said:

"It may well be an LNB issue, let's have a look".

Nathan was shown inspecting the television installation in the living room as the presenter explained:

"The LNB is the low noise block, it sits on the front of the satellite dish, and ours is working fine. It's not long before Nathan finds our broken cable".

Footage of Ian was shown as he sat in a separate room watching footage from the hidden camera feed and commenting on the engineer's work. Ian said:

"Yeah, he's unscrewed the connector at the end of the cable, so it looks like he's found the problem".

The presenter said:

"And he fixes it, then he plugs the connector back in, so is the problem solved? Well, it should be but when you call out the Television Aerial Company limited of Whyteleafe Surrey, also trading as Aerialforce, things aren't always that simple. And, on that note,

despite their long name, they could still be confused with other companies who have similar names...".

Footage of Nathan inside the house was shown as he inspected a television set which could be seen displaying a clear picture, before he turned it off. The presenter explained that Nathan had fixed the fault but had turned the television off afterwards and gone outside to examine the satellite dish *"which he knows is fine"*.

Later in the programme, the presenter stated:

"But now back to Rogue Traders and the Television Aerial Company Limited, based in Whyteleafe Surrey, who also trade as Aerialforce, and our aerial oppo Nathan is in the house attempting to fix a simple fault. It looks like he may have fixed it, but has he?"

Secretly filmed footage was shown of the living room, and the presenter said:

"Yes, he has, look there's a picture [the television was shown working], but hang on, what's he doing now? He's turning the box off, surely he's about to go and break the good news to our stooge? No, he's about to go and look from a distance at the satellite dish, which he knows is fine".

Nathan was shown examining the satellite dish on the roof of the property before re-entering the house and telling Liz that having had a look at the dish that *"It does need a new LNB"*. The presenter said: *"Nathan, it doesn't"*. Nathan was then shown telling Liz that *"The dish is the older type. You could do with upgrading it to the newer dish"*.

Ian was shown watching the hidden camera feed, he said: *"There's nothing wrong with the LNB, there's no need to change it and the dish is fine"*.

Liz then asked Nathan: *"What do I actually need to get it working?"* Nathan responded:

"All you need to get it working is just a new LNB. The only reason I was giving you the option of having a new dish is because that one's about 12 years old and they only tend to last about 12 years".

Ian said:

"The dish will last for 20 years or more, it's just a piece of metal, there's nothing wrong with it at all".

Liz then told Nathan that she would get a new LNB.

The presenter said:

"Nathan seems to have forgotten that our TV is in perfect working order. Nathan gets to work switching the LNB".

Footage was shown of Nathan fitting the new LNB. Nathan re-entered the property and turned on the television and said: *"All done"*.

The presenter said:

“So here we are, 2017 and what’s just happened? He’s lied to us to sell a new part we didn’t need for an extra 58 quid. He also tried to tell us it was game over for our satellite dish, which it wasn’t, and that would have cost an extra 160 quid, all in all not so different from 2011. And that could mean a couple of things: a) it could mean that the same operatives that were there before are misbehaving but that the new bosses know nothing about it, or b) They do know all about it, in fact they may even be encouraging or incentivising it because it helps them make more money. So, a) or b)? If only there were a way to find out which. Luckily enough for us the TV Aerial Company Limited are hiring new engineers or is it sales people or engineers [an online job advertisement was shown which listed the recruiter as ‘Aerialforce’ and the job sector as ‘sales’, and stated that the vacancies were for ‘experienced engineers’] I get very confused. Let’s get an application in anyway”.

The presenter was then shown receiving a telephone call from a member of his team, Paul, who, having submitted a job application, had been invited to attend an interview.

Secret footage was shown of Paul, posing as a prospective employee, as he arrived at the company building, for his interview. The presenter said:

“In goes Paul, undercover, to meet manager Jay. He seems particularly interested in our stooge’s ability to sell”.

Footage of the interview was shown, and the following exchange took place:

Manager: *“What selling have you done?”*

Paul: *What selling? Not much really.*

Manager: *On here, you do a lot of selling.*

Paul: *What are you selling?*

Manager: *We give you a lead, you go there, you upsell.*

Paul: *Right okay.*

Manager: *You do what needs to be done, I’m not telling you to rip people off”.*

The presenter said:

“Hang on wait. Oh, you’re not telling us to rip off people? Because in a funny way, it almost sounds like you are”.

The presenter explained that the company manager had told Paul that his salary would be based *“heavily on commission”* and that he would need to meet *“a huge daily target of £901 [“£901 per day” was shown flashing on the screen] to start earning any of the bonuses”.*

Further footage of the interview was shown as the manager told Paul:

"If you learn to sell and you can do the job, you'll make a lot of money. On average, I'm paying my engineers anything between £800 and £1,200 a week. That's basic and commission".

Paul asked:

"Yeah, how easy is it to hit that £900 target?"

The manager said:

"Well, it's depending on how good you are at selling. I've got one engineer who will go out and do three jobs and take a grand. So, I need a decent engineer, who can also look people in the eye and sell to them".

The presenter explained that the team then showed the secretly filmed footage to business lawyer, Mr Mark Weston. Mr Weston was shown viewing the footage on a laptop. Mr Weston said:

"If you are a consumer calling out an engineer, you expect to have your problem fixed, to be told the truth and to have the engineers acting in your best interests. The wage structure used does incentivise engineers to act against the customer's interests. It's almost as if the entire culture of the company is geared around selling, that can be unethical. It can also be illegal".

The presenter then said:

"Despite being based in Surrey, The TV Aerial Company Limited, who also use the name Aerialforce, operate across the country and because directors, Gary and Tabby Manning, are computer literate, they've found a way to synthesise cyber confusion. They've paid a bit more to bump their ad up the Google local listings and they've managed to make the ads look local. For instance, let's say I live in Plymouth and I tap in 'Plymouth Aerials', up comes an advert that says 'Plymouth Aerials' but it's actually for the Television Aerial Company who, as we know, are based all the way over in Surrey and that's about the naughtiest thing I can imagine".

The presenter continued:

"Right it's time to put the Television Aerial Company Limited, who also trade as Aerial Force, to the test one more time, so, we've got ourselves another house, another actress, and expert Ian is back to terminate our TV signal".

Ian explained that to set the fault he was going to "simulate wear in the cable" by twisting and stretching it to break the conductor inside the cable. The presenter said that this job should cost £75 for the engineer to fix. The presenter said:

"...The TV Aerial Company arrive in one of their AerialForce vans, but it seems the engineer has mislaid a very important piece of his kit [footage was shown of the engineer calling his previous customer to see if he had left his meter at their property]. A signal meter is a fairly essential piece of equipment for a job where the problem is lack of signal. Surely, he can't carry on without that?... Oh, he's going to carry on regardless it seems. This should be interesting".

The presenter then said:

"So, what will he do next and crucially how much face time can I get with the company director, hopefully more than the 42 seconds we got last time. Get ready for a carpark song and dance".

Later in the programme the presenter said:

"Time now though for our last chapter of Rogue Traders, where our second aerial oppo is channelling all his energy into fixing our fault, or could he possibly be making it worse?"

Further secretly filmed footage was shown. The presenter said:

"The Television Aerial Company's engineer, Darren, has been at our house for 20 minutes, and, because he's left his signal meter at a previous job, fixing our fault is proving tricky. He tries a couple of different options but somehow seems to be making the problem worse".

The expert, Ian, who was shown watching Darren through the hidden camera feed, said that there was still some *"picture breakup"* which he said meant the engineer had *"disturbed the connections somewhere else"*.

The presenter said:

"Could it be that the guy that has been called out to fix a problem, has actually created another one?"

Darren told the actress posing as the customer that:

"I think your aerial is knackered".

Ian said:

"There's nothing wrong with the aerial".

Darren told the actress that he had a picture and she commented:

"Oh, it's worse than before".

Darren said:

"Yeah, the only thing it could be is the aerial. Well, you're going to have to have a new aerial. It's the only way around it".

The presenter said:

"Well, you know it's not the only way around it because there's nothing wrong with our aerial. But, hey, this is a great opportunity to charge us £130 for something we don't need. So off he goes to the roof, the wet and slippery roof, and he's taking the no ladder approach [footage was shown of Darren climbing on the roof], which is not

recommended at all – Darren, careful. Eventually he does make it to the top and on goes the new, totally unnecessary, aerial”.

The engineer was shown back inside the house settling the bill with the actress after telling her the television was working as a result of the new aerial.

The presenter said:

“No, it’s not, it only looks like it is because he’s put it on the channel with the strongest signal. But this engineer doesn’t seem to care and off he trots with our £213 for a job that could have cost £75”.

Once the engineer had left, Ian was shown inspecting the engineer’s work. He said:

“This is worse than it was before we created the fault”.

The presenter said:

“In fact, he did such a terrible job, we had to have the whole installation replaced. And that, along with everything else we have seen, is just not good enough”.

The presenter and other programme makers were shown inside a vehicle as the presenter explained they were driving to Whyteleafe in Surrey to *“speak to Gary or Tabby about AerialForce, or TV Aerial Company Limited as they’re also known”*. Having arrived at TV Aerial Company Limited’s office, the presenter crossed the car park to speak with Mr Manning. The following exchange took place, as Mr Manning tried to walk away from the programme makers:

Presenter: *“Gary? Matt Allwright, BBC Rogue Traders. How are you? Good to see you, we’ve asked you for an interview.*

Mr Manning: *Yeah go away, you’re not supposed to be in here, go away [Mr Manning pushed the camera], go away.*

Presenter: *Why are you doing that to the camera?*

Mr Manning: *Go away.*

Presenter: *I’m trying to ask you some questions about the business that you’ve been running, what you call upselling, what we call lying to customers, AerialForce customers, about what they need. Yeah, you send your guys into people’s homes. [Mr Manning pushed the camera again] Don’t touch the camera please.*

Mr Manning: *You’re not even supposed to be in here, go away [Mr Manning pushed the camera] don’t [bleeped] film me.*

Presenter: *Please don’t hit the camera Gary, there’s no need to hit the camera.*

Mr Manning: *Go away then.*

Presenter: *We're asking you questions, Gary, all we're doing is asking you questions about the way you run your business.*

Mr Manning: *Go away from me* [Mr Manning pushed the presenter].

Presenter: *I'm asking you questions about the business that you run that rips people off in their own homes when it comes to selling them aerial parts they don't need".*

The programme makers attempted to follow Mr Manning into the company building, however, Mr Manning pushed the presenter out the door and with the help of another man, closed the door on the programme makers.

The presenter said:

"Ok, that's Gary Manning, one of the directors of AerialForce, also known as the TV Aerial Company. We got to talk to him, and he had nothing to say".

As the team was shown driving away from the premises, the presenter explained that one of TV Aerial Company's managers, Jay, had followed the team in his car and that the programme makers' security team had advised them to leave the area.

The presenter then performed a song based on Mr Manning and TV Aerial Company:

"If I had a horse, I would ride it down to AerialForce, just as fast as it would carry me to have a word with Gary [a photograph of Mr Manning was shown]. And then of course, I would hang around at AerialForce. Their behaviour is so shabby, I'd also like a word with Tabby [a photograph of Mrs Manning was shown] ...AerialForce or TV Aerial Company, 'cause we're not really sure...He knows there is a problem, he's located the source...AerialForce, our legal team believes they may be breaking some laws..."

The presenter ended the programme by saying:

"In the meantime, Gary Manning has written to us saying our allegations are false, and denying that the company sells unnecessary parts or work against customers' best interests. He says they employ highly skilled engineers and there's nothing wrong with the way they're incentivised, it's a natural part of their duties to recommend other products, repairs and upgrades. He also told us the company regularly carries out random audits on installations, going on to say the company takes health and safety very seriously and all employees are equipped with the necessary equipment to ensure they can work at height safely".

The programme ended and there was no further reference to Mr Manning or TV Aerial Company.

