

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.

Broadcast Standards cases

In Breach

Today

NTV Mir Baltic, 2 April 2018, 19:00

Introduction

NTV Mir Baltic is a television channel broadcasting to the Russian-speaking community in Latvia. *Today* is a news programme, covering the main political, cultural and economic events of the day in Russia and abroad. The licence for NTV Mir Baltic is held by Baltic Media Alliance Limited ("BMAL" or "the Licensee").

Ofcom received a complaint that a discussion in this edition of *Today* about the poisoning of Sergei Skripal and his daughter Yulia in Salisbury on 4 March 2018 was not duly impartial.

As the programme was broadcast in Russian, Ofcom obtained an independent translation of the full programme into English. The Licensee was given an opportunity to comment on the accuracy of the translation and it requested two minor corrections. We relied on the corrected translation for the purposes of the investigation.

Throughout this programme the following news caption appeared along the bottom of the screen:

"Media sources: A theory about poisoned buckwheat groats was mentioned in Skripal's case.

Lavrov¹: Inability of the United Kingdom to answer Russia's questions with regards to Skripal's case will mean that all this is a fabrication and a provocation".

A news presenter ("Presenter 1") opened the programme by saying:

"What are the elements of the crime? Moscow forwarded a list of questions in the Skripal case to the OPCW²".

At the same time, an image of a document was shown for approximately 4 to 5 seconds. Its text said:

"The Ministry of Foreign Affairs of the Russian Federation

A list of questions from the Russian State Party to the Technical Secretariat of the OPCW in 'the Skripal case', fabricated by the United Kingdom against Russia.

On 1 April, the Permanent Delegation of the Russian Federation to the Organisation for the Prohibition of Chemical Weapons (OPCW) forwarded to the Technical Secretariat of

¹ Sergey Lavrov, Minister of Foreign Affairs of the Russian Federation.

² OPCW: The Organisation for the Prohibition of Chemical Weapons.

the Organisation a list of questions in 'the Skripal case', which had been fabricated against Russia:

1. *What kind of assistance did London ask for from the OPCW Technical Secretariat?*
2. *Does the Technical Secretariat have intentions to share, in a prescribed manner, with the Executive Committee, including, naturally, with Russia, the information which the British supply to the Technical Secretariat under subparagraph 38(e) of Article VIII of the Convention (technical evaluation during the process of implementation of the provisions of the current convention, including evaluation of listed and unlisted chemicals)?*
3. *Did the British Party provide any additional information from their own national investigation (operational, medical, legal etc)?*
4. *What specifically do the British want the Technical Secretariat of OPCW to confirm: only the fact that a nerve agent has been used or whether the used substance is categorised as 'Novichok' type according to the Western classification?*
5. *What kind of data and physical evidence did the British provide to the Technical Secretariat (samples, results of their own sample analysis, other evidence)?*
6. *Who is in charge of the OPCW expert group that visited the UK? Which specialists were included?"*

Presenter 1 and a co-presenter ("Presenter 2") read out several other news headlines. They began the first news item, which focused on the poisoning of Sergei and Yulia Skripal. The two Presenters discussed the Skripal case with a reporter in the studio:

Presenter 1: *"More than anybody else Moscow is interested in establishing the truth in the Skripal case and it will push for this during the extraordinary meeting of the Executive Committee of the Organisation for the Prohibition of Chemical Weapons, due to take place on Wednesday. Sergey Lavrov stated this today and reminded us that Russia had forwarded to the OPCW, and previously also to London and Paris, dozens of questions to which it demands answers".*

Presenter 2: *"And if the answers are not forthcoming, said Lavrov, this will mean only one thing: all accusations against Russia were a fabrication and a gross provocation. [The Reporter] is following the situation. [To the Reporter:] What are the questions – can you relay them? Has there been any reaction following the questions?"*

Reporter: *"There is a myriad of questions about the details in the mysterious Skripal case, and the only way to obtain at least some answers is, in fact, to put them forward to the Organisation for the Prohibition of Chemical Weapons because London is simply ignoring all the direct questions from Moscow. These are not abstract questions, they are directly related to the investigation, for instance: Russia wants to know how the samples of the substance which had harmed the Skripals were collected; which laboratories are analysing them; whether the 'chain of custody' principle was being observed? There is no direct Russian parallel for this expression; it means*

that all actions with evidence, all its movements, all the analyses and tests have to be described in writing in a meticulous manner, there should be a proper, valid report. Also these questions concern the – sudden – participation in this investigation of the French Party – what are the grounds for that and whether the OPCW has agreed to that? And if answers to these questions are not forthcoming then the conclusions will be obvious – Sergey Lavrov spoke today about this”.

A video clip of Sergey Lavrov (“SL”), the Russian Minister of Foreign Affairs was then shown:

“We have distributed utterly specific questions, in complete compliance with the Convention on the Prohibition of Chemical Weapons. The questions were addressed both to the Technical Secretariat of the OPCW and to our British colleagues, and also to the French colleagues because suddenly there were communications – President Macron talked about this – that France got actively involved in the investigation. It is important for us to know on what grounds this has happened; therefore, there are lots of questions, and the inability of our British colleagues to answer them will mean only one thing – that all this is a fabrication and, to put it more directly, a most gross provocation”.

The programme returned to the studio and the Reporter continued:

“Today the Kremlin also commented on a possible closure of the Russian Trade Delegation in London, which sources of newspaper The Daily Telegraph called ‘den of spies’. So, the President’s Press Secretary, Dmitry Peskov, explained that Moscow analyses every unfriendly gesture by the British and a response will be found for every similar occurrence, and if our Trade Delegation is really closed, it won’t be left without a response. The situation with simultaneous expulsion of Russian diplomats from several countries is developing; this situation came about under the leadership of Britain. It was said today at the Serbian Government that London attempted to pressurise Belgrade, demanding that it joins this collective manoeuvre – just expel at least one, to make an example – but the Serbs refused and did not stay silent about this, saying that good relations with Moscow were more valuable to them. However, the USA, which, as we know, not just joined the campaign against Moscow but outdid the British by announcing last week the expulsion of 60 Russian diplomats, must have understood that, of course, such action will not be left without a response. Yury Ushakov, the President’s Aide, talked about this today”.

An image of Yury Ushakov was shown in the background while the following text appeared on screen for approximately four seconds:

“Generally speaking, all these expulsions, as you understand, are, among other things, a blow against oneself”.

The Reporter then continued:

“Even as of last week, Russia announced a mirror move and 60 American diplomats will have to leave”.

Another comment attributed to Yury Ushakov appeared on screen:

"As a rule, there is a mirror response, and I don't know what the Americans, in particular, were counting on when expelling 60 diplomats. If they just wanted to reduce the number of their own diplomats working in Russia, they could have done that without throwing out our diplomats".

There was then the following exchange between the Reporter and Presenter 1:

Reporter: *"So Ushakov says, and I quote: I don't know what they were counting on – if they just wanted to reduce the number of their own diplomats working in Russia, they could have done that without throwing out our diplomats. So, my colleagues, you can see here is a kind of diplomatic irony".*

Presenter 1: *"[Reporter], tell us, what about the Skripals themselves? Is there any news?"*

Reporter: *"The newspaper The Sun wrote today about a new theory regarding the Skripals' poisoning. It was said that it could have been the door handle, then also possibly Sergey Skripal's car ventilation system, or there may have been some poisonous agent in the luggage".*

An image of this article in English in *The Sun* was shown, with a Russian translation:

"The Sun: the British police suspects that 'Novichok' was delivered to the Skripals in buckwheat".

The exchange between the Reporter and Presenter 1 continued:

Reporter: *"However, now The Sun claims, referring to some source which of course is very close to the investigation, that the whole blame should be placed on buckwheat which the Skripals received from Russia, from Yulia's female friend, into which something was allegedly mixed or added. So, in general, there are many theories, but one way or another, the Russian diplomats are not allowed – even for a minute, even just a glimpse, so to say – to see Yulia Skripal, who is recovering, i.e. Russia is learning about the condition of a Russian citizen only from London reports. We cannot ascertain or check anything ourselves. In connection with this, with all this secrecy, an almost one hundred years old scandal comes to mind. The previous night, my colleague... remembered a story from 1924 about the so-called 'Zinoviev letter'³. [An image of a page from the Daily Mail was shown] The details of this [story] are really spectacular and very much in the spirit of the day: then, newspaper The Daily Mail published a message addressed to the British communists, in which they were urged to conduct subversive activities in the army and in the navy and generally to prepare for a civil war in England. It*

³ The "Zinoviev letter" was a document published in the Daily Mail newspaper that purported to be a letter from Grigory Zinoviev, the head of the Communist International (Comintern) (see footnote 4), to the Communist party of Great Britain. The letter called on British Communists to mobilise "sympathetic forces" in the Labour Party. The letter was published a few days before the 1924 UK General Election and was widely credited as contributing to the Labour Party not winning that election. The document has since been widely dismissed as being a fake.

was in 1924. The letter was allegedly signed by the Head of Comintern⁴ and the Soviet party member, Grigory Zinoviev. London, of course, immediately started airing a multitude of grievances, stoking the public opinion, saying: How dare these Russians poke their nose into our affairs, especially in such a brazen manner! Zinoviev denied everything, saying that he signed no such letter; however, who wanted to listen to these answers? The confrontation was boiling for several years and ended in severance of diplomatic relations for two years, with England initiating it then; only decades later, it became clear that the letter was a complete fake from beginning to end. It was an organised provocation; it was organised by a British intelligence operative, a close associate of Churchill. So one would think: what do the Skripals have to do with this?"

Presenter 1: *"Let's just hope that in this case we won't have to wait for decades to find out".*

Reporter: *"Yes".*

Presenter 1: *"What are you hinting at now?"*

Reporter: *"No, Vasily, no hints whatsoever. Just for reference only about the methods of our truth-loving British partners".*

Presenter 1: *"Thank you".*

The news item then ended.

Ofcom considered that this news item was dealing with a matter of major political controversy and a major matter relating to current public policy, namely, the policies and actions of the UK and Russian Governments concerning the poisoning of Sergei and Yulia Skripal.

We therefore considered that this programme raised issues warranting investigation under the following rules:

Rule 5.1: *"News, in whatever form, must be reported with due accuracy and presented with due impartiality".*

Rule 5.11: *"...due impartiality must be preserved on matters of major political and industrial controversy and major matters relating to current public policy by the person providing a service...in each programme or in clearly linked and timely programmes".*

Rule 5.12: *"In dealing with matters of major political and industrial controversy and major matters relating to current public policy an appropriately wide range of significant views must be included and given due weight in each programme or in clearly linked and timely programmes. Views and facts must not be misrepresented".*

⁴ Comintern: The Communist International, also known as the Third International, an organisation whose aim was to promote world communism, 1919-1943.

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

Response

BMAL said that this news item was six and a half minutes long of which "3.5 minutes cover the news of questionnaire that Russia had sent to the OPCW, a little more than 1 minute concerns the mutual expulsions of diplomats, and the rest covers speculations by the British media concerning the source of the Skripals' intoxication". It added that the section of *Today* which discussed the Skripal case contained "merely unbiased mentions of facts, with no negative or critical views about official British authorities or individual officials". The Licensee therefore did not consider an "alternative view" was required to comply with Section Five of the Code.

BMAL also said that the "only official statement" in the programme was the direct quote from Sergey Lavrov and the list of questions sent to the OPCW. It added that these were "news in and of themselves... not just opinions or critical interpretations of some other event". The Licensee argued therefore that this did "not mandate the presentation of a different news event, one that would refute or 'counterbalance' it, to be broadcast". Further, BMAL considered that Sergey Lavrov's statement "was not critical towards British authorities...He did not voice axiomatic or unequivocal conclusions or accusations. He simply mentioned the condition under which the official position of Russia (being his position) would turn negative, i.e. questions left unanswered by the British side". The Licensee therefore argued that "neither Lavrov's statement (because it *is* a news story *in itself*, however positive or negative it may be), nor the content of the Programme combined with his statement contains any criticism which, in accordance with [Section Five of the Code], would have required a 'counterpoint'".

BMAL said that if "any 'substantial' British opinion" about the list of questions sent by Russia to the OPCW had been available at the time the programme was produced, it would have been included. However, it said that as "no such opinion was available at the time", the news item included the comment, "*London simply ignores all direct questions from Moscow*".

BMAL said that while it "might appear" that "the British official allegations" which had been made at the time had been "omitted" from the programme, they were not included as they were "by then so well-known that they did not provide an alternative view on the matter of controversy in consideration". Therefore, the Licensee argued that it would have been "irrelevant" to include the UK perspective as a means of providing balance.

BMAL also argued that "the degree of impartiality with which NTV Mir Baltic presented its news appeared to be no less than that of some mainstream British media licensed by Ofcom". It said that these media continued to air "statements by the Prime Minister, other ministers and officials in Britain as well as other countries that are unequivocally and unconditionally critical towards Russia" without providing "alternative opinions... such as Russia's official view" as required under Section Five of the Code. The Licensee added that where the target audience "is specifically British" it understood there was a greater "urgency" to comply with Section Five.

Preliminary View

Ofcom issued a Preliminary View that the programme was in breach of Rules 5.1, 5.11 and 5.12 of the Code and invited the Licensee's representations on the Preliminary View. The Licensee did not provide representations within the timeframe stipulated by Ofcom and did not respond to further attempts by Ofcom to contact the Licensee.

Decision

Reflecting our duties under the Communications Act 2003⁵, Section Five of the Code requires that the special impartiality requirements are met.

Rule 5.1 states that: "News, in whatever form, must be reported with due accuracy and presented with due impartiality".

Rule 5.11 states that: "due impartiality must be preserved on matters of major political and industrial controversy and major matters relating to current public policy by the person providing a service...in each programme or in clearly linked and timely programmes".

Rule 5.12 states that: "In dealing with matters of major political and industrial controversy and major matters relating to current public policy an appropriately wide range of significant views must be included and given due weight in each programme or in clearly linked and timely programmes. Views and facts must not be misrepresented".

The obligation to preserve due impartiality in news (Rule 5.1) applies to any matter covered in a news programme, and not just matters of political or industrial controversy and matters relating to current public policy.

Ofcom is the UK's independent broadcast regulator. In performing our broadcast standards duties, we act independently from Government and politicians. We have conducted this case following our published procedures, which provide for a fair and transparent process. After listening to the entire programme, we assessed and investigated the programme against the rules in Section Five of the Code. We have taken careful account of the fact-specific context of the programme and of the representations made by the Licensee.

Ofcom must perform its duties in accordance with the right to freedom of expression set out in Article 10 of the European Convention of Human Right. Freedom of expression is one of the essential foundations of a democratic society. As is well established, it encompasses the broadcaster's right to freedom of expression as well as the audience's right to receive information and ideas without interference⁶. It applies not only to the content of information but also to the means of transmission or reception⁷. Any interference must be prescribed by law, pursue a legitimate aim, and be necessary in a democratic society (i.e. proportionate to the legitimate aim pursued and corresponding to a pressing social need). Decisions of the European Court of Human Rights make clear that there is little scope for restrictions on

⁵ See: <http://www.legislation.gov.uk/ukpga/2003/21/section/319> and <http://www.legislation.gov.uk/ukpga/2003/21/section/320>

⁶ *Lingens v Austria* (1986) 8 EHRR 407.

⁷ *Autronic v Switzerland* (1990) 12 EHRR 485.

freedom of expression in two fields, namely political speech and on matters of public interest. Accordingly, a high level of protection of freedom of expression will normally be accorded, with the authorities having a particularly narrow margin of appreciation.

The Government's White Paper⁸ published in advance of the Communications Bill in December 2000, set out the Government's rationale for the continuation of the due impartiality requirements for television and radio broadcasting in the UK. It stated that:

"...one of the cornerstones of broadcasting in the UK has been the obligation on all broadcasters to present news with due accuracy and impartiality. There are also important impartiality obligations applying to other programming. The Government believes that these obligations have played a major part in ensuring wide public access to impartial and accurate information about our society and the opportunity to encounter a diverse array of voices and perspectives. They ensure that the broadcast media provide a counter-weight to other, often partial, sources of news. They therefore contribute significantly to properly informed democratic debate. Responses to the consultation indicated general support for retaining them".

In passing the Act, Parliament set out in legislation the restrictions prescribed by law and which it has judged to be necessary in our democratic society. The legitimate aim is for the protection of rights of others. The statutory framework set by Parliament specifically assigns an area of judgment, to be exercised by Ofcom, as to how the requirements of the legislation are to be applied to the facts of each case.

Each and every time Ofcom applies the Code to broadcast content, Ofcom gives careful consideration to the broadcaster's and the audience's Article 10 rights. In order to reach a decision on whether due impartiality was maintained in this programme, Ofcom has had careful regard to the Article 10 rights and relevant contextual factors.

In light of the above, and in line with broadcasters' right to freedom of expression and audiences' right to receive information, we considered that it was legitimate for the Licensee to broadcast a news item which reported on the poisoning of the Skripals, and the ramifications of this incident on UK-Russian relations, from the perspective of a channel serving the Russian-speaking community in Latvia. We also recognised that it is essential that programmes subject to the due impartiality requirements in Section Five are able to explore and examine issues and take a position even if that is highly critical; and that while broadcasters are required to include and give due weight to an appropriately wide range of significant views, they may debate and discuss such views⁹.

Application of Section Five of the Code

Ofcom first considered whether the requirements of Section Five of the Code should be applied in this case. The obligation under Rule 5.1 to preserve due impartiality in news applies to any matter covered in a news programme, and not just matters of political or

⁸ Communications White Paper (Safeguarding the interests of citizens, 6.6.1)
https://webarchive.nationalarchives.gov.uk/20100407191943/http://www.culture.gov.uk/images/publications/communicationswhitepaper_fullreport.pdf

⁹ See paragraph 1.59, at: https://www.ofcom.org.uk/_data/assets/pdf_file/0033/99177/broadcast-code-guidance-section-5-march-2017.pdf

industrial controversy and matters relating to current public policy. News includes news bulletins, news flashes and daily news magazine programmes.

The item in question was broadcast as part of a news programme. We considered it clearly constituted news, and the Licensee did not dispute this. Therefore Rule 5.1 applied.

Ofcom also considered whether further requirements of Section Five of the Code should be applied in this case: that is, whether the programme concerned matters of major political or industrial controversy or major matters relating to current public policy.

The Code says that such matters will vary according to events, but these will generally be matters of political or industrial controversy or matters of current public policy which are "of the moment" and of national, and often international, importance, or are of similar significance within a smaller broadcast area.

This news item focused on on-going developments following the poisoning of Sergei Skripal and his daughter Yulia Skripal, who were found unconscious in Salisbury on 4 March 2018 after coming into contact with what police later identified as a nerve agent. The UK Government had on 12 and 14 March 2018 said that this constituted an unlawful use of force by the Russian State in the UK¹⁰. The Russian Federation denied¹¹ that it developed the nerve agent concerned and that it committed the attempted murder.

Throughout this period, there was intense international media and political interest in:

- the ongoing investigations by the UK police and the OPCW;
- allegations about the alleged culpability of the Russian Government in the poisoning of Sergei and Yulia Skripal and the Russian Government's response to these allegations; and
- the impact of the poisoning on diplomatic relations between Russia, the United Kingdom and the wider international community.

The news item included various statements that were critical of the UK Government's position and supportive of the Russian Government's position on the poisoning of the Skripals.

We considered that the position of the UK Government on the purported responsibility of the Russian State for the incident and the response of the UK Government and the wider international community were subjects of debate and political controversy both in the UK and internationally and were of both national and international importance.

We took into account that the Licensee did not dispute that the programme dealt with a major matter.

¹⁰ See the statement of Theresa May to the House of Commons on 12 March 2018, <https://www.gov.uk/government/speeches/pm-commons-statement-on-salisbury-incident-12-march-2018> and on 14 March 2018, <https://www.gov.uk/government/speeches/pm-commons-statement-on-salisbury-incident-response-14-march-2018>

¹¹ See, for example, the statement of Vasily Nebenzya to the United Nations on 14 March 2018, http://www.un.org/en/ga/search/view_doc.asp?symbol=S/PV.8203

For these reasons, we considered that the programme was also concerned with a matter of major political controversy and a major matter relating to current public policy. The Licensee was therefore also required to preserve due impartiality pursuant to Rules 5.11 and 5.12 of the Code.

The preservation of due impartiality

Ofcom went on to assess whether the programme preserved due impartiality on these matters. In judging whether due impartiality has been preserved in a particular case, the Code makes clear that "due" means adequate or appropriate to the subject and nature of the programme. "Due impartiality" does not therefore mean an equal division of time must be given to every view, or that every argument must be represented. Due impartiality can be preserved in a number of ways and it is an editorial decision for the broadcaster as to how it ensures this.

Ofcom's Guidance¹² to Section Five of the Code makes clear that the broadcasting of comments either criticising or supporting the policies and actions of any political organisation or elected politician is not, in itself, a breach of due impartiality rules. Any broadcaster may do this provided it complies with the Code. However, depending on the specific circumstances of any particular case, it may be necessary to reflect alternative viewpoints or provide context in an appropriate way to ensure that Section Five of the Code is complied with.

The Code also makes clear that the approach to due impartiality may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience and the extent to which the content and approach is signalled to the audience. In addition, context, as set out in Section Two (Harm and Offence) of the Code is important in preserving due impartiality. Context includes a number of factors such as the editorial content of the programme, the service on which the material is broadcast, the likely size, composition and expectation of the audience and the effect on viewers who may come across the programme unawares.

This news item reported on recent developments in the case concerning the poisoning of Sergei and Yulia Skripal in a way which largely reflected the views of the Russian Government. It included various statements that were critical and/or dismissive of the UK Government's response to this incident. For example, the news item was introduced with the position of Sergey Lavrov outlined in the following caption:

"Lavrov: Inability of the United Kingdom to answer Russia's questions with regards to Skripal's case will mean that all this is a fabrication and a provocation".

Presenter 1 also referred to "Moscow [having] forwarded a list of questions in the Skripal case to the OPCW" while a document was simultaneously shown on screen for 4 to 5 seconds, which included the following statements:

"...A list of questions from the Russian State Party to the Technical Secretariat of the OPCW in 'the Skripal case', fabricated by the United Kingdom against Russia..."

¹² https://www.ofcom.org.uk/data/assets/pdf_file/0033/99177/broadcast-code-guidance-section-5-march-2017.pdf, paragraph 1.34

"...a list of questions in 'the Skripal case' which had been fabricated against Russia..."

Both Presenter 2 and the Reporter also said:

"...if the answers are not forthcoming, said Lavrov, this will mean only one thing: all accusations against Russia were a fabrication and a gross provocation..."

"...if answers to these questions are not forthcoming then the conclusions will be obvious – Sergey Lavrov spoke today about this"

There was also a video clip of Mr Lavrov saying:

"...there are lots of questions, and the inability of our British colleagues to answer them will mean only one thing – that all this is a fabrication and, to put it more directly, a gross provocation"

Further critical claims about the UK Government were made in the news item, including that:

"London is simply ignoring all the direct questions from Moscow"

"Russian diplomats are not allowed – even for a minute, even just a glimpse, so to say – to see Yulia Skripal"

In addition, towards the end of the news item, the Reporter referred to the Zinoviev letter¹³. In our view, in the following exchange, the Reporter sought to make a comparison between this document, which he described as a *"a complete fake... an organised provocation"*, and the position of the UK authorities on the Skripal case:

Reporter: *"So one would think: what do the Skripals have to do with this [i.e. the Zinoviev letter]?"*

Presenter 1: *"Let's just hope that in this case we won't have to wait for decades to find out"*

Reporter: *"Yes"*

Presenter 1: *"What are you hinting at now?"*

Reporter: *"No, Vasily, no hints whatsoever. Just for reference only about the methods of our truth-loving British partners"*

In light of these critical statements, we considered whether, as required under Rule 5.12, an appropriately wide range of significant views were included and given due weight in this programme.

¹³ See footnote 3.

The Licensee said that it did not consider that an “alternative view” to that of Mr Lavrov was required, because the report was “unbiased...with no negative or critical views about official British authorities or individual officials” and reflected the event “as is”. It added that Mr Lavrov “simply mentioned the condition under which the official position of Russia (being his position) would turn negative, i.e. questions left unanswered by the British side”. Ofcom recognised that the news item may have accurately represented Mr Lavrov’s statement and the list of questions sent to the OPCW.

As highlighted in Ofcom’s Guidance on Section Five of the Code, the broadcasting of critical comments concerning the policies and actions of, for example, any one state, is not in itself a breach of due impartiality rules. In Ofcom’s view, however, the various comments outlined above (which were not limited to simply reporting Mr Lavrov’s statement) would have been likely to have been interpreted by viewers as implying that the UK Government had “fabricated” the accusations it had made concerning the Russian authorities’ involvement in the Skripal case. These were serious allegations and given the nature and extent of the critical statements being made against the UK Government, and the fact that they were presented without challenge, we would have expected an alternative viewpoint (such as that of the UK Government) to have been reflected and given due weight.¹⁴

BMAL also said that “the British official allegations” had not been included in the programme because they were “by then so well-known that they did not provide an alternative view on the matter”, and that it would have been “irrelevant” to include the official British view as it “presented the very context of this matter of controversy”. We did not agree with this argument. As stated in paragraph 1.17 of Ofcom’s published guidance to Section Five:

“Broadcasters must not assume prior knowledge on the part of the audience of particular alternative views”.

Therefore, broadcasters should not assume that all viewers will have a detailed knowledge of the factual background to ongoing news stories, particularly when the story develops over a number of days, or, as in this case, weeks.

BMAL said that if “any ‘substantial’ British opinion” about the list of questions sent by Russia to the OPCW had been available at the time the programme was produced, it would have been included. However, it said that “no such opinion was available at the time”. We disagreed with the Licensee’s argument. The Licensee itself acknowledged that the UK Government’s position on the responsibility for the poisoning of the Skripals was “by then ... well-known”. Therefore, we considered that the Licensee could – and should – have reflected and given due weight to the UK Government’s position on the incident. It was an editorial decision for the broadcaster as to how to reflect this alternative viewpoint to ensure that due impartiality was preserved.

We took into account the argument that BMAL made about contextual factors in this case. The Licensee argued that “the degree of impartiality with which NTV Mir Baltic presented its news appeared to be no less than that of some mainstream British media licensed by Ofcom”. It said that UK broadcasters continued to air “statements by the Prime Minister, other ministers and officials in Britain as well as other countries that are unequivocally and

¹⁴ Ofcom’s Guidance explains that ‘significant views’ could include the viewpoint of nation states whose policies are considered to be ‘major matters’ (paragraph 1.58). See: https://www.ofcom.org.uk/_data/assets/pdf_file/0033/99177/broadcast-code-guidance-section-5-march-2017.pdf

unconditionally critical towards Russia” without providing “alternative opinions... such as Russia’s official view”. However, BMAL provided no evidence of any UK-based broadcasters failing to comply with the due impartiality rules in general, or in relation to coverage of the Skripals’ poisoning in particular.

We acknowledged that viewers were likely to expect programmes on NTV Mir Baltic to address issues from the perspective of a channel serving the Russian-speaking community in Latvia. The Licensee said it understood that where the target audience “is specifically British”, there was a greater “urgency” to comply with Section Five. In this regard, Ofcom’s published Guidance to Section Five states that there are greater expectations for news channels that are perceived to be aimed at a UK audience than there are for channels with a global audience. However, all international TV channels licensed and regulated by Ofcom must comply with the regulatory framework of the UK. An important part of that framework is the rules about due impartiality which are requirements under UK statute and are set out in Section Five of the Code. These rules require broadcasters to ensure that alternative viewpoints are reflected, as appropriate, on matters of political and industrial controversy and current public policy (and in this case on a matter of major political controversy and a major matter relating to current public policy). The way due impartiality is preserved is an editorial matter for each individual broadcaster.

For the reasons given above, and having taken careful account of the broadcaster’s and audience’s rights to freedom of expression and the relevant contextual factors discussed above, Ofcom’s view is that the Licensee failed to include and give due weight to an appropriately wide range of significant viewpoints on the relevant matter of major political controversy and relevant major matter relating to current public policy dealt with in the news item as required under Rules 5.11 and 5.12 and, taken overall, due impartiality was not preserved during the news item as required under Rule 5.1.

Breaches of Rules 5.1, 5.11 and 5.12

Next steps: Ofcom is minded to consider this breach for statutory sanction.

This is the sixth time that the Licensee breached the due impartiality rules in the Code on its channels NTV Mir Lithuania and NTV Mir Baltic since November 2014¹⁵. In January 2017, we met with BMAL to discuss its compliance processes in the area of due impartiality and the Licensee gave assurances to Ofcom concerning their understanding of the due impartiality rules. We are therefore concerned that just over a year later, in April 2018, they breached

¹⁵ See Ofcom’s published Decisions:

- *Professia Reporter*, NTV Lithuania, 2 November 2014, Issue 282 of Ofcom’s Broadcast and On Demand Bulletin (https://www.ofcom.org.uk/data/assets/pdf_file/0021/50349/issue_282.pdf).
- *Today*, NTV Mir Lithuania, 8 and 30 January 2015, Issue 284 of Ofcom’s Broadcast and On Demand Bulletin (https://www.ofcom.org.uk/data/assets/pdf_file/0018/50436/issue_284.pdf).
- *Anatomy of the Day*, NTV Mir Lithuania, 2 September 2015, Issue 300 of Ofcom’s Broadcast and On Demand Bulletin (https://www.ofcom.org.uk/data/assets/pdf_file/0012/51402/issue_300.pdf).
- *The Incident: Special Investigation*, 15 April 2016, Issue 319 of Ofcom’s Broadcast and On Demand Bulletin (https://www.ofcom.org.uk/data/assets/pdf_file/0018/96012/Issue-319-of-Ofcoms-Broadcast-and-On-Demand-Bulletin,-to-be-published-on-19-December-2016.pdf).
- *Today*, NTV Mir Baltic, 12 November 2016, Issue 330 of Ofcom’s Broadcast and On Demand Bulletin (https://www.ofcom.org.uk/data/assets/pdf_file/0021/102567/issue-330-broadcast-on-demand-bulletin.pdf).

these rules in the present case. As such, Ofcom considers this breach of the due impartiality rules, in light of the Licensee's previous breaches, to be a serious failure of compliance. **Therefore, subject to receiving the Licensee's representations on this issue, Ofcom is minded to consider the imposition of a statutory sanction.**

In Breach

Competition

True Entertainment, 16 October 2018, 19:15

Introduction

True Entertainment is a general entertainment channel. Its licence is held by Columbia Pictures Corporation Limited ("Columbia" or "the Licensee").

Ofcom received a complaint about a competition broadcast on the channel, which began with the following voice-over: *"This month on True Christmas we're showing a collection of the best-loved films, as part of our Christmas romance season. And to celebrate we're giving you a chance to win a romantic break for two to see the Northern Lights in Norway"*.

The rest of the voice-over provided further details about the prize, which included staying at a "snow hotel", and participating in a "husky safari", snowshoe walking and a Northern Lights tour, as well as meals and spending money. This was accompanied by footage of the accommodation, amenities and activities. There was also a brief clip of a Christmas film near the beginning of the content.

The question asked as part of the competition was: *"Which British actor starred in the hit Christmas film, The Holiday?"* Viewers were invited to participate by calling a controlled premium rate telephony service ("PRS").

We considered that the material raised potential issues under Rule 9.27 of the Code:

- Rule 9.27 "Controlled premium rate telephony services will normally be regarded as products or services, and must therefore not appear in programmes, except where:
- a) they enable viewers to participate directly in or otherwise contribute directly to the editorial content of the programme; or
 - b) they fall within the meaning of programme-related material".

We therefore sought the Licensee's comments on how the content complied with this rule.

Response

Columbia explained that the content had been broadcast in non-commercial airtime (i.e. broadcast as programming) as, in its view, it met the definition of programme-related material ("PRM")¹. This was because it was directly derived from Christmas programming, without interfering with the editorial purpose of that programming.

¹ The Code states that PRM "consists of products or services that are both directly derived from a programme and specifically intended to allow viewers to benefit fully from, or to interact with, that programme".

However, the Licensee acknowledged that, instead of being broadcast alongside Christmas programming, the competition had been promoted around unrelated programming due to a scheduling error.

Columbia apologised for this mistake, and assured Ofcom that it took its responsibility to ensure compliance with the Code very seriously. It added that it had since undertaken an internal investigation and updated its processes to prevent errors of this sort from happening again.

On receipt of Ofcom's Preliminary View that the material was in breach of Rule 9.27, the Licensee said: "[T]here seems to have been a misconception within [its] business as to what constitutes PRM for purposes of permitting...PRS within programmes". It apologised further, and said that it was currently reviewing all of its planned competitions using PRS, to ensure that they were fully compliant with the Code. In addition, Columbia reiterated that that it took this matter extremely seriously, and had reviewed its procedures and provided additional training for its staff on the rules covering broadcast competitions. It believed this would prevent any recurrence of such a mistake.

Decision

Reflecting our duties under the Communications Act 2003², Section Nine of the Code limits the extent to which commercial references can feature within television programming. This helps ensure that a distinction is maintained between editorial and advertising, and supports rules which restrict the amount of television advertising that can be broadcast.

Because PRS enable broadcasters to generate income from viewers, the circumstances in which they can be promoted in programming are limited. Rule 9.27 of the Code permits broadcasters to refer to PRS within programming where it meets the definition of PRM.

Columbia initially argued that the competition met the definition of PRM because the prize of a holiday to see the Northern Lights in Norway was directly derived from its Christmas programming, specifically a season of romantic Christmas films.

To satisfy the definition of PRM set out in the Code, the product or service promoted must be both derived from a programme and specifically intended to allow viewers to benefit fully from, or to interact with, that programme. Ofcom's Guidance on PRM³ states:

"Broadcasters should also note that similarity, in terms of genre or theme(s), between a programme and a product or service (for example, where both are about football, cookery or gardening) is not in itself sufficient to establish that the product or service is directly derived from the programme. A product or service directly derived from more than one specific programme may be considered to be programme-related material in relation to those programmes but the scope for this is limited. Ultimately this will depend on the facts of an individual case. In each case, in order for the material to be considered programme-related material and promoted accordingly, a broadcaster would need to be able to demonstrate to Ofcom's satisfaction that the material in question was directly derived to a significant extent from each of those programmes".

² <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

³ https://www.ofcom.org.uk/_data/assets/pdf_file/0014/33611/section9_may16.pdf

In our view, the fact that the prize was winter-themed (for example, including activities such as a snowshoe walking) was not sufficient to demonstrate that it was directly derived from the season of romantic Christmas films. The content promoting the competition did not establish a clear link with any of the films included in this season, other than including a brief clip from one of the films, which was not commented on further. As made clear in the Guidance, broadcasters who wish to promote PRM derived from a series of linked programmes must demonstrate that the material in question is derived directly from those programmes to a significant extent. We did not consider that the Licensee had done so in this instance.

The Licensee explained that the content had been broadcast around other programmes, and not those from which it had been intended to be directly derived. However, Ofcom stresses that, for the reasons set out above, this material would not have satisfied that definition even if it had been scheduled as intended by Columbia.

Ofcom welcomed the steps taken by the Licensee, following the receipt of the Preliminary View, to address this issue. However, our Decision is that the PRS promoted in the competition did not fall within the meaning of PRM and the material was therefore in breach of Rule 9.27.

Breach of Rule 9.27

Complaint Assessment

Coverage of issues surrounding the UK's exit from the EU

Various programmes, BBC Radio 4, 4 October 2017 to 29 March 2018, various times

Introduction

Ofcom has assessed a complaint about BBC coverage about the UK's exit from the EU and has decided that the programmes do not raise issues warranting further investigation. As this assessment involved consideration of some issues of general importance, and in view of the significant public scrutiny of the BBC's coverage about the UK's exit from the EU, Ofcom has exceptionally decided to publish its reasons for its decision to provide guidance to broadcasters.

Summary

Ofcom received a collective complaint¹ concerning content broadcast by the BBC about the UK's exit from the EU. In particular, the complainants alleged that the programmes had failed to sufficiently represent the views of those supporting the UK's exit from the EU and therefore breached the due impartiality requirements in Section Five of the Code.

