

# **Ofcom Broadcast Bulletin**

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## Introduction

Under the Communications Act 2003 (“the Act”), Ofcom has a duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives<sup>1</sup>. Ofcom must include these standards in a code or codes. These are listed below. Ofcom also has a duty to secure that every provider of a notifiable On Demand Programme Services (“ODPS”) complies with certain standards requirements as set out in the Act<sup>2</sup>.

The Broadcast Bulletin reports on the outcome of investigations into alleged breaches of those Ofcom codes below, as well as licence conditions with which broadcasters regulated by Ofcom are required to comply. We also report on the outcome of ODPS sanctions referrals made by ATVOD and the ASA on the basis of their rules and guidance for ODPS. These Codes, rules and guidance documents include:

- a) [Ofcom’s Broadcasting Code](#) (“the Code”).
- b) the [Code on the Scheduling of Television Advertising](#) (“COSTA”) which contains rules on how much advertising and teleshopping may be scheduled in programmes, how many breaks are allowed and when they may be taken.
- c) certain sections of the [BCAP Code: the UK Code of Broadcast Advertising](#), which relate to those areas of the BCAP Code for which Ofcom retains regulatory responsibility. These include:
  - the prohibition on ‘political’ advertising;
  - sponsorship and product placement on television (see Rules 9.13, 9.16 and 9.17 of the Code) and all commercial communications in radio programming (see Rules 10.6 to 10.8 of the Code);
  - ‘participation TV’ advertising. This includes long-form advertising predicated on premium rate telephone services – most notably chat (including ‘adult’ chat), ‘psychic’ readings and dedicated quiz TV (Call TV quiz services). Ofcom is also responsible for regulating gambling, dating and ‘message board’ material where these are broadcast as advertising<sup>3</sup>.
- d) other licence conditions which broadcasters must comply with, such as requirements to pay fees and submit information which enables Ofcom to carry out its statutory duties. Further information can be found on Ofcom’s website for [television](#) and [radio](#) licences.
- e) rules and guidance for both [editorial content and advertising content on ODPS](#). Ofcom considers sanctions in relation to ODPS on referral by the Authority for Television On-Demand (“ATVOD”) or the Advertising Standards Authority (“ASA”), co-regulators of ODPS for editorial content and advertising respectively, or may do so as a concurrent regulator.

[Other codes and requirements](#) may also apply to broadcasters and ODPS, depending on their circumstances. These include the Code on Television Access Services (which sets out how much subtitling, signing and audio description relevant

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

<sup>2</sup> The relevant legislation can be found at Part 4A of the Act.

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

licensees must provide), the Code on Electronic Programme Guides, the Code on Listed Events, and the Cross Promotion Code.

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

## Standards cases

### In Breach

#### Preparing Hajj 2013

ATN Bangla, 3 May 2013, 21:30 and 17 May 2013, 22:30

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##### Introduction

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

A complainant drew Ofcom’s attention to two editions of a programme that discussed the Muslim pilgrimage of Hajj. The complainant objected that the programmes appeared to be promoting a travel company, Bismillah Hajj & Umrah Services (“Bismillah”).

The discussion within the programmes was predominantly in Bengali with some English. Ofcom commissioned an independent translation. The text displayed in the programmes was in English.

The programmes were sponsored by Bismillah and carried sponsorship credits.

In both programmes religious and travel aspects of pilgrimage were covered by a presenter, Sheikh Ahmed Hamidi, with guests. In the edition of 3 May 2013 there were two guests, one of whom was a representative of Bismillah, Mr Mohammad Mizanur Rahman Tipu. The other guest in the programme of 3 May 2013 was a Muslim cleric.

Of the five guests in the programme of 17 May 2013 none was connected with Bismillah.

The programme of 3 May 2013 included many questions to, and comment from, the Bismillah representative about the company, its services and its experience. In particular the following matters were discussed:

- the identity of the sponsor and its representative – for example:

Presenter: *“Today’s programme is sponsored by Bismillah Hajj Group, Bismillah Hajj and Umrah Service. We have invited one of them and his name is Mr Mizanur Rahman Tipu. I thank you brother Tipu for accepting our invitation and coming to this programme today”;*

- the reasons for the company’s sponsorship of the programme – for example:

Tipu: *“We have sponsored this programme to create awareness among Muslims. A person goes to perform Hajj once in a lifetime. The programme is about how he/she will do it perfectly, that’s why this programme has been sponsored from the company. Muslims will benefit from this programme”;*

- the company’s licensed status – for example:

Presenter: *"First I would like to ask whether you have a licence".*

Tipu: *"Once I had a Hajj licence. I bought a licence from Mr Barkat two years ago, which has a quota for 400 travellers";*

- the travel packages available – for example:

Tipu: *"Our other package is 2-3 miles away [from Kaaba in Mecca]. Last year, I had a bad experience with this package. I do not want to hide anything and would like to explain this package. If I take an apartment in [indistinct], it's a problem because there is one bathroom for every two rooms. Some people do not like it. Some people went to Hajj with this package last year.*

*But our 5\* package is excellent. I have a Swiss hotel and Khozama award winning hotel with this package. But the other package, Shifting [indistinct] has one bathroom for 12-13 people. It was really hard last year. This year I have changed that and have taken en suite rooms, so people do not have to suffer. I am telling this from my own experience.";*

- details of accommodation, including amenities and distances from holy sites – for example:

Tipu: *"People under our general package will be able to reach Kaaba in 5-6 minutes. The distance from Kaaba is 300 metres. However, if there is a traffic jam and it takes half an hour to go to Kaaba, I will not be able to do anything. We say 5-6 minutes based on 300 metres distance. In Medina, we have hotels about 100 metres away (from the grave of prophet Muhammad (peace be upon him)). It takes 2-3 minutes to reach the prophet's grave from our hotels.*

*We have another package, a 5\* package, for both Mecca and Medina. This package is for rich people.";*

- matters that are the responsibility of the company or of the traveller – for example:

Presenter: *"Do you take responsibility for everything from beginning to end, when a person performs Hajj through your company?"*

Tipu: *"We take all responsibility for a person from start to finish of his journey from and to Heathrow airport. However, if his/her money is lost, we are not responsible for that. If he/she keeps his/her money with us for safety, then we are responsible.";*

- the age of the company – for example:

Presenter: *"How many years have you been operating Bismillah Hajj and Umrah Services?"*

Tipu: *"We have been operating Bismillah Hajj and Umrah Services since 2004";*

- how many people the company took on pilgrimage last year – for example:

Presenter: *“How many people performed Hajj through your company last year?”*

Tipu: *“All praise be to Allah, it is a large number. Last year 480 people performed Hajj through our company. Although we had a quota for 400 people, we took 80 people to Hajj from another company.”;*

- how many complaints had been received by the company, and why – for example:

Presenter: *“Please honestly tell me for my viewers, how many people have complained about your service/arrangements.”*

Tipu: *“None from our standard package complained about our service. However, as I told you earlier, our other package Shifting [indistinct] was not a good experience for us. It was a package with a shared bathroom for every two rooms. We received 40 complaints from the people who went Hajj with this package. It is about 25%. However, we informed them about our facilities in this package earlier and they realised. Had we not informed them earlier, it would not have been right. Even the bathroom sharing was not a problem; the main problem was the disruption of the water supply as the motor stopped working all of a sudden. It took four hours to repair the motor which was not in my control.”;*

- the company’s pricing policy, and in particular how prices rise towards Ramadan – for example:

Tipu: *“Places with good packages are finished by Ramadan. The prices then go high. I do not know about other companies, but we keep our prices cheaper at the beginning as a lot of money is needed to make arrangements. We have to spend money for hotel and flight booking and therefore we release some packages at a discount rate at the beginning. We then increase the price of a package slowly...”;*

- religious guidance available on the tours – for example:

Tipu: *“Yes, we have one scholar with us, Mr Hafiz Maulana Yoursuf, the Imam of the Leyton Nur Islam Mosque. Each year an Alim [teacher], well versed in English, also remains with us. Most of our clients are from Gujrat and Pakistan. We have a limited number of Bengali clients as they [Bengalis] are not well off enough to perform Hajj. Some rich Bengalis go to Hajj with other organisations as they do not know about us yet.”; and*

- the company’s growth and success – for example:

Tipu: *“When I started, 40 people went to Hajj with us, next year the number rose to 70. The following year 135 people went to perform Hajj with us, the following year 250 people and the following year 480 people went to perform Hajj with us. The number increased continuously. If the pilgrims were unhappy, the number would not have increased.”*

The programme of 17 May 2013 also contained testimonials about the ease, speed, efficiency and general high standards of the sponsor's service. For example:

*Guest: "I contacted one of my colleagues, brother Shahed, a councillor, and asked him the name of the travel agency he used to go to perform Hajj as he admired them a lot. He told me the name of the travel agency. I called the owner of the agency that Saturday afternoon. He gave me a lot of confidence and asked me to take my passport to him within 20 minutes and assured me that the Visa would be ready by next Wednesday. It was very quick."*

*Presenter: "Which travel agent?"*

*Guest: "The name of the Travel agency was 'Bismillah'...My friend Shahed told me that there would not be any problem with that travel agency and that they would fulfil their commitments. I can honestly say that I took my mental preparation and went to Umrah with my child. The wonderful company picked up us from Jeddah and provided us a beautiful car. They helped us with their staff...They provided me their guide and he was there, I guess, to assist me...I did not need any support but he was fantastic."*

The Code makes clear<sup>1</sup> that, with the exception of the sponsorship credits, any reference to a sponsor that appears in a sponsored programme as a result of a commercial arrangement with the broadcaster, the programme maker or a connected person will be treated as product placement and must comply with Rules 9.6 to 9.14.

Ofcom therefore considered that the programmes raised issues warranting investigation under the following Code rules:

Rule 9.9: "References to placed products, services and trade marks must not be promotional."

Rule 9.10: "References to placed products, services and trade marks must not be unduly prominent."

Rule 9.14: "Product placement must be signalled clearly, by means of a universal neutral logo, as follows:

- a) at the beginning of the programme in which the placement appears;
- b) when the programme recommences after commercial breaks; and
- c) at the end of the programme."

We therefore asked the Licensee for its comments on how the material complied with these rules.

## **Response**

The Licensee told us:

"If you carefully consider the content of the programme on 17 May, it would become clear that the ATN Bangla UK did not promote the sponsor of this particular programme. Rather, we invited a cross section of people to talk about their

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<sup>1</sup> See part two of the note immediately above Rule 9.15 in Section Nine of the Code.



experiences and desire in relation to the Holy Hajj tour in general. However, one of the guests expressed that he was 'happy' with the service being offered by Bismillah Hajj and Umrah Services."

ATN Bangla said that the programme of 17 May 2013 contained generic discussion of Hajj and Umrah services and there had been no intention to promote the particular sponsoring company.

The Licensee told us that the programme of 3 May 2013 required some specific information to be given including accommodation, food, overall costing etc. In order to address all those matters, ATN Bangla said, it was, "reasonably important to accommodate someone in the programme who has been involved in this particular trade".

## Decision

Under the Communications Act 2003 (as amended), Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure specific standards objectives, including "that the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with".

Article 19 of the EU Audiovisual Media Services Directive ("the AVMS Directive") requires, among other things, that television advertising is kept visually and/or audibly distinct from programming. The purpose of this is to prevent programmes becoming vehicles for advertising and to protect viewers from surreptitious advertising. Further, Article 23 of the AVMS Directive requires that television advertising is limited to a maximum of 12 minutes in any clock hour.

Both the AVMS Directive and the Communications Act 2003 (as amended) require that:

- programmes containing product placement shall not directly encourage the purchase or rental of goods or services, in particular by making special promotional references to those goods or services;
- programmes containing product placement shall not give undue prominence to the products, services or trade marks concerned; and
- viewers are clearly informed of the existence of product placement in programmes; and surreptitious advertising is prohibited.

Among others, Rules 9.9, 9.10 and 9.14 of the Code reflect these requirements.

### Rules 9.9 (no promotion of placed products) and 9.10 (no undue prominence of placed products)

As is made clear in the Code and above, any reference to a sponsor that appears in a sponsored programme as a result of a commercial arrangement with the broadcaster, the programme maker or a connected person will be treated as product placement. Because Bismillah sponsored these programmes, the references to it during these programmes amounted to product placement. Rules 9.9 and 9.10 therefore applied.

Having considered carefully the Licensee's submissions on the question of promotion and prominence, Ofcom concluded that the inclusion of discussion of the sponsor's activities, and the nature of the discussion, was very clearly promotional in both of the programmes.

As noted in the Introduction above, where example quotes from the programme are given, the discussion in the programme of 3 May covered:

- the identity of the sponsor and its representative;
- the reasons for the company's sponsorship of the programme;
- the company's licensed status;
- the travel packages available;
- details of accommodation, including amenities and distances from holy sites;
- matters that are the responsibility of the company or of the traveller;
- the age of the company;
- how many people the company took on pilgrimage last year;
- how many complaints had been received by the company, and why;
- the company's pricing policy, and in particular how prices rise towards Ramadan;
- religious guidance available on the tours; and
- the company's growth and success.

The discussion in the programme of 17 May 2013 contained testimonials about the ease, speed, efficiency and general high standards of the sponsor's service.

In Ofcom's view, these detailed references to the sponsor's services and the benefits to customers using those services could not be justified editorially. This was particularly the case during the programme of 3 May 2013 in which the sponsor's representative was featured, discussing its services extensively and in positive terms.

The nature and extent of promotion and exposure for the company was such that Ofcom considered that both programmes gave the sponsor undue prominence and promoted it.

Both the programmes of 3 May and 17 May 2013 were therefore in breach of Rules 9.9 and 9.10.

#### Rule 9.14 (product placement must be signalled)

We noted that the Licensee made no comment about this rule. As is explained in the Introduction section, the Code makes clear that, with the exception of sponsorship credits, references to sponsors in the programmes they sponsor are treated as product placements.

Rule 9.14 applies to programmes (including films made for cinema) produced or commissioned by the provider of the television programme service or any person connected with that provider. In this case the programme had been made by the Licensee. Rule 9.14 did therefore apply.

This rule provides that the universal product placement logo<sup>2</sup> is displayed (a 'P' symbol) at the beginning and end of a programme that contains product placement, and when the programme begins again after a commercial break.

No logo was used in either of the programmes.

Both the programmes of 3 May and 17 May 2013 were therefore in breach of Rule 9.14.

Ofcom noted that this is the second case this year involving programming promoting travel to the Hajj<sup>3</sup>. Ofcom therefore cautions licensees very strongly about the inclusion of commercial travel and other services in programming covering Hajj and other religious festivals and duties.

#### **Breaches of Rules 9.9, 9.10 and 9.14**

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<sup>2</sup> Guidance on the form, size and duration of the logo can be found in Annex 1 of Ofcom's Guidance to Section Nine of the Code at:  
<http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section9.pdf>

<sup>3</sup> Ofcom's Finding is available at:  
<http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb234/obb234.pdf>

## In Breach

### Retention and production of recordings

*Controversial TV, 1 to 31 July 2013, 06:00 to 21:00*

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#### Introduction

Controversial TV was a general entertainment channel aimed at adults that until 30 August 2013 was broadcast on digital satellite. The licence for that service was, and is still, held by Edge Media TV Limited (“Edge Media” or “the Licensee”).

#### Chronology of events

Ofcom received a complaint about offensive language and sexual content in the programme *Jongleurs* broadcast on Controversial TV between 18:00 and 20:00 on 16 July 2013 (“Programme A”).

Ofcom requested a recording of Programme A from the Licensee. In response the Licensee said that the programme the complainant had identified had not been scheduled for broadcast at the time stipulated. As Ofcom had already been advised by the complainant that the programme had been broadcast despite the fact that it had not appeared in platform listings, Ofcom repeated its request for a copy of Controversial TV’s output at this time.

Separately, Ofcom received a further complaint about offensive language and sexual content in another episode of *Jongleurs* broadcast at 16:15 on 19 July 2013 (“Programme B”). Again, the complainant stated that the programme had not been listed as being scheduled for this time. Ofcom requested a recording of Programme B from the Licensee.

After some delay, Ofcom received correspondence from a compliance officer of the Licensee. He explained that he had been on leave but had given specific instructions for a recording of Programme A to be made and sent. The compliance officer apologised for the delay and said that he would investigate this matter.