Summary of the complaint and the broadcaster's response

- a) Mr Manning complained that TV Aerial Company was treated unjustly or unfairly in the programme as broadcast because:

- i) The programme implied that TV Aerial Company's advertising practices were "morally wrong" because it advertised online in local areas, such as Plymouth in Hampshire, while being based in Whyteleafe in Surrey. Mr Manning said that the programme omitted to include the fact that, although the company's head office was in Whyteleafe, it had engineers living in all the areas where it advertised.
- ii) The programme wrongly alleged that its engineers were charging customers for unnecessary parts and that footage included in the programme had been unfairly edited to give this impression. For example:
 - The programme included footage of a former customer, Mr Andy Nash, explaining that he had been advised by a TV Aerial Company engineer that he should replace his satellite dish when in fact the programme alleged that this had been unnecessary. Mr Manning said that the BBC had not supplied it with any evidence to confirm that the dish was working before its engineer replaced it. He said: "It is clear to see by the TV footage that the dish was not in a good state of repair". He said that it appeared that a new part (the arm and LNB) had been added to the satellite dish and that "...the dish had been tampered with for TV entertainment because...the dish is old and very rusty but the arm and LNB...is brand new".
 - Mr Manning said that the footage filmed of TV Aerial Company engineers, Nathan and Darren, was edited "...thus not allowing the public to make an informal unbiased opinion". Mr Manning said that if the footage of the engineers had been shown in its entirety "...it would have demonstrated that all was not as portrayed in the programme". He said that the programme claimed that the engineers had incorrectly informed the actors posing as customers that parts needed replacing but had not provided any evidence to show that the aerial and satellite systems were fully functional before the engineers visited. He said that because there was a service charge to check an aerial and satellite system experiencing problems, that it made pragmatic sense to provide a quote to replace any parts which were either not working or close to their shelf life to avoid further service charges.
- iii) TV Aerial Company was not given an appropriate opportunity to respond to the claims made about it in the programme, and, in particular, the allegations that its engineers were charging customers for unnecessary parts.

Mr Manning said that although TV Aerial Company was sent a letter dated 10 July 2017 from the BBC notifying it of the allegations it intended to make in the programme, despite repeated requests to view the unedited footage obtained by the programme makers of its engineers, TV Aerial Company was not provided with this. Mr Manning said that "As a result of the producers failing to produce video evidence to support their claims we could not investigate fully the allegations made, and had to wait until after the programme was aired by which time it was too late to respond".

- b) Mr Manning complained that his privacy was unwarrantably infringed in connection with the obtaining of material included in the programme because despite declining to be interviewed, the programme makers "forced" an interview on him in TV Aerial Company's car park.

- c) Mr Manning complained that his privacy was unwarrantably infringed in the programme as broadcast because despite declining to be interviewed, the programme makers "forced" an interview on him in TV Aerial Company's car park and included this footage in the programme without his consent.

The broadcaster's response

Background

The BBC said that the programme investigated complaints from viewers that television aerial engineers employed by Mr Manning's company had overcharged them for repairs to television aerial systems. It said that, the programme, by secretly filming two of the company's engineers, gathered evidence that these complaints had merit and, by secretly filming a job interview for an aerial engineer's position at the company, concluded that its engineers were encouraged to overcharge. The BBC said that when questions were put directly to Mr Manning, he attacked the programme's camera equipment on a number of occasions and physically manhandled members of the production team.

The BBC said that the company had been the subject of an earlier investigation by *Watchdog* in 2011 but that the programme complained of here was the result of persistent complaints continuing to reach the programme makers. It said that while Mr Manning suggested in his complaint that he was not connected with the company when it was investigated in 2011, the BBC believe that this was not the case. It said that Mr Manning was a shareholder in TV Aerial Company at the time of the earlier investigation and had previously been the company secretary. It also said that Mr Manning was secretly filmed at the company's offices in 2011, but this material was not used in the 2011 programme.

- a) The BBC addressed the sub-heads of complaint in turn.
- i) The broadcaster said that the programme did not say that TV Aerial Company's advertising practices were "morally wrong". These were Mr Manning's words and were not used in the programme. The BBC said that the Rogue Traders segment of the programme in which this investigation featured simply explained how TV Aerial Company operates, pointing out that its advertising was confusing to consumers when they were searching for a local company.

The BBC said that Mr Manning stated: "that the programme omitted to include the fact that, although the company's head office was in Whyteleafe, it had engineers living in all the areas where it advertised". The BBC said that this was not correct, that the programme explained that although the company is based in Surrey, it operates across the country. The programme stated:

"Despite being based in Surrey the Television Aerial Company Ltd, who also use the name Aerial Force, operate across the country".

The BBC said that many of the people who complained to Rogue Traders had thought they were calling out a known, local company but were actually calling out TV Aerial Company. This was because, in many localities, the company had paid for its advertisements to appear at the top of search results when certain search terms, such as a place name like Leeds, and the word 'aerials' were entered. The search

result headline gives an impression that the company is called, in this example, 'Leeds Aerials'. The BBC said that it believed that this was misleading. It said that, it is only when the URL below is checked that it becomes apparent that the advertisement is for TV Aerial Company or Aerial Force.

The BBC further said that the programme also became aware, for instance, of a business called Ley's Aerials, run by Mr Chris Ley. The Google advertisement for Ley's Aerials had been purchased by TV Aerial Company, so that Google searches for Ley's Aerials produced a link to TV Aerial Company. It said that this had led to Mr Ley receiving a number of complaints and a subsequent loss of business. The BBC said that it had originally intended to feature Mr Ley's story in the programme, but it had to be omitted for reasons of time.

- ii) With regard to the part of the report featuring Mr Nash, the BBC said that the satellite dish had not been tampered with for purposes of entertainment or any other. It said that, the dish had never been in the programme makers' possession. It was collected from Mr Nash's house by courier and delivered to an expert aerial consultant and Fellow of the Society of Communications and Telecommunications Engineers. The consultant tested the satellite dish and concluded that the "...rust is only superficial, structurally the dish is sound, no moving parts have seized, and performance not affected at all. The only reason to change this dish would be for aesthetic reasons" (an email dated 27 April 2017 from the consultant to the programme makers was provided to Ofcom). The dish was then returned to Mr Nash by courier.

The BBC said that the reason that the arm and LNB appeared new was because they were damaged by the consultant after he had tested the dish. The consultant informed the programme makers at the time that while he was re-packaging the satellite dish for return to Mr Nash, he accidentally broke the plastic bracket that holds the LNB on the front of the dish. He attached a new bracket and LNB before sending the dish back. The BBC said that this happened after the testing and was reported by the consultant at the time (an email dated 1 May 2017 from the consultant to the programme makers was provided to Ofcom).

The BBC said that Mr Nash had been told by TV Aerial Company that his satellite dish was completely rusted through, "on its last legs", and needed to be replaced. At no point was it suggested to Mr Nash that the LNB was the problem. Had it been the problem the appropriate advice would have been to replace the LNB, not the whole dish. The BBC said that, in fact, the original fault had been rectified already by the TV Aerial Company engineer by simply replacing an HDMI cable.

The BBC said that Mr Nash's complaint was one of eleven received by the programme in the twelve months prior to this broadcast. It said that there were also numerous negative online reviews of a similar nature.

With regard to the footage of engineers Nathan and Darren included in the programme, the BBC rejected the suggestion that the secretly filmed material obtained by the programme was in any way misleadingly edited. It said that at both the visits by TV Aerial Company engineers, which were secretly recorded, faults were set in the equipment. Prior to this, however, the aerial installations in each of the houses were tested by an independent expert, Ian, a consultant with more than 30

years' experience in residential aerial and satellite engineering. These tests were filmed. The BBC said that Ian had confirmed that the signal strength on the satellite dish in the first instance and the aerial in the second were strong and both were functioning well so that the engineers would only have to rectify the small, deliberately created faults, to restore full signal in both cases.

Undercover filming of Nathan

The BBC said that in this case, a simple fault on the input cable to a Sky box was created. This was the only fault that was set, and the process was filmed. The system was tested prior to the fault being set and no problems were found. To rectify the fault and restore the signal, the engineer would have simply needed to replace or repair the cable. Nathan discovered this cable fault and repaired it, and the picture was clearly seen to return to the television screen whilst Nathan was alone in the room. However, the BBC said that Nathan then turned off the television and stated that the LNB was the problem and would have to be replaced. He said: "*all you need to get it working is just a new LNB*". The BBC said that this was untrue; Nathan had already rectified the fault and the television had just been seen working perfectly when he was alone in the room. Nathan supplied a new LNB and charged for it. The BBC said that after filming, the programme makers sent the original LNB to be independently tested. It was found to be working perfectly and there was no reason for it to be replaced (an email dated 12 May 2017 from the consultancy, Son et Lumiere Consultancy, to the programme makers).

Mr Manning said in his complaint to Ofcom that:

"...because there is a service charge payable to check through a non-functioning aerial and satellite system, it would make pragmatic sense to quote to replace any faulty parts which are either non-functioning, or close to their shelf life to avoid further charges in the near future which would incur further service charges".

The BBC said that this account was not consistent with what actually happened and the advice which was offered. It said that Nathan had also stated that the satellite dish needed replacing because it was 12 years old and at the end of its life. He quoted a price for replacing it. However, the BBC said that the programme expert's opinion was and remains that the satellite dish should last for 20 years or more.

Undercover filming of Darren

The BBC said that again, the aerial installation in this house had been tested and found to be working without a problem. A fault was created by breaking the conductor in the aerial cable. To fix this fault and restore the signal an engineer would only have to replace the cable. The BBC said that Darren, the engineer who attended, failed to bring his signal meter with him and was consequently unable to establish with certainty where the problem lay. The BBC said that instead, he changed each part of the installation in the hope of locating the fault as he went. This included changing the aerial cable, which the BBC said should have been the solution. However, the BBC said that when the engineer worked on the aerial socket and aerial cable he created further faults, leading him to suggest that the aerial needed replacing.

The BBC said that after his departure, the expert, Ian, was filmed examining Darren's work. He concluded that it was "shoddy". It said that Ian rectified the fault caused by Darren in the aerial socket and replaced the aerial cable. However, it said that the programme makers had to call out a local CAI ("Confederation of Aerial Industries") approved aerial installer to re-install the new aerial system as Darren had not installed it satisfactorily. The BBC said that the reason this had to be done was because Darren had come to the job unprepared. It said that Darren did not have with him the standard equipment necessary to diagnose and rectify the problem and subsequently charged more than £200 for unnecessary items. The signal strength was worse after Darren completed the job and he had failed to tune in all the channels.

The BBC said that both Darren and Nathan's visits lasted more than an hour and had to be edited for inclusion in the programme. However, the broadcaster said that the editing was a "true and fair representation" of what happened during their visits as it said could be seen from the transcripts provided to Ofcom.

- iii) With regard to Mr Manning's complaint that TV Aerial Company was not given an opportunity to respond to the claims made about it in the programme, the BBC said that there is no requirement in Ofcom's Broadcasting Code ("the Code") that broadcasters must, if they intend to make damaging allegations against an individual or organisation, provide them with the totality of evidence upon which allegations might be based. The broadcaster said that it considered that TV Aerial Company had been given an appropriate and timely opportunity to respond to the allegations featured in the investigation. It said that the allegations to be made were set out clearly and in detail in a letter sent to the company on 10 July 2017 which invited a response by 14 July 2017. This deadline was subsequently extended to 31 July 2017, during which time it said that Mr Manning was provided with further information when he requested it to enable him to identify the engineers and properties in question. The BBC said that it did not believe there was any reason that Mr Manning could not have responded to the allegations had he been so minded.
- b) The BBC said that it did not consider that Mr Manning's privacy was infringed by being asked questions in a car park to which the public had free access and where, it said it believed, he would have enjoyed only a very limited expectation of privacy. The BBC said that it considered that any expectation of privacy which Mr Manning might have enjoyed in such a situation was minimal and was outweighed by the public interest in putting to him questions concerning the allegations being made in the programme.

The BBC said that it considered that the doorstep interview of Mr Manning complied the Code's requirements. It said that the programme makers wrote to Mr Manning on 10 July 2017 providing him with sufficient information to consider and respond to the allegations which were to be included in the programme. It said that further information was provided to him on request, but he declined to be interviewed. The BBC said that it believed that there was a significant public interest in putting the allegations to Mr Manning and allowing the audience to gauge his response. It said that Mr Manning chose not to answer and instead physically pushed the presenter on several occasions, swore a number of times, and attacked the camera three times.

- c) The BBC said that its reasoning above at head b) above applied equally to head c) of the complaint.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View in this case that Mr Manning's complaint of unjust or unfair treatment in the programme as broadcast and of unwarranted infringement of privacy should not be upheld. Both parties were given the opportunity to make representations on the Preliminary View, but neither chose to do so.

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 unjust or unfair treatment and unwarranted infringement of privacy in, or in connection with the obtaining of material included in, programmes in such services.