In accordance with Ofcom's published procedures,² a complaint was submitted to the BBC on 4 May 2018. The BBC gave a final response to that complaint on 30 May 2018. It was rejected on the grounds that the BBC did not consider the applicable rules meant that it was required to give equal airtime to those for and against the UK's exit from the EU, particularly since the political context had moved on since the EU referendum. The complainants were dissatisfied with the BBC's final response and subsequently submitted a complaint to Ofcom on 5 July 2018.

Ofcom has assessed the complaint and an extensive amount of content associated with it. We have concluded that the complaint does not raise potentially substantive issues under the Code which warrant further investigation. Ofcom will not therefore be investigating the complaint further.

The complaint

The complaint related to a number of programmes broadcast by the BBC and focused on the BBC's coverage of issues surrounding the UK's exit from the EU. The complaint was based on three surveys conducted by News-watch³ which, in total, covered approximately 75 hours of content broadcast on BBC Radio 4 between 9 October 2017 and 29 March 2018:

¹ The complainants were: Lord Pearson of Rannoch, Philip Davies MP, Philip Hollobone MP, Kate Hoey MP, Ian Paisley MP, Kelvin Hopkins MP, Graham Stringer MP, Viscount Ridley, William Cash MP and David Keighley.

² Ofcom's Procedures for investigating breaches of content standards on BBC Broadcasting services and BBC ODPS, available at 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

³ <http://news-watch.co.uk/>

- *The BBC and Brexit: Today's coverage of the fifth round of Brexit negotiations, 4 October – 9 November 2017*,⁴ relating to *Today*, BBC Radio 4's early morning news and current affairs programme which is broadcast six days a week. The survey examined *Today's* coverage of the fifth round of negotiations concerning the UK's exit from the EU, comprising 24 episodes broadcast between 9 October and 4 November 2017.⁵
- *The BBC and Brexit: Survey of Series 3 of BBC Radio 4's 'Brexit: A Guide for the Perplexed' 19 – 23 February 2018*,⁶ relating to a BBC Radio 4 series broadcast between 19 and 23 February 2018 comprising five episodes, each examining how a particular area would be impacted by the UK's exit from the EU.⁷
- *The BBC and Brexit: Survey of a day of special Radio 4 Programmes: 'Britain at the Crossroads', 29 March 2018*,⁸ relating to 13 programmes broadcast on BBC Radio 4 on 29 March 2018, to mark there being one year until the UK's exit from the EU.⁹

The complainants pointed to quantitative techniques (measuring variables such as the airtime given to a particular issue or subject, or the prominence given to a particular issue or subject within a running order)¹⁰ and qualitative techniques (including assessing the structure, framing, editing and subject matter of content) used in the News-watch surveys to analyse the BBC's coverage of the UK's exit from the EU within the relevant programmes.

The complainants submitted that, based on these programmes, “positive, pro-Brexit opinion is being systematically under-represented in BBC output” and that “more time, space and emphasis is being given to pro-EU or anti-Brexit voices”. In their view, this amounted to a “clear breach of the core Charter and Public Purposes requirements related to impartiality”.

⁴ <http://news-watch.co.uk/winter-2017-survey/>

⁵ The episodes were : 9 October 2017, 06:00; 10 October 2017, 06:00; 11 October 2017, 06:00; 12 October 2017, 06:00; 13 October 2017, 06:00; 14 October 2017, 07:00; 16 October 2017, 06:00; 17 October 2017, 06:00; 18 October 2017, 06:00; 19 October 2017, 06:00; 20 October 2017, 06:00; 21 October 2017, 07:00; 23 October 2017, 06:00; 24 October 2017, 06:00; 25 October 2017, 06:00; 26 October 2017, 06:00; 27 October 2017, 06:00; 28 October 2017, 07:00; 30 October 2017, 06:00; 31 October 2017, 06:00; 1 November 2017, 06:00; 2 November 2017, 06:00; 3 November 2017, 06:00; and 4 November 2017, 07:00.

⁶ <http://news-watch.co.uk/news-watch-survey-of-radio-4s-brexit-a-guide-for-the-perplexed/>

⁷ The series comprised the following episodes: *Medicines*, 19 February 2018, 12:00; *Food*, 20 February 2018, 12:00; *Gibraltar*, 21 February 2018, 12:00; *Brexit's Most Vulnerable*, 22 February 2018, 12:00; *Status Quo*, 23 February 2018, 12:00.

⁸ <http://news-watch.co.uk/2217-2/>

⁹ The programmes were: *Today*, 06:00; *The Long View*, 09:00; *Dead Ringers*, 09:45, 13:55, 16:57, 18:30, 20:58, 22:43; *The Channel*, 09:48; *World at One*, 13:00; *The Brexit Lab*, 16:30; *The EU after Brexit*, 20:30; and *The World Tonight*, 22:00. The News-watch survey of ‘*Britain at the Crossroads*’ also included a transcript of a further programme, *PM*, which was broadcast at 17:00. However, News-watch explained that “given that it was not mentioned in the BBC press release, nor in any of the announcements preceding programmes in the strand, it [was not] included in the statistical section of th[e] survey”. Ofcom therefore did not consider *PM* as part of the complaint.

¹⁰ In their complaint to Ofcom, the complainants said that it was not their view that content should be assessed solely by reference to “simplistic and unrealistic numeric quotas” but rather that such analysis should be used “as one indicator among many”.

Ofcom's due impartiality rules

Reflecting our duties under the Communications Act 2003¹¹ ("the Act"), Section Five of the Code requires that news in television and radio services is presented with due impartiality¹² and that the special impartiality requirements set out in section 320 of the Act are met.

The special impartiality requirements include the preservation, in the case of every television and national radio service, of due impartiality on matters of political or industrial controversy and matters relating to current public policy.¹³ Section 320 of the Act requires Ofcom, for the purposes of setting the due impartiality rules in the Code, to take account, in particular, of the need to ensure the preservation of impartiality on matters of major political or industrial controversy; and major matters relating to current public policy.¹⁴

Section Five of the Code makes clear that "due" is an important qualification to the concept of impartiality. Impartiality itself means not favouring one side or another. "Due" means adequate or appropriate to the subject and nature of the programme. It does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. Context is important – the approach to due impartiality may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content, and the extent to which the content and approach is signalled to the audience.

Ofcom has published Guidance Notes to assist broadcasters in complying with Section Five of the Code.¹⁵ Among other things, the Guidance Notes make clear that:

- the concept of due impartiality is central to the application of Section Five and in reaching a decision on whether due impartiality needs to be preserved in a particular case, broadcasters should have regard to the likely expectation of the audience as to the content, and all other relevant contextual factors;¹⁶ and

¹¹ <http://www.legislation.gov.uk/ukpga/2003/21/contents>

¹² This is reflected in Rules 5.1 to 5.3 of the Code. In particular, Rule 5.1 of the Code requires that news, in whatever form, must be reported with due accuracy and presented with due impartiality.

¹³ This is reflected, for example, in Rule 5.5 of the Code, which provides that due impartiality on matters of political or industrial controversy and matters relating to current public policy must be preserved on the part of any person providing a service. This may be achieved within a programme or over a series of programmes taken as a whole.

¹⁴ This is reflected in Rules 5.11 and 5.12 of the Code. Rule 5.11 requires that due impartiality must be preserved on matters of major political and industrial controversy and major matters relating to current public policy by the person providing a service in each programme or in clearly linked and timely programmes. Rule 5.12 provides that, in dealing with matters of major political and industrial controversy and major matters relating to current public policy, an appropriately wide range of significant views must be included and given due weight in each programme or in clearly linked and timely programmes. Views and facts must not be misrepresented.

¹⁵ https://www.ofcom.org.uk/data/assets/pdf_file/0033/99177/broadcast-code-guidance-section-5-march-2017.pdf

¹⁶ Guidance Notes, paragraph 1.4. See also paragraph 1.34, which explains that other relevant factors may include the nature of the programme; the programme's presentation of its argument and the transparency of its agenda.

- it is an editorial matter for the broadcaster how due impartiality is preserved, as long as the Code is complied with, and there are various editorial techniques which can help to ensure this.¹⁷

Ofcom's Code and Guidance Notes are drafted, and are given effect to, in accordance with the broadcaster's right to freedom of expression as set out in Article 10 of the European Convention of Human Rights. In carrying out its duties, Ofcom must balance the broadcaster's right to discuss any controversial subject or point of view in their programming with the requirement in the Code to preserve due impartiality in accordance with Section Five of the Code. Each and every time Ofcom applies the Code to broadcast content, Ofcom gives careful consideration to the broadcaster's and the audience's Article 10 rights. In order to reach a decision on whether due impartiality was maintained in these programmes, Ofcom has had careful regard to the Article 10 rights and all the relevant contextual factors for each programme.

Our assessment

The complaint concerned a large amount of programming and it was necessary for Ofcom to adopt a proportionate approach to assessing this content to determine whether there were potentially substantive issues warranting further investigation. Ofcom therefore assessed a significant proportion of the content covered by each of the surveys submitted by the complainants, comprising the following programmes:

- *The BBC and Brexit: Today's coverage of the fifth round of Brexit negotiations 4 October – 9 November 2017.* As explained above, the survey covered 24 episodes of the *Today* programme broadcast between 9 October and 4 November 2017. We assessed 12 of these episodes which were broadcast between 11 to 24 October 2017.¹⁸ These episodes covered a range of different topics including various discussions about the UK's exit from the EU ranging from shipping, farming, business, exports, security, terrorism, the rights of EU citizens, and Wales. These programmes also included interviews with a range of politicians who discussed their views on various aspects of the UK's exit from the EU.¹⁹ Issues relating to the UK's exit from the EU were also mentioned in these episodes in news bulletins, newspaper reviews, summaries of the previous day in Parliament, business news sections and focused reports on negotiations between the UK and EU.
- *The BBC and Brexit: Survey of Series 3 of BBC Radio 4's 'Brexit: A Guide for the Perplexed' 19 – 23 February 2018.*²⁰ We assessed all of the programmes analysed in this survey. Each programme focused on a different aspect of the likely impact of the UK's exit from the EU

¹⁷ Ibid, paragraph 1.6. See also paragraph 1.37 which makes clear that there are a range of editorial techniques which may be employed.

¹⁸ The episodes we assessed were broadcast on: 11 October 2017, 06:00; 12 October 2017, 06:00; 13 October 2017, 06:00; 14 October 2017, 07:00; 16 October 2017, 06:00; 17 October 2017, 06:00; 18 October 2017, 06:00; 19 October 2017, 06:00; 20 October 2017, 06:00; 21 October 2017, 07:00; 23 October 2017, 06:00; and 24 October 2017, 06:00.

¹⁹ These included Lord Owen; Lord Bilimoria; Kwasi Kwarteng MP; Hilary Benn MP; Greg Clark MP; John Redwood MP; Kenneth Clarke MP; Owen Paterson MP; Sir Keir Starmer MP; Lord Mandelson, Iain Duncan Smith MP, Leanne Wood (then leader of Plaid Cymru); and Sadiq Khan, Mayor of London.

²⁰ <http://news-watch.co.uk/news-watch-survey-of-radio-4s-brexit-a-guide-for-the-perplexed/>

and a range of experts was asked to give their views on this. Different contributors appeared in each programme and across the series they included representatives of industry bodies, business owners, academics, journalists and consultants. The topics covered were: medicines; food; British Overseas Territories; the regions of Britain considered most likely to be impacted by Brexit; and the immediate practical effects of the UK's exit from the EU.

- *The BBC and Brexit: Survey of a day of special Radio 4 Programmes: 'Britain at the Crossroads', 29 March 2018.*²¹ *Britain at the Crossroads* was a day of programming which explored Britain and the EU's future place in the world and the significance of Britain's exit from the EU in terms of culture, politics, history and economics.²² We assessed all of the programmes analysed in this survey. They included news and current affairs analysis (*Today, The World At One, The World Tonight*), cultural and historical documentaries (*The Long View, The Channel*), satirical comedy (*Dead Ringers*) and documentaries specifically about EU exit-related issues (*The Brexit Lab, The EU After Brexit*). Content included: news coverage of the Prime Minister's tour of the UK that day; exploration of several moments in history when Britain's relationship with Europe has been at a crossroads; a series of short comedy sketches satirising key political figures associated with the UK's exit from the EU; discussion of Turner's 1803 painting, 'Calais Pier, with French Poissards preparing for Sea: an English Packet arriving'; a documentary piece about the arguments surrounding the UK's decision to join the EEC in 1972; a survey of how, in various policy areas, the UK's exit from the EU might present opportunities to do things in a radically different way; a discussion about how Britain exiting the EU will affect the remaining member states; and interviews with people in Kent about how they see the future after the UK's exit from the EU.

Ofcom considered whether, in light of all the relevant contextual factors, the programmes raised potentially substantive issues under Section Five of the Code which warranted further investigation.

Several of the programmes were news programming to which Rule 5.1 of the Code applied.²³ This requires that broadcasters ensure that news, in whatever form, is reported with due accuracy and presented with due impartiality.

Ofcom also considered that, to the extent they dealt with the UK's exit from the EU, the programmes dealt with matters of major political and industrial controversy and major matters relating to current public policy. Therefore the requirements in Rules 5.11 and 5.12 applied, in addition to the special impartiality requirements in Rules 5.4 to 5.10.

As set out above, "due" is an important qualification to the concept of impartiality. "Due" means adequate or appropriate to the subject and nature of the programme. It does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. Context is important – the approach to due impartiality may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content, and the extent to which the content and approach is signalled to the audience.

²¹ <http://news-watch.co.uk/2217-2/>

²² <https://www.bbc.co.uk/programmes/articles/3Xx3f95t9njBc3pVwFnZQx3/britain-at-the-crossroads>

²³ *Today; World at One; The World Tonight.*

Ofcom identified a number of relevant contextual factors in these programmes. In particular, we took into account factors such as the service on which the material was broadcast, the nature and content of the programmes assessed, the way in which the content was signalled to the audience and how this would have influenced the audience's expectations of the treatment of the issues discussed in the programmes.

Although all the programmes were broadcast on BBC Radio 4, there was significant variation in terms of the format of the programmes, the nature of the content and the issues discussed in the programmes. There was also variation in the way the discussion of Brexit-related issues was presented in the programmes and signalled to the audience. For example:

- *Today* (12 episodes broadcast between 11 and 24 October 2017) is a news programme. Each of the episodes which Ofcom assessed included discussion of the UK's exit from the EU as well as a number of other topical issues. They also included items such as news bulletins.
- *Brexit: A Guide for the Perplexed* (five episodes broadcast between 19 and 23 February 2018) was a documentary series which, in a series of clearly linked programmes, focused specifically on various aspects of the UK's exit from the EU, each of which was discussed by various experts.
- *Britain at the Crossroads* (13 programmes broadcast on 29 March 2018) was a series of programmes clearly linked together as part of a themed day of programming on BBC Radio 4 about the UK's exit from the EU. This included *Dead Ringers*, a satirical comedy programme, and *The Channel*, a cultural and historical documentary. Audience expectations of due impartiality for these two programmes would have differed to the news or current affairs programmes in the themed day (such as *Today*, *World At One* or *The World Tonight*) or documentaries specifically about EU exit-related issues (such as *The Brexit Lab* or *The EU After Brexit*).

Ofcom also took into account that all the programmes considered in this assessment were broadcast some time after the referendum on the UK's membership of the EU and the UK's invocation of Article 50 of the Treaty of the EU confirming the UK's intention to exit the EU. The public debate had therefore developed from a discussion of a binary question – whether the UK should 'leave' or 'remain' in the EU – into a much more complex and nuanced discussion comprising many different viewpoints on the form that the UK's exit from the EU should take, and the potential implications on a range of different areas. In Ofcom's view, it was likely that the audience of the programmes assessed would have expected the discussion of Brexit-related issues to reflect a range of different viewpoints on the UK's exit from the EU and its implications, and how the public debate on these issues shifted and developed over time.

In Ofcom's view, a range of alternative viewpoints on the UK's exit from the EU was included in each of the standalone programmes we assessed. In addition, in *Brexit: A Guide for the Perplexed* (five episodes broadcast between 19 and 23 February 2018) and *Britain at the Crossroads* (13 programmes broadcast on 29 March 2018), a range of alternative viewpoints was included across clearly linked and timely programmes within each strand.

Further, as our Guidance²⁴ makes clear, there are various editorial techniques which a broadcaster can use to help ensure alternative viewpoints are sufficiently represented and due

²⁴ See for example paragraph 1.17 (for news) and paragraph 1.37:
https://www.ofcom.org.uk/_data/assets/pdf_file/0033/99177/broadcast-code-guidance-section-5-march-2017.pdf

impartiality is preserved. We identified the use of several editorial techniques in these programmes. These included:

- presenters drawing out a range of viewpoints from guests and/or presenters themselves putting forward alternative viewpoints or challenging the viewpoints of guests to provide balance;²⁵
- the inclusion of ‘vox pops’ views from members of the public;²⁶
- the inclusion of interviews with a range of politicians with differing views on Brexit;²⁷
- the inclusion of sector-specific viewpoints from representatives of various industry bodies;²⁸
- the inclusion of international viewpoints;²⁹
- through newspaper reviews which included discussion of newspapers with contrasting views on Brexit issues;³⁰
- through specialist correspondents providing additional information, analysis and context on topics under discussion;³¹
- the inclusion of voices of those with mixed views and/or inclusion of personal views, appropriately and clearly indicated as such;³² and
- the satirical targeting of a range of figures representing different aspects of issues relating to the UK’s exit from the EU.³³

²⁵ This technique was used in all three strands of programming assessed by Ofcom.

²⁶ This technique was used in certain episodes of *Britain at the Crossroads* (13 programmes broadcast on 29 March 2018). For example, in the edition of *Today* broadcast as part of this day of themed programming, views on the UK’s exit from the EU are given by several workers at a car parts factory in Stockton on Tees. In *The World Tonight*, views are given by several people living in Kent on how they see the post-Brexit future.

²⁷ This technique was used in a number of episodes of *Today* (12 episodes broadcast between 11 and 24 October 2017) and in certain episodes of *Britain at the Crossroads* (13 programmes broadcast on 29 March 2018) which included interviews from key politicians for all major parties.

²⁸ This technique was used in all three strands of programming assessed by Ofcom.

²⁹ This technique was used in all three strands of programming assessed by Ofcom. International viewpoints included: an interview with leading German politician Dr Michael Fuchs, vice chairman of the CDU, on the EU’s view of the negotiations; a discussion between MEPs representing Eurosceptic parties in Denmark and Germany; an interview with French politician Bruno Bonnell, MP for the Rhone district; Episode Three of *Brexit: A Guide for the Perplexed*, which discussed the potential impact of the UK’s exit from the EU on British Overseas Territories, particularly Gibraltar and Anguilla; and *The EU After Brexit*, broadcast as part of *Britain at the Crossroads*, which discussed the future of Europe from the perspective of other European countries.

³⁰ This technique was used in several episodes of *Today* (12 episodes broadcast between 11 and 24 October 2017).

³¹ This technique was used in all episodes of *Today* (12 episodes broadcast between 11 and 24 October 2017) and in some episodes of *Britain at the Crossroads* (13 programmes broadcast on 29 March 2018).

³² This technique was used in all three strands of programming assessed by Ofcom.

³³ This technique was used in some episodes of *Britain at the Crossroads* (13 programmes broadcast on 29 March 2018) – namely the *Dead Ringers* programmes.

Having taken into account the broadcaster's and audience's rights to freedom of expression, and all relevant contextual factors and editorial techniques as set out above, Ofcom considered that alternative viewpoints on the issues relating to the UK's exit from the EU were sufficiently represented in each of the programmes (or series of clearly linked programmes) assessed.

Ofcom therefore did not consider that the programmes raised potentially substantive issues warranting further investigation under the Code. Consequently, Ofcom has decided to not to pursue this complaint further.

Not Pursued

Advertising Scheduling cases

In Breach

Advertising minutage

GN TV UK, various dates between 20 September 2018 and 13 October 2018

Introduction

GN TV UK is a general entertainment service. Its licence is held by Channel 7 Limited (“Channel 7” or “the Licensee”).

Rule 2 of the Code on the Scheduling of Television Advertising (COSTA) states that:

“Time devoted to advertising and teleshopping spots on any channel in any clock hour must not exceed 12 minutes”.

During routine monitoring Ofcom identified 13 instances when the amount of advertising broadcast on GN TV UK in a clock hour appeared to exceed the permitted allowance. Ofcom considered that this raised issues under Rule 2 of COSTA and sought comments from the Licensee on how the content complied with this rule.

Response

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

Channel 7 said that these incidents were the result of human error, which led to advertising scheduled across the full duration of films being broadcast in the first 90 minutes. Consequently, during each film one clock hour included both the advertising planned for that hour and advertising intended for the following clock hour.

The Licensee said it had since retrained relevant members of its staff about the correct scheduling procedure and reiterated the importance of complying with COSTA. Channel 7 also said that it hoped Ofcom would take account of this, as well as its transparency and cooperation during the investigation.

Decision

Reflecting our duties under the Communications Act 2003¹, COSTA restricts the amount of advertising than can be broadcast. It includes rules that limit the amount of advertising that can be shown across a broadcasting day as well as during any clock hour.

¹ <http://www.legislation.gov.uk/ukpga/2003/21/section/322>

We acknowledged the steps taken by the Licensee to avoid a recurrence. However, the advertising broadcast in a clock hour exceeded the permitted amount on 13 occasions. Ofcom's Decision is that the Licensee therefore breached Rule 2 of COSTA.

We will continue to monitor the Licensee's compliance with COSTA.

Breaches of COSTA Rule 2

Broadcast Licensing cases

In Breach

Provision of information: compliance information

201 Television Limited

Introduction

201 Television Limited (“201 Television” or “the Licensee”) holds two Television Licensable Content Service (“TLCS”) licences. One licence is for a health and lifestyle channel called The Wellbeing Network broadcast on a satellite platform in the UK. The second licence is for the broadcast of the Polish version of the service in Poland.

Ofcom wrote to the Licensee on two occasions requesting information about the procedures in place for ensuring compliance with Ofcom’s Broadcasting Code and other relevant codes and rules. We also asked for the name and contact details of the person responsible for overseeing compliance of the channels. We requested this information to ensure that the Licensee had adequate compliance procedures in place for its licensed services as required by Condition 17 of the licences. On both occasions the Licensee failed to respond to Ofcom’s request.

On 31 October 2018, we formally requested the information in accordance with Licence Condition 12(1) (“General provision of information to Ofcom”), which states that the Licensee:

“...shall furnish to Ofcom in such manner and at such times as Ofcom may reasonably require such documents, accounts, returns, estimates, reports, notices or other information as Ofcom may require for the purpose of exercising the functions assigned to it by or under the 1990 Act, the 1996 Act, or the Communications Act...”

The Licensee failed to submit the required information by the specified deadline.

We requested comments from 201 Television Limited on how it was complying with these conditions.

Response

The Licensee did not respond to Ofcom’s request for comments, nor did it provide the information requested.

Decision

Ofcom has a duty to ensure that in each broadcaster’s licence there are conditions requiring the licensee to provide information to Ofcom when such information is necessary to enable Ofcom to exercise its functions. For TLCS licences, this is reflected in Licence Condition 12(1).

Ofcom requires licensees to have measures in place to ensure information it requests is provided in a timely manner. In this case, the Licensee failed to provide information to Ofcom at the time it was requested despite repeated requests for it to do so. We therefore

are unaware whether the Licensee is able to comply with the requirements of its licence, including complying with Ofcom's Broadcasting Code.

Breaches of Licence Condition 12(1) of the Television Licensable Content Service Licences held by 201 Television Limited (Licence numbers TLCS001061 and TLCS100739)

Next steps: Ofcom is minded to consider this breach for statutory sanction.

Ofcom considers this breach of Licence condition 12(1) to be serious. **Therefore, subject to receiving the Licensee's representations on this issue, Ofcom is minded to consider the imposition of a statutory sanction.**

Broadcast Fairness and Privacy cases

Upheld

Complaint by Mr Robert Clark and Mr Christopher Drury

Stephen: The Murder that Changed a Nation: Corruption and Conviction, BBC1, 19 April 2018

Summary

Ofcom has upheld this complaint by Mr Robert Clark, made on his own behalf and on behalf of Mr Christopher Drury, of unjust or unfair treatment in the programme as broadcast.

The programme examined the murder of Mr Stephen Lawrence, the subsequent police investigation, and the changes to the law following the public inquiry into the case. Footage of Mr Clark and Mr Drury, former police officers, was shown during a discussion about police corruption. Mr Clark and Mr Drury complained that this was unfair to them as they had been cleared of any wrongdoing in 2011.

Ofcom considered that the broadcaster did not take reasonable care to satisfy itself that material facts had not been presented, disregarded, or omitted in a way that was unfair to Mr Clark and Mr Drury.

Programme summary

On 19 April 2018, BBC1 broadcast the third and final part of a documentary series entitled *Stephen: The Murder that Change a Nation*, which examined the murder of Mr Stephen Lawrence and its aftermath.

This episode, entitled *Corruption and Conviction*, followed a timeline of events from the ordering of a public inquiry into the way the criminal justice system handled racially motivated crimes, to the impact Stephen Lawrence's murder case had had on the present-day policing. The programme particularly looked at the public inquiry into the allegations of incompetence, institutional racism, and corruption in the police handling of Stephen Lawrence's murder, and the findings and recommendations as set out in the Macpherson report¹. It included contributions from various people who were in some way connected to, or interested parties in, the murder investigation.

During the programme, Mr Michael Mansfield QC, who had represented the Lawrence family in a private prosecution, commented on the murder investigation and said:

"In every investigation you will find elements of incompetence but, I think, in this one, there was so much that was overlooked, which was part of the argument I put forward to Macpherson for collusion".

Mr Clive Driscoll, a Detective Chief Inspector between 2003 and 2014, then said:

¹ The Macpherson report set out the findings and recommendations of the public inquiry into the Stephen Lawrence case.

“...The Macpherson Inquiry is very critical of the first 14 days [following Stephen Lawrence’s murder]...”.

Following this, Mr Mark Daly, a BBC reporter, said:

“It became more difficult to believe that this had been incompetence. I started to think there’s something bigger going on here”.

Footage of Mr Jack Straw, Home Secretary between 1997 and 2001, explained that as Home Secretary he acted as the:

“...final Court of Appeal for police discipline cases and that meant, that I had a window on the actuality of police corruption and, there were some staggeringly corrupt police officers around at that stage. Corruption inside the Metropolitan Police Service, and in quite a number of other police services, had been endemic in parts of their CIDs”.

The programme explained that in 2006, the BBC had broadcast a programme about what became of the murder suspects and why the police investigation had been *“so inadequate”*. Mr Daly explained:

“It was when I met Neil Putman that our investigation took a slightly different turn and we started to go after the corruption allegations with a vigour. In 1994, a year after Stephen Lawrence’s murder, Neil Putman was assigned to the South East Regional Crime Squad. On arriving, he says he became embroiled in a world of corruption with a number of officers, which included John Davidson. Now, John Davidson was an integral part of Operation Fishpool, the first investigation into the murder, he was seconded onto it within 36 hours of Stephen being killed.

[An excerpt of an archive audio recording of a police interview with Mr Gary Dobson, who has since been convicted for the murder of Mr Stephen Lawrence, was included]

...Now within a very short time they had become embroiled in a number of different corrupt jobs which came to the attention of CIB3, the anti-corruption unit. And, Putman was arrested and, almost immediately, Putman rolled over and became an informant. And, he would be at the centre of a huge anti-corruption operation...

[Archive footage was shown of Mr Clark, followed by footage of Mr Drury, and then footage of two other men, who all appeared to be arriving or leaving court]

...which involved him giving evidence against half a dozen officers, five of whom would go on to be convicted on the back of Neil Putman’s evidence. By the time I saw him, he had been released from prison, he was happy to speak to me and, he was able to put more flesh on the bones about what he thought went on. And, what he thought went on in the Lawrence case, was corruption. He thought that the Stephen Lawrence investigation had been hampered by a corrupt detective. That corrupt detective was John Davidson”.

The programme then included archive footage of an interview with Mr Putman in which he alleged that Mr Davidson was *“looking after”* the Norris family² and receiving corrupt payments. Mr Daly said that Mr Davidson had denied any wrongdoing and that the

² One of the members of the Norris family, Mr David Norris, has since been convicted for the murder of Stephen Lawrence.

Independent Police Complaints Commission had carried out an investigation that found that *“the BBC had got it wrong, that the journalism had been sensationalist and irresponsible”*. The complainants were not named in the programme and no further footage of Mr Clark or Mr Drury was included in the programme. The following text was shown at the end of the programme:

“The National Crime Agency is investigating accusations of corruption in Stephen’s case.

John Davidson denies any allegations of corruption or impropriety.

A public inquiry has been set up to look into undercover policing.

The police remain hopeful that somebody may come forward with information that will bring the rest of Stephen’s killers to justice”.

Summary of the complaint and broadcaster’s response

Complaint

Mr Clark complained that he and Mr Drury were treated unjustly or unfairly in the programme because during a discussion about police corruption, the programme included footage of them and said that they were corrupt and had been convicted of police corruption.

Mr Clark said that he and Mr Drury were cleared of any wrongdoing in 2011 and that the reporter, who made the claim in the programme, was aware of this fact.

As a result, Mr Clark said that the programme had caused both of their families great hurt and upset. He added that family, friends and work colleagues who saw the documentary had questioned their involvement in corruption in relation to the murder of Mr Stephen Lawrence.

Broadcaster’s response

The BBC explained that Mr Clark and Mr Drury had been convicted of a criminal offence in February 2000 which was subsequently quashed on appeal in 2011. It also provided Ofcom with further details about their conviction and retrial.

The BBC said that it agreed that the effect of the inclusion of the footage of Mr Clark and Mr Drury and references to their convictions was unfair to them, in that no mention was made of the fact those convictions were subsequently quashed on appeal. It also acknowledged that this amounted to a breach of BBC editorial standards and apologised for it. It added that the footage of and references to Mr Clark and Mr Drury were removed from the iPlayer version of the programme. The BBC said it published a summary of its own finding on its website upholding the complaint.

The BBC said that it had accepted that the inclusion of the footage of Mr Clark and Mr Drury and references to them did not meet the standards set out in its Editorial Guidelines. The BBC said it regretted the error, for which it had apologised, and it hoped the upheld finding, and the publication of it in summary form, mitigated any unfairness to the complainants. In this regard, it said that when considering the extent to which the broadcast had caused

unfairness, it asked that Ofcom take into consideration all the circumstances including the information that was already in the public domain about the original convictions and subsequent appeals.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View that the complaint should be upheld. Both parties were given the opportunity to make representations on the Preliminary View. The complainants made representations concerning the broadcaster's statement, and the BBC made a representation in relation to a factual inaccuracy. In so far as these representations were relevant to the complaint as entertained and considered by Ofcom, we considered that neither parties' representations raised an issue that materially affected the outcome of the decision to uphold this complaint.

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 our 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. Ofcom also took careful account of the representations made by the parties in response to being given the opportunity to comment on Ofcom's Preliminary View on this complaint. After careful consideration of the parties' representations, we concluded that the points raised did not materially affect the outcome of Ofcom's decision to uphold the complaint.

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.

Ofcom considered Mr Clark's complaint that he and Mr Drury were treated unjustly or unfairly in the programme because during a discussion about police corruption, the programme included footage of them and stated that they were corrupt and had been convicted of police corruption.

In assessing this complaint, we had particular regard to Practice 7.9 of the Code 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 first considered whether the inclusion of the footage of Mr Clark and Mr Drury, in the context in which it was shown, resulted in unfairness to him.

As detailed in the “Programme summary” above, footage of Mr Clark and Mr Drury was shown in the programme during a discussion about police corruption while it said that five people were convicted of police corruption. The programme made no reference to the fact that Mr Clark and Mr Drury’s convictions had since been quashed on appeal. We considered that, consequently, viewers would have understood that Mr Clark and Mr Drury were two of the five police officers who had been convicted of corruption, which, of course, they had been. However, the important factor that their convictions had been quashed subsequently on appeal was not reflected in the programme, therefore, leaving the viewers with the impression that the convictions against Mr Clark and Mr Drury stood. Therefore, in our view, the omission of the fact their convictions had since been quashed unfairly represented the facts. This was particularly so, given that the BBC had been aware, and the programme makers should have been aware, that the convictions had been overturned.

Given the above, Ofcom considered that the programme resulted in unfairness to Mr Clark and Mr Drury in that the broadcaster did not take reasonable care to satisfy itself that material facts were not presented, disregarded, or omitted in a way that was unfair to them.

Ofcom has upheld Mr Clark’s and Mr Drury’s complaint of unjust or unfair treatment in the programmes as broadcast.

Upheld

Complaint by Mr Mir Shakil Rahman, made on his behalf by Mr Baseem Chagtai

Aitraaz Hai, New Vision TV, 30 December 2017

Summary

Ofcom has upheld this complaint by Mr Mir Shakil Rahman, made on his behalf by Mr Baseem Chagtai, of unjust or unfair treatment in the programme as broadcast.

The programme included a live interview with General Pervez Musharraf¹ during which he made a number of claims about Mr Rahman and the Geo Media Group².

Ofcom considered that:

- The broadcaster did not take reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to Mr Rahman.
- The comments made in the programme amounted to significant allegations about Mr Rahman. Therefore, in this case, the broadcaster failed to provide Mr Rahman with an appropriate and timely opportunity to respond resulted in unfairness to him.

Programme summary

On 30 December 2017, New Vision TV broadcast an edition of the discussion programme, *Aitraaz Hai*. New Vision TV is an Urdu language channel broadcast under an Ofcom licence held by New Vision TV Limited. As the programme was broadcast in Urdu, Ofcom provided an English translation to the complainant and the broadcaster for comment. Both Mr Chagtai and the broadcaster provided comments on the translation. Ofcom considered both parties' comments and a final translation was sent to the parties who were informed that Ofcom would use this translation for the purposes of the investigation.

During the programme, a live video-link interview with General Pervez Musharraf was shown. The presenter, Mr Adil Abassi, introduced General Musharraf and set out the topics for discussion:

“Welcome viewers, you are watching the programme Aitraaz Hai and I am Adil Abassi. The Sharif brothers are looking towards Saudi Arabia. Rulers are looking towards political parties, and political parties are looking towards their rulers, and the public are looking towards all of them. Accusations are being hurled one against the other and political parties are trying to create a place for themselves. In amongst these accusations, a very important statement was made by General retired Pervez Musharraf, former President of Pakistan. He has made personalised comments about Bilawal Bhutto which has caused a great hue and cry everywhere. In addition, he has spoken about rogue elements within

¹ General Musharraf was President of Pakistan between 2001 and 2008.

² Geo Media Group, owned by Mr Rahman.

the army. All these matters and other issues too, we will be discussing in today's programme..."

The presenter then questioned General Musharraf about allegations made against him by Mr Bilawal Bhutto³ and members of the Pakistan People's Party, who had claimed that he was responsible for the "murder" of the former Prime Minister of Pakistan, Ms Benazir Bhutto. General Musharraf denied this and claimed that the allegations had been "misinterpreted by Geo" which, he said, was "against him".

The presenter said:

"General Sahib, you have said about Bilawal Bhutto that he raises slogans like a woman. Do you think that this is a fitting thing to say, do you still stand by these words?"

General Musharraf said:

"Look, I agree that's not my style of discourse. I accept that I did overdo it. But, I did it because he himself is overdoing it. He is just a kid and he should have some manners, he should display some culture. There he is raising slogans against me and before that he was implicating me. And I retaliated and implicated them. There the matter ended. But the 27th [i.e. 27 December 2007, the date of Ms Bhutto's assassination] comes around and again, he once again starts making accusations against me and starts calling me a murderer. What nonsense. It was in retaliation that I said these things and that lit a fire among them. Obviously, that is going to cause him to feel the heat. If he says it again, I will say far worse, and that will make them burn even more".

The presenter said:

"...So, let me understand what you are saying. If he says anything against you, then it is appropriate for you to answer back in similar vein?"