After a further delay, the Licensee wrote to Ofcom to explain that it was unable to supply a recording of either Programme A or Programme B. The Licensee said that on 1 July 2013, it changed its compliance recording equipment, in error, to only record between 21:00 and 06:00 instead of the full 24 hours. It added that, from 1 August 2013, it had changed to a new system that recorded all of its output.

Ofcom considered this matter warranted investigation under Television Licensable Content Service (“TLCS”) Licence Conditions 11(1) and (2)(a) and (b):

“11(1) The Licensee shall adopt procedures acceptable to Ofcom for the retention and production of recordings in sound and vision of any programme which is the subject matter of a Standards Complaint...

(2) In particular, the Licensee shall:

(a) make and retain or arrange for the retention of a recording in sound and vision of every programme included in the Licensed Service for a period of 60 days from the date of its inclusion therein; and

(b) at the request of Ofcom forthwith produce to Ofcom any such recording for examination or reproduction...”.

We therefore requested the Licensee’s comments on how it complied with this Licence Condition.

### **Response**

The Licensee did not respond to Ofcom’s request for comments.

### **Decision**

Under the Communications Act 2003, Ofcom has a duty to ensure that in each broadcaster’s licence there are conditions requiring the licensee to retain recordings of each programme broadcast, in a specified form and for a specific period after broadcast, and to comply with any request to produce such recordings issued by Ofcom. TLCS licences enshrine these obligations in Licence Conditions 11(1) and (2)(a) and (b).

Licence Condition 11(1) requires licensees to adopt procedures for the retention and production of recordings which are acceptable to Ofcom. Under Licence Condition 11(2)(a), Ofcom requires licensees to make a recording of every programme included in the service, and to retain these for 60 days after broadcast. Under Licence Condition 11(2)(b), Ofcom requires licensees to produce such recordings forthwith upon request.

Breaches of Licence Conditions 11(1) and (2)(a) and (b) are serious because they impede Ofcom’s ability to assess whether a particular broadcast raises potential issues under the relevant codes. This can therefore affect Ofcom’s ability to carry out its statutory duties in regulating broadcast content.

In this case, the Licensee failed to “retain or arrange for the retention of a recording” and to “forthwith produce...any such recording for examination” of material broadcast at 18:00 on 16 July 2013, and 16:00 on 19 July 2013. These are clear and serious breaches of Licence Conditions (11)(2)(a) and (b).

Ofcom noted that Edge Media appeared to be unaware of the problems with its recording system for an extended period and failed to respond to Ofcom’s recordings requests for over three weeks. Ofcom expects its licensees to have measures in place to ensure that all their output is recorded and that their compliance staff will respond to Ofcom fully and in a timely manner.

### **Breaches of TLCS Licence Conditions 11(1) and (2)(a) and (b)**

## Resolved

### **Coverage of Andover Business Fair**

*The Breeze (Andover), 6 September 2013, 15:45*

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On 18 November 2013, this finding was removed from this issue of the Bulletin, as Ofcom received additional information relating to this case that was not available to it prior to the time of publication. Ofcom has subsequently published its revised finding on this case in issue 244 of Ofcom's Broadcast Bulletin<sup>1</sup>.

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<sup>1</sup> <http://stakeholders.ofcom.org.uk/enforcement/broadcast-bulletins/obb244/>.

## Advertising Scheduling Finding

### In Breach

#### Advertising minutage

*Rishtey, 7 June 2013, 15:00 and 15 June 2013, 21:00*

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#### Introduction

Rishtey is a general entertainment channel broadcast in Hindi. The licence for Rishtey is held by Viacom 18 Media Private Limited (“the Licensee”).

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

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

During its routine monitoring of COSTA compliance, Ofcom identified two instances when the Licensee had broadcast more than the permitted advertising allowance. The 15:00 clock hour on 7 June 2013 exceeded the allowance by two minutes and 30 seconds, and the 21:00 clock hour on 15 June 2013 exceeded the allowance by three minutes and 16 seconds.

Ofcom considered the matter raised issues warranting investigation in respect of Rule 4 of COSTA. We therefore asked the Licensee for its comments under this rule.

#### Response

The Licensee acknowledged that these clock hours exceeded the permitted allowance of advertising.

The Licensee explained that the channel uses a new software system to book and schedule advertisements around the proposed programme schedule and that once this process is complete, the schedule is synced with its older system for broadcast. Further the Licensee said that, because changes in the programme schedule could shift advertising breaks into different clock hours, the synchronisation had to be done manually. The Licensee said that the incidents were a result of human error during this process. On both occasions, advertising breaks were scheduled erroneously in adjacent clock hours.

The Licensee said that it had now successfully implemented an update to its systems so that the exact duration of advertisements in each clock hour is verified and reported without requiring manual input. It added that this will “eliminate any chance of a recurrence”.

The Licensee apologised for the incident and submitted there was no intention to gain commercially from the broadcast of additional minutage.

#### Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content which it considers are best calculated to secure a number of standards objectives. One of these objectives is that “the international obligations of

the United Kingdom with respect to advertising included in television and radio services are complied with”.

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

Ofcom noted the measures undertaken by the Licensee to ensure that it is automatically alerted to potential minutage issues and that these incidents occurred due to misplaced advertising breaks. Nonetheless, the amount of advertising in these clock hours significantly exceeded the permitted allowance and therefore breached Rule 4 of COSTA on each occasion.

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



## Broadcast Licence Condition Cases

### Broadcasting licensees' late and non- payment of licence fees

Ofcom is partly funded by the licence fees it charges television licensees. Ofcom is under a statutory obligation to ensure that the aggregate amount of fees that are required to be paid by licensees is sufficient to meet the cost of Ofcom's functions relating to the regulation of broadcasting. The principles which Ofcom applies when determining what fees should be paid by licensees are set out in the Statement of Charging Principles<sup>1</sup>. The detailed fees and charges which are payable by broadcasting licenses are set out in Ofcom's Tariff Tables<sup>2</sup>.

The payment of a fee is a licence requirement<sup>3</sup>. Failure by a licensee to pay its licence fee when required represents a serious and fundamental breach of a broadcast licence, as it means that Ofcom is unable properly to carry out its regulatory duties.

#### In Breach

The following licensees below have failed to pay their annual licence fee in accordance with the original deadline, despite repeated requests to do so. These licensees have therefore been found **in breach** of their licences. As a consequence of this serious and continuing licence breach, Ofcom is putting these licensees on notice that their present contravention of their licences is being considered for the imposition of a statutory sanction, including licence revocation.

Television Licensees <sup>4</sup>		
Licensee	Licence Number	Service Name
Ariana Radio & Television Network	TLCS/1086	Ariana International
Alfratv Limited	TLCS/1387	Body in Balance
Al Quds Limited	TLCS/1296	Al Quds
Ayngaran International (UK) Limited	TLCS/1321	Ayngaran International (UK) Limited
Ayngaran International (UK) Limited	TLCS/1415	Ayngaran Plus
Cinemoi Holdings Limited	TLCS/1255	Cinemoi Movies
Creamdove Limited	TLCS/1074	LOVE
Divine Television Foundation Ltd	TLCS/1523	Divine TV
Greener Technology Limited	TLCS/1094	BEN TV

<sup>1</sup>

[http://stakeholders.ofcom.org.uk/binaries/consultations/socp/statement/charging\\_principles.pdf](http://stakeholders.ofcom.org.uk/binaries/consultations/socp/statement/charging_principles.pdf)

<sup>2</sup> [http://stakeholders.ofcom.org.uk/binaries/research/Tariff\\_Tables\\_2001112.pdf](http://stakeholders.ofcom.org.uk/binaries/research/Tariff_Tables_2001112.pdf)

<sup>3</sup> Contained in Licence Condition 4 for television licensees

<sup>4</sup> In the original publication of this issue of the Broadcast Bulletin, Scripps Networks International (UK), holder of TLCS 324 for the service 'Retail TV', was recorded as being in breach of the relevant licence condition for failing to pay its 2013-2014 annual licence fee. This was incorrect, occurring due to an administrative error. The above Finding has therefore been amended to correct this.

HI TV UK Limited	TLCS/1223	HiTV
INX Media UK Limited	TLCS/1711	9XM
MGM Channel (UK) Limited	TLCS/1310	MGM HD
PAK (UK) T.V. Limited	TLCS/322	PTV Prime
Sunrise TV Limited	TLCS/640	Sunrise TV
TV Enterprises Limited	TLCS/743	NTAI

## Resolved

The following licensees below failed to pay their annual licence fee in accordance with the original deadline, but have subsequently submitted a late payment. For these licensees, we therefore consider the matter **resolved**.