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

In reaching this decision, Ofcom carefully considered all the relevant material. This included a recording of the programme as broadcast, the unedited material secretly filmed of TV Aerial Company's engineers, both parties' written submissions and supporting documentation.

- a) Ofcom considered Mr Manning's complaint that TV Aerial Company was treated unjustly or unfairly in the programme as broadcast.

When considering and deciding complaints of unjust or unfair treatment, Ofcom has regard to whether the broadcaster's actions ensured that the programme as broadcast avoided unjust or unfair treatment of individuals and organisations, as set out in Rule 7.1 of the Code.

In considering this aspect of the complaint, we had particular regard to the following practices:

Practice 7.9 states:

"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..."

Practice 7.11 states:

"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".

We considered each of the sub-heads in turn.

- i) The programme implied that TV Aerial Company's advertising practices were "morally wrong" because it advertised online in local areas, such as Plymouth in Hampshire, while being based in Whyteleafe in Surrey. Mr Manning said that the programme omitted to include the fact that, although the company's head office was in Whyteleafe, it had engineers living in all the areas where it advertised.

Whether a broadcaster has taken reasonable care to present material facts in a way that is not unfair to an individual or organisation will depend on all the particular facts and circumstances of the case including, for example, the seriousness of any allegations and the context within which they were presented in the programme. Therefore, Ofcom began by considering whether the allegations complained of had the potential to materially and adversely affect viewers' opinions of TV Aerial Company in a way that was unfair.

With regard to the company's advertising practices, the presenter said:

"Despite being based in Surrey, The TV Aerial Company Limited, who also use the name Aerialforce, operate across the country and because directors, Gary and Tabby Manning, are computer literate, they've found a way to synthesise cyber confusion. They've paid a bit more to bump their ad up the Google local listings and they've managed to make the ads look local. For instance, let's say I live in Plymouth and I tap in 'Plymouth Aerials', up comes an advert that says 'Plymouth Aerials' but it's actually for the Television Aerial Company who, as we know, are based all the way over in Surrey and that's about the naughtiest thing I can imagine".

Given this, we considered that it would have been clear to viewers that although the company was based in Surrey, it operated across the country.

We also took into account the example provided by the BBC which showed that the company had paid for its advertisements to appear at the top of search results when certain search terms, such as a place name like Leeds, and the word 'aerials' were entered. The search result headline gave the impression that the company was called, in this example, 'Leeds Aerials'. Mr Manning did not dispute the fact that TV Aerial Company advertised its services on Google in this way. Mr Manning stated: "Just because the head office is based in Whyteleafe, it doesn't mean we cannot operate in another area, it's called competition and the same applies with most national service industry companies". We understood that Mr Manning did, however, object to the presenter's opinion of the company's advertising practices, i.e. that it was *"the naughtiest thing I can imagine"*.

Ofcom considered that referring to a company's advertising practices as being "naughty" was likely to be understood by viewers as a derogatory allegation. However, as above, it was not disputed that TV Aerial Company advertised online in the manner described in the programme and it was made clear in the programme that the presenter's comments constituted his opinion on the company's advertising practices rather than a statement of fact.

In addition, Mr Manning was given the opportunity to respond to the claims made about TV Aerial Company in the programme (as detailed below at head a) iii)). On 10 July 2017, the programme makers wrote to Mr Manning outlining the allegations that they intended to include in the programme about TV Aerial Company. The letter outlined the allegations that the programme makers intended to include in the programme about TV Aerial Company, including those made about its advertising practices. The letter stated:

"Your company also operates unethical marketing strategies online. We have discovered your business' disingenuous usage of Google Ads to appear local and push smaller, genuinely local businesses further down Google search results".

Mr Manning responded on 14 July 2017 stating:

"We do not adopt unethical marketing practices as you have claimed. We are the most highly rated business in our trade sector and as such we have expanded over the years to include new areas local to where our employees live. We utilise the Google Ad system to promote our products and services, something which any business of any size can do. It is not unethical to utilise the world's largest advertising platform which is available to everyone. We cannot be held responsible or be portrayed as a 'bad business' where other companies choose not to utilise the Google Ads advertising platform...Advertising ourselves in the areas we cover and the areas our engineers live is under no circumstance unethical".

The presenter said: "...Gary Manning has written to us saying that our allegations are false...". We considered that viewers would therefore have understood that Mr Manning disagreed with the allegations made in the programme about him and his business, including those made about TV Aerial Company's advertising practices.

In this context, we therefore considered that viewers were provided with sufficient information to be able to form their own opinion on the motivations behind how TV Aerial Company chose to advertise its services.

Taking the above factors into account, Ofcom considered that, in the circumstances of this case, the broadcaster had taken reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to TV Aerial Company.

- ii) The programme wrongly alleged that TV Aerial Company's engineers were charging customers for unnecessary parts and that footage included in the programme had been unfairly edited to give this impression.

It is important to emphasise that Ofcom is unable to make findings of fact about the claims made about TV Aerial Company and the services it provided to the people featured in the programme. Our role is to consider whether, by broadcasting the footage in the programme, the broadcaster took reasonable care not to present, disregard or omit material facts in a way that resulted in unfairness to TV Aerial Company.

Report featuring Mr Nash

We first considered Mr Manning's example that footage of a former customer, Mr Nash, had been included in the programme.

We took account of the nature of the material included in the programme, as set out in detail above in the "Programme summary" section. Mr Nash, a former customer of TV Aerial Company, told the presenter that he had been taken advantage of by the company because one of its engineers had informed him that he needed to replace his satellite dish, which he said he later realised was not the case. Footage of the dish was included in the programme.

We considered that the claim that TV Aerial Company had unnecessarily replaced a customer's satellite dish had the potential to have materially and adversely affected viewers' opinions of TV Aerial Company, as it questioned the propriety of the organisation and implied that TV Aerial Company was profiting by undertaking repair work that was unnecessary.

We took account of the BBC's response to the complaint about the part of the report featuring Mr Nash, as outlined in detail above, and that it said that the satellite dish had not been tampered with for purposes of entertainment or any other. The BBC said that its expert aerial consultant had tested the satellite dish and concluded that the "...only reason to change this dish would be for aesthetic reasons". The BBC had also explained that the reason that the arm and LNB appeared new was because they were damaged by the consultant after he had tested the dish and that he had attached a new bracket and LNB before sending the dish back. The BBC maintained that Mr Nash had been misled into replacing his satellite dish unnecessarily.

Mr Manning was given the opportunity to respond to the claims made about TV Aerial Company in the programme (as detailed below at head a) iii)). On 10 July 2017, the programme makers wrote to Mr Manning outlining the allegations that they intended to include in the programme about TV Aerial Company. The letter outlined the complaint received from Mr Nash about the service he had received from TV Aerial Company, stating that the engineer had told Mr Nash that: "...the dish had completely rusted through, it was near to the end of its life and the only answer was a replacement dish"; however, having checked his old dish, Mr Nash "...was surprised to see only superficial signs of rust, which he did not believe was bad enough to warrant replacing it"; and, that the programme makers had "...since had this dish independently tested and it was found to be in perfect working order". The programme makers stated that: "In summary, the combination of factors...clearly demonstrates your company is encouraging engineers to upsell to clients during what should be a simple diagnosis and repair jobs".

Mr Manning responded on 14 July 2017:

"As part of our service we carry out a health check on a system to ensure it is working to optimal efficiency for the client. Your letter confirms that our engineer correctly replaced the HDMI cable and found rust on the client's satellite dish. It would make sense whilst we are already carrying out a visit to offer to replace this dish to prevent further signal problems in the near future,

and to save on a further service charge and appointment. We would have only replaced this dish with the client's consent".

The programme made clear that Mr Manning disagreed with the allegations. The presenter said:

"...Gary Manning has written to us saying that our allegations are false and denying that the company sells unnecessary parts or work against customers best interests. He says they employ highly skilled engineers and there is nothing wrong with the way they are incentivised, it's a natural part of their duties to recommend other products, repairs and upgrades. He also told us that the company regularly carries out random audits on installations..."

In this context, we therefore considered that viewers were provided with sufficient information to be able to form their own opinion on the example presented in the programme of one customer's experience of the service he had received from TV Aerial Company.

Taking the above factors into account, Ofcom considered that, in the circumstances of this case, the broadcaster had taken reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to TV Aerial Company.

Undercover filming of engineers

We next considered Mr Manning's complaint that secretly filmed footage of TV Aerial Company engineers included in the programme had been edited unfairly.

We took account of the nature of the material included in the programme, as set out in detail above in the "Programme summary" section. The programme included two staged jobs where actors posing as customers requested assistance from TV Aerial Company engineers with regard to minor faults which had been deliberately set in the equipment. The engineers were secretly filmed when they attended the properties.

With regard to the engineer Nathan's work, the presenter said:

"He's lied to us to sell a new part we didn't need for an extra 58 quid. He also tried to tell us it was game over for our satellite dish, which it wasn't, and that would have cost an extra 160 quid..."

With regard to the engineer, Darren's work, the programme's expert said:

"This is worse than it was before we created the fault".

When Darren told the actress posing as a customer that he thought her aerial was "knackered" and that "...the only thing it could be is the aerial. Well, you're going to have to have a new aerial. It's the only way around it", the presenter stated "Well, you know it's not the only way around it because there's nothing wrong with our aerial. But hey, this is a great opportunity to charge us £130 for something we don't need...and on goes the new, totally unnecessary, aerial". The presenter further said

that: *"In fact, he did such a terrible job, we had to have the whole installation replaced"*.

As above, we considered that the claim that TV Aerial Company had charged customers for unnecessary work and parts had the potential to have materially and adversely affected viewers' opinions of TV Aerial Company, as it questioned the propriety of the organisation and implied that TV Aerial Company was profiting by undertaking repair work that was unnecessary.

We took account of the BBC's response to the complaint about the inclusion in the programme of the secretly filmed footage of TV Aerial Company's engineers, as outlined in detail above. The BBC rejected the suggestion that the secretly filmed material obtained by the programme was in any way misleadingly edited. It said that the aerial installations in each of the houses were tested by an independent expert and that these tests were filmed. The BBC said that the expert had confirmed that the signal strength on the satellite dish in the first instance and the aerial in the second were strong and both were functioning well so that the engineers would only have to rectify the small, deliberately created faults, to restore full signal in both cases.

We also compared the secretly filmed footage included in the programme of the TV Aerial Company engineers with the unedited footage of them. We considered that the footage included in the programme reflected an accurate account of the encounters between the engineers and the actors posing as customers, including their advice on what was needed to rectify the equipment faults that had been deliberately set up by the programme makers. We therefore did not consider that Mr Manning had made out a sustainable case that the programme had been edited unfairly to give a misleading impression of TV Aerial Company and its engineers' activities and behaviour.

In addition, Mr Manning was given the opportunity to respond to the claims made about TV Aerial Company in the programme (as detailed below at head a) iii)). On 10 July 2017, the programme makers wrote to Mr Manning, outlining the allegations that they intended to include in the programme about TV Aerial Company. The letter explained the fact that engineers had been called out to fix deliberately created faults and that the engineers had charged the actors posing as customers for unnecessary work and equipment.

Mr Manning responded on 14 July 2017:

"We vehemently deny we 'upsell' parts or products unnecessarily or have a business culture promoting this work ethic. We never act against a client's best interest and only make recommendations which would be beneficial to the client, and only carry out work with the client's prior consent".

The programme made clear that Mr Manning disagreed with the allegations. The presenter said:

"...Gary Manning has written to us saying that our allegations are false and denying that the company sells unnecessary parts or work against customers best interests. He says they employ highly skilled engineers and there is nothing wrong

with the way they are incentivised, it's a natural part of their duties to recommend other products, repairs and upgrades. He also told us that the company regularly carries out random audits on installations...".

In this context, we therefore considered that viewers were provided with sufficient information to form their own opinion on the examples presented in the programme of the work completed by the two TV Aerial Company engineers.

Taking the above factors into account, Ofcom considered that, in the circumstances of this case, the broadcaster had taken reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to TV Aerial Company.

- iii) TV Aerial Company was not given an appropriate opportunity to respond to the claims made about it in the programme, and, in particular, the allegations that its engineers were charging customers for unnecessary parts.

We assessed whether TV Aerial Company had been provided with an appropriate and timely opportunity to respond to claims made about it in the programme, in line with Practice 7.11, as outlined above.