General Musharraf said:

"Look, he has been misled. In particular by Jehanzeb, and he's from Geo and Geo is against me. This is their habit. That man, Shakil Ur Rahman, gives them instructions and tells them that 'whatever he [General Musharraf] does, say something against him, malign him, let him down'. Now what is it that I said? Did I say anything against women? I have said nothing against women. Nobody can even begin to imagine what I have done for women. Benazir Bhutto couldn't do in her two terms what I was able to do in my eight years..."

The presenter said:

"General Sahib, were you misquoted? Because you say that you have done so much for women. And I think it was Shahzeb who thought that you were referring to women when you made this statement. Were you misquoted, were you misinterpreted?"

General Musharraf said:

³ Mr Bilawal Bhutto is the eldest son of the late Ms Benazir Bhutto, former Prime Minister of Pakistan, who was assassinated on 27 December 2007 during General Musharraf's tenure as Prime Minister.

“Yes indeed. And you are right, it’s Shahzeb, not Jehanzeb, that I am referring to. He has misquoted me and interpreted my words to be an attack on women. I am not hitting women, just one individual. Why is he maligning? I have done so much for women”.

The presenter said:

“General Sahib, he’s an independent journalist, why would he do that? He’s a journalist putting forward his point of view. Why would he intentionally do that?”

General Musharraf said:

“He’s not independent. He used to be with me but, since he has gone to Geo, he is against me. And, he says these things which means that he is not independent. He is affected by Geo and Shakil Ur Rahman”.

The presenter said:

“General Sahib, yesterday Imran Khan said the same thing. He is saying that the same channel is spreading propaganda against Ali Tareen, objecting against his appointment. So, are you saying that it is acceptable to say these things if it is criticism or, do you believe that there is as a conspiracy against you?”

General Musharraf said:

“Look, I don’t mind criticism whatsoever. In fact, when I was president for eight or nine years, I insisted that people should tell only the negative aspect of an issue and not just the positive. Because I know what the positives are. I know those very well. I have absolutely no problem with criticism. But, I do object to under the belt hitting and to mislead Pakistan or the people of Pakistan. That is when I do get concerned, and particularly when it is a channel. As a channel that it is doing this, and that is indeed the case. Geo has been banned by the military, and for that reason, I too had banned it. They are anti-Pakistan. They are tilted towards India. That’s why I am against them”.

The presenter introduced a commercial break, after which the topic of discussion turned to statements General Musharraf had made to the BBC about *“rogue elements within the military”*.

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

The programme was repeated later on 30 December 2017, and on two further occasions on 31 December 2017.

Summary of the complaint and the broadcaster’s response

Complaint

- a) Mr Chagtai complained that Mr Rahman was treated unjustly or unfairly in the programme as broadcast because allegations were made against him that were “false, unfair and unjust”.

In particular, Mr Chagtai said that the programme alleged that Mr Rahman controlled a Pakistani TV news 'anchor' for Geo News, Mr Shahzeb Khanzada, and had instructed him to be "hostile" to General Musharraf and to "disparage, malign and criticise him". The programme also alleged that Geo News, and therefore Mr Rahman, "falsely misleads the people of Pakistan", is "totally anti-Pakistan" and is "tilted towards India" which unfairly implied that Mr Rahman, and his organisation, was a "traitor" to Pakistan.

Mr Chagtai said that at no time during the programme did the presenter attempt to provide any balance or challenge to General Musharraf's comments, nor did he apologise for the repetition of words that he said were "defamatory".

- b) Mr Chagtai also complained that Mr Rahman was not given an appropriate and timely opportunity to respond to the allegations made about him in the programme. Mr Chagtai said that at no time was Mr Rahman contacted for his response to the allegations.

Broadcaster's response

New Vision TV said that Mr Rahman's Geo channel was shut down under the emergency rule of General Musharraf in 2007⁴. It said that it would come as no surprise to viewers that in a TV interview with the former President of Pakistan, General Musharraf, that he would make comments about a TV channel that he shut down during his tenure in power. The broadcaster said that it stressed this as viewers would have understood that General Musharraf's comments about Geo being against him were his own personal views and did not amount to a significant allegation of wrongdoing.

New Vision TV said that the presenter remained objective and challenged General Musharraf on his comments. For example, he said that "*if he says anything against you, then it is appropriate for you to answer back in the similar vein?*" and stressed that the journalist referenced, Mr Khanzada, was independent and was expressing his own point of view. It said that General Musharraf responded with his own opinion which was that the journalist/presenter was under the control of Geo. The broadcaster provided Ofcom with a tweet posted by Mr Khanzada about General Musharraf two days before the interview:

"Gender is nt something to b proud of,nor it is somthng to b ashamed of. Ppl like Musharaf who try to use it fr thr advantage n to ridicule othrs must b ashamed of thr behaviour. Pakistan is thankful to great women like Fatima Jinnah,Benazir,Malala etc".

The broadcaster said that the interview was very candid, with the presenter trying to explore whether the comments made by General Musharraf were based in deep-rooted criticism of him as President or had some factual basis⁵.

⁴ <https://www.reuters.com/article/us-pakistan-media-geo/pakistans-private-geo-tv-says-forced-to-shut-downidUSL1626797920071116>

⁵ New Vision TV provided Ofcom with the following links:
<https://www.thenews.com.pk/archive/print/653583-musharraf-shuts-down-geo-tv>
<https://www.dawn.com/news/1108700>
<https://www.rferl.org/a/geo-tv-pakistan-on-air-after-military-deal/29176025.html>

New Vision TV also said that the comments made by General Musharraf about Mr Rahman were critical, but the context of these comments was made clear to viewers, i.e. that General Musharraf felt his comments about women had been misrepresented by the Geo channel. It said that it was clear that General Musharraf was expressing his own opinion and, as such, viewers would not have been likely to have considered them to be statements of fact about Mr Rahman. Viewers would have understood that criticism would be levelled against Geo by General Musharraf given the political history outlined above.

The broadcaster said that it did not believe that the comments complained of were likely to have materially or adversely affected viewers' opinions of Mr Rahman in a way that was unfair to him.

New Vision TV said that it did not consider that the comments made in the programme, when taking the whole interview into account and the context in which it was set, warranted an opportunity to respond.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View that Ms Chagtai's complaint made on behalf of Mr Rahman should be upheld. Both parties were given the opportunity to make representations on the Preliminary View. Mr Chagtai did not make any representations on behalf of Mr Rahman, however, New Vision TV did make representations which are summarised, insofar as they are relevant to the complaint entertained and considered by Ofcom, below.

Broadcaster's representations

New Vision TV said that the complaint submitted by Mr Chagtai was one in a series that had been "orchestrated to create regulatory and reputational damage to [the broadcaster]" and that, as a result, New Vision TV had applied its own editorial policy to avoid broadcasting references to Geo News and Jang Group on the New Vision ARY World channel. It said that this was also an attempt to distance itself from the "antagonism evident in Pakistan between ARY News and Geo News". However, it said that it was not always possible to apply such "self-censorship" in live headlines and live interviews.

In this programme, New Vision TV said that it included a live video-link interview with General Musharraf "who was well known for having shut down Geo TV during his tenure as President of Pakistan". The broadcaster said that, in the interview, the presenter "defended the independence" of Mr Khanzada, a Geo journalist and TV anchor, "who the day before [the] broadcast had publicly 'called out Musharraf for sexist remarks about Bilawal Bhutto'"⁶. The broadcaster said that General Musharraf had disagreed with this and had extended his comments to the chairman of the Geo media group, Mr Rahman, who "technically controls the media group of Geo/Jang". New Vision TV said that after General Musharraf's comments about Mr Rahman, the presenter did not return to the issue. It said that the comments made were a tiny proportion of a wider interview concerning the treatment of women and the Pakistan military. The broadcaster said that given that viewers would have been well aware of General Musharraf's actions against Geo TV during his time as President, the likelihood of

⁶ New Vision TV provided the following link in support of this statement: 29 December 2017 Khanzada calls out Musharraf for sexist remarks against Bilawal <https://www.geo.tv/latest/174345-shahzeb-khanzada-calls-out-musharraf-for-sexist-remarks-against-bilawal>

UK-based viewers' perception of Mr Rahman being materially and adversely affected by the comments made was, in its view, minimal.

New Vision TV said that the complainant had "seized on comments made at the end of this section of the interview in such a way as to take them out of context and exaggerate the weight given to them..." It said that the complainant had extended his own interpretation to the comments: *"Geo has been banned by the military, and for that reason, I banned it too. They are anti-Pakistan. They are tilted towards India. That's why I am against them"*. The broadcaster said that the complainant had seemingly persuaded Ofcom to interpret these last comments as implying that Mr Rahman was a "traitor" to Pakistan. It said that this interpretation was highly subjective and was "not representative of the ordinary viewer". The broadcaster said that the Geo media group had been subject to allegations in other media of being "anti-Pakistan" before, so viewers would not have been surprised by the comments made in the interview, particularly given the public dispute between Mr Khanzada and General Musharraf⁷.

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 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 Preliminary View on this complaint. After careful consideration of the representations, we considered that the points raised did not materially affect the outcome of Ofcom's decision to uphold the complaint.

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

⁷ New Vision TV provided Ofcom with a number of links to articles, including:

June 2014 Pakistan's Geo News off air | The Daily Star

<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=10&cad=rja&uact=8&ved=2ahUKEwih94ObsMrfAhUHUBoKHWCUAmMQFjAJegQIAhAB&url=https%3A%2F%2Fwww.thedailystar.net%2Fpakistan-geo-news-off-air-27410&usg=AOvVaw1mB-btWqndWmTri3fPao5w>

August 2017 Pakistan's Geo News off air | The Daily Star

<https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=8&cad=rja&uact=8&ved=2ahUKEwih94ObsMrfAhUHUBoKHWCUAmMQFjAHegQIBBAB&url=https%3A%2F%2Fwww.thenews.com.pk%2Fprint%2F220463-Once-again-JangGeo-Group-being-alleged-as-traitor-pro-India-pro-US&usg=AOvVaw0Q-GIIG-wOa20cX5vArCeY>

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) We first considered Mr Rahman’s complaint that he was treated unjustly or unfairly in the programme as broadcast because it included an interview with General Musharraf in which allegations were made against Mr Rahman that were “false, unfair and unjust”.

In considering this complaint, we had particular regard to Practice 7.9:

“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...”.

Ofcom’s role is to consider whether the broadcaster took reasonable care not to present, disregard or omit material facts in a way that resulted in unfairness to Mr Rahman. 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 matters complained of had the potential to materially and adversely affect viewers’ opinions of the Mr Rahman in a way that was unfair.

As set out in the “Programme summary” above, the programme included a live interview with General Musharraf in which he made a number of comments about Mr Rahman, his media organisation and the alleged influence Mr Rahman exercised over them. In relation to a claim made by General Musharraf that Mr Bhutto had been misled over allegations about General Musharraf’s involvement in Ms Bhutto’s assassination, General Musharraf said that “...[Mr Khanzada is] *from Geo and Geo is against me. This is their habit. That man, Shakil Ur Rahman, gives them instructions and tells them that ‘whatever he [General Musharraf] does, say something against him, malign him, let him down’*. In response to the presenter’s questioning as to why Mr Khanzada, “*an independent journalist*”, would intentionally mislead, General Musharraf said “*He’s not independent. He used to be with me but, since he has gone to Geo, he is against me. And, he says these things which means that he is not independent. He is affected by Geo and Shakil Ur Rahman*”. General Musharraf also said that while he did not mind criticism, what he objected to was “*under the belt hitting and to mislead Pakistan or the people of Pakistan...Geo has been banned by the military, and for that reason, I too had banned it. They are anti-Pakistan. They are tilted towards India...*”.

In Ofcom’s view, these statements could reasonably be understood by viewers as implying that Mr Rahman actively engaged in behaviour that compromised the journalistic independence of those who worked for his media organisation and that, in doing so, he was acting against the interests of the wider Pakistani community. We considered that these statements constituted serious allegations about Mr Rahman which had the potential to materially and adversely affect viewers’ opinions of him.

We then considered whether the presentation of these statements in the programme as broadcast resulted in unfairness to Mr Rahman. Ofcom acknowledges broadcasters' right to freedom of expression and that they must be able to broadcast programmes on matters of interest to viewers freely, including the ability to express views and critical opinions without undue constraints. However, this freedom comes with responsibility and an obligation on broadcasters to comply with the Code and, with particular reference to this case, avoid unjust or unfair treatment of individuals or organisations in programmes.

We took into account the broadcaster's submission that General Musharraf's comments were simply an expression of his opinion and that viewers were unlikely to have considered them statements of fact about Mr Rahman. We also took into account the broadcaster's assertion that the presenter was objective and had challenged General Musharraf on his comments, particularly in his reference to Mr Khanzada's independence as a journalist. We also took into account the broadcaster's reference to a number of online newspaper articles, in which it submitted that the presenter had been trying to explore "whether the comments made by General Musharraf were based in deep-rooted criticism of him as President, or had some factual basis".

Ofcom took into account New Vision TV's representations that for Ofcom to interpret General Musharraf's comments as implying that Mr Rahman was a "traitor" to Pakistan was "not representative of the ordinary viewer". We also took into account the broadcaster's reference to various online articles, which it said showed that the Geo media group had previously been subject to allegations in other media of being "anti-Pakistan", so that viewers would not have been surprised by General Musharraf's comments.

However, in Ofcom's view, whether statements are presented as fact or opinion, broadcasters are obliged to ensure that such statements do not result in the unjust or unfair treatment of individuals. In this case, Ofcom considered that the overall meaning of General Musharraf's comments was that, in his view, Mr Rahman compromised the journalistic independence of his media organisation to put forward an agenda that was "anti-Pakistan" and "tilted towards India". These comments suggested to viewers, in our view, that Mr Rahman had acted inappropriately and against the interests of Pakistan. Further, we considered that the presenter's comments served more as a basis to advance General Musharraf's allegations, rather than to provide counterbalance or a challenge to them.

Ofcom recognised that, as the owner of the largest media group in Pakistan, Mr Rahman is a well-known and influential public figure in the country and that he may expect to have criticism levelled against him and his organisation from others. However, Ofcom considers that the high profile status of an individual or organisation does not negate the need for broadcasters to ensure that they are not subject to unjust or unfair treatment in programmes. In particular, we considered that General Musharraf made specific claims about Mr Rahman which went beyond the topic which was being discussed and presented a view that Mr Rahman had behaved in a manner which was against Pakistan, characterising him and his media organisations as being "anti-Pakistan" and "tilted towards India".

We took into account that the programme was a live political interview with General Musharraf in which he spoke about a number of political topics. We recognise that

contributors can sometimes make unexpected comments that have the potential to create unfairness. It is Ofcom's view, therefore, that for live programmes such as this, it may not always be possible for the broadcaster to obtain responses from others prior to, or during the programme. It is important to make clear that broadcasters need to be particularly aware that they have a duty to ensure that reasonable care is taken that broadcast material is consistent with the requirements of the Code. This may include having in place measures to mitigate the potential for unfairness. Examples of these include briefing any studio guests about fairness requirements in advance of the programme, ensuring that any allegations made during the programme are properly tested or challenged. This could be, for example, by pointing out any contradictory argument or evidence or by representing the viewpoint of the person or organisation that is the subject of the allegation. The important point is that the programme must not mislead viewers or portray people or organisations in a way that is unfair.

Given this, Ofcom assessed whether the broadcaster had taken any steps to satisfy itself that material facts were not presented, disregarded or omitted in a way that was unfair to Mr Rahman. New Vision TV provided no evidence that it had taken any reasonable steps before the live broadcast in this regard, for example, by anticipating that allegations may be made and by putting appropriate measures in place to reduce the risk for potential unfairness. More significantly, during the programme itself and after the allegations about Mr Rahman were made, little or no attempt was made by the presenter to place General Musharraf's comments in context by explaining, for instance, that they only reflected his personal view.

Ofcom acknowledged the broadcaster's submissions that "[i]t is well known that [Mr Rahman's] channel was shut down under the emergency rule of General Musharraf in 2007" and that "[i]t would come as no surprise to viewers that in a TV interview with...Mr Musharraf, he would make comments about a TV channel he shut down during his tenure in power". However, Ofcom also took into account that nowhere in the programme was there anything included to reflect this context, or to balance or place into appropriate context the comments made about Mr Rahman. Furthermore, the programme did not include Mr Rahman's viewpoint in response to the claims.

Such steps, and particularly the need for Mr Rahman's perspective to be reflected, were in Ofcom's view, particularly important in this case, given the potential seriousness of the allegation that Mr Rahman and his media organisation were "*anti-Pakistan*" and "*tilted towards India*".

Therefore, in our view, and after giving careful consideration to the representations made by the broadcaster in this case, we were satisfied that the comments made about Mr Rahman in the programme amounted to significant allegations about him, had the potential to materially and adversely affect viewers' opinions of him, and were presented in the programme in a way that was unfair to him.

Taking all of the above into account, we considered that, in the particular circumstances of this case, the broadcaster did not take reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to Mr Rahman.

- b) Ofcom next considered the complaint that Mr Rahman was not provided with an appropriate and timely opportunity to respond to the allegations made against him.

In considering this aspect of the complaint, we had particular regard to Practice 7.11:

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

For the reasons given in head a) above, we considered that the comments made in the programme amounted to significant allegations about Mr Rahman. Therefore, in accordance with Practice 7.11, the broadcaster should have offered Mr Rahman an appropriate and timely opportunity to respond to it in order to avoid unfairness. The broadcaster’s failure to provide such an opportunity, particularly in view of the fact that the programme was repeated more than once after the initial broadcast, was unfair to Mr Rahman.

Ofcom considered therefore that Mr Rahman was treated unjustly or unfairly in the programme as broadcast.

Ofcom has upheld Mr Chagtai’s complaint made on behalf of Mr Rahman of unjust or unfair treatment in the programme as broadcast.

Upheld

Complaint by Mr Baseem Chagtai on behalf of Mr Ahmad Noorani ARY News, New Vision TV, 30 July 2017

Summary

Ofcom has upheld this complaint by Mr Ahmad Noorani, made on his behalf by Mr Baseem Chagtai, of unjust and unfair treatment in the programme as broadcast.

The news programme reported on the claim made by Mr Imran Khan, Chairman of Pakistan Tehreek-e-Insaf (“PTI”) political party, that he had been misrepresented by Geo¹ and its reporters. The report also included an interview with a PTI spokesman who made a number of claims about Geo and its reporters, including Mr Noorani.

Ofcom considered that:

- The broadcaster did not take reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to Mr Noorani.
- The comments made in the programme did amount to significant allegations of wrongdoing about Mr Noorani. Therefore, in this case, the broadcaster failed to provide Mr Noorani with an appropriate and timely opportunity to respond which resulted in unfairness to him.

Programme summary

On 30 July 2017, New Vision TV broadcast an edition of its daily news programme *ARY News*. New Vision TV is an Urdu language channel broadcast under an Ofcom licence held by New Vision TV Limited. As the programme was broadcast in Urdu, Ofcom provided an English translation to the complainant and the broadcaster for comment. Mr Chagtai confirmed that he was content with the translation. However, the broadcaster provided comments on the translation which were assessed by Ofcom. Ofcom did not agree with the broadcaster’s comments on the translation and the translation was re-sent 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.

The studio presenter introduced the report and said it would contain *“important news relating to Imran Khan and the story about his comments about the judge [Justice Khosa, Pakistani Supreme Court]”*. She explained that Mr Khan had said the comments he made during his previous interview on the programme were *“being twisted”*. The studio presenter introduced the news reporter, Mr Abdul Qadir, who said:

“Look, Imran Khan had given an interview to ARY News’ anchor person Arshad Sharif. In the interview, he had said, during discussions about the long march, that following Justice Khosa’s comments about contacting the court, the decision was taken to call off the protest. [The reporter quoted Mr Khan] ‘We decided to call off the long march and the protest march of the 2 November and take up the matter with the Supreme Court’. But

¹ Geo Media Group, owned by Mr Mir ur Shakil Rahman.

some private TV channels, some journalists from Geo TV are saying on social media that Imran Khan had been in touch with a Supreme Court judge via telephone, and he [the judge] had said that Imran Khan should take up the matter with the court. But that is not the case as this case had gone before the courts in August and a petition had been filed in court on behalf of PTI. So, when Imran Khan's protest was taking place in November, Justice Khosa had said in remarks that, as this matter is before the courts, we will give the matter urgent consideration. So that is what the judge had said in reference to Imran Khan. But, on social media some very well-known journalists from Geo News were making out that Justice Khosa had spoken to Imran Khan over the telephone".

The studio presenter said:

"Right, so it was these journalists from this private media channel, Geo, that attributed these remarks of Imran Khan with that of Justice Khosa...we have the spokesman for the PTI, Fawad Choudhry. Fawad, how are you viewing this relentless propaganda from Geo News?"

Mr Fawad Choudhry, a spokesperson for Pakistan's PTI Party, said:

"Look, Geo is not conducting propaganda against Imran Khan but against the Supreme Court and the military, and now they have targeted Justice Saeed Khosa. Anyone who knows Justice Khosa, even from a distance, knows that nobody would have the courage to attribute such remarks to him. Nobody could influence him in a phone call or extract a favour from him in a judicial matter. He is one of Pakistan's or even history's greatest of judges, and anyone who knows the judge would dismiss these allegations and give them no weight whatsoever and dismiss this as utter rubbish. But these four or five individuals from Geo News have made this a mockery, twisting everything, turning it into propaganda. There's Ahmad Noorani, Murtaza Ali Shah, and I have been really disappointed with Rana Jawad, such a senior journalist who sent out this tweet. These people have launched a campaign against the Supreme Court which is most unfortunate. Geo already are facing a contempt of court case in the courts, and you know how that case was being dealt with and the remarks that were made about the Supreme Court, the military and the people of Pakistan. These three are taking the matter very lightly and don't realise the consequences of their actions. By taking these comments by Imran Khan and using them to defame the Supreme Court. Left to them no institution would be safe. Look at the statement of the Prime Minister of Azad Kashmir and the way that they are playing up his statements. I understand from sources that the Prime Minister of Kashmir has denied having made those statements. If they can do that to him. They are challenging Pakistan's core issues and putting out propaganda in the most peculiar way. They are putting out a strange narrative, these Jang Geo group people, in particular these five or seven people who have been dedicated for this mission. They have to malign the judges, the Supreme Court, malign the military and damage the Kashmir cause, and you have to look and see who is supporting [this] narrative. It is those people who are anti-army, pro-India and who have business interests with Nawaz Sharif. There are no independent people agreeing with this narrative. Just looking at the profile of the people tweeting about this and look at their profile, and if you look at their expressed views about India, about our military, and you will then realise the type of people they are. They are all those people who are so called liberals, and who are pro-India and who are linked to that narrative, and who are also anti-army. All this narrative is coming from people with that viewpoint, and people who hold that viewpoint, we regard them as anti-Pakistan".

The studio news reader said:

“So Fawad, what you are saying is that Geo News by misrepresenting Imran Khan’s interview are in fact deliberately carrying out propaganda against the Supreme Court itself. Thank you for your time. The news continues, but for now it is time for a break”.

Throughout the report, images of social media posts attributed to Mr Shah and Mr Khan were shown on the screen on a loop, alongside headline captions labelled as *“Breaking News”*.

The following social media posts were displayed on the screen alongside a photograph of Mr Shah, his full name and the Twitter handle representing his account on the social media site:

- *“Justice Khosa asked me to end 2nd Dherna² call n bring the matter to Supreme Court 4 settlement’. Imran Khan makes shocking revelation”.*
- *“Justice Khosa (SCP judge who made ‘Godfather’ remarks central to Panama decisions) called Imran Khan (petitioner) 2 bring Panama case 2 SC [Supreme Court]”.*
- *“Justice Khosa asked me to 2nd [text not visible] n bring the matter to Supreme Court for settlement”.*
- *“Imran Khan makes shocking revelation”.*

The following social media posts were displayed on the screen alongside a photograph of Mr Khan, his full name and the Twitter handle representing his account on the social media site:

“a deliberate attempt is being made to distort what I said in an interview. I was referring to the comments below of Justice Khosa”.

The headline captions labelled as *“Breaking News”* read:

- *“My Interview relating to the Judge is being twisted – Imran Khan”.*
- *“During the interview mention was made of comments made by Justice Saeed Khosa”.*
- *“In his comments, Justice Khosa had said get in touch with the court – Imran Khan”.*
- *“Justice Khosa made the comments during the lockdown”.*
- *“Imran Khan made mention of Justice Khosa’s remarks in an interview with ARY News”.*
- *“Imran Khan gave an exclusive interview on the 28th July to ARY News”.*
- *“Imran Khan’s remarks about Justice Khosa are being misrepresented on social media”.*
- *“Private media channels are linking Imran Khan’s comments with Justice Khosa”.*
- *“Geo is not carrying out propaganda against Imran Khan but the Supreme Court itself – Fawad Choudhry”.*
- *“Ahmad Noorani included, some individuals are running a campaign against the supreme court”.*

The report ended and there was no further reference to the complainant in the programme.

² Dherna means a protest movement/demonstration.

Summary of the complaint and broadcaster's response

Complaint

- a) Mr Chagtai complained that Mr Noorani was treated unjustly or unfairly in the programme as broadcast because it alleged that he was “against the Judiciary and the Pakistan Army” and led audiences to believe that he was working “against the interests of Pakistan”.

Mr Chagtai said that it was “wholly incorrect to create such a perception” and that the broadcaster’s intention was to create “negative propaganda” against Mr Noorani. He said the allegations included in the programme about Mr Noorani would “hurt his journalistic profile” and affect his credibility.

- b) Mr Chagtai also complained that Mr Noorani was treated unjustly or unfairly in the programme as broadcast because he was not given an appropriate and timely opportunity to respond to the allegations made against him in the programme.

Mr Chagtai said that Mr Noorani was not “given a fair chance to give his version of the events” and that if he had been given the opportunity to do so it would have “cleared this false propaganda”.

Broadcaster's response

New Vision TV said that the report focused on a statement and tweet from Mr Khan which stated that comments he had made during a previous interview on the channel had been misrepresented by Geo News reports, which implied improper conduct between Mr Khan and Justice Khosa. It said that the reporter explained the background to the story that “on social media reports some very well-known journalists from Geo News were making out that Justice Khosa had spoken to Imran Khan over the telephone” and that only “renowned journalists” and “journalists of private channel Geo” were referred to.

The broadcaster said the presenter then interviewed Mr Choudhry, a spokesman for the PTI. It said that it was Mr Choudhry who named Mr Noorani, amongst others, as the journalists responsible for the posts on social media and stated that “they made it a show, doing tweet[s] on everything, doing propaganda for everything”. It said that Mr Choudhry then stated that “Geo already are facing a contempt of court case in the courts” and that this statement was accurate at the time the programme was broadcast. New Vision TV provided website links to articles which it said supported this view

New Vision TV said that it would have been clear to viewers that Mr Choudhry was expressing his own opinion, which was that the Jang and Geo journalists had “tilted the statement of Imran Khan in an attempt to defame him” at a time when corruption was high on the agenda of Pakistani politics. After Mr Choudhry had made his comments, the broadcaster said that the presenter brought the interview back to the subject of Mr Khan’s claim that he was misrepresented and the potential impact this could have on the perception of the Supreme Court in Pakistan. It said that the key points of the interview with Mr Choudhry were then summarised in captions and that one reference to Mr Noorani was included.

New Vision TV said that the complaint alleged the statements about Mr Noorani would “hurt his journalistic profile”, however, it said that Mr Noorani was widely regarded as an “outspoken” journalist and that he was known to be a “critic” of Pakistan’s military. It said that this could be substantiated by “online desk research”. New Vision TV said that Mr Noorani, as a renowned journalist, was accustomed to criticism from high profile members of the establishment.

The broadcaster said that the comments made by Mr Choudhry were made during a live telephone interview, a situation which it said presented its own challenges for managing an interviewee’s comments at a heightened moment in Pakistani politics. It said that the presenters were careful to refer only to the wider media group while trying to focus the report on Mr Khan’s claims of misreporting. It said that it was Mr Choudhry who referred to specific journalists and reacted to their tweets on the programme. New Vision TV said that it did not consider that the manner in which the story was handled on the programme constituted unjust or unfair treatment of Mr Noorani.

New Vision TV said that it “failed to see” how it could have known that Mr Noorani would be mentioned by Mr Choudhry in the context of a live interview. Also, that it “failed to see” how it could have known whether there would be grounds to request a right of reply from whoever the guest speaker might have mentioned. Further, it said that the presenters avoided personalising the story.

Ofcom’s First Preliminary View

Ofcom prepared a Preliminary View in this case that the complaint of unjust or unfair treatment in the programme should be not upheld. Both Mr Chagtai, on behalf of Mr Noorani, and New Vision TV provided representations on the first Preliminary View which are summarised below, insofar as they are relevant to the complaint as entertained.

Complainant’s representations

Mr Chagtai said that the programme unfairly placed Mr Noorani in serious harm’s way. He added that serious allegations were made in the programme and it cannot be called freedom of the media where one view is fully endorsed on a broadcast without anyone providing the alternate perspective or challenging the view. Mr Chagtai said that the audiences in this case would have understood that Mr Noorani was against the judiciary of Pakistan and anti-military and worked against the interest of Pakistan. Further, he said that Mr Noorani is a Pakistani national and patriotic and that being outspoken did not mean that he was anti-state. Further, he said that such statements would lead to serious repercussions if they went unchallenged on a broadcast especially when it is the view of one of the largest political parties in Pakistan.

Mr Chagtai provided a website link to an article³ and said that while the Ofcom investigation was being conducted, Mr Noorani was attacked in Pakistan as a result of the one-sided biased rhetoric in the programme. Further, Mr Chagtai said that Pakistan is considered one of the most dangerous places in the world for journalists.

³ <https://www.dawn.com/news/1366598>

Mr Chagtai said that Mr Noorani was not given an opportunity to respond to the claims being made in the programme and that to date, no effort had been made by the broadcaster to seek Mr Noorani's version of events and place them in complete context.

Mr Chagtai also provided a website link to an article⁴ and said that the contempt of court cases referred to in New Vision TV's response to Ofcom's Entertainment Decision, had been disposed of by the Supreme Court of Pakistan in February 2018.

Broadcaster's representations

New Vision TV said that Mr Chagtai provided a website link to a news report about a violent attack suffered by Mr Noorani in late October 2017, three months after the broadcast of the programme. New Vision TV said that Mr Chagtai appeared to be making a link between a UK based investigation into a broadcast on 30 July 2017 and an attack on 27 October 2017 while at the same time as acknowledging that Pakistani journalists face danger every day.

New Vision TV said that the contempt of court cases were dealt with and disposed of in February 2018 but that this did not render the information in the news report of 30 July 2017 misleading or inaccurate. It said that the court process was in progress at the time of broadcast.

Having carefully assessed the representations of both parties on Ofcom's first Preliminary View, Ofcom considered that the further points raised by the complainant merited Ofcom's reconsideration of this case. Ofcom therefore decided to withdraw its first Preliminary View not to uphold the complaint.

Ofcom's second Preliminary View

Ofcom prepared a second Preliminary View that Mr Noorani's complaint should be upheld. Both parties were given the opportunity to make representations on the second Preliminary View. Mr Chagtai, on behalf of Mr Noorani, did not make any representations. New Vision TV did make representations which are summarised, insofar as they are relevant to the complaint entertained and considered by Ofcom, below.

Broadcaster's representations

New Vision TV queried how Ofcom's assessment of context could have changed so dramatically between the first and second Preliminary View.

New Vision TV also said that it considered that this complaint was "really directed at the owners of the news providers, ARY News Pakistan, from which [it] sourced live news." It said that at no point had Mr Chagtai nor Mr Noorani registered their concerns with New Vision TV to seek redress. It added that had that been the case, it would have readily assessed the complaint and attempted to resolve it.

New Vision TV said that to claim that the programme unfairly placed Mr Noorani in danger was not credible. It said that at the time of the attack on Mr Noorani, he had been accused of

⁴ <https://www.geo.tv/latest/183040-sc-disposes-of-contempt-notice-against-mir-shakil-ur-rahman-mir-javed-rahman-and-ahmed-noorani>

blasphemy and of leaking “made-up” news⁵. It said that this indicated that the attack was not linked to the July 2017 programme, broadcast several months earlier on a channel broadcasting only within the United Kingdom on the Sky platform, but that “any such unfortunate incident was more likely to be linked to broadcasts made in the Pakistan national media...”

New Vision TV also said that the programme’s presenter did not “fully endorse” Mr Choudhry’s opinion and did not pursue an agenda against Mr Noorani. It added that Mr Noorani was named once by Mr Choudhry and once in summary captions. He was not identified visibly, which limited his exposure. The broadcaster stated that the studio presenter had “referred generically to Geo in the broader context of the political debate regarding Geo’s published allegations of improper behaviour by Mr Khan, which were found to be inaccurate and unfounded.”

New Vision TV commented on Mr Chagtai’s claim in his representation that the intention of the broadcaster was to create “*negative propaganda*” against Mr Noorani, stating that the target of Mr Chagtai’s allegation was the Pakistan transmission of ARY News.

New Vision TV said that Ofcom’s Preliminary View exaggerated the degree to which Mr Noorani was referenced in the programme and its likely impact. It said that Ofcom had been drawn into a dispute between two Pakistani media organisations, from which New Vision TV is completely independent. It asked Ofcom to reconsider its assessment of “context” and how the programme would have been interpreted by the average viewer of the UK-based New Vision TV service.

The broadcaster said that the PV failed to take into account the political context at the time of the broadcast of the live interview. It said that Pakistan was in the throes of a political election period with two key figureheads: Mr Khan, running an anti-corruption campaign; and, Mr Nawaz Sharif, the incumbent Prime Minister who faced corruption charges for which he has since been convicted and imprisoned.

The broadcaster said that the Geo/Jang group and its journalists may claim to be neutral in its coverage of political stories, however, at the time of broadcast, in its opinion, Geo/Jang’s reports were aligned to Mr Sharif and were critical of Imran Khan and his party. It added that the media group was censured by the Supreme Court for misreporting news and referred to the previous website links it had provided. New Vision TV said that it was these points which Mr Choudhry spoke about, where he named three journalists employed by the Geo/Jang group and referred to them as “Jang/Geo people”, noting their support for Mr Sharif. It said that Mr Choudhry was accurate as regards the Geo contempt of court case lodged with the Supreme Court at the time of broadcast. It added that the Supreme Court discharged notices against Jang, part of the Geo group, on 10 July 2017 and 24 January 2018. It further added that the cases were not disposed of until 22 February 2018.

New Vision TV said that the social media “tweets featured in the programme featured Mr Shah who had reported the Justice Khosa story which was on the news agenda of the day as an example of Geo’s allegations of Mr Khan’s lack of propriety. The broadcaster added that “the focus was never placed on Mr Noorani” and that it did not think that two references to him in the context of a live interest, taking account of the news agenda of the day, amounted to serious allegations against him. New Vision TV further stated that on 2 August 2017 (two

⁵ <https://www.hindustantimes.com/world-news/pakistan-journalist-ahmed-noorani-injured-in-attack-in-islamabad/story-ehim7pu6QoxVuLHFI5Q9JI.html>

days later) the inaccuracy of Mr Shah's story was confirmed by the Supreme Court, which clarified that Justice Khosa never asked Mr Khan to file a petition on the Panama Leaks⁶. It provided further website links to what it described as official findings concerning the Jang/Geo group as evidence of the group's misreporting, indicating the case under consideration was not an isolated incident.

New Vision TV said that the studio presenter did not name or pursue any specific journalists in his comments, but had referred to Geo's propaganda in the context of the political campaign at large in Pakistan. It said that the headline captions summarised the comments of Mr Khan and Mr Choudhry. The broadcaster said that the exchanges would have been widely understood at the time among the Pakistani community as "political posturing". It said that Ofcom should consider what was said in the programme and not Mr Chagtai's claims that these comments were responsible for a physical attack on Mr Noorani or capable of hurting his professional profile.

New Vision TV said that its intention was never to be unfair to Mr Noorani. It added that when Mr Noorani was attacked in Pakistan in October 2017, the channel condemned the action.

The broadcaster said that given the political context at the time of broadcast, and taking the programme as a whole, it believed the comments complained of were unlikely to have materially and adversely affected viewers' opinions of Mr Noorani in a way that was unfair to him. On this basis, it said that material facts were not presented, omitted or disregarded in a way that resulted in unfairness to Mr Noorani. It reiterated its view that the complaint was motivated by competition between two Pakistani media groups.