<b>Television Licensees</b>		
<b>Licensee</b>	<b>Licence Number</b>	<b>Service Name</b>
Bangla TV	TLCS/415	Bangla
Britasia TV Limited	TLCS/1071	Brit Asia
Executive Decision Ltd	TLCS/1530	Ayre Time
Runners TV Limited	TLCS/1288	Channel Nine
Up and Coming TV Limited	TLCS/1217	Samaa

## Fairness and Privacy cases

### Upheld

#### Complaint by A Coole Electrical Limited

*Calendar News, ITV (Yorkshire), 7 June 2013*

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#### Summary

Ofcom has upheld A Coole Electrical Limited's ("A Coole Electrical") complaint of unjust or unfair treatment in the programme as broadcast.

*Calendar News* broadcast a regional news report on the trial of 11 people for trafficking drugs into south Yorkshire. Footage of the exterior of A Coole Electrical's industrial unit and the company's sign, which included its name, were shown.

Ofcom found that the broadcaster had not taken reasonable care to ensure material facts were not presented, disregarded or omitted in a way that was unfair to A Coole Electrical because it was likely that viewers would have reasonably inferred from the report that A Coole Electrical was involved in the drug smuggling operation.

#### Introduction and programme summary

On 7 June 2013, ITV (Yorkshire) broadcast an edition of its regional news programme, *Calendar News*. This edition of the programme included a report on a trial at Sheffield Crown Court in which 11 defendants were charged with offences relating to drug smuggling in south Yorkshire.

The studio presenters introduced the report by stating that "*...vast quantities of the Class A drugs were smuggled from Mexico to Barnsley in hydraulic lifts in one of the most sophisticated drug smuggling operations seen in the region*".

The programme then showed footage of units on an industrial estate where some of the drug smuggling activities had taken place. The programme's reporter explained how the drugs had been smuggled into the country under the cover of a fake business importing hydraulic lifts. Accompanying the reporter's explanation, footage of the exterior of a unit with the sign "*A Coole Electrical*", along with a telephone number, was visible for approximately two seconds. The report also featured footage of five business logos on a larger sign at the entrance of the industrial estate, one of which was "*A Coole Electrical*" which was visible for approximately three seconds.

#### Summary of the complaint and the broadcaster's response

A Coole Electrical complained that it was unfairly portrayed in the programme as broadcast in that it gave the incorrect impression that A Coole Electrical was involved in a drug smuggling operation in south Yorkshire. In particular, the report showed two close-up shots on the company's sign and it was not explicitly stated that A Coole Electrical had no involvement in the drug smuggling. A Coole Electrical said that this implied that the company was involved.

By way of background, A Coole Electrical stated that clients and employees had identified the company from the broadcast footage and contacted it regarding the news story to ascertain whether it had been involved.

In response, ITV said that the report was on a significant trial and it was in the public interest for *Calendar News* to report the verdict and the police operation that led to the convictions.

ITV said that it had apologised in writing to A Coole Electrical and to Mr and Mrs Coole, the company owners, for any distress caused by the broadcast of the footage featuring their company sign. It accepted that with hindsight it would have been preferable for the report not to have included the shots or, if it had, to have stated that the current tenants of the building had no connection to the trial or the criminality being reported.

However, ITV said that it did not agree that the report gave the impression that A Coole Electrical was involved in the drug smuggling operation, or that A Coole Electrical was treated unfairly in the report as broadcast. It said that the footage of the industrial unit was featured as general shots to accompany the voiceover relating to it having been one of the locations used by the drug smugglers. The report did not state or suggest that A Coole Electrical was involved and no explicit link was made between the company and the criminal activities being reported. The Licensee said the two shots which featured A Coole Electrical's sign were brief and that the second shot featured the names of four other businesses. ITV argued that viewers would have regarded the shots as general shots and there was no implication that any of the businesses whose names featured were involved in the drug smuggling activities.

ITV added that the reporter stated that cocaine was smuggled into the UK by the gang under the auspices of a fake business importing hydraulic lifts. ITV highlighted the fact that A Coole Electrical was a real business and, according to its website, was an electrical contractor with no direct or obvious connection to hydraulic lifts or the importation of hydraulic machinery.

ITV said that no evidence had been produced to support the claim by A Coole Electrical that clients and employees had contacted it regarding the report, and that it did not accept that clients or employees of the company did suspect or would be likely to suspect that the company was involved in the drug smuggling operation on the basis of the report. Nor did ITV accept that A Coole Electrical's business was damaged as a direct result of the report.

On 11 June 2013, ITV said *Calendar News* broadcast the following clarification:

*"On Friday we reported on a drug trafficking trial at Sheffield Crown Court, and showed recent footage of the industrial unit in Barnsley used as a base by the drug trafficking gang. We'd like to make clear that the unit's current tenants, A Coole Electrical, had nothing whatsoever to do with the drug gang on trial".*

ITV said a letter dated 10 June 2013 was sent by the Head of News at ITV to A Coole Electrical containing a similar clarification so that, if it wished, it could show the letter to anyone who might have queried the appearance of A Coole Electrical's sign in the original report. ITV said that if any doubt about the possible link between the drug smuggling operation and A Coole Electrical had been created by the report, other than by the coincidence of the drug smugglers having operated from the same building, this would have been dispelled by the letter and by the further broadcast of the clarification on 11 June 2013.

## **Ofcom's Preliminary View – ITV's representations**

Ofcom prepared a Preliminary View in this case that the complaint of unjust or unfair treatment in the programme should be upheld. In these circumstances and given the context in which A Coole Electrical's business unit and signage appeared in the programme, Ofcom took the view that the inclusion of A Coole Electrical's business unit and signage had resulted in unfairness to it. This was because the broadcaster had not taken reasonable care to ensure material facts were not presented, disregarded or omitted in a way that was unfair to A Coole Electrical and as a result the report featuring A Coole Electrical's business unit and signage was likely to lead some viewers to believe wrongly that A Coole Electrical was involved in the drug smuggling activities being reported.

A Coole Electrical made no representations on Ofcom's Preliminary View. ITV submitted representations on the Preliminary View that were directly relevant to the complaint and Ofcom's investigation.

### **Summary of ITV's representations**

ITV said that it strongly disagreed with Ofcom's conclusion in the Preliminary View that the report was likely to have led some viewers to understand wrongly that A Coole Electrical was associated with the drug trafficking case being reported, and that this was likely to have materially and adversely affected viewers' perceptions of A Coole Electrical in a way that was unfair.

ITV stated that A Coole Electrical was referred to indirectly in the report but this was simply by virtue of it being the current tenant of the industrial unit which was used by the drug smuggling gang and its signage appeared only briefly in the footage of the unit. ITV reiterated that the report did not identify A Coole Electrical as being involved with the drug smuggling operation and it did not accept that the report suggested or inferred this, given the brief and general nature of the shots of the industrial unit featuring A Coole Electrical's name and logo and the report's statements that a fake (i.e. not real) company working in a different business sector was used to import the drugs.

ITV concluded that it did not accept that the report was likely to have adversely affected viewers' perceptions of A Coole Electrical or that A Coole Electrical's business had been or would be damaged as a result of the report.

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

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 the Code. In assessing this complaint, Ofcom also had regard to Practice 7.9 of the Code which provides that, 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 the individual or organisation.

Ofcom recognises that, while programme makers and broadcasters have editorial control over what material to include in programmes, there is an obligation on them to ensure that material facts are presented fairly. Therefore, Ofcom considered whether or not the inclusion of footage of A Coole Electrical's unit and sign in the programme resulted in unfairness to the company.

Ofcom noted the reporter's comments that accompanied the footage of A Coole Electrical's industrial unit and its sign in close-up:

*"This industrial unit in Athersley one of many places used by the gang. It's where two of the main players came from".*

This was followed by a shot of a large sign with five business signs visible, including A Coole Electrical's sign. The industrial units were then shown in wide shot, none of which were specifically identifiable by company signs, and the reporter explained how the gang carried out the drug smuggling operation by using *"a fake business as a cover to import hydraulic lifts into the UK"*.