We considered that the claims made in the programme about TV Aerial Company, and in particular that, the company had charged customers for unnecessary work and parts, amounted to significant allegations of wrongdoing or incompetence and that, in accordance with Practice 7.11, the programme makers needed to offer TV Aerial Company an appropriate and timely opportunity to respond to the claims in order to avoid unfairness.

We took into account that on 10 July 2018, the programme makers wrote to Mr Manning, outlining the allegations that they intended to include in the programme about TV Aerial Company, including: "...the upselling of unnecessary parts during diagnosis and repair visits, poor quality of work and aggressive online marketing tactics".

On 14 July 2017, Mr Manning provided a detailed response in which he addressed the various claims made against TV Aerial Company:

"We vehemently deny we 'upsell' parts or products unnecessarily or have a business culture promoting this work ethic. We never act against a client's best interest and only make recommendations which would be beneficial to the client, and only carry out work with the client's prior consent".

With regard to the claims made about the two set up jobs, Mr Manning also requested further information, including a copy of the unedited footage of the engineers, in order to provide a full written response.

In further correspondence, on 24, 26 and 27 July 2017, the BBC: provided TV Aerial Company with further details in order that Mr Manning could identify the engineers and the appointments in question; explained that it did not release material which had not been broadcast; and, gave TV Aerial Company the deadline of 31 July 2017 (16 working days from the programme makers original letter dated 10 July 2017) in

which to provide any further response to the claims the programme makers intended to include in the programme.

On 28 July 2017, Mr Manning responded:

“Due to the dearth of appointments our engineers attend on a daily basis and the length of time passed, they are unable to remember the properties you mention but vehemently deny the allegations you make against them”.

Mr Manning again requested a copy of the unedited footage of the engineers, and said:

“With both allegations, it's unclear exactly what occurred and to that end I don't think it unreasonable to request sight of the unedited footage, so we can consider and discuss in depth with both Nathan and Darren and then provide a response”.

On 29 July 2017, Mr Manning wrote a final time to the BBC and also to Ofcom, complaining that the programme makers had “...refused to provide full evidence of allegations made against our business, giving us no opportunity to investigate and provide a full written response...”.

We considered TV Aerial Company's objection to not having been provided with the unedited footage of the engineers. There is no requirement in the Code that broadcasters must, if they intend to make allegations against an individual or organisation, provide them with the totality of evidence upon which allegations might be based, including material filmed for inclusion in the programme. In this case, it was Ofcom's view that TV Aerial Company had been given an appropriate and timely opportunity to respond to the allegations featured in the investigation. The allegations to be made were set out clearly and in detail in a letter sent to the company on 10 July 2017 which invited a response by 14 July 2017. This deadline was subsequently extended to 31 July 2017, during which time Mr Manning was provided with further information when he requested it to enable him to identify the engineers and properties in question. Mr Manning provided a detailed response to the allegations on 14 July 2017, which, in Ofcom's view was subsequently fairly reflected in the programme.

Ofcom's decision is therefore that there was no unfairness to TV Aerial Company in this regard.

- b) Ofcom next considered Mr Manning's complaint that his privacy was unwarrantably infringed in connection with the obtaining of material included in the programme because, despite declining to be interviewed, the programme makers “forced” an interview upon him in TV Aerial Company's car park.

In Ofcom's view, the individual's right to privacy has to be balanced against the competing right of the broadcaster to freedom of expression and the audience's right to receive ideas and information without undue interference. Neither right as such has precedence over the other and where there is a conflict between the two, it is necessary to intensely focus on the comparative importance of the specific rights. Any justification

for interfering with or restricting each right must be taken into account and any interference or restriction must be proportionate.

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

In addition to this rule, Section Eight (Privacy) of the Code contains "practices to be followed" by broadcasters when dealing with individuals or organisations participating in, or otherwise directly affected by, programmes, or in the making of programmes. Following these practices will not necessarily avoid a breach of Rule 8.1 and failure to follow these practices will only constitute a breach where it results in an unwarranted infringement of privacy.

We had particular regard to the following practices:

Practice 8.5 states:

"Any infringement of privacy in the making of a programme should be with the person's and/or organisation's consent or be otherwise warranted".

Practice 8.9 states:

"The means of obtaining material must be proportionate in all the circumstances and in particular to the subject matter of the programme".

Practice 8.11 states:

"Doorstepping for factual programmes should not take place unless a request for an interview has been refused or it has not been possible to request an interview, or there is good reason to believe that an investigation will be frustrated if the subject is approached openly, and it is warranted to doorstep. However, normally broadcasters may, without prior warning interview, film or record people in the news when in public places".

Ofcom considered whether Mr Manning's privacy was unwarrantably infringed in connection with the obtaining of material included in the programme relating to the interview which the programme makers attempted to obtain with Mr Manning in the car park. We considered that this constituted doorstepping, where the filming appears to have taken place without warning and, (as confirmed in the broadcaster's representations) his prior consent had not been given. Ofcom first considered whether it was warranted for the programme makers to doorstep Mr Manning in accordance with Practice 8.11.

Ofcom took into account the research undertaken and evidence gathered by the programme makers which preceded their decision to doorstep Mr Manning. We understood that the BBC had gathered evidence that raised serious concerns about TV Aerial Company and, in particular, its alleged encouragement of its engineers to upsell to clients. The programme makers sent Mr Manning a letter dated 10 July 2017, which informed him of their concerns and intention to include an investigation into the company in the programme *Watchdog* and invited him to respond by 14 July 2017.

We also examined the subsequent pre-broadcast exchanges between the programme makers and Mr Manning:

- On 14 July 2017, Mr Manning replied to the programme-maker's letter of 10 July, stating that he denied the allegations being made and asking for further information, including the unedited footage secretly filmed of the engineers in order to provide a full written response. Mr Manning said:

"It is our opinion that your episode is created for purely entertainment purposes – car crash TV, and you will manipulate any response and any interaction you may have had with our business to suit your ratings, offering biased and unfair portrayal. For this reason, we will not be interested in entertaining a face to face or telephone interview with yourselves and will keep all correspondence in writing".

- On 17 July 2017, the programme makers doorstepped Mr Manning in TV Aerial Company's car park.
- On 22 July 2017, Mr Manning wrote to the BBC to complain about the programme makers attendance at his business premises. He again requested a copy of the unedited footage of the engineers and stated: "We have responded to your written letter within the time frame you requested and have offered to provide a full response once we have all the facts/footage".
- In further correspondence, on 24, 26 and July 2017, the programme makers provided TV Aerial Company with further details in order that Mr Manning could identify the engineers and the appointments in question; explained that it did not release material which had not been broadcast; and, gave TV Aerial Company the deadline of 31 July 2017 to provide any further response to the claims the programme makers intended to make in the programme.
- On 28 July 2017, Mr Manning responded saying that the engineers could not remember the particular appointments but denied the allegations made against them. Mr Manning again requested a copy of the unedited footage of the engineers.
- On 29 July 2017, Mr Manning wrote a final time to the BBC and also to Ofcom, complaining that the programme makers had "...refused to provide full evidence of allegations made against our business, giving us no opportunity to investigate and provide a full written response...".

While we acknowledged that Mr Manning had provided the programme makers with a five-page statement in response to the allegations made, we also took account of the fact that Mr Manning argued that he could not provide a full response to the allegations made without being provided with a copy of the unedited footage of the engineers. However, as outlined above at head a) iii), there was no obligation on the broadcaster to provide this to TV Aerial Company.

Ofcom is not in a position to make findings of fact about the claims made. However, we considered that, based on the information that they had at the time, overall, the programme makers were entitled to conclude that the company's behaviour suggested

that Mr Manning had no intention of being interviewed and fully answering the allegations the programme makers wished to put to him. Given this and taking into account the seriousness of the concerns raised by the programme makers about TV Aerial Company, and, in particular the allegations of upselling, we considered that the attempted interviewing of Mr Manning was a key part of the investigation and that there was a genuine public interest in the programme's investigation of TV Aerial Company. It was therefore Ofcom's view that the programme makers were warranted in their decision to conduct a doorstep interview with Mr Manning and that the means of obtaining this material was proportionate in accordance with Practices 8.9 and 8.11.

Having reached this view, Ofcom next assessed the extent to which Mr Manning had a legitimate expectation of privacy in relation to the doorstep interview footage obtained of him by the programme makers. The Code's statement on the meaning of "legitimate expectation of privacy" makes clear that such an expectation:

"...will vary according to the place and nature of the information, activity or condition in question, the extent to which it is already in the public domain (if at all) and whether the individual concerned is already in the public eye. There may be circumstances where people can reasonably expect privacy even in a public place..."

We considered the nature of the material obtained and included in the programme (as outlined in detail above in the "Programme summary" section). Footage of Mr Manning was filmed in a car park outside TV Aerial Company's office. Mr Manning was shown refusing to answer the programme makers' questions as they followed him across the car park, and, having reached the office building, he was shown locking the programme makers out.

In considering whether Mr Manning had a legitimate expectation of privacy with respect to this footage, we took into account that: Mr Manning was filmed openly and was aware of the fact that he was being filmed; the footage was filmed in an outdoor car park to which the public had access; and, Mr Manning was questioned openly about TV Aerial Company's business practices, to which he gave no response. In these circumstances, we did not consider that the material recorded included any images or information that could reasonably be regarded as being sensitive or private to Mr Manning.

Taking all these factors into account, we considered that, on balance, Mr Manning did not have a legitimate expectation of privacy with regard to the material recorded of the doorstep interview and included in the programme.

Having come to this view, it was unnecessary for Ofcom to consider whether any infringement of Mr Manning's privacy was warranted in this regard.

- c) Ofcom next considered Mr Manning's complaint that his privacy was unwarrantably infringed in the programme as broadcast because despite declining to be interviewed, the programme makers "forced" an interview upon him in TV Aerial Company's car park and included this footage in the programme without his consent.

We had particular regard to the following practices:

Practice 8.4 states:

“Broadcasters should ensure that words, images or actions filmed or recorded in, or broadcast from, a public place, are not so private that prior consent is required before broadcast from the individual or organisation concerned, unless broadcasting without their consent is warranted”.

Practice 8.6 states:

“If the broadcast of a programme would infringe the privacy of a person or organisation, consent should be obtained before the relevant material is broadcast, unless the infringement of privacy is warranted”.

We assessed the extent to which Mr Manning had a legitimate expectation of privacy in relation to the broadcast of the material obtained through doorstepping. As stated above, the test applied by Ofcom as to whether a legitimate expectation of privacy arises is objective, fact specific and must always be considered in light of the circumstances in which the individual finds him or herself.

We considered the nature of the material included in the programme (as outlined in detail above in the “Programme summary” section). Footage of Mr Manning was filmed in a car park outside TV Aerial Company’s office. Mr Manning was shown refusing to answer the programme makers’ questions as they followed him across the car park, and, having reached the office building, he was shown locking the programme makers out.

In considering whether Mr Manning had a legitimate expectation of privacy with respect to the inclusion of the footage in *Watchdog*, we took into account that: Mr Manning was filmed openly and was aware of the fact that he was being filmed; the footage was filmed in an outdoor car park to which the public had access; and, Mr Manning was questioned openly about TV Aerial Company’s business practices, to which he gave no response. In these circumstances, we did not consider, from the footage of the doorstep interview broadcast in the programme, that this included any images or information that could reasonably be regarded as being sensitive or private to Mr Manning.

Taking all these factors into account, we considered that, on balance, Mr Manning did not have a legitimate expectation of privacy with regard to the broadcast of the material recorded at the doorstep interview.

Having come to this view, it was not necessary for Ofcom to consider whether any infringement of Mr Manning’s privacy was warranted.

Therefore, Ofcom’s decision is that there was no unwarranted infringement of Mr Manning’s privacy in the programme as broadcast in this regard.

Ofcom has not upheld Mr Manning’s complaint, made on his own behalf and on behalf of TV Aerial Company, of unjust or unfair treatment in the programme as broadcast, and of unwarranted infringement of privacy in connection with the obtaining of material included in the programme and in the programme as broadcast.

Not Upheld

Complaint by Mr Altaf Hussain, made on his behalf by Mr Adil Ghaffar *Jirga with Saleem Safi, Geo TV, 15 April 2017*

Summary

Ofcom's has not upheld this complaint made by Mr Altaf Hussain, made on his behalf by Mr Adil Ghaffar, of unjust or unfair treatment in the programme as broadcast.

The programme included an interview with Lord Nazir Ahmed, in which allegations that Mr Hussain was an "asset" of the British Government were made.