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 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 translated transcript of it and both parties' written submissions. We also took careful account of the representations made by the broadcaster in response to being given the opportunity to comment on Ofcom's second Preliminary View on the complaint. After careful consideration of the representations, we considered that the points raised did not materially affect the outcome of Ofcom's decision to uphold the complaint.

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

⁶ <https://nation.com.pk/02-Aug-2017/justice-khosa-never-asked-imran-to-file-petition-sc>

“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) We first considered Mr Noorani’s complaint that he was treated unjustly or unfairly in the programme as broadcast because it alleged that he was “against the Judiciary and the Pakistan Army” and led audiences to believe that he was working “against the interests of Pakistan”.

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...”.

The Code recognises the importance of freedom of expression and the public interest in allowing broadcasters the freedom to broadcast matters in programmes. 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. 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 were presented in the programme. Therefore, Ofcom began by considering whether the matters complained of had the potential to materially and adversely affect viewers’ opinions of Mr Noorani in a way that was unfair.

As set out in the “Programme summary” above, the programme reported on Mr Khan’s claim that a story concerning him, and the Supreme Court had been misrepresented on social media by Geo News and a number of Geo journalists, including Mr Noorani. It also included an interview with a spokesman for the PTI in which he provided his view on the manner in which the story had been reported. In doing so, he said that Geo was “*running a campaign against the Supreme Court and the military*”. He also named Mr Noorani, as well as two other journalists, and claimed that they were “*putting out propaganda*”; that they “*malign the judges, the Supreme Court, malign the military and damage the Kashmir cause*”; and that they were “*anti-army, pro-India*” and “*anti-Pakistan*”. The presenter concluded the interview to say that “*by misrepresenting Imran Khan’s interview [Geo News] are in fact deliberately carrying out propaganda against the Supreme Court itself*”. The programme also included images of the various tweets about the story.

Ofcom took into account New Vision TV’s representations that the comments made in the programme would have been widely understood by viewers as “political posturing”. However, in our view, the comments made about Mr Noorani in the programme were critical. In particular, viewers would have understood from the programme that Mr Noorani, as well as others and the organisation he worked for, were actively working against the interests of the wider community by deliberately producing potentially biased or misleading information about the Pakistani judiciary and military. We considered that these statements along with the claim that Mr Noorani was “*anti-Pakistan*”, constituted serious allegations about Mr Noorani, particularly when taking

into account Mr Noorani's profession as a journalist, which had the potential to materially and adversely affect viewers' opinions of him.

We then considered whether the presentation of these statements in the programme as broadcast resulted in unfairness to Mr Noorani. Ofcom acknowledges broadcasters' right to freedom of expression and that they must be able to broadcast programmes on matters of interest to viewers freely, including the ability to express views and critical opinions without undue constraints. However, this freedom comes with responsibility and an obligation on broadcasters to comply with the Code and, with particular reference to this case, avoid unjust or unfair treatment of individuals or organisations in programmes.

We took into account the broadcaster's representations that the extracts complained about by Mr Noorani were presented in the context of a news story about reports that Mr Khan had made a telephone call to a Supreme Court judge, Justice Khosa, which implied improper conduct by Mr Khan, and Mr Khan's claim that his comments on the matter had been misrepresented by Geo and its reporters. We also took into account the broadcaster's statement that the reporter had explained the background to the story without naming the alleged journalists involved and it was the spokesperson for the PTI who had named Mr Noorani. Further, we took into account the newspaper article referenced by the broadcaster which it said substantiated the views of the PTI spokesperson that Geo was attempting to defame the Supreme Court.

Given this context, we considered it was legitimate for New Vision TV to include in the programme the view of Mr Choudhry, as a spokesman for Mr Khan's political party, on the story. In doing so, we took into account that Mr Choudhry, who had named Mr Noorani and made the comments complained of, was clearly identified in the programme as being the spokesman for the PTI and that viewers would have understood that Mr Choudhry's comments represented views that supported Mr Khan's position on the story, and that this might be critical of Geo and its journalists. Further, given that Mr Noorani is an established journalist, we considered that viewers would have understood that in his professional journalistic capacity, Mr Noorani would have criticism levelled at his work at times and at the organisation for which he worked [Geo], particularly by those with opposing views, such as Mr Choudhry.

However, in Ofcom's view, Mr Noorani's profession does not negate the need for New Vision TV to ensure that he was not subject to unjust or unfair treatment in the programme. Further, Ofcom considered that the overall meaning of Mr Choudhry's comments was that, in his view, Mr Noorani, and his employer, as well as other journalists, had acted inappropriately not simply in terms of the apparent misrepresentation of a story about Mr Khan, but also more generally. In particular, we considered that Mr Choudhry made specific claims about Mr Noorani which went beyond the topic which was to be discussed and presented a view that Mr Noorani continuously behaved in a manner which was against various Pakistani institutions and which was characterised as being "*anti-Pakistan*".

We understood that the programme was broadcast live, and we recognise that such programmes can present particular challenges to broadcasters. It is Ofcom's view, therefore, that for live programmes it may not always be possible for the broadcaster to obtain responses from others prior to, or during, the programme. However, in such circumstances, broadcasters need to be particularly aware that they have a duty to

ensure that reasonable care is taken that the broadcast material is consistent with the requirements of the Code. It must not mislead viewers or portray people or organisations in a way that is unfair.

Given this, Ofcom assessed the steps, if any, that the broadcaster had taken to satisfy itself that material facts were not presented, disregarded or omitted in a way that was unfair to Mr Noorani.

We took into account the broadcaster's submission that Mr Noorani was a well-known critic of the military. However, it did not provide any basis for the inclusion of the claim that Mr Noorani was "putting out propaganda" or that he was "anti-Pakistan".

We took into account the newspaper articles which the broadcaster referred to in its submissions, regarding the Supreme Court having issued a contempt of court notice to the Jang Group for falsely reporting that the Court had issued a particular direction to Inter-Services Intelligence. We noted that Mr Noorani was specifically referred to in these newspaper articles. We also noted, however, that the statements made in the programme about Mr Noorani appear to go beyond referring to the specific contempt of court case, where he is described as "*challenging Pakistan's core issues and putting out propaganda in the most peculiar way*". In particular, Mr Choudhry appears to suggest that Mr Noorani is part of a more general "*mission*" to "[put] out a strange narrative" where certain individuals "*...have to malign the judges, the Supreme Court, malign the military and damage the Kashmir cause...*". Mr Choudhry then includes Mr Noorani in his statement that "*It is those people who are anti-army, pro-India and who have business interests with Nawaz Sharif*" and who Mr Choudhry regards "*as anti-Pakistan*".

We also took into account the other website links referred to in the broadcaster's representations which it said indicated that Geo/Jang group had a history of misreporting matters. We noted, however, that at no point was Mr Noorani referred to in these newspaper articles, nor was there any reference to him being part of a campaign against Pakistani institutions. We therefore did not consider that the newspaper articles were a sufficient basis to justify the inclusion of the statements made by the PTI spokesperson about Mr Noorani.

Further, during the programme itself and after the allegations about Mr Noorani were made, no attempt was made by the presenter to place Mr Choudhry's comments in any form of context by explaining, for instance, that they only reflected his personal view. Instead, the presenter appeared to endorse the comments made by Mr Choudhry by stating that Geo and its reporters were carrying out "*relentless propaganda*" and concluding the report by stating that they were "*deliberately carrying out propaganda*". Ofcom also took into account that nowhere in the programme was anything said to balance or place into appropriate context the comments made about Mr Noorani, nor did the programme include the viewpoint of Mr Noorani in response to the claims.

Therefore, in our view, the comments made about Mr Noorani in the programme amounted to significant allegations about him which had the potential to materially and adversely affect viewers' opinions of Mr Noorani and which were presented in the programme in a way that was unfair to him.

Taking all the above into account, Ofcom considered that, in the particular circumstances of this case, the broadcaster did not take reasonable care to satisfy itself that material

facts were not presented, omitted or disregarded in a way that resulted in unfairness to Mr Noorani.

- b) We next considered Mr Noorani's complaint that he was treated unjustly or unfairly in the programme as broadcast because he was not given an appropriate and timely opportunity to respond to the allegations made against him.

In assessing this head of complaint Ofcom took account of Practice 7.11 of the Code which states that "if a programme alleges wrongdoing or incompetence or makes other significant allegations, those concerned should normally be given an appropriate and timely opportunity to respond".

For the reasons given in head a) above, we considered that the comments made in the programme amounted to significant allegations about Mr Noorani. Therefore, in accordance with Practice 7.11, the broadcaster should have offered Mr Noorani an appropriate and timely opportunity to respond to it in order to avoid unfairness. The broadcaster's failure to provide such an opportunity was unfair to Mr Noorani.

Ofcom considered therefore that Mr Noorani was treated unjustly or unfairly treatment in the programme as broadcast.

Ofcom has upheld this complaint by Mr Noorani, made on his behalf by Mr Chagtai, of unjust or unfair treatment in the programme as broadcast.

Upheld

Complaint by Mr Murtaza Shah ARY News, New Vision TV, 30 July 2017

Summary

Ofcom has upheld this complaint of unjust or unfair treatment made by Mr Murtaza Shah.

The news programme reported on the claim made by Mr Imran Khan, Chairman of Pakistan Tehreek-e-Insaf (“PTI”) political party, that he had been misrepresented by Geo¹ and its reporters. The report also included an interview with a PTI spokesman who made a number of claims about Geo and its reporters, including Mr Shah.

Ofcom considered that:

- The broadcaster did not take reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to Mr Shah.
- The comments made in the programme amounted to significant allegations of wrongdoing about Mr Shah. Therefore, in this case, the broadcaster failed to provide Mr Shah with an appropriate and timely opportunity to respond which resulted in unfairness to him.

Programme summary

On 30 July 2017, New Vision TV broadcast an edition of its daily news programme *ARY News*. New Vision TV is an Urdu language channel broadcast under an Ofcom licence held by New Vision TV Limited. As the programme was broadcast in Urdu, Ofcom provided an English translation to the complainant and the broadcaster for comment. Mr Shah confirmed that he was content with the translation, however the broadcaster provided comments on the translation which were assessed by Ofcom. Ofcom did not agree with the broadcaster’s comments on the translation and the translation was re-sent to the parties who were informed that Ofcom would consider this as the final translation and use it for the purposes of investigating the complaint.

The studio presenter introduced the report and said that it would contain *“important news relating to Imran Khan and the story about his comments about the judge [Justice Khosa, Pakistani Supreme Court]”*. She explained that Mr Khan had said the comments he made during a previous interview on the programme were *“being twisted”*. The presenter then introduced the news reporter, Mr Abdul Qadir, who said:

“Look, Imran Khan had given an interview to ARY News’ anchor person Arshad Sharif. In the interview, he had said, during discussions about the long march, that following Justice Khosa’s comments about contacting the court, the decision was taken to call off the protest. [Mr Qadir quoted Mr Khan] ‘We decided to call off the long march and the protest march of the 2 November and take up the matter with the Supreme Court’. But some private TV channels, some journalists from Geo TV are saying on social media that

¹ Geo Media group, owned by Mr Mir ur Shakil Rahman.

Imran Khan had been in touch with a Supreme Court judge via telephone, and he [the judge] had said that Imran Khan should take up the matter with the court. But that is not the case as this case had gone before the courts in August and a petition had been filed in court on behalf of PTI. So, when Imran Khan's protest was taking place in November, Justice Khosa had said in remarks that, as this matter is before the courts, we will give the matter urgent consideration. So that is what the judge had said in reference to Imran Khan. But, on social media some very well-known journalists from Geo News were making out that Justice Khosa had spoken to Imran Khan over the telephone".

The studio presenter said:

"Right, so it was these journalists from this private media channel, Geo, that attributed these remarks of Imran Khan with that of Justice Khosa. So, stay right here with us Abdul Qadir because we have the spokesman for the PTI, Fawad Choudhry. Fawad, how are you viewing this relentless propaganda from Geo News?"

Mr Fawad Choudhry, a spokesperson for Pakistan's PTI Party, said:

"Look, Geo is not conducting propaganda against Imran Khan but against the Supreme Court and the military, and now they have targeted Justice Saeed Khosa. Anyone who knows Justice Khosa, even from a distance, knows that nobody would have the courage to attribute such remarks to him. Nobody could influence him in a phone call, or extract a favour from him in a judicial matter. He is one of Pakistan's or even history's greatest of judges, and anyone who knows the judge would dismiss these allegations and give them no weight whatsoever, and dismiss this as utter rubbish. But these four or five individuals from Geo News have made this a mockery, twisting everything, turning it into propaganda. There's Ahmad Noorani, Murtaza Ali Shah, and I have been really disappointed with Rana Jawad such a senior journalist who sent out this tweet. These people have launched a campaign against the Supreme Court which is most unfortunate. Geo already are facing a contempt of court case in the courts, and you know how that case was being dealt with and the remarks that were made about the Supreme Court, the military and the people of Pakistan. These three are taking the matter very lightly and don't realise the consequences of their actions. By taking these comments by Imran Khan and using them to defame the Supreme Court. Left to them no institution would be safe. Look at the statement of the Prime Minister of Azad Kashmir and the way that they are playing up his statements. I understand from sources that the Prime Minister of Kashmir has denied having made those statements. If they can do that to him. They are challenging Pakistan's core issues and putting out propaganda in the most peculiar way. They are putting out a strange narrative, these Jang Geo group people, in particular these five or seven people who have been dedicated for [to] this mission. They have to malign the judges, the Supreme Court, malign the military and damage the Kashmir cause, and you have to look and see who is supporting [this] narrative. It is those people who are anti-army, pro-India and who have business interests with Nawaz Sharif. There are no independent people agreeing with this narrative. Just looking at the profile of the people tweeting about this and look at their profile, and if you look at their expressed views about India, about our military, and you will then realise the type of people they are. They are all those people who are so called liberals, and who are pro-India and who are linked to that narrative, and who are also anti-army. All this narrative is coming from people with that viewpoint, and people who hold that viewpoint, we regard them as anti-Pakistan".

The studio presenter said:

“So Fawad, what you are saying is that Geo News by misrepresenting Imran Khan’s interview are in fact deliberately carrying out propaganda against the Supreme Court itself. Thank you for your time. The news continues, but now it is time for a break”.

Throughout the report, images of social media posts attributed to Mr Shah and Mr Khan were shown on the screen on a loop, alongside headline captions labelled as “Breaking News”.

The following social media posts were displayed on the screen alongside a photograph of Mr Shah, his full name and the Twitter handle representing his account on the social media site:

“Justice Khosa asked me to end 2nd Dherna² call n bring the matter to Supreme Court 4 settlement’. Imran Khan makes shocking revelation”.
“Justice Khosa (SCP judge who made ‘Godfather’ remarks central to Panama decisions) called Imran Khan (petitioner) 2 bring Panama case 2 SC”.
“Justice Khosa asked me to 2nd [text not visible] n bring the matter to Supreme Court for settlement”.
“Imran Khan makes shocking revelation”.

The following social media posts were displayed on the screen alongside a photograph of Mr Khan, his full name and the Twitter handle representing his account on the social media site:

“a deliberate attempt is being made to distort what I said in an interview. I was referring to the comments below of Justice Khosa”.

The headline captions labelled as “Breaking News” read:

“My Interview relating to the Judge is being twisted – Imran Khan”.
“During the interview mention was made of comments made by Justice Saeed Khosa”.
“In his comments, Justice Khosa had said get in touch with the court – Imran Khan”.
“Justice Khosa made the comments during the lockdown”.
“Imran Khan made mention of Justice Khosa’s remarks in an interview with ARY News”.
“Imran Khan gave an exclusive interview on the 28th July to ARY News”.
“Imran Khan’s remarks about Justice Khosa are being misrepresented on social media”.
“Private media channels are linking Imran Khan’s comments with Justice Khosa”.
“Geo is not carrying out propaganda against Imran Khan but the Supreme Court itself – Fawad Choudhry”.
“Ahmad Noorani included, some individuals are running a campaign against the supreme court”.

The report ended and there was no further reference to the complainant in the programme.

Summary of the complaint and broadcaster’s response

Complaint

Mr Shah complained that he was treated unjustly or unfairly in the programme as broadcast because:

² Dherna, meaning a protest movement/demonstration.

- a) The programme alleged that he was “running a campaign against the state of Pakistan and its institutions”, including spreading propaganda against Pakistan’s judiciary. It also accused him of “harming the cause of Kashmir” and stated that he was “pro-India and anti-Pakistan”.

Mr Shah said that these were serious allegations “without any foundation or truth” and that the programme had caused him distress and had damaged his reputation. Mr Shah said that his life had been put at risk as a result of the allegations due to their serious nature.

- b) Mr Shah was not given an appropriate and timely opportunity to respond to the allegations made against him in the programme. Mr Shah said that he had not been contacted by the programme makers and that his viewpoint had not been included.

Broadcaster’s response

New Vision TV said that the extracts complained about by Mr Shah were presented in the context of a debate about Geo News reports that Mr Khan had direct telephone contact with Justice Khosa which implied improper conduct on behalf of Mr Khan. The broadcaster said that in particular, the news report concerned Mr Khan’s statement that his comments about Justice Khosa were being misrepresented on private news channels, such as Geo News. It added that the reporter, Mr Qadir, explained the background to the story which related to comments made in an interview Mr Khan had given on another New Vision TV programme. It said that the reporter only referred to “renowned journalists” and “journalists of private channel Geo”. New Vision TV said that the studio presenter then interviewed a spokesman for the PTI, Mr Choudhry, who named Mr Shah as one of the journalists involved in making these statements against the Supreme Court.

New Vision TV said that Mr Choudhry stated that “these people have launched a campaign against the Supreme Court which is most unfortunate. Geo is already facing a contempt of court case in the courts”. New Vision TV provided a website link to an article, and the text of four further articles, which it said substantiated Mr Choudhry’s opinion that Geo was attempting to defame the Supreme Court³.

³ <https://www.pakistanpressfoundation.org/jang-group-made-bid-to-discredit-court-jit-sc/>. The text of the four further articles related to the following: an article by Hasnaat Malik entitled “SC issues another contempt notice to Jang Group for false attribution” published in The Express Tribune, Pakistan on January 24, 2018; an article by Hasnaat Malik entitled: “Jang Group served contempt notices over ‘false reporting’”, published in the Express Tribune, Pakistan on 10 July 2017; an article by Haider Ali entitled “SC issues contempt of court notice to Jang group for inaccurate reporting. Jang group was consistently misreporting: Supreme Court”, published in Daily Pakistan on July 10, 2017; and an article which did not include details of the author, entitled “Contempt of court case against Jang/Geo management proceedings in SC”, published in the Times of Islamabad on 8 February 2018.

New Vision TV said that Mr Choudhry had referred to the tweets being posted by Geo and Jang group journalists to illustrate the tweet exchange between them and Mr Khan. It said that Mr Shah had voluntarily disseminated his twitter posts relating to Justice Khosa and the Supreme Court story, himself and that the posts were in the public domain. It added that it had featured Mr Shah's tweets, published by him in his professional capacity, along with tweets from Mr Khan. It said that it did not consider it necessary for it to contact a journalist or politician every time one of their tweets is referenced in a programme, given that there was editorial justification and a public interest for including such posts in a news story. New Vision TV said that the headline captions broadcast summarised the points being made by Mr Choudhry in his interview and related to Mr Khan's claims that he had been misrepresented.

Ofcom's First Preliminary View

Ofcom prepared a Preliminary View in this case that the complaint of unjust or unfair treatment in the programme should be not upheld. Both Mr Shah and New Vision TV provided representations on the first Preliminary View which are summarised below.

Complainant's representations

Mr Shah said that Pakistan is considered one of the most dangerous places for journalists and that his family had faced repercussions as a consequence of the programme. He added that he had been called a "traitor" and "corrupt" by members of the community and people on social media who had viewed the programme.

Mr Shah said that New Vision TV had allowed the main spokesperson of the leading political party, which had a mass following, to make the allegations without any challenge. Mr Shah said that "this was not a fair reflection of viewpoint, but a campaign of being touted as a foreign agent and anti-Pakistan". Mr Shah also said that the broadcaster's actions were pre-meditated, had a "clear agenda" and the programme "was angled to attack a few journalists, including myself, because our crucial views were not liked and we were branded traitors and agents...". Mr Shah added that it was not a breaking news story and that there was no need for it to be broadcast without having first sought his views. Mr Shah said that no attempt was made to get his version of events or to give him a platform to respond to the allegations.

Mr Shah said that he had expressed his opinions on Supreme Court judgments, but that he had not been part of a campaign against the Supreme Court, nor had he defamed any judges nor any other institution. He added that guest on the programme provided no evidence that he was part of any campaign.

Mr Shah also said that the programme alleged that he had worked against the army and against Kashmir. He said that the people of Pakistan have a "sentimental attachment with the armed forces and the Kashmir issue" and that any person who is seen as anti-army or working against the Kashmir cause is seen as a "traitor and foreign agent". Mr Shah said that there was no evidence that he had maligned the Pakistan's army, the judiciary, or had worked against the interests of Pakistan.

Mr Shah said that the allegations made against him in the programme had harmed his reputation and had categorised him as anti-Pakistan, anti-judiciary and anti-state".

Broadcaster's representations

New Vision TV said that it stood by its original submission and that the Supreme Court reports were accurate. It provided Ofcom a website link to an article about the contempt of court cases brought against Geo by the Supreme Court in Pakistan in July 2017. It said that the cases remained unresolved throughout the first half of 2018.

Further representations from the complainant

In response to the broadcaster's representations, Mr Shah said that he failed to understand how the news article about the contempt of court cases was related to him, personally, as he was not mentioned in it, nor had a contempt notice been issued against him, nor had his name been referred to during the court proceedings.

Mr Shah also said that the programme he had complained about was broadcast on 30 July 2017, while the date of this article was 24 January 2018. He said that this again went to the reason why he believed that the article and programme were unrelated. In any event, Mr Shah also provided various weblinks reporting on the dismissal of the contempt of court case⁴.

Further representations from the broadcaster

New Vision TV said that the purpose of the website link was to show the accuracy of the contempt of court cases brought against Geo/Jang group in the Supreme Court at the time of them being mentioned in the New Vision TV news broadcasts on 30 July 2018. It said that the Supreme Court had discharged notices against Jang group on 10 July 2017 and 24 January 2018. It also said that the cases were disposed of on 22 February 2018, some six months after the original notice of contempt of court was discharged. New Vision TV said that the website link demonstrated the accuracy of the PTI spokesperson's comments.

Having carefully assessed the representations of both parties on Ofcom's first Preliminary View, Ofcom considered that the further points raised by the complainant merited Ofcom's reconsideration of this case. Ofcom therefore decided to withdraw its first Preliminary View not to uphold the complaint.

Ofcom's second Preliminary View

Ofcom prepared a second Preliminary View that Mr Shah's complaint should be upheld. Both parties were given the opportunity to make representations on the second Preliminary View. Mr Shah did not make any representations, however, New Vision TV did make

⁴ <https://www.thenews.com.pk/print/284063-satisfied-with-replies-sc-discharges-contempt-notices-against-jang-group>

<https://www.geo.tv/latest/183040-sc-disposes-of-contempt-notices-against-mir-shakil-ur-rahman-mir-javed-rahman-and-ahmed-noorani>

<https://mypk247.com/pakistan/sc-disposes-of-contempt-notices-against-mir-shakil-ur-rahman-mir-javed-rahman-and-ahmed-noorani/>

<https://www.thenews.com.pk/print/219046-Contempt-not-committed-notice-be-withdrawn-Jang-Group-asks-SC>

representations which are summarised, insofar as they are relevant to the complaint entertained and considered by Ofcom, below.

Broadcaster's representations

New Vision TV said that the Preliminary View failed to take into account the political context at the time the live interview was broadcast. It said that Pakistan was in the throes of a political election period with two key figureheads: Mr Khan, running an anti-corruption campaign; and, Mr Nawaz Sharif, the incumbent Prime Minister who faced corruption charges for which he has since been convicted and imprisoned.

Further, New Vision TV said that the Geo/Jang group and its journalists may claim to be neutral in its coverage of political stories, however, in its opinion, at the time of broadcast, Geo/Jang's reports were aligned to Mr Sharif and were critical of Imran Khan and his party. It added that the media group was censured by the Supreme Court for misreporting news and referred to the previous website links it had provided. New Vision TV said that it was these points which Mr Choudhry spoke about, where he named three journalists employed by the Geo/Jang group and referred to them as "Jang/Geo people", noting their support for Mr Sharif. The broadcaster said that "Mr Choudhry was accurate as regards the Geo contempt of court case lodged with the Supreme Court at the time of broadcast." It added that the Supreme Court discharged notices against Jang, part of the Geo group, on 10 July 2017 and 24 January 2018. It further added that the cases were not disposed of until 22 February 2018.

New Vision TV said that the social media "tweets featured in the programme were included to evidence how Mr Shah had reported the Justice Khosa story which was on the news agenda of the day as an example of Geo's allegations of Mr Khan's lack of propriety." On 2 August 2017 (two days later) the inaccuracy of Mr Shah's story was confirmed by the Supreme Court, which clarified that Justice Khosa never asked Mr Khan to file a petition on the Panama Leaks⁵.

New Vision TV said that the studio presenter did not name or pursue any specific journalists in his comments, but had referred to Geo's propaganda in the context of the political campaign at large in Pakistan. It said that the headline captions summarised the comments of Mr Khan and Mr Choudhry. The broadcaster said that the exchanges would have been widely understood at the time among the Pakistani community as "political posturing". It said that Ofcom should consider what was said in the programme and not Mr Shah's allegation of how he interpreted the comments. It said that it considered that viewers would have been unlikely to have perceived Mr Shah in a materially, unfair manner when he was mentioned in the political rhetoric of Mr Choudhry, a PTI representative. It said that Ofcom usually acknowledges the difficulty presenters face during live interviews and the ability to interrupt contributors. It added that News Vision TV's intention was never to be unfair to Mr Shah and it is always careful to edit references to Geo representatives wherever possible, however it was not possible to do that during this particular live interview.

The broadcaster said that given the political context at the time of broadcast, the comments complained of (regarding Mr Shah's tweets regarding Justice Khosa) were unlikely to have materially and adversely affected viewers' opinions of Mr Shah in a way that was unfair to him. On this basis, it said that material facts were not presented, omitted or disregarded in a way that resulted in unfairness to Mr Shah.

⁵ <https://nation.com.pk/02-Aug-2017/justice-khosa-never-asked-imran-to-file-petition-sc>

New Vision TV also said that Mr Shah is an established journalist and had posted tweets making allegations against Mr Khan regarding Justice Khosa. Therefore, it did not consider that the comments would be understood by viewers to mean that Mr Shah himself was “anti-Pakistan”.

New Vision TV provided further website links of official findings concerning the Geo/Jang group which it claimed evidenced of the group’s misreporting and indicated that the case being considered was not an isolated incident.

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 its decision, Ofcom 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. We also took careful account of the representations made by the broadcaster in response to being given the opportunity to comment on Ofcom’s second Preliminary View on the complaint. After careful consideration of the representations, we considered that the points raised did not materially affect the outcome of Ofcom’s decision to uphold the complaint.

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 Mr Shah’s complaint that the programme alleged that he was “running a campaign against the state of Pakistan and its institutions”, including spreading propaganda against Pakistan’s judiciary. It also accused him of “harming the cause of Kashmir” and stated that he was “pro-India and anti-Pakistan”.

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...”.

The Code recognises the importance of freedom of expression and the public interest in allowing broadcasters the freedom to broadcast matters in programmes. 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. 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 were presented in the programme. Therefore, Ofcom began by considering whether the matters complained of had the potential to materially and adversely affect viewers' opinions of Mr Shah in a way that was unfair.

As set out in the "Programme summary" above, the programme reported on Mr Khan's claim that a story concerning him and the Supreme Court had been misrepresented on social media by Geo News and a number of Geo journalists, including Mr Shah. It also included an interview with a spokesman for the PTI in which he provided his view on the manner in which the story had been reported. In doing so, he said that Geo was "*running a campaign against the Supreme Court and the military*". He also named Mr Shah, as well as two other journalists, and claimed that they were "*putting out propaganda*"; that they "*malign the judges, the Supreme Court, malign the military and damage the Kashmir cause*"; and, that they were "*anti-army, pro-India*" and "*anti-Pakistan*". The presenter concluded the interview by saying that "*by misrepresenting Imran Khan's interview [Geo News] are in fact deliberately carrying out propaganda against the Supreme Court itself*". The programme also included the images of the tweets which Mr Shah had made in relation to the story.

Ofcom took into account New Vision's representations that the comments made in the programme would have been widely understood by viewers as "political posturing". However, in our view, the comments made about Mr Shah in the programme were critical. In particular, viewers would have understood from the programme that Mr Shah, as well as others and the organisation he worked for, were actively working against the interests of the wider community by deliberately producing potentially biased or misleading information about the Pakistani judiciary and military. We considered that these statements along with the claim that Mr Shah was "*anti-Pakistan*", constituted serious allegations about Mr Shah, particularly when taking into account Mr Shah's profession as a journalist, which had the potential to materially and adversely affect viewers' opinions of him and his work.

We then considered whether the presentation of these statements in the programme as broadcast resulted in unfairness to Mr Shah. Ofcom acknowledges broadcasters' right to freedom of expression and that they must be able to broadcast programmes on matters of interest to viewers freely, including the ability to express views and critical opinions without undue constraints. However, this freedom comes with responsibility and an obligation on broadcasters to comply with the Code and, with particular reference to this case, avoid unjust or unfair treatment of individuals or organisations in programmes.

We took into account the broadcaster's representations that the extracts complained about by Mr Shah were presented in the context of a news story about reports that Mr Khan had made a telephone call to a Supreme Court judge, Justice Khosa, which implied improper conduct by Mr Khan, and Mr Khan's claim that his comments on the matter had been misrepresented by Geo and its reporters. We also took into account that Mr Shah was one of the journalists who had reported the story on social media. Further, we

took into account the broadcaster's statement that the reporter had explained the background to the story without naming the alleged journalists involved and it was the spokesperson for the PTI who had named Mr Shah. Further, we took into account the newspaper article referenced by the broadcaster which it said substantiated the views of the PTI spokesperson that Geo was attempting to defame the Supreme Court.

Given this context, we considered it was legitimate for New Vision TV to include in the programme the view of Mr Choudhry, as a spokesman for Mr Khan's political party, on the story. In doing so, we took into account that Mr Choudhry, who had named Mr Shah and made the comments complained of, was clearly identified in the programme as being the spokesman for the PTI and that viewers would have understood that Mr Choudhry's comments represented views that supported Mr Khan's position on the story, and that this might have been critical of Geo and its journalists. Further, given that Mr Shah is an established journalist, we considered that viewers would have understood that in his professional journalistic capacity, Mr Shah would have criticism levelled at his work at times and at the organisation for which he worked [Geo], particularly by those with opposing views, such as Mr Choudhry.

However, in Ofcom's view, Mr Shah's profession does not negate the need for New Vision TV to ensure that he was not subject to unjust or unfair treatment in the programme. Further, Ofcom considered that the overall meaning of Mr Choudhry's comments was that, in his view, Mr Shah, and his employer, as well as other journalists, had acted inappropriately, not simply in terms of the apparent misrepresentation of a story about Mr Khan, but also more generally. In particular, we considered that Mr Choudhry made specific claims about Mr Shah which went beyond the topic which was to be discussed and presented a view that Mr Shah continuously behaved in a manner which was against various Pakistani institutions and which was characterised as being "*anti-Pakistan*".

We took into account the newspaper article the broadcaster referred to, which was published two days after the broadcast of the programme, regarding the Supreme Court having issued a clarification that Justice Khosa had not asked Mr Khan to file a petition on Panama Leak. However, regardless of whether or not Mr Khan had apparently misrepresented the story about Justice Khosa (and Ofcom has not taken a view on this), the programme went beyond a discussion about this topic and instead specific claims were made about Mr Shah's character.

We understood that the programme was broadcast live, and we recognise that such programmes can present particular challenges to broadcasters. It is Ofcom's view, therefore, that for live programmes it may not always be possible for the broadcaster to obtain responses from others prior to, or during, the programme. However, in such circumstances, broadcasters need to be particularly aware that they have a duty to ensure that reasonable care is taken that the broadcast material is consistent with the requirements of the Code. It must not mislead viewers or portray people or organisations in a way that is unfair.

Given this, Ofcom assessed the steps, if any, that the broadcaster had taken to satisfy itself that material facts were not presented, disregarded or omitted in a way that was unfair to Mr Shah.

We took into account the newspaper article which the broadcaster referred to in its submissions (and the weblinks provided by Mr Shah) regarding the Supreme Court having issued a contempt of court notice to the Jang group for falsely reporting that the Court had issued a particular direction to Inter-Services Intelligence. We also took into account the other website links referred to in the broadcaster's representations. We noted, however, that at no point was Mr Shah referred to in these newspaper articles nor was there any reference to him being part of a campaign against Pakistani institutions and it is therefore not clear the basis on which the statements about Mr Shah by the PTI spokesperson were made in the programme.

Further, during the programme itself and after the allegations about Mr Shah were made, no attempt was made by the presenter to place Mr Choudhry's comments in any form of context by explaining, for instance, that they only reflected his personal view. Instead, the presenter appeared to endorse the comments made by Mr Choudhry by stating that Geo and its reporters were carrying out "*relentless propaganda*" and concluding the report by stating that they were "*deliberately carrying out propaganda*". Ofcom also took into account that nowhere in the programme was anything said to balance or place into appropriate context the comments made about Mr Shah, nor did the programme include the viewpoint of Mr Shah in response to the claims.

Therefore, in our view, the comments made about Mr Shah in the programme amounted to significant allegations about him which had the potential to materially and adversely affect viewers' opinions of Mr Shah and which were presented in the programme in a way that was unfair to him.

Taking all the above into account, Ofcom considered that, in the particular circumstances of this case, the broadcaster did not take reasonable care to satisfy itself that material facts were presented, omitted or disregarded in a way that resulted in unfairness to Mr Shah.

- b) Ofcom next considered the complaint that Mr Shah was not provided with an appropriate and timely opportunity to respond to the allegations being made in the programme.

In assessing this head of complaint Ofcom took account of Practice 7.11 of the Code which states that "if a programme alleges wrongdoing or incompetence or makes other significant allegations, those concerned should normally be given an appropriate and timely opportunity to respond".

For the reasons given in head a) above, we considered that the comments made in the programme amounted to significant allegations about Mr Shah. Therefore, in accordance with Practice 7.11, the broadcaster should have offered Mr Shah an appropriate and timely opportunity to respond to it in order to avoid unfairness. The broadcaster's failure to provide such an opportunity was unfair to Mr Shah.

Ofcom considered therefore that Mr Shah was treated unjustly or unfairly in the programme as broadcast.

Ofcom has upheld Mr Shah's complaint of unjust or unfair treatment in the programme as broadcast.

Upheld

Complaint by Ms Reham Rehman On *The Front*, Dunya TV, 5 June 2018

Summary

Ofcom had upheld this complaint by Ms Reham Rehman of unjust or unfair treatment in the programme as broadcast.

The programme included extended commentary from the programme's presenter and discussion with a guest regarding the contents of Ms Rehman's unpublished autobiography. The presenter and the guest made a number of claims about Ms Rehman and her motivations for writing the book during the programme.

Ofcom considered that the comments made in the programme about Ms Rehman's personal reputation and her motivation for writing the book, the broadcaster did not take reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to Ms Rehman.

Programme summary

On 5 June 2018, Dunya TV broadcast an edition of its current affairs programme, *On The Front*. Dunya TV is an Urdu language channel broadcast under an Ofcom licence held by Dunya News Limited. As the programme was broadcast in Urdu, Ofcom provided an English translation to the complainant and the broadcaster for comment. Ms Rehman made comments on the translation, which Ofcom took into account. A final translation was then sent to the parties who were informed that Ofcom would use this translation for the purposes of investigating the complaint.

The programme began with a disclaimer in English, shown for five seconds:

"Disclaimer: The views/opinions presented in this program do not necessarily reflect that of the channel. Being the flagbearers of freedom of expression, impartiality and objectivity, Dunya News is providing everyone a platform to express their viewpoints. The channel therefore shall be not be [sic] liable for anything said/referred to by the guests".