Ofcom understood that A Coole Electrical had no connection with the case other than the fact that it was the new tenant of the industrial unit that had been used previously by the criminal gang as its base. Without an explanation of this in the report (or measures to conceal the signage of the new tenant) Ofcom considered that the inclusion of footage of A Coole Electrical's sign and business unit in the report was likely to have led some viewers to understand, wrongly, that A Coole Electrical was associated with the drug trafficking case being reported.

Ofcom acknowledged that ITV subsequently took steps to clarify that A Coole Electrical had nothing to do with the drug trafficking gang by broadcasting an announcement on an edition of *Calendar News* on 11 June 2013 and providing the company with a letter to that effect. While the broadcaster acted swiftly to clarify this point, Ofcom considered that the report broadcast on 7 June 2013 taken on its own and at that time was likely to have materially and adversely affected viewers' perceptions of A Coole Electrical in a way that was unfair to it. Ofcom therefore took the view that the broadcaster had failed in the report to take reasonable care to satisfy itself that material facts were not presented, disregarded or omitted in a way that was unfair to A Coole Electrical.

Ofcom considered ITV's representations on the Preliminary View. Ofcom recognised that ITV disagreed with Ofcom's conclusions in the Preliminary View and that it was not ITV's intention to infer that A Coole Electrical was involved in the drug smuggling operation being reported. Ofcom considered that, despite the brief and indirect nature of the presentation of A Coole Electrical in the programme, the programme nevertheless included images of A Coole Electrical's business unit and signage in combination with the reporter's comments about the drug smuggling operation. In Ofcom's view this caused a link to be established between A Coole Electrical and the drug smuggling operation being reported. Ofcom concluded that this would have

materially or adversely affected viewers' perceptions of A Coole Electrical in a way that was unfair to it and the programme as broadcast therefore portrayed A Coole Electrical unfairly.

**Accordingly, Ofcom's has upheld A Coole Electrical's complaint of unjust or unfair treatment in the programme as broadcast.**

## Not Upheld

### Complaint by Mr Gary Ireland

*Emergency Bikers (and trailer), Channel 5, 24 April 2013*

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#### Summary

Ofcom has not upheld the complaint made by Mr Gary Ireland of unjust or unfair treatment and unwarranted infringement of privacy in the programme as broadcast.

The programme was part of a series that followed the work of motorcycle police and paramedic units around the country. This edition included footage of Mr Ireland being questioned and then restrained and arrested for being drunk and disorderly. Mr Ireland was also shown being restrained and arrested in a promotional trailer for the programme.

Ofcom's decision is that:

- The broadcaster had taken reasonable care to ensure material facts were not presented in a way that portrayed Mr Ireland unfairly. While the programme incorrectly stated that Mr Ireland had been kept in police custody overnight, Ofcom considered that this was unlikely to have materially and adversely affected the way in which viewers would have perceived him that was unfair.
- Mr Ireland had a legitimate expectation of privacy, albeit limited. However, the public interest in broadcasting footage showing the work of the police outweighed Mr Ireland's expectation of privacy. Therefore, Mr Ireland's privacy was not unwarrantably infringed in either the programme or trailer as broadcast.

#### Introduction and programme summary

On 24 April 2013, Channel 5 broadcast an edition of *Emergency Bikers*, a series of programmes following the work of the motorcycle emergency services.

#### The programme

In this episode, Mr Ireland was shown briefly in the opening title sequence, the 'coming up next teaser' before the commercial break and, finally, for approximately three minutes in the programme which showed him in an incident with the police. Motorcycle police officers were shown attending the scene of an incident involving Mr Ireland after he had been ejected from a music festival. Mr Ireland was shown sitting on the ground when the police officers arrived and they attempted to engage Mr Ireland in conversation about why he had been removed from the festival. Mr Ireland asked "*what's happening here?*" and one of the police officers replied:

*"You're drunk, you've been asked to leave, you were in somebody else's tent where you're not supposed to be".*

The programme then showed Mr Ireland attempting to escape from the police, which resulted in him being restrained and arrested for being drunk and disorderly. Following Mr Ireland's arrest, further conversations between Mr Ireland and the police officers took place and he was shown being escorted to a police van. At the end of the part of the programme featuring Mr Ireland, the programme's narrator



stated that he was “*kept in custody overnight and later fined £80 for being drunk and disorderly*”. Mr Ireland was not named in the programme, but his face was shown unobscured and his voice was heard.

### Promotional trailer

A promotional trailer for the episode was also broadcast a number of times on various dates.

Mr Ireland featured in the promotional trailer for approximately two seconds. Mr Ireland was shown being held by a police officer who was heard to say “*Right, you’re under arrest*”. Mr Ireland’s face was shown unobscured in this footage, although he was not named and his voice was not heard.

## **Summary of the complaint and the broadcaster’s response**

### Unjust or unfair treatment

- a) Mr Ireland complained that he was treated unfairly or unjustly in the programme as broadcast because the programme asserted, wrongly, that he was kept in police custody overnight. Mr Ireland said that the police allowed him back into the music festival site within two to three hours of the incident shown in the programme.

In response, Channel 5 accepted that the information was incorrect and apologised to Mr Ireland for the inaccuracy. However, it said that the programme makers had relied on information provided to them by the police and, in accordance with the Code, took reasonable care to satisfy themselves that material facts were not presented, disregarded or omitted in a way which was unfair to Mr Ireland. Channel 5 said that on 18 January 2013, the programme makers emailed the police to ascertain whether Mr Ireland was held in custody and if so, for how long. Channel 5 said that the police replied: “*Only overnight, then released with his ticket*”. When it became aware that Mr Ireland claimed that he had not been kept in custody overnight, Channel 5 contacted the police again who confirmed that Mr Ireland was correct. Channel 5 said that it then took steps to ensure that the incorrect information was not repeated by editing the programme’s commentary to say: “*The man was later fined £80 for being drunk and disorderly. He did not go to court*”.

Further, Channel 5 said that given Mr Ireland’s behaviour during the incident and that he received a fine for being drunk and disorderly, it did not consider that whether he had remained in custody overnight or for a few hours would be likely to have affected viewers’ understanding of Mr Ireland in way that was unfair to him.

### Unwarranted infringement of privacy

- b) Mr Ireland complained that his privacy was unwarrantably infringed in the programme and trailer as broadcast because footage of him being restrained and arrested was included in the programme and the trailer without his knowledge or consent. As a result, Mr Ireland said that he had been identified and taunted by various people.

In response, Channel 5 said that the programme makers were shadowing the motorcycle police undertaking their public duties and were present with their cameras with the knowledge and agreement of the police.

It said that although Mr Ireland may have been embarrassed that the information was included in the programme and the trailer, and would have preferred not to have been identified, he was filmed openly and on a public highway. The footage showed police officers undertaking their public duties and arresting Mr Ireland who, Channel 5 added, was behaving in an aggressive, anti-social and abusive way towards the police officers in full view of other members of the public and road users.

Channel 5's view was that Mr Ireland had no legitimate expectation of privacy in his behaviour, his interaction with the police at the side of the public highway or his treatment by the police. None of the information disclosed in the programme or the trailer was private. In the circumstances, and particularly after he was cautioned, Channel 5 said that Mr Ireland had no legitimate expectation of privacy in the footage that was broadcast of his interview, arrest and transfer to the police van.

Channel 5 stated that even if Mr Ireland's behaviour could be regarded as private, there was a clear public interest in exposing crime and anti-social behaviour and demonstrating the varied work carried out by the police and the difficulties and dangers they encountered. The footage of Mr Ireland included in the broadcast programme was a necessary and effective part of the story of the police officer and although it may have been possible to have told the story without the footage of Mr Ireland, this would have ignored the realities of this kind of programme.

Channel 5 concluded that any possible interference with Mr Ireland's private life in broadcasting the footage in the programme and trailer would have been very limited and outweighed by the public interest and Channel 5's right to freedom of expression.

## **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 its decision, Ofcom carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast, a transcript of it, both parties' written submissions and supporting material. Ofcom provided the parties with the opportunity to make representations on Ofcom's Preliminary View (which was not to uphold the complaint). Mr Ireland provided Ofcom with representations, however Ofcom did not consider them to be directly relevant to the Preliminary View, except that he disagreed with Ofcom's Preliminary View not to

uphold his complaint. Channel 5 did not make representations on the Preliminary View.

#### Unjust or unfair treatment

- a) Ofcom considered first Mr Ireland's complaint that he was treated unfairly or unjustly in the programme as broadcast because the programme asserted, wrongly, that he was kept in police custody overnight.