Ofcom's considered that, given the context of the programme, the comments relating to Mr Hussain being an "asset of Britain" would not have materially or adversely altered viewers' perceptions of him in a way that was unfair. In these circumstances, we found that material facts were not presented, omitted or disregarded in a way that resulted in unjust or unfair treatment to Mr Hussain in the programme as broadcast.

Programme summary

Geo TV is an Urdu language channel broadcast under an Ofcom licence held by Geo TV Limited.

On 15 April 2017, Geo TV broadcast a live edition of its weekly current affairs programme, *Jirga with Saleem Safi*, presented by Mr Saleem Safi ("the presenter"). As the programme was broadcast in Urdu, an English translation was obtained by Ofcom and provided to the complainant and the broadcaster for comment. Both parties' comments on the translation were then sent to the translator for assessment and, where appropriate, amendments were made to the translation. A revised and final version of the translation was then provided to the parties who were informed that Ofcom would use this translation for the purposes of deciding whether or not to entertain the complaint, and for any subsequent investigation.

During this episode, the presenter was joined by Lord Nazir Ahmed¹. The presenter asked Lord Ahmed about the complainant, Mr Hussain, who is the founder and leader of the Pakistani political party, the Muttahida Quami Movement ("MQM"). The presenter said: "Why is our [Pakistan's] Mr Altaf Hussain so precious to your government [the British Government]?" Lord Ahmed replied:

"He is not at all loved by our government. Perhaps you know that I have been putting forward questions about this in the [British] Parliament. Actually, this issue is not for the government. This is a police matter. And unless you offer evidence to the police [sentence not finished]. There are three major allegations [against Mr Hussain]: The first is incitement to violence, which he has always been doing through his speeches. Then there is the alleged murder of Dr Imran Farooq². And then there is a money laundering case".

¹ Lord Ahmed is a non-affiliated member of the House of Lords.

² Dr Imran Farooq was murdered outside his home in London on 16 September 2010. See: <http://news.met.police.uk/news/sixth-anniversary-of-the-murder-of-dr-imran-farooq-186204>

Lord Ahmed then explained why he thought that there had not been further progress made in bringing charges against those alleged to have been involved in killing Dr Farooq and money-laundering. Lord Ahmed said that the British police did not have sufficiently credible evidence about the money-laundering allegations to put before a court, and that Pakistan's Interior Ministry had complicated matters by trying to implicate India's foreign intelligence agency, the Research Analysis Wing ("RAW"). He said that, in his opinion, it was not in Britain's interest to ruin trade with India "...by exposing RAW, or defaming it". Lord Ahmed added that the lack of credible evidence was because:

"... [the Pakistani] Government and your ministers here declare that they have contacted Interpol ... But you [the Pakistani Government] never contacted Interpol and you never gave them the evidence. And when evidence was provided, it was not credible, and they [the British police] rejected it".

On the murder of Dr Farooq, Lord Ahmed said that British police investigations had been impeded by the Pakistani authorities and that, while the alleged killers were in Pakistan, "Scotland Yard" could not charge and get a conviction against them because it needed to "obtain evidence from them regarding who gave the orders, or were they self-motivated, or someone told them to do it, or they did it because of someone".

The presenter asked:

"But, it is like this: let us suppose that, in the matter of money laundering, RAW supported Altaf Hussain, as you said that their [i.e. MQM] top leaders confessed that they had relations with RAW and perhaps our [Pakistani] government made a technical mistake by wanting to link the matter of money laundering with RAW. But, we have always heard that rule of law is upheld in Britain and they do not let any country, or anything undermine it. But, from what you have said, we get the impression that, whether it is Scotland Yard or anyone else, they would not want to offend RAW or India, and that is why the matter of money laundering could not be resolved".

Lord Ahmed replied that: "...sometimes conspiracies originate from Islamabad...". By way of example, he recounted that the former UK Metropolitan Police Commissioner, Lord Blair, had told him that Scotland Yard's assistance in the investigation into the murder of the former Pakistani Prime Minister, Mrs Benazir Bhutto, was limited by the Pakistani Government to establishing through DNA tests if certain blood samples were hers. He said that an impression had been given that Scotland Yard had fully investigated the murder, but the results they achieved were limited because of the constraints that had been put on the investigation by the Pakistani Government. Lord Ahmed stated that:

"When you limit an investigation, you obtain limited results. I have full confidence in Scotland Yard still today. If you provide them with evidence and they do not act on it, only then I would lose confidence. But so far it hasn't happened".

This statement was further reflected in scrolling text which appeared on the screen, stating:

"Lord Nazir [i.e. Lord Ahmed] states: I am confident that if Pakistan Government provides the evidence, Scotland Yard would act against Altaf Hussain".

The presenter then asked:

"But the way you have confidence in them, the majority in Pakistan is confident that Altaf Hussain is an asset of Britain, of its Government, its establishment, and its agencies. Is this not the case? Do you have any doubts about it?"

Scrolling text said:

"Lord Nazir states: I suspect that Altaf Hussain is an asset of Britain".

Lord Ahmed replied:

"Brother Saleem, I want to make a confession. I too think that perhaps this is correct, because some people have clearly told this to me. This is because of the links which Altaf Hussain had with the Foreign Office through the intelligence services – things that happened in Karachi, that were delivered through Karachi. You know that we had interests in Afghanistan and all the arms and ammunitions for Afghanistan travelled to Afghanistan through Karachi. The stability in Karachi and cooperation inside Karachi was essential. It was essential to have political control over there. Perhaps, I am unable to confirm this, perhaps it is correct to say this, that they [MQM and Mr Hussain] provided this cooperation because of which they obtained a lot of facilities, which includes the protection that he receives these days. I can also tell you that when respected Benazir Bhutto came here [Pakistan], the Foreign Office summoned me, and it was said to me, 'Do not go to Pakistan because there will be an assault on Benazir. If you were with her, you too would be assaulted'. I suddenly said, 'Who would do it? Would Altaf do it?' Their top official said to me, 'He will not do it'. I said, 'How do you know?' He said, 'We summoned him here and told him, 'If you...' [interrupted by the presenter]"

Scrolling text said:

"Lord Nazir states: In Karachi, Altaf Hussain cooperated with NATO and, in exchange, obtained facilities in Britain. Lord Nazir states: When Benazir was travelling to Karachi, the Foreign Office summoned me and stated: Do not go to Pakistan with her because she would be attacked. I asked the British authorities if Altaf Hussain would attack her and they said: No, we had summoned him".

The presenter then asked Lord Ahmed who had warned him about not going to Pakistan, to which Lord Ahmed replied that the warning had not come from MI5 or MI6, but *"a British top official ... a top diplomat who summoned me and told me because I had relations with him"*.

Lord Ahmed recounted that he telephoned Mrs Bhutto and passed on the warning to her. The presenter asked:

"So, when you expressed concern [to the "top official"] that it could be Altaf Hussain, he said, 'No, it won't be from Altaf Hussain's side'".

Lord Ahmed replied:

"He said because we summoned him and told him that if he did something, it won't be – this is enough".

The presenter asked Lord Ahmed whether the diplomat had told him who was going to carry out the attack. Lord Ahmed replied that the diplomat did not tell him. He then said that Mrs Bhutto had told him to delay joining her in Pakistan.

The presenter asked:

"And when you might have spoken to your country's authorities about this, saying that there is an impression that you [the UK] protect Altaf Hussain and he gets so many facilities, there is an impression that he is your asset, what impression did you get from what the official of your [British] Government said about this? Is he really their asset?"

Scrolling text said:

"Lord Nazir states: British authorities state that Altaf Hussain is not an asset but a citizen".

Lord Ahmed said:

"No. You cannot read into the impressions of our officials from their faces; faces do not reveal what they say. They say that he is definitely not an asset. He initially obtained asylum and then he obtained his British passport. Now, because he is a British citizen, there are legal requirements about extraditing a British citizen which have not been fulfilled so far".

The presenter said:

"But you have been chasing them and pursuing it inside Parliament and outside. You just gave an example of how his party [MQM] cooperated in Karachi. Like us, are you convinced that he is being protected and, to some extent, he is their asset?"

Lord Ahmed said:

"Actually, Brother Saleem, I think that in this case many weaknesses have been shown by the Pakistan Government and its institutions. Cooperation has not been extended from this side. And, because of this, slowly and gradually, that man has [interrupted by the presenter]".

The presenter said:

"But, respected Lord, it relates to the asset of any country – all countries of the world similarly keep assets and the governments protect them in any case. Therefore, there is no use providing them with evidence and cooperating with them".

Lord Ahmed replied:

"No. You see, it is this kind of perception because of which this matter has not been resolved so far. If the evidence had been provided and if instead of granting access [to the British police] to them, they [the alleged killers of Dr Farooq] had been extradited to UK – I am referring to the two young men – if the evidence had been candidly shared [sentence unfinished]. I honestly think that sometimes, Pakistani Governments – whether it was the government of Pakistan People's Party or else – wanted to keep a sword

hanging over Altaf Hussain's head. Each time they were angry with him, each time he wanted to break away, you know, the Interior Minister used to go there and say to him: We have the two boys sitting there; do you want us to hand them over [to the British police]? This is my perception. Perhaps it is like this. Perhaps it is not".

Scrolling text said:

"Lord Nazir states: Various governments of Pakistan have not been serious in making Altaf Hussain face justice. They just want a sword to stay hanging over his head".

Following advertisements, the discussion turned to other matters and Mr Hussain was not referred to again in the programme.

Summary of the complaint and broadcaster's response

Mr Ghaffar complained that Mr Hussain was treated unjustly or unfairly in the programme as broadcast because Mr Hussain was accused of being a British "asset" who worked for the UK authorities and received "assistance for acts the UK Government want him to do". Mr Ghaffar said that the programme implied that Mr Hussain was a "traitor of Pakistan" and added that the allegations were malicious and had placed Mr Hussain in a "detrimental position". Mr Ghaffar said that the programme was part of a "campaign of abuse and defamation" mounted by Geo TV against Mr Hussain.

In response, Geo TV provided background and contextual information, which it described as "examples of a considerable number of very serious allegations against Mr Hussain and/or the MQM". It listed a series of Pakistani and British newspaper articles from 2010, 2013, 2016 and 2017, and referred to an item about Mr Hussain in a 2012 edition of the BBC's *Newsnight* programme, which it said, "clearly demonstrate that despite many serious criminal allegations (including being arrested for money laundering) and alleged incitement of violence in Pakistan whilst sitting in London, at no time have the British authorities prosecuted Mr Hussain". It said that, because of these and other examples it could mention, there was "a common impression within the Pakistani community in Pakistan and in the UK that Mr Hussain is somehow being given special treatment because, for example, of his alleged close connections with the UK authorities".

Geo TV said that the presenter's statement that: "...the majority in Pakistan is confident that Altaf Hussain is an asset of Britain, of its government, its establishment....", was fair comment. Its basis was: "Mr Hussain's background"; the background and contextual information it had provided by way of newspaper articles and the *Newsnight* programme and "the apparent reluctance of the British authorities to prosecute Mr Hussain after many allegations of serious crimes". It added that it was a commonly held view by most Pakistanis in Pakistan that Mr Hussain was an "asset of Britain". The broadcaster also said that Mr Ghaffar and Mr Hussain had failed to produce any evidence to substantiate that the statement was incorrect. It added that to find that the words were unfair would be to deny their clear context, the public interest in Mr Hussain, and "be wholly contrary to the right of freedom of speech and fair comment about a very controversial person".

Regarding the scrolling text line: "Lord Nazir states: I suspect that Altaf Hussain is an asset of Britain", Geo TV said that this was "Lord Ahmed's suspicion/allegation based on his own knowledge and [on] his conversation with someone at the Foreign Office". Referring again to freedom of speech and fair comment, the broadcaster added that: "As Lord [Ahmed] based

his suspicion on the conversations/events known to him, then he is entitled to his suspicion and we are entitled to report it".

Geo TV said that the presenter asked Lord Ahmed about the impression that Mr Hussain was a British asset and that he had replied, and a scrolling text line read: "*British authorities state that Altaf Hussain is not an asset but a citizen*". It said that this showed that an alternative view, one reflecting Mr Hussain's, was also given. Geo TV said that Mr Hussain owed allegiance to Britain as a British citizen and was, therefore, a British "asset". It said that, consequently, it was "illogical for Mr Hussain to say that it is unjust or unfair to say that he is an asset of Britain" and "ludicrous to suggest that it is unjust or unfair to say that a British subject may do what the UK Government may ask him to do".