The programme's presenter, Mr Kamran Shahid, introduced the programme with an opening monologue, which focussed on the topic of Ms Rehman's unpublished autobiography and its potential impact on Pakistani politics. During the monologue, images of Ms Rehman and her ex-husband Mr Imran Khan, now the Prime Minister of Pakistan, were shown along with images of other unidentified individuals. Similar images were repeated throughout the programme.

Two sets of captions also featured throughout the programme: one in Urdu, the other in English. The captions in English were headlines of unrelated news stories. Some of the captions in Urdu were headlines relating to Ms Rehman's book. Here, and throughout the entire programme, Ms Rehman was referred to by her marital name "*Reham Khan*". The relevant captions in Urdu read as follows:

“Reham Khan’s book: How legitimate is the demand of Tehreek-e-Insaf to ask for an apology?”

“Reham Khan’s book after Sita White Scandal. Where is Muslim League politics heading?”

“Are the books of Asad Durrani and Reham Khan part of a plan?”

The following exchange then took place between the presenter and Mr Rasheed:

Presenter: *“A very warm welcome to the show. I am Kamran Shahid. The political scene in Pakistan has not been very active for some time, but at this time the lead story that is being run on all media channels, in all the newspapers and on all social media, is a book written by Reham Khan. It has been hyped [up] a lot. She was being targeted and has been criticised a lot. Some people are against her and some are angry with her points of view. They believe that her thoughts are in very poor taste and that it shows her low mentality. Being the ex-wife of a famous cricketer, she should have not written a book against him.*

Just a little while back I received some facts from PTI¹. Let me tell you about this. They are saying that, firstly, Reham Khan should deny it and apologise and the Islamic Ideology Council should take notice and ban the book. PTI has also said that, because Imran Khan is popular, people take undue advantage of this. Sometimes they misspeak about their marriage. Even Imran Khan’s dog Sheru has also become famous. Whoever comes in contact with Imran Khan or is related to him in any way also becomes famous. It is not known, or we are not sure whether these talks emerge from the side of Imran Khan or that Chowdhry. It is also said that the contents of the book are bogus and immoral. Everybody knows that Model Town and Raiwind mafia operated all these matters. The photographs of Hanif Abbasi with Reham Khan are available to everybody. Ahsan Iqbal arranged a meeting by email between Maryam and Reham Khan. This email must be investigated. Noon League² received the contents of the book in advance. The crux of the matter is that all this was planned by Noon League. All the criticism and all the allegations that have been written by Reham against Imran Khan in her forthcoming book were all carried out by Noon League.

PTI has also said that the timing of the book is very lethal, and it has been released 60 days before the actual release date. In 1997, Noon League had also brought scandal on Imran Khan and Sita White to malign his image.

Today, I have with me a personality who knows Imran Khan and Noon League very well. So, obviously my first question to the chief of Awami Muslim League, Mr Sheikh Rasheed, is, in your opinion, has this book been written by the ex-wife from her memories, or was this book dictated to her, or was this perhaps written by Noon League as part of a political agenda or by somebody else? What is your take on it?

Mr Rasheed: *I have seen many prostitutes who have become good people after their marriage. There are many prostitutes. When I was in charge of the*

¹ Pakistan Tehreek-e-Insaf, a Pakistani political party founded in 1996 by Mr Khan.

² The PMLN (Pakistan Muslim League Nawaz) political party.

Information Ministry I also used to look after tourism, sports and culture. We used to deal with many big stories relating to culture. In Lal Haveli, where I lived, there used to be the brothel of Budhan Bai, after she married Lala Lajmat Ram. There is not a single person in this country, not even a single person, who will say that, in spite of Budhan Bai being a prostitute, she gave the statement to the court, which I have hanging in my bedroom, that whatever relations she had with non-Muslim people, with due respect to that, if even she had inherited all the properties when Pakistan was established, she would simply give them away. She didn't lie; the 3 Marla Lal Haveli was taken over by 19 people. At that time there was only one car in this city of Rawalpindi which used to run on coal and only Budhan Bai had the car. It was the only car in the city in 1947 which was in the Lal Haveli and it was owned by Budhan Bai. Her statement is still hanging in my bedroom. So, it is proven that Reham Khan is worse than Budhan Bai. It means that she got a mask to cover herself with. What else do you have, apart from being married to Imran Khan?

I am ready to take an oath regarding the payment in the Sita White case when I was with Nawaz Sharif. I was the witness for two things. The payment was made by Ishaq Dar in front of me in the Sita White scandal against Imran Khan. I am fasting, I am answerable to God after my death and it is not fitting to lie and accuse anyone unnecessarily”.

Presenter: *I do believe you.*

Mr Rasheed: *He gave 1.45 million rupees.*

Presenter: *Ishaq Dar was given 1.45 million rupees? By whom?*

Mr Rasheed: *Ishaq gave, Ishaq Dar gave –*

Presenter: *In the Sita White case –*

Mr Rasheed: *He is a traitor to his country. Hussain Haqqani was sitting there with Nawaz Sharif and Shehbaz Sharif³. This person assassinated the character of Benazir Bhutto and printed the signature of Peter Galbraith. There was also a copy of the original signature. Hussain Haqqani prints very good signatures; that first instalment of two crore [20 million], obviously, I have to pay from the secret fund, I didn't give it to them, but I don't know from where they have managed to get it. Similarly, Nawaz Sharif placed both the papers in front of me, and Hussain Haqqani forged the signature of Peter Galbraith. They made very serious and horrible accusations against Benazir Bhutto. I checked ten times – believe me, I couldn't recognise which one was original and which one was fake.*

Presenter: *Sheikh, you said a very interesting thing, that Ishaq Dar gave 1.45 million rupees to somebody in the Sita White scandal against Imran Khan. Did all this happen in front of you, and what did Nawaz Sharif say? Why did he used to*

³ Mr Nawaz Sharif and Mr Shehbaz Sharif are brothers and leading politicians within the PMLN. At the time the programme was broadcast, Mr Shehbaz Sharif was the president of the PMLN, having succeeded Mr Nawaz Sharif in March 2018.

think like this? This is a very bad thing, to interfere in someone's personal life and indulge in character assassination. Nawaz Sharif was a very civilised person. Why did he engage in such an act of triggering a scandal, and what were his thoughts at that time?"

An additional Urdu headline caption appeared:

"Reham Khan has nothing except her marriage with Imran Khan – Sheikh Rasheed".

Mr Rasheed went on to criticise Mr Nawaz Sharif, a former Prime Minister of Pakistan and member of the PMLN, describing him as "a very bad person". Mr Rasheed then discussed Mr Khan with the presenter:

"I am not the kind of a friend of Imran Khan that knows everything about his life. I am his political friend and colleague. I can certainly tell you that the statement that I gave on the wedding of Reham Khan has created distance between me and Imran Khan. I said that employment in old age and marriages with prostitutes are not good omens. I stand by these words. I still stand by them today. Reham Khan will be disgraced and defamed in Pakistan and Shehbaz Sharif will not benefit from this book. It is possible that Nawaz Sharif was not involved in this misadventure, but Shehbaz Sharif was dealing with Reham. The player in this kind of work is Shehbaz Sharif. He likes nonsense. It is in his nature to kick off nonsense rumours. Maybe Nawaz Sharif did not make the payment, but I have doubts, and I am saying doubts, that maybe Shehbaz gave two lakh (£200,000).

Presenter: *Isn't it surprising that Reham Khan is a Pakistani woman, and how a Pakistani woman can write dirty words, in this manner, boldly about her husband or ex-husband? I saw and read its contents; it is very shameful. You see, even children can't read that. It's also heard that she made her son edit it. How can her son edit that book? It's a book full of dirty words, in every aspect. There is so much bad conversation about Wasim Akram in it.*

Mr Rasheed: *When politics becomes dishonourable then politics' Christine Keelers sell themselves and talk garbage. Reham is the type of woman who sells herself and talks garbage. If she made her son edit it, and I have met her son in Bani Gala. He was very enthusiastic and wanted to get some photographs with me. If you will please be kind to me, can we not talk about something else rather than talking about a sexual and uncivilised book? By the way, this is not a month for reading novels like this. In childhood or youth, there was a writer of such sex-related books. I have forgotten his name. Many people used to hide and read these kinds of books".*

Later, the presenter asked Mr Rasheed "how much damage" the book was likely to cause to Mr Khan. Mr Rasheed replied:

"I can say that this book will not affect Imran Khan's political career by even minus zero, zero one percent. Shehbaz Sharif and Nawaz Sharif will roam around saying in every alley and back street that 'We have not made anyone write this book. We have not made anyone write this book'. And I am certain that the payment for it was made by Shehbaz Sharif. Because Rehan Khan is such a thing that, you can 'throw the money, and watch the show'. These are the people who sell tickets outside Valley of Death. Transgenders are also dancing somewhere outside the Valley of Deat".

The discussion moved onto a broader discussion of political plots/corruption within Pakistani politics, focussing largely on scandals associated with Nawaz Sharif and Shabaz Sharif. Additional Urdu headline captions appeared on the screen, including some related to Ms Rehman:

“Sheikh Rasheed: I told Mr Khan that this marriage will not be compatible”.

“Sheikh Rasheed: Shehbaz Sharif misused Reham Khan”.

“Sheikh Rasheed: Nawaz Sharif’s people do not admit it, but these very people are behind this book”.

“Shabaz Sharif is the main player in Reham Khan’s book – Sheikh Rasheed”.

“Shehbaz Sharif will not get any benefit from Reham Khan’s book – Sheikh Rasheed”.

“Maybe Shehbaz Sharif paid £200,000 to Reham Khan – Sheikh Rasheed”.

“Such allegations are levelled against Imran Khan every year – Sheikh Rasheed”.

After an advertisement break, the presenter and Mr Rasheed continued their general discussion about broader political issues related to the election in Pakistan. Additional Urdu headline captions appeared on the screen, including one related to Ms Rehman:

“Publishers of Asad Durrani and Reham Khan’s book are Indian – Shaikh Rasheed”.

Later, the presenter and Mr Rasheed made a comparison between Ms Rehman’s book and another book by Mr Asad Durrani, a retired army general:

Presenter: *“Shaikh Sahib, these two books are indicating the destruction of Pakistan. In political polarisation, you will see Durrani’s book, and Reham’s book that we’ve already discussed. What do you see as the future of Asad Durrani? Do you think that the Army is right and they might court martial him on this matter? Court martial?”*

Mr Rasheed: *Three or four books have been published and two more will be released. I said this a long time ago. Some people ask me, “How can you say such things?” They talk as if I have a big research group. I don’t even have a phone with a touch screen. Raymond Davis’ book has been released. A book was released on nuclear weapons. And then there was a book by Asad Durrani. If you look at Asad Durrani’s book and Reham’s book, these are by lobby groups. Now, a book has been leaked or is to appear on the financial emergency, which is to increase the pressure on Pakistan. Regarding all this, Indian Hindu people think that losses cannot be inflicted on Pakistan’s people through its borders, and that’s why they want to destroy Pakistan from within”.*

Later, the presenter raised the question of the involvement of India in promoting Ms Rehman’s book. The presenter said:

“Shaikh Sahib, please tell us – Asad Durrani’s book could be a part of a campaign, but how can Reham Khan’s book be part of a campaign, and what interest could India possibly have in it, to talk about Imran Khan etc.?”

...

Well, Shaikh Sahib, this tradition is very wrong. Before this, Mustafa Khar’s wife wrote a book and cut it all into bits and shreds. Now, this book is coming out. This is a very wrong

tradition. With this tradition, if politicians raise and kick up such controversies and expose the private matters of their opponents, what will be the end of it? It seems to me that they are talking rubbish, and if this trend becomes a fashion, if Tehreek-e-Insaaf also gets a book written against Noon League, then what will happen?"

Following this comment, the discussion moved back onto broader issues of Pakistani politics and the upcoming election. This general discussion lasted until the end of the programme. Ms Rehman was not mentioned again.

Summary of the complaint and the broadcaster's response

Complaint

Ms Rehman complained that she was treated unjustly or unfairly in the programme as broadcast because:

- a) Her reputation was attacked in the programme, which called her "worse than a prostitute" and "a woman with no honour or dignity". She was also compared to Christine Keeler, whom Ms Rehman identified as "an English model and a topless showgirl who used to dance at clubs". Ms Rehman stated that the "cruel, hurtful and hateful" content has caused "immense pain and distress" to herself and her children.
- b) She was falsely accused of "dealing with" the president of the Pakistan Muslim League Nawaz (PMLN) political party and receiving money from him in exchange for writing a book.

Broadcaster's response

Dunya TV said that *On The Front* is a current affairs programme which features discussion of "highly contentious issues of public interest". It said that the programme has a large audience who are used to seeing "impassioned debates" on the programme.

The broadcaster said that this edition of the programme was intended to inform the public about Ms Rehman's "highly controversial" autobiography, which had been leaked before publication. It said that it is "an admitted position" that the book devoted a significant section to events about Mr Khan while he was briefly married to Ms Rehman. It added that the book generated a lot of socio-political controversy and as it came just before the national elections held on 25 July 2018, it was widely believed that the book was designed to tarnish the reputation of Mr Imran Khan and reduce his party's prospects in the election. Dunya TV said that the discussion of Ms Rehman's book which took place during the programme should be viewed within this political context. The broadcaster stated that the presenter and other participants in the programme "unanimously condemned the book as well as Ms Reham Khan". It said that these comments were "clearly subjective opinions and personal views, expressed at times as powerful metaphors" and were not portrayed as statements of fact. Dunya TV said that it was sorry Ms Rehman found the comments and discussion upsetting.

Dunya TV also said that the programme did not include any abusive or derogatory language against Ms Rehman, and that all language used by the programme's presenter and guests was "within the limits of decency". The broadcaster said that to conclude that the discussion relating to Ms Rehman was unfair to her would put an unnecessary block on the participants'

right to free expression. Further, it said that a debate/discussion about the book, its author and its effect on the 2018 General Elections was in the public interest.

The broadcaster also said that it showed a disclaimer at the start of the programme which advised viewers that the opinions expressed by the participants in the programme did not reflect the views of the channel. It said that this disclaimer made it clear to viewers that the views expressed in the programme were “subjective opinions” and not statements of fact.

Dunya TV concluded that taking the above factors into account and the political context at the time of broadcast, it did not believe that the comments complained of were likely to have materially and adversely affected viewers’ opinion of Ms Rehman in a way that was unfair to her.

Ofcom’s Preliminary View

Ofcom prepared a Preliminary View that Ms Rehman’s complaint should be upheld. Both parties were given the opportunity to make representations on the Preliminary View. Ms Rehman did not make any representations. Dunya TV, however, did make representations which are summarised, insofar as they are relevant to the complaint entertained and considered by Ofcom, below.

Broadcaster’s representations

Dunya TV said that it was disappointed with Ofcom’s Preliminary View to uphold this complaint, and said that it stood by the comments made in its original submission in response to the complaint. The broadcaster said that the programme was broadcast during “a highly charged moment in Pakistan’s political history” and that the commentary was focused on the likely impact of the publication of the complainant’s autobiography on Mr Khan’s election prospects versus those of Mr Shehbaz Sharif (brother of the then Prime Minister, Mr Nawaz Sharif). Dunya TV said that the presenter “did not make emphatic statements” about the complainant, but attempted to keep the debate focused on the electoral impact of the publication of her book and the scheduling of it at such a key time in the elections. The broadcaster said that the programme did not endorse the comments of the guests as stated in the Preliminary View, and that it believed that the captions specifically were a fair summary of the opinions voiced without being unfair to Ms Rehman.

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 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 our 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

Preliminary View on this complaint. After careful consideration of the representations, we considered that the points raised did not materially affect the outcome of Ofcom's decision to uphold the complaint.

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.

We considered Ms Rehman's complaint that she was treated unjustly or unfairly in the programme as broadcast.

In considering this complaint, we had particular regard to the following Practices of the Code:

Practice 7.9:

"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 7.11:

"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's role is to consider whether the broadcaster took reasonable care not to present, disregard or omit material facts in a way that resulted in unfairness to Ms Rehman. 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 matters complained of had the potential to materially and adversely affect viewers' opinions of the Ms Rehman in a way that was unfair.

- a) We first considered Ms Rehman's complaint that her reputation was attacked in the programme, which called her "worse than a prostitute" and "a woman with no honour or dignity". She was also compared to Ms Christine Keeler, whom Ms Rehman identified as "an English model and a topless showgirl who used to dance at clubs". Ms Rehman stated that the "cruel, hurtful and hateful" content has caused "immense pain and distress" to herself and her children.

As set out in the "Programme summary" above, the programme included an opening monologue from the presenter regarding Ms Rehman and her unpublished autobiography. This commentary included the presenter's statement that "*some people*

are against [Ms Rehman] ... They believe that her thoughts are in very poor taste and that it shows her low mentality". The presenter also said that it was "surprising that Reham Khan is a Pakistani woman", and described her book as "very shameful" and "full of dirty words, in every aspect". We also took account of statements made by the programme's guest, Mr Rasheed. These included Mr Rasheed's statement that "it is proven that Reham Khan is worse than Budhan Bai", whom Mr Rasheed had described as "a prostitute". In relation to the marriage between Ms Rehman and Mr Imran Khan, Mr Rasheed said that "marriages with prostitutes are not good omens". Furthermore, Mr Rasheed said that "when politics becomes dishonourable then politics' Christine Keelers sell themselves and talk garbage. Reham is the type of woman who sells herself and talks garbage". Mr Rasheed also described Ms Rehman's book as "sexual and uncivilised". In Ofcom's view, these statements could reasonably be understood by viewers to imply that Ms Rehman was a discredited and immoral person which had the clear potential to materially and adversely affect viewers' opinions of her.

We then considered whether the presentation of these statements in the programme as broadcast resulted in unfairness to Ms Rehman. Ofcom acknowledges broadcasters' right to freedom of expression and that they must be able to broadcast programmes on matters of interest to viewers freely, including the ability to express views and critical opinions without undue constraints. However, this freedom comes with responsibility and an obligation on broadcasters to comply with the Code and, with particular reference to this case, avoid unjust or unfair treatment of individuals or organisations in programmes.

We took into account the broadcaster's submission that statements made by the presenter and guests were simply opinions and not statements of fact and that it did not include any abusive or derogatory language about Ms Rehman. We also took into account the broadcaster's submission, and reiterated in its representations on Ofcom's Preliminary View, that consideration should be given to the wider political context at the time of broadcast – namely the socio-political controversy that had been generated by the book and that it had come out just before the national elections. We took into account too that the broadcaster said that it was in the public interest to discuss the book, its author and its effect on the 2018 General Elections.

Given the wider political context and that allegations had been made by Ms Rehman in her book about her former husband, Mr Khan, who at the time was contesting the elections, we considered that it was legitimate for Dunya TV to broadcast a programme in which the book and its impact was discussed.

We also considered that Ms Rehman is a well-known public figure in Pakistan, and that by publishing a book which included allegations about Mr Khan, who is a popular public figure in Pakistan, and other Pakistani politicians, she may have expected to have criticism levelled against her. However, Ofcom takes the view that the high-profile status of an individual does not negate the need for broadcasters to ensure that they are not subject to unjust or unfair treatment in programmes. In this case, Ofcom considered that the presenter and the guest expressed in the programme that, in their view, Ms Rehman had invented malicious stories about Mr Khan in order to harm his chances in the upcoming Pakistan elections. In particular, we considered that the presenter and contributors made specific claims about Ms Rehman which went beyond simply discussing her book and its impact and presented a view about Ms Rehman in which she was characterised as being immoral and discredited.

We understood that the programme was broadcast live, and we recognise that such programmes can present particular challenges to broadcasters particularly when, as in this case, it includes political discussions in which an external commentator is invited to speak. We recognise that contributors can sometimes make unexpected comments that have the potential to create unfairness. It is Ofcom's view, therefore, that for live programmes such as this, it may be, but is not always, possible for the broadcaster to obtain responses from others prior to, or during the programme. It is important to make clear that broadcasters need to be particularly aware that they have a duty to ensure that reasonable care is taken that broadcast material is consistent with the requirements of the Code. This may include having in place measures to mitigate the potential for unfairness, briefing any studio guests about fairness requirements in advance of the programme, or by ensuring that any allegations made during the programme are properly tested or challenged. This could be, for example, by pointing out any contradictory argument or evidence, or by representing the viewpoint of the person or organisation that is the subject of the allegation. The importance is that the programme must not mislead viewers or portray people or organisations in a way that is unfair.

Given this, Ofcom assessed the steps, if any, that the broadcaster had taken to satisfy itself that material facts were not presented, disregarded or omitted in a way that was unfair to Ms Rehman.

We considered that the programme did not include any response from Ms Rehman in relation to the allegations about her being a dishonest and immoral person. Furthermore, Dunya TV provided no additional evidence that it had taken any reasonable steps before the live broadcast, for example, by anticipating that allegations may be made and by putting appropriate measures in place to reduce the risk for potential unfairness. More significantly, during the programme itself, the presenter himself made allegations about Ms Rehman and made little attempt to challenge the comments of his guest. We took into account the broadcaster's representations that the presenter made no "emphatic statements" about the complainant; however, we disagreed. We considered that instead of challenging the comments being made in the programme, the presenter appeared to endorse his guest's comments through the statements he made in opening monologue and in his interaction with the guest. Nowhere in the programme was anything said to balance or place into appropriate context the comments made about Ms Rehman. We recognised that a notice was shown at the start of the programme which said that "*the views/opinions presented in this program do not necessarily reflect that of the channel*". However, Ofcom took the view that this statement did not provide sufficient context to justify the extensive allegations about Ms Rehman which were made subsequently by the presenter and the guest throughout the rest of the programme. Moreover, the programme included a number of captions which made allegations against Ms Rehman and repeated the allegations made by programme guests. In our view, these captions gave an impression that Dunya TV itself was endorsing the allegations made by the presenter and guests during the programme. Therefore, we considered that the comments made about Ms Rehman in the programme amounted to significant allegations about her which had the potential to materially and adversely affect viewers' opinions of her and which were presented in the programme in a way that was unfair to her.

Taking all of the above into account, Ofcom considered that, in the particular circumstances of this case, the broadcaster did not take reasonable care to satisfy itself

that material facts had not been presented, disregarded or omitted in a way that was unfair to Ms Rehman.

- b) We next considered Ms Rehman's complaint that she was falsely accused of "dealing with" the president of the PMLN political party and receiving money from him in exchange for writing a book.

In considering this part of Ms Rehman's complaint, we took into consideration that the programme included the presenter's statement that *"the crux of the matter is that all this was planned by Noon League. All the criticism and all the allegations that have been written by Reham against Imran Khan in her forthcoming book were all carried out by Noon League"*. We also took into account the comments made by the programme guest, Mr Rasheed, which included the following statement: *"The player in this kind of work is Shehbaz Sharif. He likes nonsense. It is in his nature to kick off nonsense rumours. Maybe Nawaz Sharif did not make the payment, but I have doubts, and I am saying doubts, that maybe Shehbaz gave two lakh (£200,000)"*. Mr Rasheed also said, in reference to Ms Rehman's book, that he was *"certain that the payment for it was made by Shehbaz Sharif"*, and that both Ms Rehman's book and another book written by Mr Asad Durrani were *"by lobby groups"*. We also took into consideration that some of Mr Rasheed's statements featured in on-screen captions, which included the following statements: *"Sheikh Rasheed: Shehbaz Sharif misused Reham Khan"*; *"Sheikh Rasheed: Nawaz Sharif's people do not admit it, but these very people are behind this book"*; *"Shabaz Sharif is the main player in Reham Khan's book – Sheikh Rasheed"*; *"Maybe Shehbaz Sharif paid £200,000 to Reham Khan – Sheikh Rasheed"*. In Ofcom's view, these statements amounted to serious allegations about Ms Rehman which had the potential to materially and adversely affect viewers' opinions of her.

We then considered whether the presentation of these statements in the programme as broadcast resulted in unfairness to Ms Rehman.

As with our consideration of head a) above, we took into account the broadcaster's submission that consideration should be given to the wider political context at the time of broadcast. We also took into account that the broadcaster said that it was in the public interest to discuss the book and its effect on the 2018 General Elections. Given the wider political context and that allegations had been made by Ms Rehman in her book about her former husband, Mr Khan, who at the time was contesting the elections, we considered that it was legitimate for Dunya TV to broadcast a programme in which Ms Rehman's motivations for writing her book were discussed.

Although we considered that it was legitimate for the programme to discuss Ms Rehman's political motivations for writing her book, it is important to make clear that broadcasters have a duty to ensure that reasonable care is taken that broadcast material is consistent with the requirements of the Code. This may include having in place measures to mitigate the potential for unfairness, briefing any studio guests about fairness requirements in advance of the programme, or by ensuring that any allegations made during the programme are properly tested or challenged. This could be, for example, by pointing out any contradictory argument or evidence or by representing the viewpoint of the person or organisation that is the subject of the allegation. The importance is that the programme must not mislead viewers or portray people or organisations in a way that is unfair.

In this regard, we took into consideration that the programme did not include any response from Ms Rehman in relation to the allegation that she had colluded with the PMLN and received a payment from Mr Shehbaz Sharif, the president of the PMLN. Moreover, the programme did not include any contradictory argument or evidence which went against these allegations.

We recognised that the language used by the presenter and the programme guest sometimes implied that there was a level of uncertainty regarding the allegations. For example, at one point the programme presenter asked the guest whether Ms Rehman's book was *"dictated to her, or was this perhaps written by Noon League as part of a political agenda or by somebody else?"* which suggested that Ms Rehman may not have colluded with the PMLN in writing her book. The programme guest, Mr Rasheed, also conveyed a certain amount of uncertainty when he said that *"maybe Nawaz Sharif did not make the payment, but I have doubts, and I am saying doubts, that maybe Shehbaz gave two lakh (£200,000)"*. However, in our view the implication that there was some uncertainty over the exact nature of the collusion between Ms Rehman and the PMLN were not sufficient to counterbalance the various statements about the alleged collusion made by the presenter and the guest throughout the programme. The fact that these allegations were not just made by the programme guest, but expressed by the presenter and in the captions, gave the impression that Dunya TV itself endorsed these allegations.

Taking all of the above into account, Ofcom considered that, in the particular circumstances of this case, the broadcaster did not take reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to Ms Rehman.

Ofcom concluded therefore that Ms Rehman was treated unjustly or unfairly in the programme as broadcast.

Ofcom has upheld Ms Rehman's complaint of unjust or unfair treatment in the programme as broadcast.

Upheld in part

Complaint by Ms Reham Rehman On The Front, Dunya TV, 4 June 2018

Summary

Ofcom has upheld in part this complaint by Ms Reham Rehman of unjust or unfair treatment in the programme as broadcast.

The programme included extended commentary from the programme's presenter and discussion with a number of guests regarding the contents of Ms Rehman's unpublished autobiography. The presenter and guests made a number of claims about Ms Rehman and her motivations for writing the book during the programme.

Ofcom considered that:

- With regard to the comments about Ms Rehman's personal reputation, the broadcaster did not take reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to Ms Rehman.
- However, with regard to the comments made about Ms Rehman's motivations for writing the book, in particular, the allegation that it was supported by the PMLN, the broadcaster did, in our view, take reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to Ms Rehman.

Programme summary

On 4 June 2018, Dunya TV broadcast an edition of its current affairs programme, *On The Front*. Dunya TV is an Urdu language channel broadcast under an Ofcom licence held by Dunya News Limited. As the programme was broadcast in Urdu, Ofcom provided an English translation to the complainant and the broadcaster for comment. No comments on the translation were received, and therefore the parties were informed that Ofcom would use this translation for the purposes of investigating the complaint.

The programme began with a disclaimer in English, shown for five seconds:

"Disclaimer: The views/opinions presented in this program do not necessarily reflect that of the channel. Being the flagbearers of freedom of expression, impartiality and objectivity, Dunya News is providing everyone a platform to express their viewpoints. The channel therefore shall be not be [sic] liable for anything said/referred to by the guests".

The programme's presenter, Mr Kamran Shahid, introduced the programme with an opening monologue. Images of Ms Rehman and her ex-husband Mr Imran Khan, now Prime Minister of Pakistan, were shown along with images of documents and other unidentified individuals. Similar images were repeated throughout the programme.

Two sets of on-screen captions also featured throughout the programme: one in Urdu, the other in English. The captions in English were headlines of unrelated news stories. Some of the captions in Urdu were headlines related to Ms Rehman's book. Here, and throughout the

entire programme, Ms Rehman was referred to by her marital name “Reham Khan”. The relevant captions in Urdu read as follows:

“Reham Khan’s book: Replete with vulgar allegations”.

“Does Reham Khan’s book aim at politically damaging Imran Khan?”

“Election campaigns begin: Who is bringing Reham Khan into the field against Imran Khan?”

The presenter said:

“Viewers, with a very warm welcome to the show, I am Kamran Shahid. Today we have a very important issue. Reham Khan has written a book that concerns the political reputation of the Chairman of Pakistan Movement for Justice. This book has been leaked. Excerpts from it are lying in front of me, and these are very damaging if one reads and believes them. But, about Reham Khan, obviously, my own personal opinion is, which I have given many times before, is that she tells far-fetched lies; she tells lies to one’s face and, about some people, you cannot even say – even when they are telling lies to your face, you cannot do anything about them. And she tells lies with such brazenness that one is amazed at how she could tell such huge lies. But she has the advantage of being a woman too. In our societies, the tears of a woman – whether real or fake – have an impact. So, in this context, she has expressed it fully in this book, a few items from which have leaked and are lying before us. If I just share these contents, they are very damaging – but more damaging for Reham Khan. A woman of integrity, who has been in a marriage with someone, would perhaps not be able to write in such a way about her sexual life or her relations with her husband as the contents show, and as she has exposed them. If one loses integrity, one can write everything about one’s ex-life partner, as she has written, and level allegations, which have been challenged in a court of law by those against whom they were levelled. However, if one has even a shred of integrity, one cannot write about one’s life partner, even if it is an ex-partner, in this way”.

The presenter then went into more detail about the subject of the book:

“...This book is not to be read by children. This book by Reham Khan, perhaps even her daughters would not read it if they profess to be moral, because the way in which she has portrayed people. ...

The main target seems to be the Chairman of Pakistan Movement for Justice, Imran Khan, in every respect, because all these people that she has brought in [i.e. discussed] include Imran Khan’s friends such as Syed Zulfiqar Bukhari and Waseem Akram, and Miss Anila Khawaja, who is basically the international media coordinator of Pakistan Movement for Justice as well as a political and social activist.

If I could tell you a bit about this, because this discussion is gradually entering the public sphere and also appearing in the media, she has levelled allegations against Imran Khan with reference to Miss Anila Khawaja and stated: Substantial influence and control over Imran Khan and the chair of the PTI [i.e. Pakistan Movement for Justice] party was attributed to Miss Anila Khawaja. [It means] That she had influence over Imran Khan, and it is said to this extent that there was an illicit relationship between Imran Khan and Anila

Khawaja. She has also stated – it is written here – she referred to Miss Anila Khawaja as being Chief of the Harem.

In this context, perhaps she would not be able to provide any evidence, but she has done as much political mud-slinging as she can, which would obviously benefit N-League [i.e. Pakistan Muslim League Nawaz Group] a lot.

Even more defamatory than this is the allegation against Imran Khan involving his friend Zulfi Bukhari, which Reham Khan has written – even if it is a lie, she has written it, and it is audacious of her to write so much, whether she witnessed it or not, and its accuracy is yet to be challenged in a court of law: Mr Bukhari has been involved in doing alleged dirty work for Mr Khan in that alleged false client insert – it is about a court case – he arranged for the abortion in London for a young lady that, Reham Khan alleges, was made pregnant by Mr Khan.

This book is another form of pornography. And one can see a political objective to it too. People are alleging that Imran Khan's opponents have written this book, but we have an interview by Reham Khan with regard to this which our UK and Europe Bureau Chief, Azhar Javaid, has conducted today. And, he asked some very important questions about this book. We will also talk to Azhar Javaid so that he could explain Reham Khan's mindset in which she wrote all these things in this book. The timing of this book is very lethal for PTI; the book is coming out a month or two before the elections. What did Reham Khan say to our Bureau Chief while giving the interview about this book? Let us listen".

The programme included an excerpt from an hour long pre-recorded interview with Ms Rehman conducted by Mr Azhar Javaid:

Mr Javaid: *"There is an allegation being levelled that, perhaps for some political advantage, you want to bring this book onto the market exactly at the time of the election. It is their concern.*

Ms Rehman: *No, it is not their concern. They are saying: Whatever you say, it will make no difference to our love and respect. You do what you have to do, but the candidate already decided on [i.e. selected] will become the prime minister. So, I think that a book by a humble and meek person, as I am, what could it do to the elections? But yes, I would like the people not to follow blindly. However, this is my story and if you are connected to my story, you will be mentioned. If you have nothing to hide, you should not be afraid. What is your problem? Why are you creating so much hype? If I thought it was appropriate to bring it out before the elections, and not just the elections, I mean whatever date would suit me, if the 16th of July suited me, I would bring it out on the 16th of July; if the 16th of December suited me, I would bring it out on the 16th of December. But what they are doing? They are showing their nervousness. It is a big question: what are they afraid of? And if they are not afraid, they should stop stalking me, stop chasing me, spend their lives at ease and let me lead my life at ease.*

If the book appears before the elections, I think it is essential, because each time we move towards elections, our media shows you only one angle. And freedom of speech means that all angles, 360 [degrees] should be shown. If there are 90 channels, and you are seeing that, out of the 90 channels, not

one channel is allowed to show another angle, perhaps if someone wants to see another angle in this series, wants to see the truth, wants to read the truth, this book might help them.

A person who cannot handle an email correctly, can he run a country? One who cannot give the name of a caretaker chief minister, can he run a country? It is something worth considering”.

After the interview footage, the presenter said:

“My first and last meeting with Reham Khan – no, just the first meeting, because the last one happened later – was arranged by Imran Khan in his home. And it was a one-to-one meeting. At that time, I had guessed that she was quite a shallow lady, as regards ideas, and I was very disappointed by what she thought of Imran Khan. But, obviously, it was Imran Khan’s decision and I had said to him at that time too: ‘I cannot understand this decision of yours’. I had said this on a personal note, and it is obvious now, when the elections are approaching. I had also asked a question of Imran Khan, previously – if we could show it on this programme at some point ahead – this book is against you, from the information we are getting, would be very damaging, though it is replete with lies. But, what can we do about the fact that she was married to you for around eight or nine months? Many would give her whatever time they were going to give – because lies too sell, especially if the opponents are running it”.

For the remainder of the programme, the presenter interviewed five guest speakers: Mr Azhar Javaid (a reporter), Mr Iftikhar Ahmad (a journalist), Mr Irshad Bhatti (a journalist), Mr Faisal Vawda (Pakistani politician and PTI cabinet minister), and Mr Nehal Hashmi (Pakistani politician and former PML-N Senator).