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 Code.

Ofcom also took account of Practice 7.9 of the Code which provides that 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 the individual or organisation.

The programme stated, incorrectly, that Mr Ireland had been "*kept in custody overnight*". Channel 5 said this had resulted from the programme makers being given incorrect information by the police prior to the broadcast of the programme. Ofcom acknowledged that Channel 5 took remedial steps to ensure that the incorrect information was not repeated by editing the programme's commentary to reflect the correct circumstances.

Ofcom noted that the programme makers had relied on the information about Mr Ireland provided to them by the police and Ofcom considered that it was reasonable for them to have done so. Although this information was shown subsequently to be incorrect, Ofcom considered that the programme makers had taken reasonable care as at the date of broadcast to ensure that information was presented in the programme fairly, and that material facts were not presented in a way that was unfair to Mr Ireland. In any event, given that Mr Ireland was shown being arrested for being drunk and disorderly (which was not disputed), Ofcom considered that the inclusion of a reference to him being kept in custody overnight as opposed to being held in custody for two to three hours was unlikely to have materially and adversely affected the way in which viewers would have perceived Mr Ireland in a way that was unfair.

Ofcom's decision is therefore that there was no unfairness to Mr Ireland in this respect.

#### Unwarranted infringement of privacy

- b) Ofcom next considered Mr Ireland's complaint that his privacy was unwarrantably infringed in the programme and trailer as broadcast because the programme included footage of him without his consent.

The individual's right to privacy has to be balanced against the competing rights of the broadcasters to freedom of expression. Neither right as such has precedence over the other and where there is a conflict between the two, it is necessary to 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 assessing the complaint, Ofcom had regard to Practice 8.6 of the Code which states that if the broadcast of a programme would infringe the privacy of a person, consent should be obtained before the relevant material is broadcast, unless the infringement of privacy is warranted.

### The programme

In considering whether or not Mr Ireland's privacy was unwarrantably infringed in the programme as broadcast, Ofcom first assessed the extent to which he had a legitimate expectation of privacy in relation to the footage of him as broadcast.

As already set out in the "Introduction and programme summary" section above, Mr Ireland was shown sitting on the ground by a public road as the police officers approached him and tried to engage him in conversation. The police officers believed that Mr Ireland was drunk and when he tried to run away from them, he was restrained and arrested for being drunk and disorderly. The police officers continued to talk to Mr Ireland and he revealed that he had drunk alcohol. One of the police officers then explained to camera that Mr Ireland had been restrained and arrested to prevent him from injuring himself. Mr Ireland was shown being escorted to the police van.

Whether or not someone who has been filmed while being questioned by the police in relation to an incident has a legitimate expectation of privacy in the broadcast of that footage depends on all the circumstances: for example (depending on their relevance to any particular case) whether the filming took place in a public place; whether the individual was vulnerable in any way (e.g. through the consumption of alcohol or drugs or because of an illness or disability); whether the person concerned was a minor; whether the footage depicted the individual doing something, or disclosed information about that individual, which was confidential, sensitive or personal; the time that had elapsed between the events depicted in the footage and its broadcast (or re-broadcast); and any change in factual circumstances between the events depicted and its broadcast which may affect the extent to which the material could be considered to be private or confidential (for example, whether since the incident filmed the individual concerned was charged and/or found guilty of any offences).

Ofcom noted that Mr Ireland appeared to have been filmed openly and in a public place, i.e. the side of a public highway. Mr Ireland was shown talking to police after being ejected from a music festival and it was recognised by the police officers that he was drunk. In Ofcom's view, Mr Ireland could reasonably be regarded as being in a vulnerable state because he was under the influence of alcohol. Ofcom considered that he had a reasonable expectation of privacy, albeit limited as he was in a public place. Taking these factors into consideration, Ofcom considered that Mr Ireland had a limited legitimate expectation of privacy in relation to the broadcast of the footage of him in the programme.

Ofcom then considered whether or not Mr Ireland was identifiable in the programme as broadcast. Although Mr Ireland was not referred to by name in the programme, his face was shown unobscured and his voice was heard. In these circumstances, Ofcom considered that Mr Ireland was clearly identifiable from the footage included in the programme.

Ofcom then assessed whether his consent had been secured before the footage was broadcast in accordance with Practice 8.6. It was not disputed that the broadcaster had not sought Mr Ireland's consent for the footage to be included in the programme.

Ofcom next assessed the broadcaster's competing right to freedom of expression and the audiences' right to receive information and ideas without unnecessary interference. In particular, Ofcom reviewed whether there was sufficient public interest to justify the intrusion of Mr Ireland's limited expectation of privacy in broadcasting the footage of him. Ofcom considered that there is a genuine public interest in broadcasting programmes of this nature, specifically those which examine the work of the police and other emergency services in responding to varied and often difficult incidents. In Ofcom's view, showing such material in programmes helps to inform the public's understanding of the work of the police and the emergency services and, in this particular case, the challenges they faced when individuals are under the influence of alcohol.

Therefore, on balance, Ofcom considered that in the circumstances of this case, the broadcaster's right to freedom of expression and the public interest outweighed Mr Ireland's limited expectation of privacy in relation to the broadcast of footage of him in the programme.

#### Promotional trailer

Ofcom also examined the footage of Mr Ireland in the programme's trailer. He was shown for approximately two seconds being restrained and arrested by police. As set out above, Ofcom considered that Mr Ireland had a limited legitimate expectation of privacy in the broadcast of the footage of him being arrested. Ofcom took account of the facts that the promotional trailer was shown on a number of occasions and that in the trailer the footage of Mr Ireland was not placed in context in the same way as in the programme itself. Nonetheless the footage was very brief and, although it was clear Mr Ireland was being arrested, no information was given as to whether or not he was held in custody or for how long. Therefore, in the circumstances of this case and for the same reasons set out above, Ofcom considered that, on balance, the broadcaster's right to freedom of expression and the public interest outweighed Mr Ireland's limited expectation of privacy in relation to the broadcast of footage of him in the trailer.

Ofcom's decision is therefore that there was no unwarranted infringement of Mr Ireland's privacy in either the programme or the trailer as broadcast.

**Accordingly, Ofcom has not upheld Mr Ireland's complaint of unjust or unfair treatment and unwarranted infringement of privacy in the programme and trailer as broadcast.**

## Other Programmes Not in Breach

Up to 4 November 2013

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission date</b>	<b>Categories</b>
Khara Sach	ARY News	12/08/2013	Due Impartiality/Bias
Where in the World	Breeze FM South Coast	09/09/2013	Competitions

## Complaints Assessed, not Investigated

### Between 22 October and 4 November 2013

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

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
118 118's sponsorship of ITV Movies	ITV2	21/10/2013	Sexual orientation discrimination/offence	1
999: What's Your Emergency?	Channel 4	14/10/2013	Suicide and self harm	1
999: What's Your Emergency?	Channel 4	21/10/2013	Disability discrimination/offence	2
999: What's Your Emergency?	Channel 4	21/10/2013	Suicide and self harm	1
999: What's Your Emergency?	Channel 4	28/10/2013	Animal welfare	1
999: What's Your Emergency?	Channel 4	28/10/2013	Generally accepted standards	1
Adventure Time	Cartoon Network	24/10/2013	Violence and dangerous behaviour	1
Advertising	Various	Various	Advertising minutage	1
Afternoon Play: GF Newman's The Corrupted	BBC Radio 4	21/10/2013	Scheduling	2
Alan Carr: Chatty Man	Channel 4	25/10/2013	Generally accepted standards	1
Bad Education	BBC 3	10/09/2013	Gender discrimination/offence	1
Bang Breakfast	Bang Radio	23/10/2013	Offensive language	1
BBC London News	BBC 1	03/10/2013	Religious/Beliefs discrimination/offence	1
BBC News at Six	BBC 1	29/10/2013	Due impartiality/bias	1
BBC News at Six	BBC 1	29/10/2013	Generally accepted standards	1
BBC Wales Today	BBC 1 Wales	22/10/2013	Outside of remit / other	1
Bedlam (trailer)	Channel 4	30/10/2013	Disability discrimination/offence	1
Bet365bingo.com 's sponsorship of Emmerdale	ITV	29/10/2013	Sponsorship credits	1
Big Daddy	Channel 5	20/10/2013	Offensive language	1
Bluebirds and Swans	BBC 1 Wales	28/10/2013	Outside of remit / other	1
Boulton & Co	Sky News	16/10/2013	Due impartiality/bias	1
Breakfast	BBC 1	17/09/2013	Outside of remit / other	2
Bridget Christie Minds the Gap	BBC Radio 4	23/10/2013	Generally accepted standards	2
BT Sport promotion	Eurosport	Various	Outside of remit / other	1
By Any Means	BBC 1	22/09/2013	Surreptitious advertising	1
By Any Means	BBC 1	20/10/2013	Generally accepted standards	1
Catherine Cookson's The Rag Nymph	Drama	29/09/2013	Scheduling	1