For the above reasons, Geo TV concluded that the statements made about Mr Hussain being an "*asset of Britain*" were not unjust or unfair.

Geo TV said that the assertion that the comments implied that Mr Hussain was a "traitor" to Pakistan, that they were malicious, that they placed Mr Hussain in a detrimental position and that they were a campaign of abuse and defamation was "pure conjecture...without foundation" and "unevidenced" by Mr Ghaffar and Mr Hussain. It said that Mr Hussain could not be a traitor of Pakistan since he was British and, it understood, did not hold a Pakistani passport. It said that if it reported or commented on Mr Hussain, it was because of news events, not malice.

Geo TV said that Mr Hussain's complaint was an attempt at stopping free and proper reporting of him and MQM and made for political purposes.

Ofcom's initial Preliminary View

Ofcom prepared a Preliminary View that Mr Hussain's complaint should be upheld. In summary, Ofcom considered that the comments made about Mr Hussain being an "asset" amounted to significant allegations which, in the way they were presented, had the clear potential to materially and adversely affect viewers' opinions of him unfairly. We also considered that the broadcaster was obliged to provide Mr Hussain with a timely and appropriate opportunity to respond to the significant allegations. Its failure to do so was unfair to Mr Hussain.

Both parties were given the opportunity to make representations on the initial Preliminary View. Geo TV submitted representations which are summarised below. The complainant agreed with the Preliminary View that the complaint should be upheld and had no further representations to make.

Geo TV's representations

Geo TV said that it disagreed with Ofcom's initial Preliminary View. It said that Mr Hussain was a well-known figure in Pakistani politics and added that viewers of this programme would have been British Pakistanis with an understanding of Urdu and an interest in Pakistani politics. It said that "the commonly held view (rightly or wrongly) of the majority of [these] viewers in the UK is that it was fair comment and/or correct to say that Mr Hussain is an 'asset of Britain'". It said that the use of the word 'asset' did not automatically give rise to the interpretation given by Ofcom, but that the word 'asset' was used by the presenter because "the Pakistani viewers in the UK already held this view".

Geo TV said that Ofcom's initial Preliminary View that there were significant allegations in the programme about Mr Hussain that had the potential to materially and adversely affect viewers' opinions of him unfairly assumed that viewers already had a positive opinion of Mr Hussain and that this would be adversely affected. It said that this assumption could not be reasonably made in the light of the "irrefutable and numerous relevant examples of the very serious and/or criminal allegations against Mr Hussain to evidence [his] very negative reputation", which included money laundering and involvement in murder³. It added that it was therefore incorrect for Ofcom to find that the programme materially or adversely affected viewers' opinions of Mr Hussain, or that it had the potential to do so, "as he already ha[d] a negative reputation and ha[d] been a very controversial figure for over 20 years".

Geo TV also referred to the *Newsnight* programme broadcast of 10 July 2012⁴. The programme discussed Mr Hussain's alleged involvement in incitement to violence, the murder of Dr Farooq and money laundering. During the programme, the reporter said:

"For 20 years, Pakistani leaders have asked London to control Altaf Hussain. The police are investigating, but what about the government? This is Britain's deputy high commissioner to Pakistan, paying Altaf Hussain a visit in North London [shows the two men seated, in discussion]. And, the MQM says that whenever it needs British visas, the Home Office issues them almost without exception. So why does Britain keep its doors open to the MQM in this way? ...Why do British officials, so keen to talk about promoting democracy in Pakistan, deal with a party [MQM] that privately they say uses violence to achieve its objectives?"

The broadcaster said that *Newsnight* had referred to a letter, from which it quoted, that it said was sent from Mr Hussain to the then British Prime Minister, Tony Blair. *Newsnight* had said that it had established that the letter was authentic, sent weeks after the terrorist attacks of 11 September 2001, offering intelligence on Jihadis. Also in the programme, an interviewee, the New York Times' Pakistan correspondent, described MQM's reputation in Pakistan as "complicated and controversial" and commented that Mr Hussain's leadership of the party from London "offers Britain some degree of influence in Pakistan", adding that:

³ Geo TV provided Ofcom with examples of newspaper online articles including:

"Altaf Hussain, the notorious MQM leader who swapped Pakistan for London", The Guardian, 29 July 2013. See: <https://www.theguardian.com/world/2013/jul/29/altaf-hussain-mqm-leader-pakistan-london>

"Two Pakistani hitmen confess to killing of Imran Farooq in London", The Telegraph, 24 January 2016. See: <http://www.telegraph.co.uk/news/worldnews/asia/pakistan/12118620/Two-Pakistani-hitmen-confess-to-killing-of-Imran-Farooq-in-London.html>

"London-based leader prompts violence and detentions in Pakistan", The Guardian, 23 August 2016. See: <https://www.theguardian.com/world/2016/aug/23/pakistan-crackdown-mqm-party-leader-altaf-hussain-speech-leads-to-violence>

"UK says Altaf Hussain's 'disband ISI' letter is authentic", The News International, 11 July 2013. See: <https://www.thenews.com.pk/archive/print/631651-uk-says-altaf-hussain%E2%80%99s-%E2%80%98disband-isi%E2%80%99-letter-is-authentic>

⁴ Geo TV referred Ofcom to this extract of the broadcast: <https://www.youtube.com/watch?v=KECxlpRtiMM>

“the MQM has played very heavily over the years on the idea that it presents a bulwark against Islamic extremism in [Karachi]”.

Geo TV also said that that the scrolling text: *“British authorities’ state that Altaf Hussain is not an asset but a citizen...”* offered the most balance reasonably possible, given the facts and circumstances: i.e. a live, unscripted broadcast from Pakistan.

With regard to Ofcom's view that Mr Hussain should have been given an opportunity to respond, Geo TV said, in summary, that the Lahore High Court had banned Mr Hussain's speeches, images and statements from appearing on both print and broadcast media. Geo TV said that as the programme was live and broadcast “out of Pakistan”, the programme could not legally carry any statement from Mr Hussain, as to do so would be contempt of court. Geo TV also said that in such circumstances, where a broadcaster in the UK broadcasts a live or recorded programme from Pakistan, it was wholly reasonable and fair that it respects and adheres to the Pakistani court order in the UK “as to not do so may render Geo UK (and/or Geo Pakistan) liable to contempt of court”.

In concluding, Geo TV said that for all the above reasons, it believed that the basis for Ofcom's initial Preliminary View to uphold the complaint was incorrect and that Mr Hussain's reputation was not adversely or materially affected by the programme.

Ofcom's revised Preliminary View

Having carefully considered Geo TV's representations on the initial Preliminary View, Ofcom concluded that that the further points raised by the broadcaster in its representations merited Ofcom's reconsideration of its initial Preliminary View. After careful consideration of all the factors in this case, Ofcom came to the revised Preliminary View that the complaint should not be upheld. Both the complainant and the broadcaster were given the opportunity to make representations on this revised Preliminary View, but neither chose to do so.

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 unjust or unfair treatment and unwarranted infringement of privacy in, or in connection with the obtaining of material included in, programmes in such services.

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

In reaching this decision, we carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast, a translated transcript of it and both parties' written submissions. Ofcom also took account of the representations made by the broadcaster in response to being given the opportunity to comment on Ofcom's initial Preliminary View.

When considering complaints of unjust or unfair treatment, Ofcom has regard to whether the broadcaster's actions ensured that the programme as broadcast avoided unjust or unfair

treatment of individuals and organisations, as set out in Rule 7.1 of Ofcom's Broadcasting Code ("the Code"). In addition to this rule, Section Seven (Fairness) of the Code contains "practices to be followed" by broadcasters when dealing with individuals or organisations participating in, or otherwise directly affected by, programmes, or in the making of programmes. Following these practices will not necessarily avoid a breach of Rule 7.1 and failure to follow these practices will only constitute a breach where it results in unfairness to an individual or organisation in the programme.

In assessing whether Mr Hussain had been treated unjustly or unfairly, we had particular regard to Practice 7.9, which states:

"Before broadcasting a factual programme..., 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...".

We also had regard to Practice 7.11, which states:

"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".

Ofcom recognises the broadcaster's right to freedom of expression and the public interest in allowing them to broadcast programmes on matters of interest to viewers freely. However, in presenting material in programmes, reasonable care must be taken by broadcasters not to do so in a manner that causes unfairness to people or organisations in programmes. Whether a broadcaster has taken reasonable care to present material facts in a way that is not unfair to an individual or organisation will depend on all the particular facts and circumstances of the cases including, for example, the seriousness of any allegations and the context within which they are made.

In considering this case, we began by examining the overall background context in which the programme was broadcast. We took into account that the complainant appeared to be a well-known and controversial political figure who, prior to the broadcast of the programme, had already been the subject of considerable media and public attention. In particular, the relationship between the British Government, Mr Hussain, and MQM appeared to have been the subject of much scrutiny and debate. In an article published by The Guardian newspaper in July 2013⁵, the nature of this relationship was discussed by reference to information obtained under the Freedom of Information Act 2000. Similarly, we took into account that the *Newsnight* programme broadcast on 10 July 2012 made reference to the relationship between the British Government, Mr Hussain, and MQM, and asked: "[s]o why does Britain keep its doors open to the MQM in this way? ...Why do British officials, so keen to talk about promoting democracy in Pakistan, deal with a party [MQM] that privately they say uses violence to achieve its objectives?". This programme also referred to the information which had been obtained under the Act and included commentary that Mr Hussain's leadership of the party from London "offers Britain some degree of influence in Pakistan".

⁵ "Altaf Hussain, the notorious MQM leader who swapped Pakistan for London", The Guardian, 29 July 2013. See: <https://www.theguardian.com/world/2013/jul/29/altaf-hussain-mqm-leader-pakistan-london>

It was in this context that Ofcom examined the statements that were made in the programme by the presenter and Lord Ahmed, in relation to the complaint that Mr Hussain was unfairly described as being an *"asset of Britain"*.

During the course of the programme, the presenter said to Lord Ahmed: *"...the majority of Pakistan is confident that Altaf Hussain is an asset of Britain... Do you have any doubts about it?"* Lord Ahmed replied, *"I too think that perhaps this is correct,"* before explaining his reasons for holding that view. In particular, Lord Ahmed referred to the *"links which Altaf Hussain had with the Foreign Office through the intelligence services"* and that: *"...we had interests in Afghanistan and all the arms and ammunitions [which] travelled to Afghanistan through Karachi. The stability in Karachi and cooperation inside Karachi was essential. It was essential to have political control there. Perhaps, I am unable to confirm this, perhaps it is correct to say this, that they [i.e. MQM and Altaf Hussain] provided this cooperation because of which they obtained a lot of facilities, which includes the protection that he receives these days"*. Lord Ahmed went on to say that a *"top"* official within the British Foreign and Commonwealth Office (*"FCO"*) had told him that there was likely to be an assault on the former Pakistani Prime Minister, Mrs Benazir Bhutto, but that *"[Altaf Hussain] will not do it"* because he had been *"summoned...and told...that if he did something, it won't be – this is enough"*. Scrolling text which appeared on screen stated that: *"Lord Nazir states: I suspect that Altaf Hussain is an asset of Britain"* and that *"Lord Nazir states: In Karachi, Altaf Hussain cooperated with NATO and, in exchange, obtained facilities in Britain"*.

Ofcom also took into account the other statements which were included in the broadcast programme as a whole. In particular, the opening remarks in the programme were made in response to the presenter's comment: *"[w]hy is our Mr Altaf Hussain so precious to your government [i.e. the British Government]?"*. Lord Ahmed replied that *"[h]e is not at all loved by our government"*. We also took into account that, later in the programme, where the presenter commented that *"...there is an impression that he is your [i.e. the British Government's] asset, what impression did you get from what the official of your government said about this? Is he really their asset?"*, to which Lord Ahmed responded *"[t]hey [the British Government] say he is definitely not an asset...he is a British citizen, there are legal requirements about extraditing a British citizen which have not been fulfilled so far"*. This statement was further reflected in scrolling text which stated: *"Lord Nazir states: British authorities state that Altaf Hussain is not an asset but a citizen"*.

