

[GB] `Make Poverty History' Advertisements Breach Rules against Political Advertising

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*Tony Prosser
University of Bristol Law School*

Under the Communications Act 2003, Ofcom (the British communications regulator) has the duty to ensure that advertising complies with the provisions of the Act. Section 319(2)(g) of the Act prohibits political advertising, which is defined as 'an advertisement which is inserted by or on behalf of a body whose objects are wholly or mainly of a political nature' or 'an advertisement which is directed towards a political end' (s. 321(2)). Political objects and ends are further defined as including 'influencing the policies or decisions of local, regional or national governments...' (s. 321(3)(e)). The previous provisions in earlier legislation were interpreted broadly by the courts (*R v Radio Authority, ex parte Bull* [1995] 4 All ER 481). The provisions are also included in Ofcom's TV and Radio Advertising Standards Codes.

Television and radio advertisements had been broadcast for 'Make Poverty History', directing viewers and listeners to a website. This encouraged them to lobby the Prime Minister and Government directly to make combating world poverty a high priority on their political agenda. After the advertisements had been broadcast, Ofcom decided to investigate whether there had been a breach of the rules.

Ofcom decided that 'Make Poverty History' aims, according to its website, at influencing policies relating to trade, debt and aid; that these cannot be reasonably described as objectives which are not political in nature; and that the objects in its manifesto are clearly political in nature. Therefore it is a body whose objects are wholly or mainly of a political nature and it is prohibited from advertising.

The advertisements themselves called viewers and listeners to visit the 'Make Poverty History' website, which is fundamentally concerned with lobbying and campaigning objectives. Therefore they also breach the prohibition of advertisements 'directed towards a political end'.

Some broadcasters had run the advertisements in non-commercial airtime as promotions rather than as advertisements. However, no evidence had been produced that 'Make Poverty History' had charitable status, so they did not constitute charitable appeals outside the advertising rules. Nor was it a programme promotion or trailer, so the broadcasts could not benefit from the

provisions in the television code permitting such promotions as distinct from advertising.

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http://www.ofcom.org.uk/tv/obb/prog_cb/pcb52/issue43a.pdf