CBBC at Radio 1 Teen Awards	CBBC	03/11/2013	Outside of remit / other	1
Celebrity Juice	ITV2	19/10/2013	Generally accepted standards	1
Celebrity Juice	ITV2	29/10/2013	Generally accepted standards	1
Celebrity Juice	ITV2	31/10/2013	Religious/Beliefs discrimination/offence	1
Celebrity Juice	ITV2	02/11/2013	Generally accepted standards	1
Channel 4 News	Channel 4	17/10/2013	Due impartiality/bias	1
Channel 4 News	Channel 4	17/10/2013	Scheduling	3
Channel 4 News	Channel 4	22/10/2013	Scheduling	1
Citizen Khan	BBC 1	18/10/2013	Generally accepted standards	1
Citizen Khan	BBC 1	18/10/2013	Race discrimination/offence	1
Citizen Khan	BBC 1	18/10/2013	Religious/Beliefs discrimination/offence	1
Coronation Street	ITV	04/10/2013	Religious/Beliefs discrimination/offence	1
Coronation Street	ITV	16/10/2013	Generally accepted standards	1
Coronation Street	ITV	21/10/2013	Product placement	1
Coronation Street	ITV	25/10/2013	Generally accepted standards	2
Coronation Street	ITV	28/10/2013	Generally accepted standards	1
Countryfile	BBC 1	13/10/2013	Crime	1
Dance Academy	Nickelodeon	15/10/2013	Scheduling	1
Date My Porn Star	4seven	22/10/2013	Generally accepted standards	1
Date My Porn Star	Channel 4	21/10/2013	Generally accepted standards	8
Date My Porn Star (trailer)	Channel 4	21/10/2013	Scheduling	1
Dawah Programme's sponsorship of The Rightly Guided Khalifahs	Islam Channel	09/10/2013	Sponsorship credits	1
Daybreak	ITV	30/10/2013	Offensive language	1
Devious Maids (trailer)	TLC	12/10/2013	Sexual material	1
Diary of a Teenage Virgin	Channel 4	14/10/2013	Under 18s in programmes	1
Downton Abbey	ITV	06/10/2013	Generally accepted standards	1
Drifters	E4	31/10/2013	Sexual material	1
Drivetime	Talksport	18/03/2013	Generally accepted standards	1
Duck Dynasty (trailer)	ITV4	Various	Outside of remit / other	1
Earthquake	Channel 4	15/10/2013	Outside of remit / other	1
EastEnders	BBC 1	22/10/2013	Outside of remit / other	1
EastEnders	BBC 1	25/10/2013	Race discrimination/offence	7
Ebrahim College's sponsorship of Hajj Coach	Islam Channel	09/10/2013	Sponsorship credits	1



EDL demo coverage	Radio Hajj 87.7FM	11/10/2013	Due impartiality/bias	1
Educating Yorkshire	Channel 4	05/09/2013	Under 18s in programmes	1
Educating Yorkshire	Channel 4	12/09/2013	Under 18s in programmes	4
Emmerdale	ITV	17/10/2013	Outside of remit / other	1
EPG	Freeview	Various	Outside of remit / other	1
Family Guy	BBC 3	20/10/2013	Religious/Beliefs discrimination/offence	1
Fool Britannia	ITV	12/10/2013	Generally accepted standards	1
Fool Britannia	ITV	26/10/2013	Race discrimination/offence	1
Fool Britannia	ITV	02/11/2013	Transgender discrimination/offence	9
Foxy Bingo's sponsorship of Dickinson's Real Deal	ITV	22/10/2013	Generally accepted standards	1
Foxy Bingo's Sponsorship of The Jeremy Kyle Show	ITV	30/10/2013	Scheduling	1
Foxy Bingo's Sponsorship of The Jeremy Kyle Show	ITV	01/11/2013	Generally accepted standards	1
Ghostbusters	Channel 5	27/10/2013	Offensive language	1
Grizzly Tales for Gruesome Kids	Nicktoons	23/10/2013	Offensive language	1
Have I Got News for You	BBC 1	25/10/2013	Generally accepted standards	1
Have I Got News for You	BBC 1	25/10/2013	Offensive language	1
Heart Breakfast	Heart Bristol	24/10/2013	Under 18s in programmes	1
Heart FM	Heart FM	30/10/2013	Fairness & Privacy	1
Hens Behaving Badly (trailer)	Channel 5	18/10/2013	Scheduling	1
Heston's Titanic Feast	Channel 4	02/11/2013	Generally accepted standards	1
Hollyoaks	E4	28/10/2013	Violence and dangerous behaviour	1
Iceland Foods: Life in the Freezer Cabinet	BBC 2	28/10/2013	Offensive language	1
Inside Broadmoor	5*	13/10/2013	Disability discrimination/offence	1
Inside Out	BBC 1	28/10/2013	Outside of remit / other	1
ITV News and Weather	ITV	25/10/2013	Due impartiality/bias	1
ITV News and Weather	ITV	31/10/2013	Generally accepted standards	1
ITV News at Ten and Weather	ITV	17/10/2013	Due impartiality/bias	4
ITV Player promotion	ITV	26/10/2013	Violence and dangerous behaviour	1
ITV Player promotion	ITV	Various	Violence and dangerous behaviour	2
Jamie's Money Saving Meals	Channel 4	07/10/2013	Undue prominence	1
Jamie's Money Saving Meals	Channel 4	Various	Undue prominence	1
Jamrock Radio	Jamrock Radio	10/10/2013	Scheduling	1

Jeremy Vine	BBC Radio 2	22/10/2013	Generally accepted standards	1
Kate Lawler	Metro Radio	29/09/2013	Scheduling	1
Law and Order: UK	ITV3	29/10/2013	Animal welfare	1
Live Newcastle United v Chelsea	BT Sport 1 HD	02/11/2013	Outside of remit / other	1
London Irish	Channel 4	01/10/2013	Under 18s in programmes	1
Loose Women	ITV	22/10/2013	Gender discrimination/offence	1
Loose Women	ITV	29/10/2013	Materially misleading	1
Luton Town Show	Diverse FM	12/10/2013	Commercial communications on radio	1
Lycamobile's sponsorship of Sanskaar- Dharohar Apnon Ki	Colors	08/10/2013	Sponsorship credits	1
Made in Chelsea (trailer)	E4	03/11/2013	Offensive language	1
Man Down	Channel 4	18/10/2013	Disability discrimination/offence	2
Marvel's Agents of S.H.I.E.L.D.	Channel 4	25/10/2013	Scheduling	1
Massive Morning Hits	4Music	24/10/2013	Scheduling	1
Medieval Lives: Birth, Marriage, Death	BBC 4	09/10/2013	Offensive language	1
Mister Maker Around the World	CBeebies	23/10/2013	Outside of remit / other	1
Monsuno	CITV	07/10/2013	Offensive language	1
Murder in the Alps	BBC 1	21/10/2013	Outside of remit / other	1
My Big Fat Gypsy Fortune	Channel 4	14/04/2013	Generally accepted standards	1
My Crazy New Jamaican Life	Channel 4	24/10/2013	Race discrimination/offence	41
News	Sikh Channel	06/10/2013	Religious/Beliefs discrimination/offence	1
News on the Hour	Sky News	21/10/2013	Due accuracy	1
Nick Ferrari	LBC 97.3FM	01/11/2013	Race discrimination/offence	1
OCD Ward	ITV	28/10/2013	Information/warnings	1
OCD Ward	ITV	28/10/2013	Materially misleading	1
On Benefits & Proud	Channel 5	14/10/2013	Crime	1
On the Move	Bloomberg	04/11/2013	Outside of remit / other	1
Patrick Kielty	BBC Radio 2	25/10/2013	Generally accepted standards	2
Peppa Pig	Nick Jr	24/10/2013	Gender discrimination/offence	1
Piers Morgan's Life Stories	ITV	18/10/2013	Materially misleading	1
PM	BBC Radio 4	03/10/2013	Race discrimination/offence	1
Pointless	BBC 1	24/10/2013	Gender discrimination/offence	1
Police Interceptors	5*	02/11/2013	Crime	1
Power to the Pockocks: A Year in the Life of a Crofting	BBC 2 Scotland	24/10/2013	Animal welfare	1

Family				
Programme promotions	Channel 5 / Kix	Various	Materially misleading	1
Programming	Heart FM	Various	Generally accepted standards	1
Programming	Various	Various	Religious/Beliefs discrimination/offence	1
References to Apple products	Sky Sports News	Various	Promotion of products/services	1
Rugby League	BBC 1	26/10/2013	Outside of remit / other	1
Rupali Exchange's sponsorship of Bairi Batash	ATN Bangla	16/09/2013	Sponsorship credits	1
Russell Howard's Good News	Dave	12/10/2012	Religious/Beliefs discrimination/offence	1
Saturday Kitchen Live	BBC 1	19/10/2013	Generally accepted standards	1
Save the Children advertisement	ITV3 +1	20/10/2013	Political advertising	1
SC India: Punjab News	Sikh Channel	09/10/2013	Advertising/editorial distinction	1
Scooby Doo: Mystery Incorporated	Boomerang +1	02/10/2013	Offensive language	1
Scotland Tonight	STV	15/10/2013	Elections/Referendums	1
Sex and the City	Comedy Central	20/10/2013	Scheduling	1
Sky News	Sky News	18/10/2013	Scheduling	5
Sky News	Sky News	20/10/2013	Outside of remit / other	1
Sky News	Sky News	22/10/2013	Violence and dangerous behaviour	1
Sky News	Sky News	23/10/2013	Offensive language	1
Sky News	Sky News	29/10/2013	Race discrimination/offence	1
Sky News Paper Review	Sky News	17/10/2013	Disability discrimination/offence	1
Sky News with Charlotte Hawkins	Sky News	28/10/2013	Generally accepted standards	1
Sky News with Colin Brazier	Sky News	18/10/2013	Scheduling	1
South Park	Various	Various	Generally accepted standards	1
Spooks	Sony TV	n/a	Materially misleading	1
Star Wars: Episode III - Revenge of the Sith	ITV	02/11/2013	Scheduling	2
Stephen Fry: Out There	BBC 2	16/10/2013	Religious/Beliefs discrimination/offence	1
Storage Hoarders	ITV	03/11/2013	Outside of remit / other	1
Storage Hunters	Dave	30/10/2013	Offensive language	1
Strictly Come Dancing	BBC 1	02/11/2013	Gender discrimination/offence	1
Strictly Come Dancing	BBC 1	02/11/2013	Generally accepted standards	1
Strictly Come Dancing	BBC 1	02/11/2013	Outside of remit / other	1
Studio 66	Elite TV	28/09/2013	Offensive language	1
Studio 66 Days	Studio 66 TV4	19/10/2013	Scheduling	1
STV News	STV	09/10/2013	Generally accepted	1

			standards	
Sunday Brunch	Channel 4	03/11/2013	Generally accepted standards	1
Sunday Politics	BBC 1	20/10/2013	Outside of remit / other	1
Sunrise	Sky News	28/10/2013	Generally accepted standards	2
Teenage Mutant Ninja Turtles	CITV	12/10/2013	Scheduling	1
The Alan Brazil Sports Breakfast	Talksport	01/11/2013	Outside of remit / other	1
The Blame Game	BBC 1 Northern Ireland	25/10/2013	Outside of remit / other	1
The Cariad Show	BBC 3	25/10/2013	Sexual orientation discrimination/offence	1
The Chase	ITV	29/10/2013	Outside of remit / other	1
The Chase	STV	15/10/2013	Outside of remit / other	1
The Dog Rescuers	Channel 5	29/10/2013	Generally accepted standards	3
The Ed Matthews Show	KMFM Ashford	12/10/2013	Materially misleading	1
The Face	Sky Living	21/10/2013	Generally accepted standards	1
The Face (trailer)	Sky Living	01/10/2013	Offensive language	1
The Gadget Show	Channel 5	21/10/2013	Competitions	1
The Gadget Show	Channel 5	21/10/2013	Materially misleading	1
The Gadget Show	Channel 5	28/10/2013	Generally accepted standards	2
The Graham Norton Show	BBC 1	01/11/2013	Offensive language	1
The Jerry Springer Show	CBS Reality +1	08/10/2013	Disability discrimination/offence	1
The Jonathan Ross Show	ITV	02/11/2013	Sexual orientation discrimination/offence	1
The Mentalist (trailer)	Channel 5	29/10/2013	Generally accepted standards	1
The Wright Stuff	Channel 5	23/10/2013	Religious/Beliefs discrimination/offence	1
The Wright Stuff	Channel 5	25/10/2013	Scheduling	2
The X Factor	ITV	28/09/2013	Generally accepted standards	61
The X Factor	ITV	29/09/2013	Under 18s in programmes	11
The X Factor	ITV	12/10/2013	Generally accepted standards	1
The X Factor	ITV	12/10/2013	Scheduling	2
The X Factor	ITV	12/10/2013	Under 18s in programmes	1
The X Factor	ITV	19/10/2013	Scheduling	1
The X Factor	ITV	26/10/2013	Generally accepted standards	2
The X Factor	ITV	26/10/2013	Scheduling	1
The X Factor	ITV	26/10/2013	Product placement	1
The X Factor	ITV	26/10/2013	Race discrimination/offence	3

The X Factor	ITV	27/10/2013	Scheduling	1
The X Factor	ITV	02/11/2013	Generally accepted standards	1
The X Factor	ITV	02/11/2013	Scheduling	1
The X Factor	ITV	02/11/2013	Scheduling	1
The X Factor Results Show	ITV	20/10/2013	Generally accepted standards	1
The X Factor Results Show	ITV	03/11/2013	Offensive language	1
The Xfm Breakfast Show	XFM London	28/10/2013	Generally accepted standards	1
The Xtra Factor	ITV2	20/10/2013	Generally accepted standards	1
This Morning	ITV	21/10/2013	Competitions	1
This Morning	ITV	28/10/2013	Fairness	1
This Morning	ITV	28/10/2013	Race discrimination/offence	1
This Morning	STV	30/10/2013	Generally accepted standards	1
Truckers	BBC 1	24/10/2013	Sexual material	1
Trust Me, I'm a Doctor	BBC 2	17/10/2013	Materially misleading	1
UEFA Champions League	ITV	22/10/2013	Outside of remit / other	1
Unsafe Sex in the City	BBC 3	16/10/2013	Materially misleading	1
Up All Night	Channel 4	24/10/2013	Violence and dangerous behaviour	1
UTV Live	UTV	31/10/2013	Generally accepted standards	1
Watchdog	BBC 1	16/10/2013	Race discrimination/offence	1
Watchdog	BBC 1	23/10/2013	Outside of remit / other	1
Week In, Week Out	BBC 1 Wales	22/10/2013	Outside of remit / other	8
Wills and Trusts	Sangat TV	15/05/2013	Materially misleading	1
Wills, Trusts and Estate Planning	Sangat TV	Various	Materially misleading	1
World War II: The Complete History	Quest	09/10/2013	Materially misleading	1
You've Been Framed!	ITV	26/10/2013	Violence and dangerous behaviour	2

## Investigations List

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

Here is an alphabetical list of new investigations launched between 24 October and 6 November 2013.

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission date</b>
Advertising minutage	News18 India	Various
Advertising minutage	SAB	27 July 2013
Advertising minutage	True Entertainment	27 September 2013
Caught on Camera	Channel 5	18 October 2013
Ebrahim College's sponsorship of Hajj Coach	Islam Channel	9 October 2013
Gracie's Choice	Channel 5	18 October 2013
ITV News Meridian	ITV Meridian	12 September 2013
Maya Khan Morning Show	Prime TV	11 September 2013
News	Russia Today	18 September 2013
Pickpockets & Proud	Channel 5	28 October 2013

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

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

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

For fairness and privacy complaints go to:

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