Ofcom also took into account the statements made by Lord Ahmed regarding the *"three major allegations"* against Mr Hussain (namely, *"incitement to violence"*, *"the alleged murder of Dr Imran Farooq"*, and *"money laundering"*), and the reasons why the British authorities had not progressed further with their investigation in to these matters. Lord Ahmed it made clear that, in his view, the investigation had been hampered by a lack of evidence from the Pakistani authorities, but that, were that information to be forthcoming, he had *"full confidence"* that Scotland Yard would *"act upon it"*. This view was reflected in scrolling text which stated: *"Lord Nazir states: I am confident that if Pakistan Government provided the evidence, Scotland Yard would act against Altaf Hussain"*.

In our view, were we to consider the use of the words *"asset of Britain"* in isolation, without taking account of any of the surrounding context set out above, it is possible that viewers may have gained an impression that there was a confidential relationship between the complainant and the FCO. In this context, we mean a relationship in which each party participated to their mutual benefit, and where Mr Hussain had received special treatment (or *"protection"*) from the British Government which he should not have received. Such a

relationship might reasonably have been understood by viewers as being untoward, particularly given the lack of transparency surrounding it.

However, in order to consider whether there has been any unjust or unfair treatment under Rule 7.1 of the Code, it is fundamental that Ofcom take into account all of the relevant context. In this case, the references included in the programme to Mr Hussain being "an asset of Britain" were, in Ofcom's view, contextualised. As set out above, there had already been considerable media scrutiny and debate in the public domain about Mr Hussain's relationship with the British Government. Further, we took account that the statements made by Lord Ahmed about Mr Hussain being an "*asset of Britain*" appeared to be caveated, where he used phrases such as "*I too think that perhaps this is correct...*", and "*[p]erhaps, I am unable to confirm this, perhaps it is correct to say this*". In our view, these statements were likely to have given the impression that Lord Ahmed was expressing his own personal view, rather than that of the British Government. We also considered that the views said to be those of the British Government were clearly made, namely that Mr Hussain was "*not at all loved by our government*" and was "*definitely not an asset,*" but a person who has been conferred the rights of a British citizen, which provided counter-balance to Lord Ahmed's views. Ofcom also considered that any suggestion that Mr Hussain was the recipient of special "protection" from the British Government, or its agencies, must be set in the context of the other statements contained in the programme, namely, that if sufficient evidence was forthcoming from the Pakistani Government, Scotland Yard would "*act against*" Mr Hussain.

Given the overall context of the broadcast programme, as set out above, Ofcom's view is that the reference to Mr Hussain being an "*asset of Britain*" was unlikely to have materially or adversely affected viewers' existing perceptions of him in a way that was unfair. On that basis, we do not consider that material facts were presented, omitted or disregarded in a way that resulted in unfairness to Mr Hussain. Further, it is our view that, given the particular context, the statements being made in the programme did not amount to significant allegations being made against Mr Hussain, such that he should have been given an opportunity to respond.

Therefore, in the particular circumstances of this case, and taking account of all the relevant contextual factors, Ofcom considered that Mr Hussain was not treated unjustly or unfairly in the programme as broadcast.

Ofcom has not upheld this complaint by Mr Hussain, made on his behalf by Mr Ghaffar, of unjust or unfair treatment in the programme as broadcast.

Investigations Not in Breach

Here is an alphabetical list of investigations that Ofcom has completed between 16 and 29 April 2018 and decided that the broadcaster or service provider did not breach Ofcom's codes, rules, licence conditions or other regulatory requirements.

Investigations conducted under the Procedures for investigating breaches of content standards for television and radio

Programme	Service	Transmission date	Categories
Paddington 2's sponsorship of Mornings on Nick Junior	Nick Junior	21/10/2017	Sponsorship credits

For more information about how Ofcom conducts investigations about content standards on television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

Complaints assessed, not investigated

Here is an alphabetical list of complaints that, after careful assessment, Ofcom has decided not to pursue between 16 and 29 April 2018 because they did not raise issues warranting investigation.

Complaints assessed under the Procedures for investigating breaches of content standards for television and radio

Programme	Service	Transmission Date	Categories	Number of complaints
Stockport County Live	104.9 Imagine FM	17/04/2018	Offensive language	1
The Yorkshire Vet	5Select	05/04/2018	Animal welfare	2
The Yorkshire Vet	5Select	11/04/2018	Animal welfare	1
Thieves & Thugs: Caught on Camera	5STAR	20/04/2018	Offensive language	1
Competitions	Capital FM	22/01/2018	Competitions	1
Westworld (trailer)	Challenge	11/04/2018	Animal welfare	1
Channel 4 News	Channel 4	14/03/2018	Due impartiality/bias	2
Channel 4 News	Channel 4	20/03/2018	Due impartiality/bias	1
Channel 4 News	Channel 4	26/03/2018	Due impartiality/bias	1
Channel 4 News	Channel 4	28/03/2018	Crime and disorder	1
Channel 4 News	Channel 4	30/03/2018	Due impartiality/bias	1
Channel 4 News	Channel 4	01/04/2018	Due accuracy	1
Channel 4 News	Channel 4	17/04/2018	Generally accepted standards	1
Channel 4 News	Channel 4	18/04/2018	Race discrimination/offence	1
Dispatches: Britain's Diesel Scandal	Channel 4	09/04/2018	Due impartiality/bias	1
Dispatches: Who Speaks for British Muslims?	Channel 4	26/03/2018	Hatred and abuse	1
Formula One: Chinese Grand Prix – Highlights	Channel 4	15/04/2018	Race discrimination/offence	1
Gogglebox	Channel 4	09/04/2018	Animal welfare	1
Gogglebox	Channel 4	13/04/2018	Sexual material	1
Posh Pawnbrokers	Channel 4	22/03/2018	Promotion of products/services	1
Rob Beckett's Playing for Time	Channel 4	06/04/2018	Generally accepted standards	1
Supernatural (trailer)	Channel 4	17/04/2018	Generally accepted standards	1

Programme	Service	Transmission Date	Categories	Number of complaints
The Island with Bear Grylls	Channel 4	02/04/2018	Generally accepted standards	2
The Island with Bear Grylls	Channel 4	16/04/2018	Animal welfare	1
Ben and Holly's Little Kingdom	Channel 5	12/04/2018	Harm	1
Housing Yorkshire: Somewhere Called Home	Channel 5	04/04/2018	Materially misleading	1
Police Interceptors	Channel 5	16/04/2018	Generally accepted standards	2
The Wright Stuff	Channel 5	06/03/2018	Due impartiality/bias	1
Scrubs	Comedy Central Extra	09/04/2018	Offensive language	1
Supernatural (trailer)	E4	17/04/2018	Generally accepted standards	1
The Big Bang Theory	E4	31/03/2018	Generally accepted standards	1
Programming	Gaydio	Various	Competitions	1
Ed and Gemma	Heart (West Midlands)	23/04/2018	Generally accepted standards	1
Breakfast Show	Hot Radio (Bournemouth)	13/04/2018	Scheduling	1
100 Years Younger	ITV	27/02/2018	Generally accepted standards	1
Benidorm	ITV	18/04/2018	Sexual orientation discrimination/offence	6
Britain's Got More Talent	ITV	15/04/2018	Generally accepted standards	1
Britain's Got Talent	ITV	14/04/2018	Dangerous behaviour	3
Britain's Got Talent	ITV	14/04/2018	Disability discrimination/offence	6
Britain's Got Talent	ITV	14/04/2018	Generally accepted standards	4
Britain's Got Talent	ITV	14/04/2018	Nudity	5
Britain's Got Talent	ITV	21/04/2018	Generally accepted standards	5
Britain's Got Talent	ITV	21/04/2018	Offensive language	1
Celebrity Catchphrase	ITV	25/03/2018	Gender discrimination/offence	1
Competitions	ITV	25/04/2018	Competitions	1
Coronation Street	ITV	01/01/2018	Generally accepted standards	1
Coronation Street	ITV	16/03/2018	Generally accepted standards	183

Programme	Service	Transmission Date	Categories	Number of complaints
Coronation Street	ITV	19/03/2018	Generally accepted standards	31
Coronation Street	ITV	20/03/2018	Generally accepted standards	1
Coronation Street	ITV	04/04/2018	Sexual material	1
Coronation Street	ITV	06/04/2018	Race discrimination/offence	2
Coronation Street	ITV	06/04/2018	Suicide and self harm	4
Coronation Street	ITV	13/04/2018	Gender discrimination/offence	1
Coronation Street	ITV	13/04/2018	Sexual material	1
Coronation Street	ITV	16/04/2018	Sexual material	5
Coronation Street	ITV	Various	Violence	1
Emmerdale	ITV	01/01/2018	Generally accepted standards	1
Emmerdale	ITV	10/04/2018	Scheduling	2
Emmerdale	ITV	10/04/2018	Sexual material	1
Emmerdale	ITV	11/04/2018	Generally accepted standards	1
Emmerdale	ITV	16/04/2018	Materially misleading	4
Four Days That Shook Britain	ITV	15/03/2018	Generally accepted standards	1
Good Morning Britain	ITV	03/04/2018	Generally accepted standards	1
Good Morning Britain	ITV	18/04/2018	Offensive language	1
Harry Hill's Alien Fun Capsule	ITV	14/04/2018	Disability discrimination/offence	2
ITV News	ITV	29/03/2018	Due impartiality/bias	1
ITV News	ITV	03/04/2018	Due impartiality/bias	1
ITV News	ITV	04/04/2018	Due accuracy	1
ITV News	ITV	09/04/2018	Due impartiality/bias	1
ITV News	ITV	09/04/2018	Generally accepted standards	1
ITV News	ITV	11/04/2018	Generally accepted standards	1
ITV News	ITV	13/04/2018	Offensive language	1
ITV News	ITV	16/04/2018	Generally accepted standards	1
Marcella	ITV	06/04/2018	Violence	1
Party Election Broadcast by the Liberal Democrats	ITV	11/04/2018	Elections/Referendums	1
Racing: Grand National Festival	ITV	14/04/2018	Race discrimination/offence	2
The Durrells	ITV	08/04/2018	Offensive language	2

Programme	Service	Transmission Date	Categories	Number of complaints
The Jeremy Kyle Show	ITV	06/04/2018	Sexual material	1
The Keith and Paddy Picture Show (trailer)	ITV	18/04/2018	Offensive language	1
This Morning	ITV	26/03/2018	Generally accepted standards	1
This Morning	ITV	12/04/2018	Generally accepted standards	30
This Morning	ITV	17/04/2018	Under 18s in programmes	1
This Morning	ITV	18/04/2018	Sexual orientation discrimination/offence	1
This Time Next Year	ITV	10/04/2018	Generally accepted standards	1
What Would Your Kid Do?	ITV	06/03/2018	Generally accepted standards	1
Who Wants to be a Millionaire? (trailer)	ITV	13/04/2018	Dangerous behaviour	1
North West Tonight	ITV Granada	03/04/2018	Due impartiality/bias	1
Britain's Got More Talent	ITV2	14/04/2018	Generally accepted standards	2
Britain's Got More Talent	ITV2	15/04/2018	Generally accepted standards	1
Britain's Got More Talent	ITV2	21/04/2018	Disability discrimination/offence	2
Celebrity Juice	ITV2	12/04/2018	Offensive language	1
Celebrity Juice	ITV2	14/04/2018	Promotion of products/services	1
Celebrity Juice	ITV2	19/04/2018	Generally accepted standards	2
Celebrity Juice	ITV2	21/04/2018	Generally accepted standards	3
Celebrity Juice	ITV2	25/04/2018	Generally accepted standards	1
Coronation Street	ITV2	18/03/2018	Generally accepted standards	1
Coronation Street	ITV2	02/04/2018	Scheduling	1
Family Guy	ITV2	12/04/2018	Generally accepted standards	1
Dinner Date	ITVBe	18/04/2018	Animal welfare	1
The Only Way Is Essex	ITVBe	25/03/2018	Generally accepted standards	21
The Only Way Is Essex	ITVBe	01/04/2018	Generally accepted standards	34
The Only Way is Essex	ITVBe	15/04/2018	Crime and disorder	1
Jack 2 Music Play	Jack FM 2 (Oxford)	16/04/2018	Offensive language	1