During the discussion, the presenter and Mr Javaid talked about potential political motives behind Ms Rehman’s book. The following conversation took place:

Presenter: *“Mr Azhar [Javaid], you repeatedly asked her if someone else has made her write this book, such as a political party. Does it seem to you that N-League has a major role in having this book written? What is your own analysis? You interviewed her.*

Mr Javaid: *You see, I cannot directly make this allegation about anyone, or say that N-League is involved in this or not, but there are seemingly some issues; it is a 600 page long book and a British publishing house is publishing it. So, there must be some kind of support behind this which she has availed of. Whether it is political support or not, one cannot say, because when I asked her if she had met Maryam Nawaz¹, she denied it.*

Presenter: *Well, you don’t need to meet Maryam Nawaz in order to be manipulated. Manipulation can be done by any means...”*

The presenter and Mr Javaid also discussed whether there would be any legal challenges to the contents of the book which would result in changes having to be made to it. Later, the presenter also asked whether Ms Rehman was witness to the allegations she was making or if she had *“just heard it from someone else?”*. Mr Javaid said that *“there are many things that*

¹ Maryam Nawaz is the daughter of the former Prime Minister of Pakistan, Mr Nawaz Sharif.

she would have spiced up and also added in order to do this". The presenter questioned whether Mr Khan would have spoken to Ms Rehman about the matters in her book and said "it seems like hearsay to me". Mr Javaid then said "...the most important thing is that she has Imran Khan's BlackBerry..." and when asked by the presenter about whether she had stolen it, Mr Javaid said "...sure, she might have stolen it, or perhaps Mr Khan gave it to her, but it is confirmed that there is a BlackBerry". The following conversation then took place between the presenter and Mr Javaid:

Presenter: *"Friend, Mr Khan could give anything to anyone, but he could not give his BlackBerry to anyone and, especially, he could not give it to Reham Khan.*

Mr Javaid: *Whether he gave it to her or not, Reham Khan has it at the moment.*

Presenter: *How do you know she has it, Mr Azhar?*

Mr Javaid: *I asked her this question. If you could get hold of the recording and watch it, you would see that I asked her and she did not deny it..."*

The presenter then introduced the other guests who would join him. One of the guests, Mr Iftikhar Ahmad, said that "If you are to write this kind of pornography and sell it, and you want to sell it under cover of politics, one can only express one's sorrow. You see, the relationship a husband and wife [have] is a very sacred one...And, if every wife and every husband were to bring their lives to the market in this way, and the husband speaks about the lives of his friends and their late wives...and it is fabricated in the worst manner, it seems". The presenter interrupted Mr Ahmad and said: "It is filth – that which has been written with reference to Waseem Akram". Mr Ahmad continued: "That's what I am saying, because we cannot say... I condemn it in very strong terms..."

Mr Ahmad also described Ms Rehman's actions as being "so vengeful as to reach the extreme of insanity". Accompanying this discussion, wedding photographs of Ms Rehman and Mr Khan were shown. Mr Ahmad also said: "What do you want to say? Do you want to write the story of a nightclub? Lady Chatterley's Lover is a mid-level novel, but do you want to write a novel full of filth?... And if you have stolen the BlackBerry and taken it away, is that a good thing? Is this morally correct?"

The presenter then asked Mr Bhatti: "this book, in this context and timing, whom does it benefit and why was it written? Do you think it was the lady's personal decision or did someone make her write it?" Mr Bhatti said: "it seems that it suits you and me only, for we are discussing it. It does not suit anyone else...". Later Mr Bhatti said: "...Keep personal [lives] and politics separate from each other. But, I would like to say one thing: the way Mr Nawaz Sharif and Raza Rabbani did the marketing of Assad Durrani's books, similarly, I think that Fawah Chaudhry² and Hamza [Ali Abbasi]³ have done a lot of marketing of this [book] [i.e. criticism of the book from those who support Mr Khan has helped promote it]".

Later in the programme, Mr Shahid said to Mr Hashmi:

"Sir, it seems that you have played a role, more or less, in this book. You more or less pushed it; you said 'write it, do something. The timing is perfect'. And, more than this, is

² A Pakistani politician and a spokesperson and "Secretary Information" of PTI.

³ A Pakistani actor.

the question: do you accept that Reham Khan should have written like this? Do you think that she ought to write it because she has written the truth and every truth should be told, or do you think that she should not have written it because she has mixed truth and lies? How do you view her book?"

Mr Hashmi responded:

"...our party is a political party, based on a certain manifesto, issues and achievements. Those who do not have issues, who have nothing to speak about in their manifesto and nothing to say about their past and present, they need to resort to such a book or underhand tactics..."

The presenter then said:

"...okay, I accept it's not your hand behind this, we understand it. Tell us, do you think that this book should come onto the market? If it does, about one politician, about a great leader, then there would be books about other politicians too. What is your opinion about this book? You have heard so much that we said about this book? How do you view it?"

Mr Hashmi responded:

"...you see, a book should be such as could be read at home, in any gathering, and lessons could be drawn from it. There is a big difference between a book and a scandal. A scandal is a scandal and a book is a book. Things like this do not have a proper place anywhere in any society. I don't think that any such thing, which insults someone...which makes the world laugh at someone, which belittles someone, should not enter politics. It should absolutely not enter politics".

The presenter said that Mr Hashmi had "said it well". The presenter then said:

"Mr Vawda, your part is, without reason, saying that N-League has had this book written. You saw how Brother Nehal emphasised that books like this should not enter the market. So, firstly, you should stop levelling unreasonable allegations against them and, secondly, regardless of everything, I would like our respected producer to replay the interview in which I said to Imran Khan, many months ago: 'a book by Reham Khan against you is coming up; it would be very damaging to you.' And what was his reply? 'I want people to read it.' But, what is your view? Two months before the elections, there are such damaging statements, the allegations she is levelling against Imran Khan, even if they are false, they will reach the public. How do you see this, Mr Vawda?"

The following conversation between the presenter and Mr Vawda then took place:

Mr Vawda: *"You see, Mr Kamran, first of all, nothing was hacked into. Firstly, this was leaked deliberately, intentionally and in a planned manner in order to create hype and a market. Secondly, to publish a 600-page book with a London publishing company [drops the sentence]. There is evidence from N-League, from the Interior Minister, the barrister of [unclear name], and the social media man of Maryam Bibi, and his conversation in which he said: 'I met respected Reham'.*

After all this, the facts are very clear that this depraved thing [drops the sentence]. Because they did not mention something else about Imran Khan, this torrent of allegations was levelled in a very timely manner before the elections which [ironically] would benefit us – number one. Number two is that, despite the allegations against Mr Khan...

Presenter: *No, no, you did not complete your sentence. One minute, one minute Mr Faisal. Who has done this depraved thing? You need to say it completely.*

Mr Vawda: *That's what I am saying. Depraved speech and depraved things that Reham sahiba has been made to do, whether she did it for fame or money or politics or her Senate [seat], I don't know. But a married couple, after going through a marriage and after the divorce, [doing] a depraved thing, hateful speech in which the late wife of a great player like Waseem Akram [drops the sentence]. Her children live here and they are hearing this about their mother. There is no recompense for this..."*

Later, Mr Vawda also said: *"...but, if we are not talking about truth and facts, we should not talk about allegations. N-League should not have done this depraved act by using respected Reham..."*

After a break, Mr Shahid and his guests continued their discussion of Ms Rehman's book, and focused on the potential political impact it may have, and wider Pakistan politics in general. For example, the presenter asked Mr Bhatti: *"...how big a political storm can this be for PTI? Or, it could be nothing at all and people would say to her 'you have written nonsense because Reham Khan has frequently lied, so this too must be a lie for the sake of money'"*. The presenter also said to Mr Vawda:

"I value your passion, and obviously your feelings have been hurt and it seems to you that there has been a propaganda campaign against you. But, brother, you should have thought about this earlier, why you [Mr Khan] married such a woman. This too is poor judgement in terms of your leadership. Why did you have to marry her? And, now that you have done it, you have to suffer. However, my question is, why are they throwing mud over each other? Mr Nehal Hashmi, N-League is saying that they are not participating in this. They do not even encourage such things. You need to accept this, move forward, and turn your back on this book. What is your take? Mr Vawda?"

Mr Vawda responded:

"Mr Kamran, you see, you have said a very good thing. And I value from the deepest core of my heart what Mr Nehal Hashmi said, and I appreciate it. It is Mr Nehal Hashmi's positive thinking, but, in his party, all the programmes and all the things that are happening, they do not reflect this. And Mr Irshad Bhatti said that he was sorry. I want to clarify this to Mr Irshad Bhatti, that I do not ever want to speak about things from someone's personal life, even if based on facts. It is neither my party's ethos, nor do I want to do this and I have never done it.... I just raised questions. These questions are factual questions which circulate around the world and chase you, but what I said was, we too can do this but we don't know how to do it. And by maligning this book [drops the sentence]. A hundred books like this cannot diminish the person of Mr Khan or his character or his stature. Actually, this would help us. A man for whom the way to power is waiting, a man who has been fighting alone against corruption for 22 years and, drop

by drop, he has made a hole in a mountain, when his destiny is coming closer and nothing is left for you, no allegations of theft or embezzlement on him could be found, no corruption, no murder or bloodshed was found, you assassinated his character. If you are a sinner or I am a sinner, it is a matter of my relationship with God whether I would enter hell or paradise. Why are people in this world deciding this, and during an election? What benefit will it bring? We should avoid this. want to ask a question. It is said that there are large numbers of your fans, and PTI [i.e. Pakistan Movement for Justice] fans, in Europe. Obviously, the defamation laws in Europe are quite good. Should we expect that thousands of defamation cases could be filed about this book in which, as you say, there is misinformation? Is this possible? Because, if we are to do good politics...”.

The presenter confirmed that four people had filed legal cases, including one by Mr Waseem Akram. The presenter then said to Mr Hashmi:

“...you spoke elegantly, but the thing is that there is a possibility of this being hyped up by your PLM-N] party, and they have already been talking about and referring to this book. So, there is no guarantee in terms of what you were saying earlier. You said that books on one’s personal life should not be read but the book has appeared and attempts are being made to damage the Movement for Justice [Imran Khan’s party]. So, why don’t you have a level playing field so that politics should compete with politics, not scandals like this one?”

Mr Hashmi responded:

“...we are not hyping it. This book is from his ex-wife. It concerns either PTI or Reham Khan. It does not concern PMLN. PMLN will publicise its work, its infrastructure, the energy sector, CPEC [China Pakistan Economic Corridor]. PMLN will publicise all those things that it has done for the betterment of this country, that which represented Nawaz Sharif has done or that which Shehbaz Sharif has done in Punjab. What do we have to do with this book. We do not want to publicise...However, I am sorry, our media should not have discussed it...”.

Later, the presenter said: *“Mr Vawda, after today you are not going to sing this song: ‘N-League had this book written’. They are going to compete against you on merit. You cannot hide behind the book. This is my request to you, Mr Vawda. Please do that”.*

The presenter and guests then spoke about the likely outcome of the elections. In particular Mr Ahmad said *“...It would be a hung parliament. And, I realised today that if they succeeded in having a book written about Asif Zardari too, then there would be none of the three [major parties] but someone else”.* The presenter joked and said: *“should we have one written?”* and asked *“when you say ‘if they succeeded in having a book written’, who are you alluding to?”* The following conversation took place:

Mr Ahmad: *“Those who have written it.*

Presenter: *No Reham Khan wrote it.*

Mr Ahmad: *My friend, the opponents.*

- Presenter: *On the one hand you say that Imran Khan is the favourite and dear to [the Pakistan Army] and, on the other hand, you say that someone had a book written against him.*
- Mr Ahmad: *I never used the words 'favourite' and 'dear'.*
- Presenter: *No, people say it.*
- Mr Ahmad: *People say it. People say it. I...*
- Presenter: *Mr Irshad, who gets these books written? [against politicians].*
- Mr Ahmad: *The opponents. Don't your opponents get things written [against you]? Don't my opponents get things written [against me]?"*

The presenter and Mr Ahmad then spoke over each other and the programme then went to a break.

News headlines appeared as on-screen captions in Urdu, in addition to the ones previously displayed:

- "Iftikhar Ahmad: Political parties should not support books like this".*
- "Iftikhar Ahmad: The author of the book has reflected her own thoughts".*
- "Irshad Bhatti: This book is the equivalent of The Witch's Revenge".*
- "Irshad Bhatti: Politics should not move into the bedroom".*
- "Irshad Bhatti: I am grieved at the character assassination of Waseem Akram".*
- "Iftikhar Ahmad: A book may come out against Mr Zardari too".*
- "Nehal Hashmi: Personal insults should not be brought into politics".*
- "Nehal Hashmi: N-League has nothing to do with Reham Khan's book".*
- "Nehal Hashmi: It is regrettable that books like this are being written".*
- "Nehal Hashmi: We will compete with PTI on the basis of merit".*
- "Faisal Vawda: Reham Khan has been made to do this mean act".*

Following the break, Mr Shahid summed up the programme's discussion:

"Viewers, a very warm welcome back to the show. We are now in the last part of the programme. I just wanted to say to you that, you see, if you want to compare the strength of people's characters, look at Imran Khan on one hand and look at Reham Khan on the other. Ever since Reham Khan has stepped down from the seat – the throne of her marriage – since then until today, she has only thrown mud at Imran Khan. And it seems that she had a very strong desire to become the first lady with Imran Khan. She expressed this desire many times. She could not become one and she is venting her anger on Imran Khan.

If you look at the character of Imran Khan, ever since their divorce, one word – he was provoked so much, so many questions were asked from him about his divorce, but he has not said a word about Reham Khan. This is the strength of Imran Khan's character, if we just compare both, as regards their married life and leadership. I have a high regard for this, and this is how a husband should be: If, for some reason, he has not been able to get along with his wife and divorce has taken place, he should exhibit the same grace and standards as Imran Khan has. As for Reham Khan sahiba [i.e. respected], it is a hopeless

case. One is disappointed [to see] that she belongs to Pakistan and [one wonders] can someone, in one's fury, disappointment and frustration, exhibit such lowly thinking as to malign not only Imran Khan but many others too?

According to many people, Reham Khan's book is a catalogue of lies but it also reflects a filthy mind. Allow me to close until tomorrow".

The programme concluded.

Summary of the complaint and the broadcaster's response

Complaint

Ms Rehman complained that she was treated unjustly or unfairly in the programme as broadcast because:

- a) Her reputation was attacked in the programme, which called her "a liar and a fake" and accused her of not having "a single shred of integrity". Ms Rehman said that her unpublished autobiography was referred to as "pornographic content" and a "dirty novel", and that she was referred to as a "thief".

Ms Rehman said that the "abusive, defamatory, slanderous and unethical" language used against her had caused "immense pain and distress" to herself and her children.

- b) She was falsely accused of colluding with the Pakistan Muslim League Nawaz (PMLN) political party to engage in "mud-slinging" against the PMLN's political opponents, the PTI Pakistan Tehreek-e-Insaf political party.

Broadcaster's response

Dunya TV said that *On The Front* is a current affairs programme which features discussion of "highly contentious issues of public interest". It said that the programme has a large audience who are used to seeing "impassioned debates" on the programme.

The broadcaster said that this edition of the programme was intended to inform the public about Ms Rehman's "highly controversial" autobiography, which had been leaked before publication. It said that it is "an admitted position" that the book devoted a significant section to events about Mr Khan while he was briefly married to Ms Rehman. It added that the book generated a lot of socio-political controversy and as it came just before the national elections held on 25 July 2018, it was widely believed that the book was designed to tarnish the reputation of Mr Imran Khan and reduce his party's prospects in the election. Dunya TV said that the discussion of Ms Rehman's book which took place during the programme should be viewed within this political context. The broadcaster stated that the presenter and other participants in the programme "unanimously condemned the book as well as Ms Reham Khan". In addition, it said that even the leader of the PMLN, Mr Hashmi, condemned Ms Rehman for the "scandalous nature of the [b]ook". It said that these comments were "clearly subjective opinions and personal views, expressed at times as powerful metaphors" and were not portrayed as statements of fact. Dunya TV said that it was sorry Ms Rehman found the comments and discussion upsetting.

The broadcaster said that the programme showed a pre-recorded interview with Ms Rehman, where she admitted that, in the context of her book affecting the general elections, *“I would like the people not to follow blindly”*. In the same interview, she also said: *“If the book appears before the elections, I think it is essential, because each time we move towards elections, our media shows you only one angle. And freedom of speech means that all angles, 360 [degrees] should be shown. If there are 90 channels, and you are seeing that, out of the 90 channels, not one channel is allowed to show another angle, perhaps if someone wants to see another angle in this series, wants to see the truth, wants to read the truth, this book might help them”*. It said that Ms Rehman’s statements made clear that she was aware that publishing her book would have “political consequences” and that it was her intention to show the public the other, “highly controversial and negative” side of Mr Khan. Dunya News added that the interview showed on of her motivations behind the publication of the book and that she would have been aware that her interview and the book would generate “divisive opinion”.

Dunya TV also said that the programme did not include any abusive or derogatory language against Ms Rehman, and that all language used by the programme’s presenter and guests was “within the limits of decency”. The broadcaster said that to conclude that the discussion relating to Ms Rehman was unfair to her would put an unnecessary block on the participants’ right to free expression. Further, it said that a debate/discussion about the book, its author and its effect on the 2018 General Elections was in the public interest.

The broadcaster also said that it showed a disclaimer at the start of the programme which advised viewers that the opinions expressed by the participants in the programme did not reflect the views of the channel. It said that this disclaimer made it clear to viewers that the views expressed in the programme were “subjective opinions” and not statements of fact.

Dunya TV concluded that taking the above factors into account and the political context at the time of broadcast, it did not believe that the comments complained of were likely to have materially and adversely affected viewers’ opinion of Ms Rehman in a way that was unfair to her.

Ofcom’s Preliminary View

Ofcom prepared a Preliminary View that Ms Rehman’s complaint should be upheld in part. Both parties were given the opportunity to make representations on the Preliminary View. Both parties made representations which are summarised, insofar as they are relevant to the complaint entertained and considered by Ofcom, below.

Complainant’s representations

In relation to the head of complaint that Ofcom’s Preliminary View was not to uphold, Ms Rehman said that she disagreed with this view and felt strongly that the broadcaster “behaved with malice” and “reinforced the propaganda that the book was motivated and manipulated by PMLN”. The complainant said that it was very important to her to stress that linking the book to the PMLN, a political party that she said that she did not have a connection with, and implying that she had taken money to publish it, severely undermined her integrity as a journalist and author. She said that although the PMLN representative, Mr Hashmi gave a quote clearly denying his party’s involvement with Ms Rehman’s book, the other guests and the presenter continued to repeatedly use “derogatory language” insinuating repeatedly in the hour long interview that her book was “manipulated by PMLN”.

Ms Rehman said that viewers would have been left with the impression that her book had been financed by the PMLN.

Broadcaster's representations

Dunya TV said that it stood by its earlier submission in response to the complaint that it was disappointed that Ofcom did not agree with its view of the programme, given the political context in which it was broadcast.

With regard to the head of complaint that Ofcom's Preliminary View was not to uphold, Dunya TV reiterated that Mr Hashmi denied the involvement of the PLMN in the book and that this was stated "in sound and vision as well as in captions". The broadcaster said that the complainant did not have grounds to claim our report was unfair or to say we "behaved with malice". It said that the complainant had interpreted freedom of expression and the opinions aired in the programme to be "insinuating", "implying", which are the subjective view of the complainant. This would not be the case, it said, for the ordinary viewer watching the programme.

Decision

Ofcom's statutory duties include the application, in the case of all television and radio services, of standards which provide adequate protection to members of the public and all other persons from unjust or unfair treatment 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 our 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 complainant and the broadcaster in response to being given the opportunity to comment on Ofcom's Preliminary View on this complaint. After careful consideration of the representations, we considered that the points raised by the parties did not materially affect the outcome of Ofcom's decision to uphold the complaint in part.

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.

We considered Ms Rehman's complaint that she was treated unjustly or unfairly in the programme as broadcast.

In considering this complaint, we had particular regard to Practice 7.9 of the Code:

“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...”.

Ofcom’s role is to consider whether the broadcaster took reasonable care not to present, disregard or omit material facts in a way that resulted in unfairness to Ms Rehman. 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 matters complained of had the potential to materially and adversely affect viewers’ opinions of the Ms Rehman in a way that was unfair.

- a) We first considered Ms Rehman’s complaint that her reputation was attacked in the programme, which called her “a liar and a fake” and accused her of not having “a single shred of integrity”. Ms Rehman said that her unpublished autobiography was referred to as “pornographic content” and a “dirty novel”, and that she was referred to as a “thief”.

As set out in the “Programme summary” above, the programme included an opening monologue from the presenter regarding Ms Rehman and her unpublished autobiography. This commentary included the presenter’s statements that Ms Rehman “tells far-fetched lies”; that she could not have written such a book if she had “even a shred of integrity”; and, that her book is a “form of pornography”. He also concluded the programme and said that the book was a “catalogue of lies”; it was reflective of Ms Rehman’s “filthy mind”; and that “one is disappointed [to see] that she belongs to Pakistan”. We also took into account that throughout the programme, the presenter referred to lies being told in the book and said that Ms Khan “frequently lied”. The programme also included statements from the programme’s guests regarding Ms Rehman and her book. In considering the basis for some of the claims about Mr Khan, it was suggested in the programme that it might be “hearsay” and one guest suggested that Ms Rehman “might have stolen” Mr Khan’s BlackBerry device; another guest described the book as a “kind of pornography” and her behaviour as “so vengeful as to reach the extreme of insanity”; and another guest referred to the book as “depraved speech” and that the book was “based on lies”. In Ofcom’s view, these statements could reasonably be understood by viewers to imply that Ms Rehman was a dishonest and immoral person which had the clear potential to materially and adversely affect viewers’ opinions of her.

We then considered whether the presentation of these statements in the programme as broadcast resulted in unfairness to Ms Rehman. Ofcom acknowledges broadcasters’ right to freedom of expression and that they must be able to broadcast programmes on matters of interest to viewers freely, including the ability to express views and critical opinions without undue constraints. However, this freedom comes with responsibility and an obligation on broadcasters to comply with the Code and, with particular reference to this case, avoid unjust or unfair treatment of individuals or organisations in programmes.

We took into account the broadcaster’s submissions that statements made by the presenter and guests were simply opinions and not statements of fact and that it did not

include any abusive or derogatory language about Ms Rehman. We also took into account the broadcaster's submissions that consideration should be given to the wider political context at the time of broadcast, namely the socio-political controversy that had been generated by the book and that it had come out just before the national elections. We took into account too that the broadcaster said that it was in the public interest to discuss the book, its author and its effect on the 2018 General Elections.

Given the wider political context and that allegations had been made by Ms Rehman in her book about her former husband, Mr Khan, who at the time was contesting the elections, we considered that it was legitimate for Dunya News to broadcast a programme in which the book and its impact was discussed. In doing so, we took into account that the programme had invited guests from Mr Khan's political party and the opposition party. Further, we considered that Ms Rehman is a well-known public figure in Pakistan, and that by publishing a book which included allegations about Mr Khan, who is a popular public figure in Pakistan, and other Pakistani politicians, she may have expected to have criticism levelled against her.

However, Ofcom takes the view that the high-profile status of an individual does not negate the need for broadcasters to ensure that they are not subject to unjust or unfair treatment in programmes. In this case, Ofcom considered that the presenter and contributors to the programme expressed in the programme that, in their view, Ms Rehman had invented malicious stories about Mr Khan in order to harm his chances in the upcoming Pakistan elections. In particular, we considered that the presenter and contributors made specific claims about Ms Rehman which went beyond simply discussing her book and its impact and presented a view about Ms Rehman in which she was characterised as being dishonest and immoral.

We understood that the programme was broadcast live, and we recognise that such programmes can present particular challenges to broadcasters particularly when, as in this case, it includes political discussions in which several commentators are invited to speak. We recognise that contributors can sometimes make unexpected comments that have the potential to create unfairness. It is Ofcom's view, therefore, that for live programmes such as this, it may be, but is not always, possible for the broadcaster to obtain responses from others prior to, or during the programme. It is important to make clear that broadcasters need to be particularly aware that they have a duty to ensure that reasonable care is taken that broadcast material is consistent with the requirements of the Code. This may include having in place measures to mitigate the potential for unfairness, briefing any studio guests about fairness requirements in advance of the programme, or by ensuring that any allegations made during the programme are properly tested or challenged. This could be, for example, by pointing out any contradictory argument or evidence or by representing the viewpoint of the person or organisation that is the subject of the allegation. The importance is that the programme must not mislead viewers or portray people or organisations in a way that is unfair.

Given this, Ofcom assessed the steps, if any, that the broadcaster had taken to satisfy itself that material facts were not presented, disregarded or omitted in a way that was unfair to Ms Rehman. We took into consideration that the programme included an extract of an interview with Ms Rehman. However, we also considered that the extract was limited to her response to an allegation that her book was politically motivated. The programme did not include any response from Ms Rehman in relation to the allegations about her being *"a liar and a fake"* and a *"thief"*.

Dunya TV provided no further evidence that it had taken any reasonable steps before the live broadcast, for example, by anticipating that allegations may be made and by putting appropriate measures in place to reduce the risk for potential unfairness. More significantly, during the programme itself, the presenter himself made allegations about Ms Rehman and made no attempt to challenge the comments of his guests. Instead, the presenter appeared, in our view, to endorse his guests' comments through the statements he made in both his opening and closing monologues. In addition, nowhere else in the programme was anything said to balance or place into appropriate context the comments made about Ms Rehman. We recognised that at the very start of the programme the presenter introduced his comments with the phrase "*my own personal opinion is...*", and that a notice was shown at the start of the programme which said that "*the views/opinions presented in this program do not necessarily reflect that of the channel*". However, Ofcom took the view that these statements did not provide sufficient context to justify the extensive allegations about Ms Rehman which were made subsequently by the presenter and guests throughout the rest of the programme. Moreover, the programme included a number of captions which made allegations against Ms Rehman and repeated the allegations made by programme guests. In our view, these captions gave an impression that Dunya TV itself was endorsing the allegations made by the presenter and guests during the programme.

Therefore, we considered that the comments made about Ms Rehman in the programme amounted to significant allegations about her which had the potential to materially and adversely affect viewers' opinions of her and which were presented in the programme in a way that was unfair to her.

Taking all of the above into account, Ofcom considered that, in the particular circumstances of this case, the broadcaster did not take reasonable care to satisfy itself that material facts had not been presented, disregarded or omitted in a way that was unfair to Ms Rehman.

- b) We next considered Ms Rehman's complaint that she was falsely accused of colluding with the PMLN political party to engage in "mud-slinging" against the PMLN's political opponents, the PTI Pakistan Tehreek-e-Insaf political party.

In considering this part of Ms Rehman's complaint, we took into account that the programme included the presenter's statement that Ms Rehman "*has done as much political mud-slinging as she can, which would obviously benefit N-League [i.e. PMLN] a lot...*". In addition, the presenter said that "*people are alleging that Imran Khan's opponents have written this book*", and suggested to Mr Nehal Hashmi, a member of the PMLN, that Mr Hashmi had "*played a role, more or less, in this book*". The programme also included an on-screen caption which read, "*Election campaigns begin: Who is bringing Reham Khan into the field against Imran Khan?*" We considered that these statements could reasonably be understood by viewers to imply that Ms Rehman's book was supported by Mr Khan's political opponents in order to undermine Mr Khan's reputation. In Ofcom's view, these statements amounted to serious allegations about Ms Rehman which had the potential to materially and adversely affect viewers' opinions of her.

We then considered whether the presentation of these statements in the programme as broadcast resulted in unfairness to Ms Rehman.

As with our consideration of head a) above, we took into account the broadcaster's submission that consideration should be given to the wider political context at the time of broadcast. We also considered that the broadcaster said that it was in the public interest to discuss the book and its effect on the 2018 General Elections. Given the wider political context and that allegations had been made by Ms Rehman in her book about her former husband, Mr Khan, who at the time was contesting the elections, we considered that it was legitimate for Dunya News to broadcast a programme in which Ms Rehman's motivations for writing her book were discussed.

Although we considered that it was legitimate for the programme to discuss Ms Rehman's political motivations for writing her book, it is important to make clear that broadcasters have a duty to ensure that reasonable care is taken that broadcast material is consistent with the requirements of the Code. This may include having in place measures to mitigate the potential for unfairness, briefing any studio guests about fairness requirements in advance of the programme, or by ensuring that any allegations made during the programme are properly tested or challenged. This could be, for example, by pointing out any contradictory argument or evidence or by representing the viewpoint of the person or organisation that is the subject of the allegation. The importance is that the programme must not mislead viewers or portray people or organisations in a way that is unfair.

In this regard, we took into account that the programme included some contradictory argument or evidence which went against the allegation that Ms Rehman had colluded with the PMLN. In considering this point, we also had regard to Ms Rehman's representations on Ofcom's Preliminary View. We considered that the programme included an interview with Ms Rehman where she responded to the allegation that her book was politically motivated. The reporter who conducted the interview reported that Ms Rehman had denied meeting Ms Nawaz, the daughter of Mr Sharif (the former leader of the PMLN). These comments, in our view, undermined the argument that Ms Rehman was colluding with the PMLN.

Ofcom also took into account that Mr Nehal Hashmi, a member of the PMLN, was invited to give his views on the programme. Mr Hashmi denied that the PMLN was responsible for Ms Rehman's book and distanced himself and the PMLN from Ms Rehman, saying that her book "[did] *not have a proper place anywhere in society*". Mr Hashmi's views were also represented in three captions, which read: "*Nehal Hashmi: N-League has nothing to do with Reham Khan's book*"; "*Nehal Hashmi: It is regrettable that books like this are being written*"; "*Nehal Hashmi: We will compete with PTI on the basis of merit*". Mr Hashmi's contribution to the programme therefore also provided some counterbalance to the allegation that Ms Rehman's book was supported by the PMLN. The presenter provided some further counterbalance when he addressed Mr Vawda, a member of Mr Khan's political party, suggesting that Mr Vawda was making "*unreasonable allegations*" against the PMLN by accusing it of supporting Ms Rehman's book. He also said to Mr Vawda that "*N-League is saying that they are not participating in this. They do not even encourage such things. You need to accept this, move forward, and turn your back on this book*".

Given the above, and having carefully considered the programme's content again in light of Ms Rehman's representations, Ofcom considered that although the comments made in the programme that Ms Rehman had colluded with the PMLN in publishing her book amounted to significant allegations which had the potential to materially and adversely

affect viewers' opinions of her, there was sufficient balance given in the programme to mitigate any potential unfairness to her on this particular point. Ofcom considered therefore that there was no unfairness to Ms Rehman in this respect.

Ofcom concluded therefore that Ms Rehman was treated unjustly or unfairly in the programme as broadcast in relation to head a) of the complaint, but that she was not treated unjustly or unfairly in the programme as broadcast in relation to head b) of the complaint.

Ofcom has upheld in part Ms Rehman's complaint of unjust or unfair treatment in the programme as broadcast.

Not Upheld

Complaint by Dr Naveed Farooq

News headlines and breaking news report, Geo News, 16 June 2018

Summary

Ofcom has not upheld Dr Naveed Farooq's complaint of unjust or unfair treatment in the programme as broadcast.

News headlines and a breaking news report included a story about Dr Farooq visiting a patient in a private hospital without authorisation. Dr Farooq complained that he was treated unjustly or unfairly in the programme as broadcast because he was labelled falsely as a "suspect, criminal and an intruder" and accused of using his doctor's NHS identification inappropriately.

Ofcom considered that, in the particular circumstances of this case, 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 Dr Farooq.

Programme summary

Geo News is an Urdu language channel broadcast under an Ofcom licence held by Geo TV Limited. As the programme was broadcast in Urdu, an English translation was obtained by Ofcom and provided to the complainant and the broadcaster for comment. Neither party commented on the translation. Ofcom informed the parties that it would use the translation for the purpose of investigating the complaint.

On 16 June 2018, Geo News broadcast news headlines and a breaking news report within its general entertainment programme *Geo Pakistan*.

The news headlines included a story about a doctor, Dr Farooq, visiting a patient without authorisation. Footage was shown throughout the news headlines and in a breaking news report during the entertainment programme *Geo Pakistan*, of the complainant talking with a group of men outside the hospital.

A presenter introduced the story:

"Begum Kulsoom Nawaz¹, who is undergoing treatment in a London hospital and is on a ventilator, remains in a critical condition. Mr Nawaz Sharif, who is in London, visited the Harley Street clinic with his son Hussain Nawaz and Mariam Nawaz [daughter] to look after his wife. A suspicious man entered the room of Kulsoom Nawaz. Security staff removed the suspicious man from the room. Hussain Nawaz has said that the suspicious man who entered the room of Kulsoom Nawaz presented himself as a doctor".

Accompanying captions said:

"London police are checking the identity of the man who broke into the clinic.

¹ The late wife of Mr Nawaz Sharif, a former Prime Minister of Pakistan.

The event occurred on the first floor of the Harley Street clinic where Kulsoom Nawaz is on a ventilator.

Hussain Nawaz: The family is already very anxious and people like this are coming and worrying us.

Hussain Nawaz: This man fooled the security and reached Kulsoom Nawaz's room.

London police are checking the identity of the man who broke into the clinic.

London: The condition of Kulsoom Nawaz, who is undergoing treatment remains worrying.

Nawaz Sharif arrived at the clinic along with Hussain Nawaz and Mariam Nawaz.

A man entered the room of Kulsoom Nawaz.

A security employee removed the suspicious man from the room.

Hussain Nawaz: The man who entered the room presented himself as a doctor.

...

A man tried to enter the room of Kulsoom Nawaz at the Harley Street clinic".

A second presenter then said:

"We are going to update you about a man who tried to enter the room of Kulsoom Nawaz at London Harley Street clinic. The security removed the man from the room of Kulsoom Nawaz. The event occurred on the first floor of the Harley Street clinic where Kulsoom Nawaz is on a ventilator. The man who entered the room of Kulsoom Nawaz has been identified as Naveed [the complainant]".

The first presenter said:

"It is being reported that Naveed showed a card to security and presented himself as a doctor at the Harley clinic. Hussain Nawaz spoke with the media and told them that the family was already very anxious, and people like this were coming and worrying them even more. This man fooled security and reached Kulsoom Nawaz's room. What else did Hussain Nawaz say? You may listen to this".

Footage was then shown of Mr Hussain Nawaz speaking with an unidentified man outside the hospital. The following conversation took place:

Mr Hussain Nawaz: *"The security, people here are unconscious. This man came here and went in..."*

Unidentified man: *This what? How did he break inside?*

Mr Hussain Nawaz: *He presented himself as a doctor, made a fool of the hospital people and went inside here.*

Unidentified man: *He inside.*

Mr Hussain Nawaz: *Our family is already very worried and people like this make us worry even more.*

Unidentified man: *Mr Hussain, sir, there is so much security inside. So, how did he get inside?*

Mr Hussain Nawaz: *He presented himself as a doctor and went in there. Obviously, security has been breached.*

Unidentified man: *No, like this, any person, like this, any person can get inside by saying one is a doctor?"*

The second presenter then said:

"Hussain Nawaz spoke to the media and said that the family was already very worried and people like this were making them worry even more. The man who allegedly entered Kulsoom Nawaz's room in the London hospital has said that he has not done anything wrong".

Footage was then shown of Dr Farooq outside the hospital talking with several unidentified men.

Unidentified man: *"Sir, why did you go inside?"*

Dr Farooq: *To meet someone.*

Unidentified man: *He cannot go inside. He is not a doctor. He is telling lies.*

Unidentified man: *Don't you know you are not allowed to go in?"*

Dr Farooq: *Mate, I went to meet someone [the men spoke over each other].*

Unidentified man: *Who let you in?"*

Dr Farooq: *Listen, I [the men spoke over each other]. What is this? I haven't done anything wrong.*

Unidentified man: *You have done wrong.*

Dr Farooq: *Oh brother, I went to speak to Doctor Adnan.*

Unidentified man: *Doctor Adnan [the men spoke over each other] I don't know who this person is.*

Dr Farooq: *Oh my God.*

Unidentified man: *What is your name?"*

Dr Farooq: *Naveed.*

Unidentified man: *Are you a doctor?"*

Unidentified man: *He pretends that he is a doctor, but he is not.*

Dr Farooq: *Oh brother, I am not" [i.e. not pretending to be a doctor].*

Accompanying captions said:

“A man tried to enter the room of Kulsoom Nawaz at the Harley Street clinic. The security removed the man from the room. The event occurred on the first floor of the Harley Street clinic where Kulsoom Nawaz is on a ventilator. Hussain Nawaz: The family is already very anxious and people like this are coming and worrying us. Hussain Nawaz: This man fooled security and reached Kulsoom Nawaz’s room. A man entered the room of Kulsoom Nawaz at London’s Harley Street clinic. London police are checking the identity of the man who broke into the clinic. The man who entered the room of Kulsoom Nawaz has been identified as Naveed. London police have taken a statement from Hussain Nawaz. Naveed showed a card to security and presented himself as a doctor at Harley [Street] clinic”.

The first presenter said:

“This is the entire situation. We will get updates from our London correspondent Murtaza Ali Shah [the reporter] who has joined us. Murtaza, what happened? What is the situation?”

The reporter said:

“The video of the man you just saw, his name is Doctor Naveed. He works for the NHS. He is a doctor. The hospital state that he showed his NHS doctors’ card to the security [staff] who were there and told them that he was a doctor. He came to the Harley Street clinic and said that he was a doctor and he wanted to meet Kulsoom Nawaz. The security [staff] saw the NHS card – all the doctors have a similar card. Afterwards, the security people did not check the second level card that is Harley Street’s own card for doctors. They just saw the first card and they allowed Doctor Naveed access, until he reached the room in which Begum Kulsoom Nawaz is on a ventilator. There, when a family member tried to speak to him, they asked: ‘How did you come in here?’ And, he said: ‘I am a doctor and I have come to meet you’. At this, they immediately called security who are there, and security removed him from there. Doctor Naveed had been seen at the Harley clinic yesterday too. Yesterday, we did not see him going in but, today the footage that has come up shows that this doctor succeeded in reaching the room of Kulsoom Nawaz today. Hussain Nawaz states that this is a huge security breach. Yes”.

The second presenter said:

“Right. Murtaza, also tell us what action security has taken so far. Has he been searched?”

Accompanying captions said:

“A man tried to enter the room of Kulsoom Nawaz at the Harley Street clinic. Security removed the man from the room of Kulsoom Nawaz. The event occurred on the first floor of the Harley Street clinic where Kulsoom Nawaz is on a ventilator.

Hussain Nawaz: The family is already very anxious and people like this are coming and worrying us.

Hussain Nawaz: This man fooled security and reached Kulsoom Nawaz's room.

A man entered the room of Kulsoom Nawaz at London's Harley Street clinic.

London police are checking the identity of the man who broke into the clinic.

The man who entered the room of Kulsoom Nawaz has been identified as Naveed.

London police have taken a statement from Hussain Nawaz.

Naveed showed a card to security and presented himself as a doctor at Harley [Street] clinic".

The reporter then said:

"Security first removed him and took him outside. Afterwards, the security [staff] called Scotland Yard. At this moment, a police officer has arrived, and he is speaking with Doctor Naveed. If the Sharif family insists on taking this matter further or the Harley Street clinic asks the police to further investigate this matter, it could have huge consequences for Doctor Naveed and his job with the NHS could be finished because, according to the NHS rules for doctors, it is a violation of their guidelines, which state that a doctor entering a private clinic by showing his card...He has breached the security rules".

The first presenter said:

"Yes, the security. Murtaza, we would like to know from you, the video that we are watching, which is about the initial questioning, we can hear words like accountant in the background, and something is being mentioned. He is being asked who he is after all. So, what did he say? Why did he come here? Could you find out something about it?"

The reporter said:

"No. He is not saying this at the moment. In the video, he is not saying exactly who he is, but I know that he is a doctor. One of his maternal uncles is a well-known politician in Pindi, he was born there, and there is a Queen Mary Hospital here, he works there, and Doctor Naveed is often seen at the Pakistani community events. Yes".

The first presenter said:

"Right. Murtaza Ali Shah is reporting directly from London. We are showing you the scene; it is a man whose name, we are told, is Doctor Naveed. In London's Harley street clinic where Begum Kulsoom Nawaz is on the ventilator, she is undergoing treatment, and he tried to enter her room. He presented himself as a doctor, he showed his ID card and then he tried to enter. There were family members present. When they asked him why he had come there, he said: 'I have come to meet you'. Investigations are being carried out about this – with Doctor Naveed. When there are further developments we will keep bringing them to you".

Accompanying captions said:

"A man tried to enter the room of Kulsoom Nawaz at the Harley Street clinic. Security removed the man from the room of Kulsoom Nawaz.

The event occurred on the first floor of the Harley Street clinic where Kulsoom Nawaz is on a ventilator.

Hussain Nawaz: The family is already very anxious and people like this are coming and worrying us.

Hussain Nawaz: This man fooled security and reached Kulsoom Nawaz's room.

A man entered the room of Kulsoom Nawaz at London's Harley Street clinic.

London police are checking the identity of the man who broke into the clinic.

The man who entered the room of Kulsoom Nawaz has been identified as Naveed.

London police have taken a statement from Hussain Nawaz.

Naveed showed a card to the security and presented himself as a doctor at Harley [street] clinic.

Hussain Nawaz: Begum Kulsoom Nawaz is in the ICU Ward and needs prayers.

Hussain Nawaz speaks especially to Geo News".

The news headlines ended, and the entertainment programme *Geo Pakistan* began. A number of captions similar to those appearing in the earlier news report were repeated throughout *Geo Pakistan*. A breaking news report then interrupted *Geo Pakistan*.

The second presenter said:

"From London, we are going to give you an update from London: A man has entered the room of Kulsoom Nawaz at London Harley Street clinic. Security removed the man from the room of Kulsoom Nawaz. The event occurred on the first floor of the Harley Street clinic where Kulsoom Nawaz is on a ventilator".

The first presenter said:

"We have with us our London correspondent Murtaza Ali Shah who has been continuously reporting to us about this incident. Murtaza, what is the latest development?"

The reporter said:

"Yes, a short while ago, the Sharif family, the pictures that were taken there after Doctor Naveed had reached the room of Begum Kulsoom Nawaz and the card that he used, which the security took from him afterwards and the pictures that they took of it, and the room with the ventilator where he had reached – all these things, they have handed them over to the police. At the moment three police officers are continuing their investigation of Doctor Naveed and they are asking him exactly what his intentions in going there were and why he used his card and reached the room of Begum Kulsoom Nawaz. Sources from the Sharif family have said that it is a matter of great concern to them as to how Doctor Naveed reached there after crossing various levels of security. Regarding this, they have also given their statement to the police a short while ago. At this moment, the Hospital [staff] are also giving their statements, and it is being said that the rules of the General Medical Council have been breached. As regards more information about Doctor Naveed that have so far come to the forefront, and according to the few things that have appeared in front of us, politically, at the moment, you may say that, as such, he had no connection to an opposition party".

While the reporter was speaking, footage was shown of police arriving at the scene and speaking to Dr Farooq.

Accompanying captions said:

“Hussain Nawaz: The family is already very anxious and people like this are coming and worrying us.

Hussain Nawaz: This man fooled the security and reached Kulsoom Nawaz’s room.

Hussain Nawaz, London: Begum Kulsoom Nawaz is in the ICU Ward and needs prayers.

Hussain Nawaz: The police removed the suspicious man who had entered the ward.

A man entered the room of Kulsoom Nawaz at London’s Harley Street clinic.

Hussain Nawaz: I don’t know who this man is. The police and media should find out on their own.

Security removed the man from the room of Kulsoom Nawaz.

The event occurred on the first floor of the Harley Street clinic where Kulsoom Nawaz is on a ventilator.

Hussain Nawaz: Even if he is a doctor, he should not enter a place that has nothing to do with him.

The man who entered the room of Kulsoom Nawaz has been identified as Naveed.

Naveed showed a card to security and presented himself as a doctor at Harley [Street] clinic.

Hussain Nawaz: The family is already very anxious and people like this are coming and worrying us.

A man tried to enter the room of Kulsoom Nawaz at the Harley Street clinic.

London: Hussain Nawaz speaks especially to Geo News”.

The reporter continued:

“However, the manner in which he went to that room, and the way he reached it, whether he was a fan or he had a political ideology otherwise, from the hospital’s point of view and from the Sharif family’s point of view, it is being seen as a huge breach because Harley Street clinic is a private clinic and no one can go beyond the first gate, the first floor there. But he went to the second floor and, from the second floor, he also entered the room. And, in all this process, he showed his card, which is a NHS pass, which the security [staff] saw and got the impression that he was a local doctor, and he was allowed access to that room”.

The second presenter said:

“And Naveed showed the card to security and presented himself as if he was a doctor at Harley Street. The security has removed this man from the room of Kulsoom Nawaz”.

The first presenter said:

“We will continuously update you about this incident. Keep watching Geo News”.

The programme, *Geo Pakistan*, then resumed. Captions similar to the above continued to be shown throughout the rest of the programme.

Summary of the complaint and broadcaster's response

Complaint

Dr Farooq complained that he was treated unjustly or unfairly in the programmes as broadcast because he was labelled falsely as a “suspect, criminal and an intruder”.

Dr Farooq said that while he had attended the hospital room of the former Prime Minister of Pakistan's wife, he had done so in order to “pay my respects to the family”. He said that he had not used his doctor's NHS identification inappropriately as alleged, and that no criminal charges had been brought against him or warnings or cautions given to him over the incident by the police or the General Medical Council (“the GMC”), and he continued to work at the same hospital. Dr Farooq said that the programmes had “Severely damaged, distorted and tarnished his reputation”.

Broadcaster's response

Geo TV said that Mr Nawaz Sharif's wife had been seriously ill in a private hospital in London for some time and had later died. The broadcaster said that Mrs Nawaz Sharif's illness and hospitalisation was a major news item at the time, and especially so when she became gravely ill and was visited by her husband.

Geo TV said that Dr Farooq was not authorised by the Nawaz Sharif family or the hospital to enter the hospital, or the room of Mrs Nawaz Sharif. It said that the interview with Mr Hussain Nawaz, Mrs Nawaz Sharif's son, made this abundantly clear. The broadcaster said that Dr Farooq admitted that he had been escorted out of the hospital by security. It said that following Dr Farooq being escorted out, Mr Hussain Nawaz had held a live press conference outside the hospital in which he said that Dr Farooq had “lied” to the hospital security staff and had tried to enter his mother's room. The broadcaster said that the fact that an unauthorised person had tried to enter the hospital and Mrs Nawaz Sharif's room was an important matter of great interest to Pakistani people in the UK and elsewhere. It said that every Pakistani channel in the UK had reported the story as breaking news as the incident was seen as a serious security breach.

Geo TV said that Dr Farooq had spoken to the media outside the hospital answering questions about the incident and had given his own version of events. It said that this footage was broadcast by Geo News and many other Pakistani media. Geo TV also said that the hospital had called the police who had questioned Dr Farooq outside the hospital and that this exchange was also filmed by the media. The broadcaster added that it understood that the hospital staff and the Nawaz Sharif family had taken pictures of Dr Farooq's NHS identification and released it to the media.

Geo TV said that prior to entering the hospital, Dr Farooq had tried contacting the reporter and had asked him to go with him to the hospital. It said that the reporter had refused to do so. The broadcaster said that on the day Dr Farooq visited the hospital without authorisation, he had called the reporter multiple times and sent him text messages before going to the hospital. The reporter did not reply to his phone calls or text messages. The broadcaster said that after the hospital incident, and following the broadcast of the report, Dr Farooq had called the reporter and told him that it had been a mistake to visit the hospital. The reporter offered to interview him so that he could give his side of the story. The reporter said that Dr Farooq had told him that: “...it was an ‘innocent mistake’ and that he didn't mean to harm

Kulsoom Nawaz...". The reporter said that: "He [Dr Farooq] asked me to help him clear his name and I told him I would [do] all I can to assist him by promoting his interview/version". Geo TV said that Dr Farooq had later changed his mind about being interviewed and had started making false accusations against the reporter over the phone and in writing accusing him of setting up a "trap" for him.

In addressing Dr Farooq's specific complaint about being "...labelled falsely as a 'suspect, criminal and an intruder'", Geo TV said that it was unclear what Dr Farooq meant when he said that he was "labelled". The broadcaster said that a review of the translation provided by Ofcom showed that at no point were the words "suspect, criminal, or intruder" used in relation to Dr Farooq in the reports.

Geo TV said that Dr Farooq had admitted that he had no personal affiliation with the Nawaz Sharif family, but irrespective of this he claimed that he went to the private hospital to pay his respects to the family. The broadcaster said that under any circumstances, this was "incredulous" and "ludicrous", especially given that:

- Dr Farooq did not know Mrs Nawaz Sharif or anyone in her family. The broadcaster said that it was questionable why he had visited Mrs Nawaz Sharif, especially when he had known that she was gravely ill.
- Dr Farooq, as a doctor, must have known that hospitals (especially private hospitals) do not allow visitors unless authorised by the patient or their family.
- Dr Farooq had no express or implied authorisation from Mrs Nawaz Sharif or her family to visit her in hospital. Geo TV said that Dr Farooq had entered the hospital without consent and had no business in the hospital.

In response to Dr Farooq's contention that the report had "severely damaged, distorted and tarnished his reputation", Geo TV said that Dr Farooq had not provided any evidence to support this claim and that it was unclear what damage to his reputation had been done. It said that Dr Farooq had confirmed that he was still employed by the hospital he worked for. Geo TV said that it had simply reported Dr Farooq's actions on that day and "any alleged adverse consequences to Dr Farooq's reputation were as a result of his own actions" and not of Geo TV's reporting of them.

Geo TV said that it was satisfied that it had taken reasonable steps to ensure that material facts had not been presented, disregarded or omitted in a way that was unfair to Dr Farooq because Dr Farooq had spoken to journalists and had answered their questions outside the hospital and footage of this was broadcast by Geo TV and many other news channels. It said that he was therefore given and took the opportunity to give his version of events.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View that Dr Farooq's complaint should not be upheld. Both parties were given the opportunity to make representations on the Preliminary View. The representations of both parties are summarised, insofar as they are relevant to the complaint entertained and considered by Ofcom, below.

Complainant's representations

Dr Farooq said that he disputed the events as reported in the programmes and in the broadcaster's response. He said that he had visited the hospital to pay his "respect and

gratitude to the [Nawaz Sharif] family". He said that the member of medical staff he had encountered and spoke to about Mrs Nawaz Sharif had "allowed me to visit the patient at my request after he spoke to me, updated me and shared contacts in the visitor's room". Dr Farooq said that he had "taken consent" from this person who, he said had, after having a conversation for 15 to 20 minutes, given Dr Farooq "the opportunity to visit the patient in the ITU ward". Dr Farooq said that he had followed the hospital's visiting policies, did not pass any security (as there was none present), and said that there were "no restricted areas".

Dr Farooq said that on religious occasions it was "common in our culture, religion, and politics of Pakistan for any member of family to pay respect to the sick". He also provided information that he said showed "political affiliations" between his and the Nawaz Sharif family. Dr Farooq said that he did not think that it was fair to blame him for being authorised by the member of medical staff to enter the ward without consent and authorisation. Dr Farooq said that the Geo News broadcast had "blown things out of proportion" which he said was "fabricated, frivolous, incorrect, irresponsible, bias, unwitnessed, unethical, immoral and damaging" to his reputation.

Dr Farooq said there was never any mistaken identity and reiterated that the member of medical staff had authorised him to visit Mrs Nawaz Sharif. He said that it was on his return to the relatives' room from the reception to thank the member of medical staff that a member of Mrs Nawaz Sharif's family entered the relatives' room. Dr Farooq said that he had left the relatives' room voluntarily as he felt that it "was not convenient for me to stay while a member of family was present".

Dr Farooq said that he did not admit to being escorted out by the hospital security. He said that this never happened and that there was no evidence of this. He said that it was the police officers who had checked his identity credentials, not the hospital security.

Dr Farooq said that in the broadcaster written response it said that the broadcasts did not label him as a criminal, suspect, intruder. He said that this was misleading, and that the programmes gave the public the perception that he was a criminal, suspect, intruder.

Broadcaster's representations

Geo TV said that it agreed with Ofcom's Preliminary View not to uphold the complaint. In support of the broadcaster's representations, a statement was provided by the member of medical staff who, Dr Farooq said, had "allowed and authorised" him to enter the ward and visit Mrs Nawaz Sharif. The member of medical staff said that:

- Dr Farooq was not invited or allowed to visit the clinic, nor was he invited to visit the patient (Mrs Nawaz Sharif). What Dr Farooq had said was false.
- No next of kin or family representative of the patient gave Dr Farooq permission to come to the clinic and visit the patient. Dr Farooq was stopped by the hospital security and the police were called when he tried to get back in to the clinic.
- Dr Farooq was cautioned by the police and warned that he would be arrested if he tried to come near the family again.

Geo TV said that the statement from the member of medical staff unequivocally clarified that Dr Farooq had no consent from anyone to visit the hospital or the patient. It said that the statements made by Dr Farooq were false and said that it was clear that his complaint was baseless and without any merit.

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 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 translated transcript of it and both parties' written submissions. We also took careful account the representations made by Dr Farooq and the broadcaster (including the statement by the member of medical staff) on Ofcom's Preliminary View on the complaint. After careful consideration of those representations, we considered that the points raised did not materially affect the outcome of Ofcom's decision not to uphold the complaint.

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.

We considered Dr Farooq's complaint that he was treated unjustly or unfairly in the programme as broadcast because he was labelled falsely as a "suspect, criminal and an intruder".

In considering this complaint, we 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 7.11 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".

It is important to note that Ofcom is unable to make findings of fact on the matters reported in the programme. Rather, our role is to consider whether, by broadcasting the relevant material, the broadcaster took reasonable care not to present, disregard or omit material facts in a way that was unfair to the complainant.

The Code recognises the importance of freedom of expression and the public interest need to allow broadcasters the freedom to broadcast matters in programmes. However, in presenting material in programmes, reasonable care must be taken by broadcasters not to do so in a manner that causes unfairness to individuals or organisations. 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 way in which an individual is portrayed, the seriousness of any allegations made against them, and the context in which such allegations are made.

Therefore, we began by considering the way in which Dr Farooq was portrayed in the programme and whether this had the potential to materially and adversely affect viewers' opinions of him in a way that was unfair. We then went on to consider whether, if this portrayal and any allegations made in the programme did have the potential to cause unfairness, the manner in which the allegations were presented in the programme resulted in such unfairness.

We carefully examined the news headlines and breaking news report and the English translation of the content as set out in detail in the "Programme summary" section above. In particular, we took account that in the news headlines, the presenter said:

"A suspicious man entered the [hospital] room of Kulsoom Nawaz. Security staff removed the suspicious man from the room. Hussain Nawaz [Mrs Nawaz Sharif's son] has said that the suspicious man who entered the room of Kulsoom Nawaz presented himself as a doctor".

Captions were also shown:

*"London police are checking the identity of the man who broke into the clinic.
Hussain Nawaz: This man fooled the security...
A security employee removed a suspicious man...
Hussain Nawaz: The man who entered the room presented himself as a doctor".*

Later the presenter provided an update and said:

"The man who entered the room of Kulsoom Nawaz has been identified as Naveed. It is being reported that Naveed showed a card to security and presented himself as a doctor...This man fooled security and reached Kulsoom Nawaz's room".

The report continued to be updated, and a reporter explained:

"...At the moment, three police officers are continuing their investigation of Dr Naveed and they are asking him exactly what his intentions in going there were and why he used his card and reached the room of Begum Kulsoom Nawaz...At this moment, the hospital [staff] are also giving their statements, and it is being said that the rules of the General Medical Council have been breached...it could have huge consequences for Doctor Naveed and his job with the NHS could be finished because according to the NHS rules for

doctors, it is a violation of their guidelines, which state that if a doctor entering a private clinic by showing his card...He has breached the security rules”.

Further captions were shown, including the above and also:

*“Hussain Nawaz: The police removed the suspicious man who had entered the ward.
Hussain Nawaz: Even if he is a doctor, he should not enter a place that has nothing to do with him”.*

In our view, the programme did not state that Dr Farooq was a “suspect”, “criminal” or an “intruder” as he complained. We also considered that while the programme made clear that the police had spoken to Dr Farooq about the incident, and that some believed that Dr Farooq may have breached the GMC’s rules, the programme did not state that criminal charges had been brought against Dr Farooq by the police, or that the GMC had launched an investigation into his actions. Nevertheless, we considered that the comments made in the programme about Dr Farooq would have suggested to viewers that he had visited the hospital without the appropriate authorisation, and had misused his NHS identification. We considered that this had the potential to amount to a serious allegation about Dr Farooq.

We next considered whether 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 Dr Farooq.

We recognised from his complaint to Ofcom and representations on the Preliminary View that Dr Farooq disputed Geo TV’s depiction of the incident and said that he had visited Mrs Nawaz Sharif in hospital in order to “pay my respects to the family” and had not used his NHS identification inappropriately. As stated above, it is not for Ofcom to determine the facts as to what occurred on the day that Dr Farooq visited the hospital or what his motivation was, but rather, our role is to consider whether it was reasonable for the broadcaster to have included the information about the incident in the programme.

We recognised that Dr Farooq disputed the events and his motivation for visiting Mrs Nawaz Sharif and that he had used his NHS identification inappropriately. However, from the submissions and representations from both parties in this case, we understood that:

- Dr Farooq had “no personal affiliation” with the Nawaz Sharif family (although in his representations on the Preliminary View, he said that his family had “political affiliations” with the family).
- Dr Farooq had visited the hospital and was able to access Mrs Nawaz Sharif’s room, because there was “no security, no restricted areas, and no one at reception stopped me”.
- Hospital staff mistakenly introduced him to Mrs Nawaz Sharif’s ward under another doctor’s name and as “a personal physician of the Ex-Prime Minister and his wife”. Dr Farooq then spoke with a hospital staff member on the ward “...about what was going on and how the Ex-prime ministers [sic] wife was doing and updated me as a representative of the family”. Ofcom understood that Dr Farooq did not correct the hospital staff’s mistake regarding his identity.
- Dr Farooq was then shown into Mrs Nawaz Sharif’s room by the member of medical staff (who the hospital staff had mistaken Dr Farooq for) and he had spoken to that member of medical staff who “shared a bit of patient info with me”.

- A family member questioned what he was doing visiting Mrs Nawaz Sharif and the family member had “got a bit upset due to the fact that maybe a stranger was around” and at this point he had left the hospital.
- Later, he had returned to the hospital where he was questioned about his presence there by Mrs Nawaz Sharif’s son and the police were called who interviewed him.

Ofcom acknowledged that Dr Farooq maintained in his representations his position that he had authority to visit Mrs Nawaz Sharif, however, we also took into account the statement of the member of medical staff who encountered Dr Farooq which disputed Dr Farooq’s account entirely. Ofcom considered that regardless of what Dr Farooq said that his motivation was for visiting the hospital, given the above factors from Dr Farooq’s own account of events, it appeared to us that he had knowingly entered the hospital room of a patient who he had no responsibility for as a doctor, or any personal connection with. Also, he had allowed hospital staff to believe that he was a legitimate visitor and had discussed Mrs Nawaz Sharif’s medical care with a member of medical staff. It was on this basis that Ofcom considered that material facts were not presented, disregarded or omitted in the programme in a way that was unfair to Dr Farooq.

We also took into account that after the initial news headlines, which included the story about the incident involving Dr Farooq, the programme, *Geo Pakistan*, was interrupted to provide a breaking news report which gave an update on the story as more details of the incident became available. Captions were also shown throughout the programme as the story evolved. We recognise that reporting events as they happen can be unpredictable and it is Ofcom’s view, therefore, that for programmes covering live events such as this, it may be, but is not always possible for the broadcaster to obtain responses from potentially affected individuals and/or organisations prior to, or during, the programme. In these circumstances, it is not always possible to have all the relevant facts at the time of broadcast and therefore there is the potential to cause unfairness. In such circumstances, broadcasters need to be particularly aware that they have a duty to ensure that reasonable care is taken that the broadcast material is consistent with the requirements of the Code. It must not mislead viewers or portray people or organisations in a way that is unfair.

Given this, Ofcom assessed the steps, if any, that the broadcaster had taken to satisfy itself that material facts were not presented, disregarded or omitted in a way that was unfair to Dr Farooq. In this case, it was our view that the broadcaster made it clear that the story concerning Dr Farooq was one that was being reported as it happened and that its understanding of the incident was changing as it gathered information about the incident as it unfolded. We considered that the broadcaster also made it clear that the information presented in the reports was primarily being sourced from members of Mrs Nawaz Sharif’s family, and, in particular, her son, Mr Hussain Nawaz. For example, the presenter introduced the story explaining that: *“Hussain Nawaz has said that the suspicious man who entered the room of Kulsoom Nawaz presented himself as a doctor”*. The majority of the captions were also presented as quotes clearly attributed to Mr Hussain Nawaz and an interview with him was included. Later, the reporter also stated that he had obtained information about the incident from the Nawaz Sharif family. We considered, therefore, that it would have been clear to viewers that the events were largely being reported from the perspective of Mrs Nawaz Sharif’s family who were reacting contemporaneously to the fact that a man unknown to them had gained access to hospital room of their seriously ill family member.

We also took into account that while Dr Farooq was not offered the opportunity to respond to the allegations made against him in the programme before or during the broadcast of the

programme, footage of him answering questions about the incident was included in the programme, in which he said: “*I haven’t done anything wrong*” and denied having pretended to be a doctor (see the ‘Programme summary’ above). We therefore considered that it would be clear to viewers that Dr Farooq denied any wrongdoing and, in particular, that he denied impersonating a doctor.

Taking all of the above factors into account, Ofcom considered that the broadcaster took reasonable care to satisfy itself that material facts were not presented, disregarded or omitted in the programme in a way that resulted in unfairness to Dr Farooq. Given this, we also considered that it was not necessary for the broadcaster to have provided Dr Farooq with the opportunity to respond in order to avoid unfairness to him.

Ofcom has not upheld Dr Farooq’s complaint of unjust or unfair treatment in the programme as broadcast.

Not Upheld

Complaint by StarNow Limited, made on its behalf by Taylor Wessing LLP

Dave Gorman's Modern Life is Goodish, Dave, 18 December 2017

Summary

Ofcom has not upheld this complaint by StarNow Limited ("StarNow"), made on its behalf by Taylor Wessing LLP ("Taylor Wessing"), of unjust or unfair treatment in the programme as broadcast.

The programme included a story about StarNow, in which Mr Gorman told viewers that he had signed up to StarNow's website using a fake profile to apply for some of the jobs it advertised. Mr Gorman also explained how he had accessed the StarNow website through the account of Liberty Bell, a television production company, which allowed him to post his own advert on StarNow's website. Taylor Wessing complained that StarNow was treated unfairly because the programme gave viewers the false impression that StarNow did not protect its members or verify that casting calls posted on its website were legitimate opportunities.

Ofcom considered that the references to StarNow in the programme were unlikely to have materially or adversely affected viewers' opinions of it in a way that was unfair. Therefore, Ofcom considered that, in the circumstances of this case, the broadcaster had taken reasonable care to satisfy itself that material facts were not presented, disregarded or omitted in a way that was unfair to StarNow.

Programme summary

On 18 December 2017, UKTV broadcast on its channel, Dave, an edition of *Dave Gorman's Modern Life is Goodish*, a comedy programme hosted Dave Gorman.

The section of the show about StarNow was introduced by Mr Gorman as follows:

"Welcome back to Modern Life is Goodish. My name is Dave Gorman and if you are familiar with the show, you'll know that every now and then, I tell you a story that involves me getting up to some kind of mischief...Sometimes, things don't pan out the way I might like. Sometimes, mischief goes wrong. When that happens, I just don't put it in the show, obviously. But tonight, I thought I would tell you the story of one of the ones that didn't go the way I intended.

It concerns the website StarNow. StarNow bills itself as the UK's number one talent website. And it's any talent they're after. Actors, models, musicians, all wanted. And it doesn't matter whether you've ever done it before, no experience is required. So, someone who has never done any acting before can suddenly go 'I think I'm going to be an actor'. They hand over a small amount of money to create an account and then they get access to all of the ads on the site and can apply for any jobs that come up, potentially turning them into a star, now. That might be anything, it might be acting jobs, it might be modelling jobs, it might be dance jobs, and so on.

The reason it caught my attention was because I love the magazine job section. Surely in the magazine section, they ought to be saying 'Are you a writer? A photographer? An illustrator? Could you help us get the magazine together?' At the very least, you'd think they'd be saying 'Are you quite handy with a stapler?' But no, those are not the talents required to make a magazine, according to this website. No, no. 'Been to Newquay for a weekend and it ended badly?' What sort of talent is that? Having a bad time in Newquay?"

Mr Gorman made a number of jokes about this advert and others displayed on the StarNow website. Screenshots of the StarNow website and the adverts were shown throughout this segment.

Mr Gorman then explained that he had signed up to StarNow's website using a fake profile to apply for some of the jobs advertised. He explained that he had changed his appearance, including his clothes and facial hair, for his profile on the website. Photographs of Mr Gorman's altered appearance and screenshots of his fake StarNow profile were shown. Mr Gorman continued:

"With that whole new look, I signed myself up to StarNow. I've given myself a fake name. I'm not going to reveal that to you here, I don't want you lot tracking me down on StarNow. And with looks like that, I have called myself a model and an actor. To show my range as an actor, I provided a variety of photos on my profile page, there they are. Having done this, I basically started applying to every single magazine job ad that I could conceivably reply to. 'Yes, yes, it happened to me, can I have some money?' 'Yes, I have been a bit itchy since I got back from Cornwall, yes, I have, now that you mention it'.

Here's what I mean when I say things don't always pan out. I don't know what I was doing wrong, because normally I'm quite good at this sort of thing. But, I couldn't get a single journalist to take me seriously and put me in a magazine, no matter what I tried. So, no, it didn't work. And at the time, I admit I found that quite disappointing. But, of course, I'm telling you this for a reason. When one door closes, another one opens".

Mr Gorman then explained how he accessed the StarNow website through the account of the television production company Liberty Bell which allowed him to post his own adverts on the website. Mr Gorman said that he had arrived early for a meeting at Liberty Bell's office, which had a 'hotdesking' system in place. He then described how he used a Liberty Bell computer to check whether he had received any responses to his StarNow applications. Mr Gorman explained that when he did this, he realised that he was not logged in to the website as himself, but was instead logged in to a Liberty Bell account. He then said:

"I've gone from being a punter, someone who can only reply to other people's adverts, and I've become a media company, who can put adverts of their own on the site. Tempting, isn't it? Some would say irresistible. I will tell you whether that mischief worked out later in the show".

Later in the programme, Mr Gorman continued his story:

"Earlier on in the show, I was explaining how I happened to find myself logged in as a production company on the website StarNow and that presented me with an almost irresistible opportunity to create a bit of mischief and mayhem. But, you've got to have a conscience about things like this, haven't you? You've got to punch up and not down. I

didn't want to mock the people who are signed up to StarNow. They are nice, decent people with normal hopes and dreams. The way I see it, there are a lot of people on this Earth who would like to see their face on TV. That's a perfectly normal dream for people to have. There are people who would like to see their name on TV, I get that. And, most people on Earth certainly would like to make a bit more money. These are completely reasonable aspirations for people to have.

If, with my newfound access to the site, I was to create an advert for a fake TV show that pretended to offer one, two, or all three of those opportunities, I would just be encouraging nice, normal people to apply for a thing that they would never get. And then I would be responsible for dashing those normal hopes and dreams on yet more rocks. I don't want to play that game. Instead, I decided to create an advert for a TV show that specifically offered none of those things, so that nobody in their right mind would ever feel the draw to apply for it. The people I was trying to mess with weren't them, the people I was trying to mess with were Liberty Bell. I wanted them, the production company, to find their own advert and panic about what on Earth was going on. 'What show is it we are making? Who's making it? Who's paying for this? Who commissioned this? Are Channel 5 involved? What is going on?' The fact that we were in the middle of a small contract dispute at the time is neither here nor there".

Mr Gorman then described the advert that he had posted on the StarNow website, and screenshots of the advert and the responses Mr Gorman had received were shown. He said:

"Which is why my advert said this: 'Kneecaps wanted for TV show. The Kneecap Recap is a new entertainment format'. And it all worked out. The format for my fictional television show, The Kneecap Recap, is that for half an hour, still photographs of unidentified kneecaps float across the screen whilst some easy listening Muzak plays in the background to accompany them. That is it. No names, no money changes hands, nothing else happens for half an hour. This is the full wording of the advert: 'Picture must be of kneecaps only' – don't go trying to sneak your face in there, I'm not going to fall for that one. And importantly: 'if you think your kneecaps have got what it takes' – what does that even mean? What quality could a kneecap have that another doesn't? It just needs to exist, surely?

So, I've put that advert out there and I'm waiting for the office to descend into confusion and chaos. But nothing happens in the office. I get a message from StarNow saying 'thank you very much, your advert is now live', but no one in the office seems to be reading the emails sent by StarNow to their company email address. But then, it gets really weird. I start getting messages from people on StarNow..."

Mr Gorman described the messages he had received, one of which asked for an email address to send photographs to. Mr Gorman then said:

"And that presents a little moral dilemma right there, doesn't it? What is the point of giving her my email address? I would just be encouraging a 70 year-old woman, who, for reasons best known to herself, would like to see her knees on TV, to believe that her knees will be on TV. And that is just crushing her dreams. On the other hand, if I give her somebody else's email address, I am then arranging for a friend of mine to receive, out of the blue, with zero context whatsoever, an email from a 70 year-old woman attaching photographs of her knees. And whichever way you slice it, that is funny. So, that's what I

decided to do. It had to be somebody with a Liberty Bell email address so that it would tie in with the advert”.

Mr Gorman described how he selected a colleague, “Jamie”, from the office whose email address he would provide to applicants without his knowledge. Mr Gorman explained that he expected his colleague to be confused when he received these emails, given that he did not know about Mr Gorman’s advert. However, Mr Gorman said that his colleague did not visibly react to receiving these emails. He described one of the emails, sent by an elderly woman, and showed multiple pictures of the woman’s knees. Mr Gorman then described other emails sent by applicants to his colleague’s email address, with the associated photographs displayed on screen, and continued to comment on his colleague’s lack of reaction to the emails.

Mr Gorman then explained that his colleague later showed him the various pictures of kneecaps he had received. However, when he did so, Mr Gorman recognised the knees of his wife in one of the photographs, which led him to believe that his colleague and Mrs Gorman were playing a trick on him. Mr Gorman described that after speaking to his colleague and Mrs Gorman, he realised that this was not the case, and that the photograph of Mrs Gorman’s knees had been submitted by a woman called “Laura”.

Mr Gorman then explained that he emailed Laura to find out where she had sourced the photograph from, and Laura responded saying that she had found the image on the internet. Mr Gorman explained that he realised that the photograph of his wife’s knees had ended up on an internet image search due to a mistake he made when selecting his privacy settings on a photography website. He continued:

“At least that mystery is solved. But not the bigger mystery. The bigger mystery here is surely why had Laura done this? Think about exactly what was on offer here. There was no chance of putting your name on TV, not your face on TV, or any money in your pocket. The only thing on offer was to put your kneecaps on TV. I have to stretch my imagination to breaking point to find within it a person who thinks ‘finally, my moment, I want my knees to be on TV, and I want it so much I’m going to send them a picture of somebody else’s knees’. What does this achieve?”

Mr Gorman then described how he emailed Laura again to find out her motivation behind submitting the image, with screenshots of the emails displayed on screen. He continued:

“I waited three hours for her reply. And, this time, when it came, it was just a single sentence. It is, I would say, by some distance, my favourite ever single sentence email. It reads as follows: ‘I just didn’t think my knees had got what it takes’. Isn’t that just about the bleakest thing you’ve ever heard in your life?”

Mr Gorman then concluded the programme:

“So, what have we learned this evening, ladies and gentlemen? Well, we’ve learned that when the most remarkable coincidence you have ever experienced in your life happens to you, you stretch everything you can to build a show around it. We’ve learned that in a world in which we are photographed more than ever before, we are also obsessed with image, even when it’s just an image of our knees”.

There were no further references to StarNow or its members.

Summary of the complaint and the broadcaster's response

Complaint

Taylor Wessing complained that StarNow was treated unjustly or unfairly in the programme as broadcast because the programme gave viewers the false impression that StarNow did not protect its members or verify that casting calls posted on its website were legitimate opportunities. Taylor Wessing said that this was “completely untrue and very damaging”.

Taylor Wessing said that the programme makers had accessed StarNow's website and created a fake casting call to “intentionally mislead, ridicule and mistreat” StarNow and its members. It said that there was no justification for obtaining the information and photographs included in the programme in this way, or for broadcasting this material in the programme.

Broadcaster's response

UKTV said that this episode was from the fifth series of *Dave Gorman's Modern Life is Goodish* and that the programme was well established as being “gentle and humorous in tone”. It said that viewers would have interpreted the episode to be a “humorous discussion of fame and the changes in the way people have shared images over the years”, and an “affectionate poke” at the entertainment industry that Mr Gorman was part of. It said that Mr Gorman's focus in his shows was primarily satirical humour and that he commented on topics of genuine social interest. It said that, in this case, Mr Gorman was discussing the pursuit of fame, and that this was broken down and analysed using the casting call he posted on StarNow's website.

UKTV said that Mr Gorman explained in the programme that:

“The people I was trying to mess with were Liberty Bell. I wanted them, the production company, to find their own advert and panic about what on earth was going on”.

The broadcaster said that Mr Gorman then explained that he had directed the responses he received to his post towards a Liberty Bell staff member to confuse them. UKTV said that it was clear from Mr Gorman's explanations that his intention was to mislead Liberty Bell rather than StarNow.

UKTV said that Mr Gorman did not suggest during that programme that StarNow neglected to perform its duties towards its members or failed to protect them in anyway by not verifying Mr Gorman's casting call. The broadcaster said that StarNow's terms and conditions state that the website is not responsible for any content posted by its users. It said that it could not then reasonably follow that StarNow's reputation had been adversely affected by the casting call's posting. UKTV said that, in line with its policies, StarNow did not attempt to verify the validity of Mr Gorman's casting call before or after its publication, or the validity of Mr Gorman's responses to the advertisements for the magazine stories.

UKTV also said that Mr Gorman used the website for its “normal purpose” and that it was clear from the programme that he was entirely responsible for his actions. It said that StarNow could not reasonably be expected to prevent someone from creating a story to convince magazine journalists or prevent them from using a legitimate account belonging to

another party for their own means. UKTV said that Mr Gorman's actions could therefore not have reflected badly on StarNow.

UKTV also said that the programme did not contain any negative criticism or ridicule of StarNow. It said that Mr Gorman explained that he did not set out to mistreat anyone and that aspirations of fame and money were reasonable aspirations to have. It said that the information and photographs submitted by StarNow members were included in the programme because they formed part of Mr Gorman's story about the pursuit of fame, and that permission to use this material was obtained in the casting call's terms and conditions.

Ofcom's Preliminary View

Ofcom prepared a Preliminary View that the complaint should not be upheld. Both parties were given the opportunity to make representations on the Preliminary View. Both parties made representations which are summarised, insofar as they are relevant to the complaint as entertained and considered by Ofcom, below.

Complainant's representations

Taylor Wessing said on behalf of StarNow that it disagreed with Ofcom's Preliminary View not to uphold the complaint. It said that it was not true that Mr Gorman's intention was to mislead Liberty Bell, not StarNow, and that he freely acknowledged that he was only able to post the casting call because he was using Liberty Bell's previously verified and trusted account. It said that Liberty Bell was a verified and trusted member of StarNow and that casting calls listed by them would not undergo the same rigorous scrutiny as listings posted by new or unverified companies.

The complainant said that at no point in Ofcom's "Programme summary" was it explained that Mr Gorman was only able to create the casting call listing because he was using a Liberty Bell account, which is the only reason why his listing went unverified, i.e. it purported to have come from an already trusted source and existing, registered member. It said that had Mr Gorman created a new listing of his own, it would not have been verified or posted. Taylor Wessing said that the fact that his listing was only posted on account of Liberty Bell's existing membership and verification was omitted from the broadcast which, it said, left viewers thinking that any listing could be created on StarNow and it would be verified. That is not the case.

Taylor Wessing said that reliance upon the information on StarNow's website was irrelevant because none of this information was broadcast in the programme and, therefore, it was not information which was before viewers when they watched the programme. It said that the Terms of Use agreement related to StarNow's relationship with its users, not the viewers of the programme. Nor would it have been clear to viewers that StarNow would not have attempted to verify the validity of Mr Gorman's fake casting because it was created using Liberty Bell's verified account.

It said that the complainant's website stated in the first entry of its terms and conditions that "Trust & Safety is our number one priority, and we never forget that real people of all ages and stages use StarNow. We make sure our listings are genuine and we share plenty of advice on how to stay safe online and during auditions". Taylor Wessing said that if Ofcom insisted on taking into consideration the Terms of Use Agreement when making its decision, it should also take note of this and other policies and values that they have in place. In

particular, the "Prohibitions" section, which states: "You are responsible for ensuring that no material you post, or which is posted through a machine on which you access StarNow, nor any activity or communication you make in connection with any StarNow Service, will be capable of: infringing the intellectual property, right to privacy, or other rights of any person or entity... [or be] false, unreliable or misleading". Taylor Wessing said that as a responsible platform operator, StarNow took "the trust and safety of its members very seriously" and worked hard to uphold its reputation as a reputable platform. It said that StarNow do did review and regularly decline casting calls which did not appear to be legitimate or safe opportunities for its members.

Taylor Wessing said that while Mr Gorman may not have explicitly criticised StarNow in the programme, the very fact that he created a fake profile and the level of detail with which he described it, demonstrated implied criticism of StarNow. It said that Mr Gorman's intention may have been to mislead Liberty Bell, but he showed no evidence of that on his show, only evidence of confusion by StarNow's users, thereby unfairly belittling StarNow's reputation as a safe and legitimate resource for jobs in the entertainment industry.

Taylor Wessing said that StarNow did not accept that the programme was "gentle and humorous in tone", or that the subject matter was a "humorous discussion of fame", or an "affectionate poke" at the entertainment industry. It said that StarNow felt denigrated through association with the content of the programme and the disparaging way that its industry and members were ridiculed.

Broadcaster's representations

UKTV said that the programme was a comedy programme and its primary editorial intention was to entertain, not inform or educate viewers. It said that viewers were very unlikely to rely on comedy material when making consumer decisions, and that it was unreasonable to expect a comedy programme to include a website's vetting processes when "they are not in any way relevant to the story being told".

The broadcaster said that much of Taylor Wessing's representations on behalf of StarNow focused on the programme not including an explanation that the only reason Mr Gorman was able to create the listing was that he was using a Liberty Bell account and, in turn, the only reason why the listing went unverified was because that account was previously verified and trusted. It said that the complainant said that had Mr Gorman created a new listing of his own, the listing would not have been verified and posted. UKTV quoted from Ofcom's "Programme summary" which included the excerpt in which Mr Gorman said: "*I've gone from being a punter, someone who can only reply to other people's adverts, and I've become a media company, who can put adverts of their own on the site*". It said that this statement made it clear that previously, Mr Gorman was not able to list adverts and also implied that only media companies could list adverts. At no point did Mr Gorman criticise StarNow's screening processes (which, the broadcaster said, the complainant acknowledged).

UKTV said that the complainant had suggested that the programme should have referred to StarNow's usual procedures to indicate why the casting call was unverified, giving the reason that listings from trusted, verified accounts were subject to a lesser degree of scrutiny than those from new accounts. The broadcaster said that it did not believe that this statement concurred with the information it had provided about the vetting procedures on the StarNow website.

It said that the complainant acknowledged in its representations that StarNow had failed to protect its users from falling victim to fake casting calls due to Mr Gorman's abuse of a verified account. At no point, it said, did the programme state that StarNow had failed its users, and, given it was clear in the programme that Mr Gorman was using a third party's account, UKTV reiterated that "a reasonable person would not expect that StarNow could prevent this".

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 transcript of the programme as broadcast and both parties' written submissions. Ofcom also took careful account of the representations made by the parties in response to being given the opportunity to comment on Ofcom's Preliminary View on this complaint. After careful consideration of these representations, we considered that the points raised by both parties did not materially affect the outcome of Ofcom's decision not to uphold the complaint.

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.

Ofcom considered Taylor Wessing's complaint that StarNow was treated unjustly or unfairly in the programme as broadcast because the programme gave viewers the false impression that StarNow did not protect its members or verify that casting calls posted on its website were legitimate opportunities.

In considering this complaint, we had particular regard to Practice 7.9 of the Code, 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..."

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 matters complained of had the potential to materially and adversely affect viewers' opinions of StarNow in a way that was unfair.

We took account of the nature of the material included in the programme, as set out in detail in the "Programme summary" above. During the programme, Mr Gorman described how he had created a fake profile on StarNow's website to apply for some of the jobs advertised. Mr Gorman also described how he then accessed StarNow's website through the account of Liberty Bell to post his own casting call for a fictional programme called "The Kneecap Recap". He explained that he had directed the applications received in response to this casting call to a Liberty Bell colleague's email address, whom he had hoped to confuse by doing so.

We considered that in detailing how he had been able to set up a fake profile and casting call, Mr Gorman did not criticise StarNow or its vetting procedures. We also took into account the broadcaster's statement, particularly regarding the terms and conditions as set out on the StarNow website, which it said made clear that the "...website was not responsible for any content posted by its users". Ofcom considered StarNow's "Terms of Use Agreement" on its website, which said:

- "...StarNow is not responsible for the content and makes no warranty as to the accuracy of the advertisements. Members should always use their own judgement in deciding whether or not to apply for any of the roles advertised on StarNow. We provide our Service only for the purposes of providing listings for casting, auditions, and at our discretion, general jobs, with third party Advertisers. Whether these roles are listed by the Advertiser or listed by a StarNow representative on behalf of the Advertiser, we shall not be liable under any circumstances for the actions of any Advertiser of any role or other job featured on StarNow.
- StarNow is not responsible for the content and makes no warranty as to the accuracy of Members' personal information. Advertisers should always use their own judgement in deciding whether to contact, cast or audition Members. We shall not be liable under any circumstances for the actions of any Member...".

In our view, these provisions on StarNow's website were clear that StarNow did not take responsibility for the accuracy of its members' profiles, nor was it responsible for the accuracy of casting calls posted on the website. It appeared to us that StarNow would therefore not as a matter of course have attempted to verify the validity of Mr Gorman's fake profile or casting call (and, in fact, StarNow did not verify Mr Gorman's profile and casting call). We also took into account Taylor Wessing's representations on Ofcom's Preliminary View, and, in particular, its contention that Ofcom's reliance on the information on StarNow's website was "irrelevant" and that if Ofcom relied on the information on StarNow's website, then it should also take into account other information, including, for example, its list of values and "Terms of Use" agreement. However, we also took into account Taylor Wessing's explanation that casting calls listed by a production company such as Liberty Bell "would not undergo the same rigorous scrutiny as listings posted by new or unverified companies". In these circumstances, therefore, we considered that there could be no unfairness to StarNow arising from Mr Gorman's comments potentially giving viewers the

impression that StarNow did not verify (at least to the same extent) that all of the casting calls posted on its website were legitimate opportunities.

We also took into account that Mr Gorman said during the programme that *“the people I was trying to mess with weren’t them [members of the StarNow website], the people I was trying to mess with were Liberty Bell”*. We therefore considered that viewers would have understood that Mr Gorman’s actions were not trying to “intentionally mislead, ridicule or mistreat” StarNow or its members, but instead his intention was to confuse Liberty Bell, including his colleague “Jamie” to whom he had directed the applications, for the purpose of creating content for a comedy programme. While Taylor Wessing disputed that Mr Gorman’s intention was not to “mess with” StarNow, it also acknowledged that the “real question” was whether the programme had misled viewers as to StarNow’s vetting processes. In this regard, Taylor Wessing argued that viewers were misled because the fact that Mr Gorman’s listing was only posted on account of Liberty Bell’s existing membership and verification was materially omitted from the programme. However, as Taylor Wessing itself also pointed out, Mr Gorman “freely acknowledges” that he was only able to post the casting call because he was using Liberty Bell’s previously verified and trusted account. In the programme (and as set out in the “Programme summary”), Mr Gorman said: *“I’ve gone from being a punter, someone who can only reply to other people’s adverts, and I’ve become a media company, who can put adverts of their own on the site”*. We considered that this statement made it clear to viewers that Mr Gorman was not able to list adverts, as a new individual account holder, and that only a media company would be able to do this.

Taking all these factors into account, Ofcom’s decision is that the references to StarNow in the programme were not likely to have materially or adversely affected viewers’ opinions of it in a way that was unfair. The programme did not state that StarNow had failed its users, and, given that it was clear in the programme that Mr Gorman was using a third party’s account, we did not consider that a reasonable viewer would not have expected that StarNow could have prevented this. On that basis, it was Ofcom’s view that material facts were not presented, disregarded or omitted in a way that resulted in unfairness to StarNow.

Ofcom has not upheld StarNow’s complaint, made on its behalf by Taylor Wessing, of unjust or unfair treatment in the programme as broadcast.

Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 21 January and 3 February 2019 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
Segodnya	NTV Mir Baltic	03/04/2018	Due impartiality/bias
High et Fines Herbes	Viceland (Belgium)	02/06/2018	Generally accepted standards

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 are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 21 January and 3 February 2019 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
Nightmare Tenants, Slum Landlords	5Select	15/01/2019	Advertising minutage	1
Dirty Tricks (trailer)	5Star	18/01/2019	Animal welfare	1
Dirty Tricks (trailer)	5Star	20/01/2019	Animal welfare	1
The Shocking Truth about Food	5Star	07/01/2019	Materially misleading	1
Broadcast competition	Absolute Radio	10/01/2019	Competitions	1
Premier League Football	BT Sport 1	12/01/2019	Materially misleading	6
BT Sportscore	BT Sport 2	05/01/2019	Race discrimination/offence	1
European Rugby Champions Cup	BT Sport 2	19/01/2019	Generally accepted standards	1
The Breakfast Show	Capital FM	17/01/2019	Race discrimination/offence	1
Channel 4 News	Channel 4	17/01/2019	Due impartiality/bias	1
Channel 4 News	Channel 4	18/01/2019	Due accuracy	1
Channel 4 News	Channel 4	21/01/2019	Due impartiality/bias	1
Channel 4 News	Channel 4	22/01/2019	Due impartiality/bias	3
Channel 4 News	Channel 4	24/01/2019	Due impartiality/bias	3
Channel 4 News Special: The Big Brexit Vote	Channel 4	15/01/2019	Due impartiality/bias	5
Couples Come Dine with Me	Channel 4	28/01/2019	Generally accepted standards	1
Gogglebox: Celebrity Special	Channel 4	18/01/2019	Nudity	1
How to Lose Weight Well	Channel 4	21/01/2019	Harm	1
Hunted	Channel 4	10/01/2019	Privacy	1
Naked Attraction	Channel 4	27/01/2019	Generally accepted standards	1
The Secret Life of Five-Year-Olds	Channel 4	24/01/2019	Under 18s in programmes	1
The Truth about Vegans	Channel 4	02/01/2019	Materially misleading	1

Programme	Service	Transmission Date	Categories	Number of complaints
The Undateables	Channel 4	23/01/2019	Disability discrimination/offence	1
5 News	Channel 5	15/01/2019	Offensive language	1
5 News	Channel 5	24/01/2019	Generally accepted standards	1
Can't Pay? We'll Take It Away!	Channel 5	19/01/2019	Materially misleading	1
Can't Pay? We'll Take It Away!	Channel 5	19/01/2019	Offensive language	1
DHL: Delivering the World To You	Channel 5	13/01/2019	Scheduling	1
Dogs Behaving (Very) Badly	Channel 5	15/01/2019	Materially misleading	1
Dogs Behaving (Very) Badly	Channel 5	26/01/2019	Materially misleading	1
Jeremy Vine	Channel 5	15/01/2019	Age discrimination/offence	2
Jeremy Vine	Channel 5	22/01/2019	Crime and disorder	1
Jeremy Vine	Channel 5	23/01/2019	Due impartiality/bias	1
Jeremy Vine	Channel 5	28/01/2019	Due impartiality/bias	1
Make You Laugh Out Loud	Channel 5	13/01/2019	Under 18s in programmes	1
Neighbours	Channel 5	18/01/2019	Sexual material	1
Our Yorkshire Farm	Channel 5	11/12/2018	Dangerous behaviour	1
Raw Recruits: Squaddies at Sixteen	Channel 5	14/01/2019	Generally accepted standards	2
Shrunken Heads of the Amazon	Channel 5	19/01/2019	Generally accepted standards	1
Ninjago	CITV	08/01/2019	Dangerous behaviour	1
Alan Titchmarsh	Classic FM	21/01/2019	Religious/Beliefs discrimination/offence	1
Channel ident	E4	28/01/2019	Generally accepted standards	1
Charmed	E4	22/01/2019	Generally accepted standards	1
Coach Trip	E4	29/01/2019	Generally accepted standards	1
Programming	Gaydio	26/11/2018	Commercial communications	1
The Good Life	Gold	22/01/2019	Sexual orientation discrimination/offence	1
Global Radio News	Gold Radio	17/01/2019	Due impartiality/bias	1
Toby Anstis	Heart North West	04/01/2019	Offensive language	1
Festival Paul	Hillz FM	17/01/2019	Generally accepted standards	1

Programme	Service	Transmission Date	Categories	Number of complaints
Britain's Top 100 Dogs Live: 2019	ITV	29/01/2019	Animal welfare	1
Britain's Top 100 Dogs Live: 2019	ITV	29/01/2019	Materially misleading	18
Cleaning Up	ITV	30/01/2019	Materially misleading	1
Cold Feet	ITV	21/01/2019	Generally accepted standards	2
Coronation Street	ITV	01/01/2019	Drugs, smoking, solvents or alcohol	1
Coronation Street	ITV	09/01/2019	Generally accepted standards	1
Coronation Street	ITV	11/01/2019	Disability discrimination/offence	1
Coronation Street	ITV	11/01/2019	Generally accepted standards	1
Coronation Street	ITV	11/01/2019	Promotion of products/services	1
Coronation Street	ITV	16/01/2019	Generally accepted standards	1
Coronation Street	ITV	21/01/2019	Generally accepted standards	3
Coronation Street	ITV	23/01/2019	Generally accepted standards	2
Coronation Street	ITV	25/01/2019	Generally accepted standards	1
Dancing on Ice	ITV	13/01/2019	Disability discrimination/offence	23
Dancing on Ice	ITV	20/01/2019	Generally accepted standards	328
Dancing on Ice	ITV	20/01/2019	Nudity	2
Dancing on Ice	ITV	20/01/2019	Voting	1
Dancing on Ice	ITV	27/01/2019	Generally accepted standards	4
Dancing on Ice	ITV	27/01/2019	Sexual material	1
Dancing on Ice	ITV	27/01/2019	Voting	2
Emmerdale	ITV	08/01/2019	Violence	1
Emmerdale	ITV	16/01/2019	Generally accepted standards	1
Emmerdale	ITV	17/01/2019	Generally accepted standards	6
Emmerdale	ITV	18/01/2019	Generally accepted standards	1
Emmerdale	ITV	24/01/2019	Generally accepted standards	1
Good Morning Britain	ITV	07/01/2019	Generally accepted standards	11

Programme	Service	Transmission Date	Categories	Number of complaints
Good Morning Britain	ITV	08/01/2019	Generally accepted standards	1
Good Morning Britain	ITV	08/01/2019	Offensive language	4
Good Morning Britain	ITV	09/01/2019	Generally accepted standards	2
Good Morning Britain	ITV	10/01/2019	Generally accepted standards	1
Good Morning Britain	ITV	14/01/2019	Generally accepted standards	1
Good Morning Britain	ITV	15/01/2019	Competitions	1
Good Morning Britain	ITV	16/01/2019	Gender discrimination/offence	1
Good Morning Britain	ITV	16/01/2019	Generally accepted standards	1
Good Morning Britain	ITV	18/01/2019	Due impartiality/bias	1
Good Morning Britain	ITV	21/01/2019	Generally accepted standards	1
Good Morning Britain	ITV	22/01/2019	Disability discrimination/offence	1
Good Morning Britain	ITV	22/01/2019	Generally accepted standards	3
Good Morning Britain	ITV	24/01/2019	Generally accepted standards	1
Good Morning Britain	ITV	30/01/2019	Race discrimination/offence	1
Grantchester	ITV	10/01/2019	Drugs, smoking, solvents or alcohol	1
HSBC advertisement	ITV	22/01/2019	Political advertising	2
ITV London Tonight	ITV	09/01/2019	Undue prominence	1
ITV News	ITV	26/12/2018	Animal welfare	1
ITV News	ITV	12/01/2019	Due accuracy	1
ITV News	ITV	15/01/2019	Due accuracy	1
ITV News	ITV	17/01/2019	Due impartiality/bias	1
ITV News	ITV	21/01/2019	Due accuracy	1
James Martin's Saturday Morning	ITV	26/01/2019	Animal welfare	1
James Martin's Saturday Morning	ITV	26/01/2019	Promotion of products/services	1
Judge Rinder	ITV	24/01/2019	Generally accepted standards	1
Kindergarten Cop	ITV	28/12/2018	Scheduling	1
Loose Women	ITV	22/01/2019	Gender discrimination/offence	6
Loose Women	ITV	22/01/2019	Generally accepted standards	1

Programme	Service	Transmission Date	Categories	Number of complaints
Loose Women	ITV	25/01/2019	Generally accepted standards	1
Loose Women	ITV	28/01/2019	Generally accepted standards	1
Lorraine	ITV	30/01/2019	Generally accepted standards	105
Lorraine	ITV	30/01/2019	Materially misleading	1
Party Political Broadcast by the Liberal Democrats	ITV	23/01/2019	Due impartiality/bias	1
Pothole Wars	ITV	15/01/2019	Offensive language	1
Programming	ITV	22/01/2019	Competitions	1
The Chase	ITV	22/01/2019	Race discrimination/offence	2
The Jeremy Kyle Show	ITV	25/01/2019	Sexual material	1
The Martin Lewis Money Show	ITV	21/01/2019	Crime and disorder	1
The National Television Awards	ITV	22/01/2019	Disability discrimination/offence	1
The National Television Awards	ITV	22/01/2019	Generally accepted standards	7
The National Television Awards	ITV	22/01/2019	Offensive language	13
The Voice UK	ITV	12/01/2019	Advertising minutage	1
The Voice UK	ITV	19/01/2019	Competitions	1
This Morning	ITV	14/12/2018	Dangerous behaviour	1
This Morning	ITV	14/01/2019	Due impartiality/bias	1
This Morning	ITV	17/01/2019	Harm	1
This Morning	ITV	18/01/2019	Generally accepted standards	4
This Morning	ITV	21/01/2019	Generally accepted standards	2
This Morning	ITV	21/01/2019	Race discrimination/offence	5
This Morning	ITV	22/01/2019	Materially misleading	1
This Morning	ITV	23/01/2019	Generally accepted standards	6
Tipping Point	ITV	10/01/2019	Generally accepted standards	2
Tonight – Food Challenge: Meat v Vegan	ITV	24/01/2019	Due impartiality/bias	1
Vera	ITV	27/01/2019	Materially misleading	1
ITV Granada News	ITV Granada	09/01/2019	Generally accepted standards	1

Programme	Service	Transmission Date	Categories	Number of complaints
ITV News London	ITV London	08/01/2019	Due impartiality/bias	1
118 118's sponsorship of Movies on ITV	ITV2	26/01/2019	Sponsorship credits	1
Advertising minutage	ITV2	07/01/2019	Advertising minutage	1
Celebrity Juice	ITV2	29/01/2019	Nudity	1
Ibiza Weekender	ITV2	13/01/2019	Generally accepted standards	1
You've Been Framed	ITV2	28/01/2019	Generally accepted standards	1
ITV Drama (trailer)	ITV4	25/01/2019	Violence	1
ITV Racing	ITV4	22/12/2018	Disability discrimination/offence	3
The Opening Show	ITV4	19/01/2019	Generally accepted standards	1
Million Dollar Listing New York	ITVBe	25/01/2019	Offensive language	1
Veet's sponsorship of The Only Way Is Essex	ITVBe	15/01/2019	Sponsorship credits	1
Koast Mornings	Koast Radio 106.6 FM	29/01/2019	Generally accepted standards	1
Iain Dale	LBC 97.3 FM	18/12/2018	Generally accepted standards	1
Jacob Rees-Mogg	LBC 97.3 FM	18/01/2019	Due impartiality/bias	1
James O'Brien	LBC 97.3 FM	21/12/2018	Due impartiality/bias	1
James O'Brien	LBC 97.3 FM	15/01/2019	Due impartiality/bias	1
James O'Brien	LBC 97.3 FM	17/01/2019	Disability discrimination/offence	1
James O'Brien	LBC 97.3 FM	21/01/2019	Race discrimination/offence	1
James O'Brien	LBC 97.3 FM	24/01/2019	Generally accepted standards	1
Maajid Nawaz	LBC 97.3 FM	27/01/2019	Religious/Beliefs discrimination/offence	1
Nigel Farage	LBC 97.3 FM	24/01/2019	Crime and disorder	1
Shelagh Fogarty	LBC 97.3 FM	17/01/2019	Due impartiality/bias	1
Shelagh Fogarty	LBC 97.3 FM	17/01/2019	Race discrimination/offence	1
Shelagh Fogarty	LBC 97.3 FM	22/01/2019	Due impartiality/bias	1
Shelagh Fogarty	LBC 97.3 FM	25/01/2019	Generally accepted standards	1
Steve Allen	LBC 97.3 FM	18/12/2018	Generally accepted standards	1
Steve Allen	LBC 97.3 FM	28/12/2018	Gender discrimination/offence	1
Programming	Link FM Sheffield	31/12/2018	Materially misleading	1

Programme	Service	Transmission Date	Categories	Number of complaints
Car SOS (trailer)	More 4	20/01/2019	Offensive language	1
Geordie Shore	MTV	14/12/2018	Generally accepted standards	1
The Official Top 40 Singles of 2018	MTV Hits	28/12/2018	Violence	1
The Home Run with Ryan A	Q Radio Newry and Mourne	13/11/2018	Due accuracy	1
2019 BDO World Darts Championship	Quest	13/01/2019	Generally accepted standards	1
Space Jam	Sky Family	22/01/2019	Generally accepted standards	1
Adam Boulton	Sky News	17/01/2019	Due impartiality/bias	1
All Out Politics	Sky News	15/01/2019	Due impartiality/bias	1
All Out Politics	Sky News	18/01/2019	Due impartiality/bias	1
All Out Politics	Sky News	21/01/2019	Generally accepted standards	1
Kay Burley	Sky News	15/01/2019	Due impartiality/bias	1
Politics Live	Sky News	18/01/2019	Due impartiality/bias	1
Sky News	Sky News	07/08/2018	Generally accepted standards	1
Sky News	Sky News	27/09/2018	Due impartiality/bias	1
Sky News	Sky News	19/11/2018	Due impartiality/bias	1
Sky News	Sky News	09/01/2019	Generally accepted standards	1
Sky News	Sky News	09/01/2019	Race discrimination/offence	1
Sky News	Sky News	18/01/2019	Due impartiality/bias	2
Sky News	Sky News	21/01/2019	Due impartiality/bias	1
Sky News	Sky News	23/01/2019	Due impartiality/bias	1
Sky News	Sky News	24/01/2019	Generally accepted standards	1
Sky News	Sky News	24/01/2019	Race discrimination/offence	1
Sky News	Sky News	25/01/2019	Due impartiality/bias	1
Sky News	Sky News	26/01/2019	Religious/Beliefs discrimination/offence	1
Sky News	Sky News	28/01/2019	Generally accepted standards	1
Sky News	Sky News	30/01/2019	Materially misleading	1
Sky News Tonight	Sky News	16/01/2019	Due accuracy	1
Sky World News	Sky News	21/12/2018	Due impartiality/bias	1
Sunrise	Sky News	24/01/2019	Due impartiality/bias	1
The Pledge	Sky News	26/01/2019	Generally accepted standards	1

Programme	Service	Transmission Date	Categories	Number of complaints
Sky Sports Super Sunday	Sky Sports Main Event	23/12/2018	Materially misleading	5
A League of Their Own	Sky1	24/01/2019	Generally accepted standards	1
NCIS: Los Angeles	Sky1	24/01/2019	Religious/Beliefs discrimination/offence	1
Stranger Than Fiction	Sony Movie Channel	10/12/2018	Offensive language	1
Welcome to my World	Soundart Radio	16/01/2019	Generally accepted standards	2
Alan Brazil Sports Breakfast	Talksport	20/12/2018	Due impartiality/bias	1
Alan Brazil Sports Breakfast	Talksport	11/01/2019	Generally accepted standards	1
Matchday Live	Talksport	29/12/2018	Commercial communications on radio	1
The Two Mikes	Talksport	18/01/2019	Generally accepted standards	1
News Room	TV ONE	01/01/2019	Due impartiality/bias	1
Catastrophe (trailer)	Various	Various	Generally accepted standards	23
Oak Furnitureland's sponsorship of Winter Entertainment on W	W	22/01/2019	Sponsorship credits	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 News	BBC 1	20/01/2019	Generally accepted standards	1
Question Time	BBC 1	15/11/2018	Due impartiality/bias	1
Question Time	BBC 1	15/11/2018	Generally accepted standards	1
The Andrew Marr Show	BBC 1	02/12/2018	Race discrimination/offence	1
Daily Politics	BBC 2	14/12/2018	Due accuracy	1
Newsnight	BBC 2	25/06/2018	Due impartiality/bias	1

Programme	Service	Transmission Date	Categories	Number of complaints
BBC News	BBC News Channel	26/11/2018	Due impartiality/bias	1
Today	BBC Radio 4	10/04/2018	Due accuracy	1
Reporting Scotland / Good Morning Scotland	BBC Scotland	19/09/2018	Due accuracy	1
BBC News	BBC World News	21/01/2019	Due impartiality/bias	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 21 January and 3 February 2019 because they did not raise issues warranting investigation.

Licensee	Licensed service	Categories	Number of complaints
Made in Birmingham Ltd	Birmingham TV	Programming Commitments (local TV)	1

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 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.

Programme	Service	Transmission Date	Categories	Number of complaints
Advertisement	5Star	08/01/2019	Advertising content	1
Babestation	Babestation	17/01/2019	Outside of remit	1
Programming	Capital Gold	03/01/2019	Other	1
Advertisement	Channel 4	22/01/2019	Advertising content	1
Celebrity Coach Trip	Channel 4	24/01/2019	Outside of remit	1
Advertisement	DMAX	25/01/2019	Advertising content	1
Advertisement	E4	23/01/2019	Advertising content	1
Celebrity Coach Trip	E4	21/01/2019	Outside of remit	1
Celebrity Coach Trip	E4	23/01/2019	Outside of remit	1
Advertisement	FM 106.1	11/01/2019	Advertising content	1
Teleshopping	Ideal World	06/01/2019	Teleshopping	1
Advertisement	ITV	08/01/2019	Advertising content	1
Advertisement	ITV	10/01/2019	Advertising content	1
Advertisement	ITV	23/01/2019	Advertising content	2
Advertisement	ITV	24/01/2019	Advertising content	1
Advertisement	ITV	28/01/2019	Advertising content	1
Advertisement	ITV	30/01/2019	Advertising content	1
Advertisement	ITV	31/01/2019	Advertising content	1
Emmerdale	ITV	18/01/2019	Outside of remit	1
Good Morning Britain	ITV	15/01/2019	Advertising content	1
ITV News	ITV	22/01/2019	Outside of remit	1
Programming	ITV	16/01/2019	Advertising content	1
The National	ITV	22/01/2019	Outside of remit	1
Television Awards				
The Voice UK	ITV	12/01/2019	Outside of remit	1
Advertisement	ITV2	28/01/2019	Advertising content	1
ITV Big Fight Live: Pacquiao v Broner	ITV4	20/01/2019	Outside of remit	1
Teleshopping	Jewellery Maker	06/01/2019	Teleshopping	1
Hijacked	Movies4Men	29/01/2019	Outside of remit	1
Programming	n/a	01/01/2019	Outside of remit	1
Programming	n/a	19/01/2019	Outside of remit	1
Root Cause	Netflix	25/01/2019	Materially misleading	1
Advertisement	Planet Rock	31/12/2018	Advertising content	1
Advertisement	Quest	31/01/2019	Advertising content	1
Programming	Rother FM	Various	Other	1
Advertisement	STV	23/01/2019	Advertising content	1
Advertisement	Various	29/01/2019	Advertising content	1
Advertisement	W	18/01/2019	Advertising content	1

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>

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	04/01/2019	Due impartiality/bias	1
BBC News	BBC 1	18/01/2019	Due impartiality/bias	1
BBC News	BBC 1	18/01/2019	Product placement	1
BBC News	BBC 1	21/01/2019	Due impartiality/bias	1
BBC News	BBC 1	22/01/2019	Flashing images/risk to viewers who have PSE	1
Call the Midwife	BBC 1	10/01/2019	Drugs, smoking, solvents or alcohol	1
Countryfile	BBC 1	20/01/2019	Generally accepted standards	1
Countryfile	BBC 1	27/01/2019	Crime and disorder	1
Danny Dyer's Right Royal Family	BBC 1	23/01/2019	Offensive language	1
EastEnders	BBC 1	17/01/2019	Drugs, smoking, solvents or alcohol	1
EastEnders	BBC 1	18/01/2019	Generally accepted standards	2
EastEnders	BBC 1	24/01/2019	Offensive language	1
EastEnders	BBC 1	28/01/2019	Generally accepted standards	1
FA Cup: Millwall v Everton	BBC 1	26/01/2019	Offensive language	1
Inside Out	BBC 1	28/01/2019	Generally accepted standards	1
Panorama	BBC 1	22/11/2018	Due impartiality/bias	1
Panorama	BBC 1	21/01/2019	Due impartiality/bias	1
Party Political Broadcast by the Liberal Democrats	BBC 1	23/01/2019	Due impartiality/bias	1
Question Time	BBC 1	13/12/2018	Due impartiality/bias	1
Question Time	BBC 1	17/01/2019	Due impartiality/bias	2
Question Time	BBC 1	17/01/2019	Generally accepted standards	70

Programme	Service	Transmission or Accessed Date	Categories	Number of Complaints
The ABC Murders	BBC 1	26/12/2018	Generally accepted standards	1
The Big Question	BBC 1	27/01/2019	Generally accepted standards	1
This Week	BBC 1	10/01/2019	Generally accepted standards	1
This Week	BBC 1	31/01/2019	Generally accepted standards	1
Anthony Gormley on Ancient Art	BBC 2	26/01/2019	Generally accepted standards	1
Down the Mighty River with Steve Backshall	BBC 2	20/01/2019	Animal welfare	1
Masters Snooker	BBC 2	20/01/2019	Animal welfare	1
Newsnight	BBC 2	18/01/2019	Due impartiality/bias	1
Programming	BBC channels	01/01/2019	Due impartiality/bias	1
BBC News	BBC News Channel	25/01/2019	Race discrimination/offence	1
Programming	BBC News Channel	Various	Due impartiality/bias	1
1Xtra Rap Show	BBC Radio 1Xtra	04/01/2019	Generally accepted standards	1
The Breakfast Show	BBC Radio 1Xtra	17/01/2019	Due accuracy	1
BBC News	BBC Radio 2	22/01/2019	Due impartiality/bias	1
Jeremy Vine	BBC Radio 2	21/01/2019	Due impartiality/bias	1
The Zoe Ball Breakfast Show	BBC Radio 2	15/01/2019	Dangerous behaviour	1
BBC News	BBC Radio 4	05/11/2018	Generally accepted standards	1
Today	BBC Radio 4	14/12/2018	Generally accepted standards	1
Today	BBC Radio 4	22/01/2019	Due impartiality/bias	1
World at One	BBC Radio 4	24/01/2019	Due impartiality/bias	1
Question Time Extra Time	BBC Radio 5 Live	24/01/2019	Race discrimination/offence	1
Question Time Extra Time	BBC Radio 5 Live	25/01/2019	Offensive language	1
Programming	BBC World	01/12/2018	Race discrimination/offence	1
Programming	Various	23/01/2019	Due impartiality/bias	1
Programming	Various	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 21 January and 3 February 2019.

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

Programme	Service	Transmission date
Jeremy Vine	Channel 5	28/01/2019
Maajid Nawaz	LBC 97.3FM	02/12/2018
The Final Destination	Viasat 3	04/08/2018

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

Investigations launched under the Procedures for the consideration and adjudication of Fairness and Privacy complaints

Programme	Service	Transmission date
Albania Trafficking: Britain's Hidden Victims	Sky News	19/11/2018

For more information about how Ofcom considers and adjudicates upon Fairness and Privacy complaints about television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0031/57388/fairness-privacy-complaints.pdf

Investigations launched under the General Procedures for investigating breaches of broadcast licences

Licensee	Licensed Service
Al Jazeera Media Network	Al Jazeera

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

https://www.ofcom.org.uk/_data/assets/pdf_file/0019/31942/general-procedures.pdf