[GB] High Court overturns Ofcom’s decisions on breach of due impartiality rules

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In *R (GB News Ltd) v. Ofcom* [2025] EWHC 460 (Admin), High Court judge Collins Rice allowed GB News judicial review by quashing two decisions reached by Ofcom that had assessed the broadcaster to have breached Rules 5.1 and 5.3 of the Broadcasting Code.

GB News is a UK free-to-air TV and radio news channel. One of GB News' distinct characteristics is that it hires prominent politicians to host current affairs programmes including former Conservative government minister, now Sir Jacob Rees-Mogg (Rees-Mogg).

Previously, Ofcom had assessed two broadcasts of *Jacob Rees-Mogg’s State of the Nation*, hosted by Rees-Mogg (then a sitting MP). In the first, Rees-Mogg read a short announcement of the verdict in the civil rape trial of Donald Trump; in the second, Rees-Mogg conducted a short live interview with a correspondent obtaining an update about a series of murders in Nottingham. Ofcom found breaches of both Rules 5.1 and 5.3 on the basis that Rees-Mogg, as a politician, had acted as a newsreader in a news programme contrary to Rule 5.3, and that because Rees-Mogg was a politician there was an inherent breach of the requirement in Rule 5.1 that news be reported with due impartiality.

Ofcom’s Broadcasting Code requires that news, in whatever form, must be presented with due impartiality. Further, a politician cannot be a newsreader, news interviewer or news reporter unless, exceptionally, there is editorial justification.

Rule 5.1 says: “News, in whatever form, must be ... presented with due impartiality”, whilst Rule 5.3 states that “No politician may be used as a newsreader, interviewer or reporter in any news programmes unless, exceptionally, it is editorially justified. In that case, the political allegiance of that person must be made clear to the audience.” Section 319 of the Communications Act 2003 specifically requires that “news is presented with due impartiality”.

High Court judge Collins Rice J held that Ofcom had erred in its interpretation of the code, contrary to the language of the rules. Rees-Mogg’s programme was a current affairs programme and not a news programme, and Ofcom was not entitled to treat a programme as being both a news and a current affairs

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programme; there was, accordingly, no breach of Rule 5.3. The judge's decision included an analysis as to what constituted a news programme compared to current affairs.

Furthermore, although a person reading or reporting news being a politician was relevant to whether it had been reported with due impartiality, Ofcom was wrong in law to find that that was sufficient in and of itself; due impartiality required, under Rule 5.1, an assessment of the full context. The judge did not consider a politician reading a particular news story would of itself constitute a breach of due impartiality rules. Whether there was a breach of due impartiality rules, would have to be looked at on a case-by-case basis by the regulator and in the full context of the facts.

The judge further observed that section 319 (1) of the Broadcasting Act placed a duty on Ofcom not just to set, but from time to time to review and revise the Broadcasting Code.

Subsequent to the judgment, Ofcom released a note to broadcasters saying their decisions against the Jacob Rees-Mogg programme dated 18 March 2024 would be removed from GB News' compliance record as well as from its Broadcast and On-Demand Bulletin albeit adding a footnote to the relevant webpage explaining that the decisions were withdrawn but can still be accessed for information.

Also, Ofcom is withdrawing six open investigations involving politicians acting as presenters being investigated under Rules 5.1 and 5.3. Further, Ofcom will now embark upon a review of Rule 5.3 and consult on proposed changes to restrict politicians from presenting any type of programme, and for the moment broadcasters should rely upon Interim Guidance entitled "Note to Broadcasters – Politicians as newsreaders, interviewers and reporters".

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