Programme	Service	Transmission Date	Categories	Number of complaints
OS 2018 Snowboard Slopestyle Final	Kanal 5 (Sweden)	11/02/2018	Advertising placement	1
Wahlgrens Värld	Kanal 5 (Sweden)	22/02/2018	Undue prominence	1
Wahlgrens Värld	Kanal 5 (Sweden)	08/03/2018	Undue prominence	1
Wahlgrens Värld	Kanal 5 (Sweden)	05/04/2018	Undue prominence	1
Shauna's Country	Keep it Country	20/04/2018	Offensive language	1
Botched	Kanal 11 (Sweden)	16/04/2018	Gender discrimination/offence	1
Botched	Kanal 11 (Sweden)	19/04/2018	Gender discrimination/offence	1
Botched	Kanal 11 (Sweden)	20/04/2018	Gender discrimination/offence	1
The Breakfast Show with Gemma, Matt and Mike	Key 103	03/04/2018	Competitions	2
Kiss Me TV	Kiss Me TV	Various	Teleshopping	1
5 New Drops This Week on KISS	Kiss TV	05/04/2018	Sexual material	1
James O'Brien	LBC 97.3 FM	28/03/2018	Age discrimination/offence	1
James O'Brien	LBC 97.3 FM	10/04/2018	Generally accepted standards	1
James O'Brien	LBC 97.3 FM	16/04/2018	Generally accepted standards	1
James O'Brien	LBC 97.3 FM	17/04/2018	Generally accepted standards	1
Maajid Nawaz	LBC 97.3 FM	31/03/2018	Due impartiality/bias	1
Maajid Nawaz	LBC 97.3 FM	01/04/2018	Due impartiality/bias	1
News	LBC 97.3 FM	12/04/2018	Due accuracy	1
Nick Ferrari	LBC 97.3 FM	19/03/2018	Generally accepted standards	1
Nick Ferrari	LBC 97.3 FM	27/03/2018	Materially misleading	1
Nick Ferrari	LBC 97.3 FM	03/04/2018	Due impartiality/bias	1
Nick Ferrari	LBC 97.3 FM	18/04/2018	Generally accepted standards	1
Nigel Farage	LBC 97.3 FM	13/04/2018	Generally accepted standards	1
AncestryDNA advertisement	n/a	15/04/2018	Political advertising	1
Talking Tom and Friends	POP	09/04/2018	Generally accepted standards	1
All Out Politics	Sky News	28/03/2018	Due impartiality/bias	1
Press Preview	Sky News	31/03/2018	Due impartiality/bias	1
Press Preview	Sky News	01/04/2018	Materially misleading	1
Press Preview	Sky News	08/04/2018	Due accuracy	1

Programme	Service	Transmission Date	Categories	Number of complaints
Press Preview	Sky News	09/04/2018	Generally accepted standards	1
Sky News	Sky News	07/02/2018	Due accuracy	1
Sky News	Sky News	03/04/2018	Due impartiality/bias	1
Sky News	Sky News	10/04/2018	Generally accepted standards	2
Sky News	Sky News	13/04/2018	Due impartiality/bias	2
Sky News	Sky News	16/04/2018	Other	1
Sky News	Sky News	17/04/2018	Due impartiality/bias	1
Sky News Special Report: The Impact of 'Rivers of Blood'	Sky News	20/04/2018	Due impartiality/bias	29
Sunrise	Sky News	13/04/2018	Due impartiality/bias	1
The Papers	Sky News	24/03/2018	Due impartiality/bias	1
The Economist advertisement	Sky Sports	07/04/2018	Political advertising	1
Anthony Joshua v Thomas Parker	Sky Sports Box Office	31/03/2018	Offensive language	1
Football League: Cardiff City v Wolverhampton Wanderers	Sky Sports Football	06/04/2018	Offensive language	1
Sky Sports News	Sky Sports News	27/03/2018	Advertising/editorial distinction	1
Forever	Sky1	05/03/2018	Violence	1
News	STV / STV2	Various	Due impartiality/bias	1
Steg In The Morning	Sunny Govan Radio	22/03/2018	Generally accepted standards	1
Cheaters	TV3 (Sweden)	23/02/2018	Generally accepted standards	1
Svenska Hollywoodfruar	TV3 (Sweden)	12/03/2018	Race discrimination/offence	1
Not Another Teen Movie	TV6 (Sweden)	14/04/2018	Nudity	1
Supernanny	W	12/04/2018	Under 18s in programmes	1

For more information about how Ofcom assesses complaints about content standards on television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

Complaints assessed under the Procedures for investigating breaches of content standards on BBC broadcasting services and BBC ODPS.

Programme	Service	Transmission Date	Categories	Number of complaints
BBC Breakfast	BBC 1	08/12/2017	Materially misleading	1
BBC News	BBC 1	29/01/2018	Due impartiality/bias	1
EastEnders	BBC 1	20/11/2017	Animal welfare	1
Panorama: A Prescription for Murder?	BBC 1	26/07/2017	Due impartiality/bias	1
The Mash Report	BBC 2	01/02/2018	Generally accepted standards	1
Scottish Traditional Music Awards 'Na Trads'	BBC Alba	02/12/2017	Due impartiality/bias	1
Feedback	BBC Radio 4	20/08/2017	Due impartiality/bias	1
The News Quiz	BBC Radio 4	06/01/2018	Due impartiality/bias	1
5 Live Breakfast	BBC Radio 5 Live	26/01/2018	Sexual orientation discrimination/offence	1

For more information about how Ofcom assesses complaints about content standards on BBC broadcasting services and BBC ODPS, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0002/100100/Procedures-for-investigating-breaches-of-content-standards-on-BBC-broadcasting-services-and-BBC-on-demand-programme-services.pdf

Complaints assessed under the General Procedures for investigating breaches of broadcast licences

Here is an alphabetical list of complaints that, after careful assessment, Ofcom has decided not to pursue between 16 and 29 April 2018 because they did not raise issues warranting investigation.

Licensee	Licensed service	Categories
Columbia Pictures Corporation Ltd	Sony Crime Channel	Television Access Services
Columbia Pictures Corporation Ltd	Sony Movie Channel	Television Access Services
NBC Universal Global Networks UK Limited	Movies 24	Television Access Services
Sky UK Limited	Sky Channels	Television Access Services

For more information about how Ofcom assesses complaints about broadcast licences, go to:
https://www.ofcom.org.uk/data/assets/pdf_file/0019/31942/general-procedures.pdf

Complaints assessed under the Procedures for investigating breaches of rules for On Demand programme services

Here is an alphabetical list of complaints that, after careful assessment, Ofcom has decided not to pursue between 16 and 29 April 2018 because they did not raise issues warranting investigation.

Service provider	Categories	Number of complaints
Sky Select	Prohibited material	1

For more information about how Ofcom assesses complaints about on demand services, go to: https://www.ofcom.org.uk/data/assets/pdf_file/0033/74499/procedures-investigating-breaches.pdf

Complaints outside of remit

Here are alphabetical lists of complaints received by Ofcom that fell outside of our remit. This is because Ofcom is not responsible for regulating the issue complained about. For example, the complaints were about the content of television, radio or on demand adverts or an on demand service that does not fall within the scope of regulation.

For more information about what Ofcom's rules cover, go to: <https://www.ofcom.org.uk/tv-radio-and-on-demand/how-to-report-a-complaint/what-does-ofcom-cover>

Complaints about television or radio programmes

For more information about how Ofcom assesses complaints about television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

Programme	Service	Transmission Date	Categories	Number of complaints
Advertisement	Adult Swim	16/04/2018	Advertising content	1
N/A	Amazon Video	24/04/2018	Other	1
Programming	Amazon Video	12/03/2018	Access services	1
Programming	Amazon Video	01/04/2018	Other	1
Programming	Cheese FM	19/04/2018	Outside of remit	3
Programming	Cheese FM	25/04/2018	Outside of remit	1
Advertisement	Dream 100	28/03/2018	Materially misleading	1
Advertisement	ITV	16/04/2018	Advertising content	1
Programming	ITV Hub	Various	Other	1
Wahlgrens Värld	Kanal 5 (Sweden)	15/02/2018	Outside of remit	1
90 Days to Wed	Kanal 11 (Sweden)	25/02/2018	Outside of remit	1
Education Anglaise	London Live	26/04/2018	Outside of remit	1
Big Mouth	Netflix	04/04/2018	Sexual material	1
Take Your Pills	Netflix	30/03/2018	Drugs, smoking, solvents or alcohol	1
F1	NOW TV	25/03/2018	Other	1
Game of Thrones	NOW TV	01/08/2017	Other	1
Advertisement	Sony Mix	17/04/2018	Advertising content	1
George Galloway: "A military grade nerve agent? The only dead beings are a cat and two guinea pigs!"	talkRADIO (YouTube)	21/04/2018	Hatred and abuse	1
Advokaten	TV3 (Sweden)	13/02/2018	Outside of remit	1
Programming	TV99	Various	Outside of remit	1

BBC First

The BBC Royal Charter and Agreement was published in December 2016, which made Ofcom the independent regulator of the BBC.

Under the BBC Agreement, Ofcom can normally only consider complaints about BBC programmes where the complainant has already complained to the BBC and the BBC has reached its final decision (the 'BBC First' approach).

The complaints in this table had been made to Ofcom before completing the BBC's complaints process.

Complaints about BBC television, radio or on demand programmes

Programme	Service	Transmission or Accessed Date	Categories	Number of Complaints
BBC News	BBC 1	09/01/2018	Gender discrimination/offence	1
BBC News	BBC 1	09/02/2018	Due impartiality/bias	1
BBC News	BBC 1	30/03/2018	Due impartiality/bias	1
BBC News	BBC 1	12/04/2018	Generally accepted standards	1
BBC News	BBC 1	24/04/2018	Privacy	1
BBC News at Six	BBC 1	07/02/2018	Due accuracy	1
Countryfile	BBC 1	15/04/2018	Due impartiality/bias	1
Ordeal by Innocence	BBC 1	07/04/2018	Offensive language	1
Question Time	BBC 1	19/04/2018	Due impartiality/bias	1
Saturday Kitchen	BBC 1	14/04/2018	Generally accepted standards	1
Still Game	BBC 1	29/03/2018	Generally accepted standards	1
The Button	BBC 1	20/04/2018	Competitions	1
This Week	BBC 1	19/04/2018	Due impartiality/bias	1
Reporting Scotland	BBC 1 Scotland	09/01/2018	Due accuracy	1
Reporting Scotland	BBC 1 Scotland	16/02/2018	Due impartiality/bias	1
Cunk on Britain	BBC 2	24/04/2018	Generally accepted standards	1
Newsnight	BBC 2	19/03/2018	Due impartiality/bias	1
TV Licensing advertisement	BBC Channels	Various	Other	1
Various	BBC Channels	29/03/2018	Due impartiality/bias	1
BBC News	BBC News Channel	05/03/2018	Due impartiality/bias	1
BBC News	BBC News Channel	04/04/2018	Due impartiality/bias	1
BBC News	BBC News Channel	15/04/2018	Materially misleading	1
BBC News	BBC News Channel	18/04/2018	Due impartiality/bias	1

Programme	Service	Transmission or Accessed Date	Categories	Number of Complaints
Life Hacks	BBC Radio 1	19/03/2018	Other	1
Archive on 4: 50 Years On: Rivers of Blood	BBC Radio 4	14/04/2018	Race discrimination/offence	1
BBC News	BBC Radio 4	08/04/2018	Due impartiality/bias	1
BBC News	BBC Radio 4	18/04/2018	Due impartiality/bias	1
Today	BBC Radio 4	28/03/2018	Offensive language	1
World at One	BBC Radio 4	18/04/2018	Due impartiality/bias	1
The World this Weekend	BBC Radio 4	14/01/2018	Due impartiality/bias	1
Laurence Reed	BBC Radio Cornwall	16/04/2018	Due impartiality/bias	1
Casualty	BBC iPlayer	21/04/2018	Product placement	1
News	BBC Scotland	Various	Due impartiality/bias	1

Investigations List

If Ofcom considers that a broadcaster or service provider may have breached its codes, rules, licence condition or other regulatory requirements, it will start an investigation.

It is important to note that an investigation by Ofcom does not necessarily mean the broadcaster or service provider has done anything wrong. Not all investigations result in breaches of the codes, rules, licence conditions or other regulatory requirements being recorded.

Here are alphabetical lists of new investigations launched between 16 and 29 April 2018.

Investigations launched under the Procedures for investigating breaches of content standards for television and radio

Programme	Service	Transmission date
Udta Punjab	B4U Movies	24/03/2018
Jago Pakistan	HUM Europe	15/03/2018
Ant and Dec's Saturday Night Takeaway	ITV	10/03/2018
Emmerdale	ITV	21/02/2018
North East Live	Made in Tyne & Wear	30/03/2018
George Galloway	Talk Radio	16/03/2018

For more information about how Ofcom assesses complaints and conducts investigations about content standards on television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf