[GB] Regulator Fines Broadcaster Following Abuse of Premium-Rate Phone Competitions

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The Office of Communications (Ofcom), the British communications regulator, has imposed a fine of GBP 2 million (approx. EUR 3 million) on GMTV, the commercial public service breakfast-time broadcaster. The fine is for its serious failure to ensure compliance with Ofcom's codes on premium-rate phone competitions between 2003 and 2007.

From 2003 GMTV employed the telecommunications operator, Opera, to manage the competition entry systems and to provide telecommunications services. After complaints and an investigation carried out in a programme by the BBC, Ofcom found that there had been four types of misconduct; "early selection" by which competition finalists were decided up to three hours before phone lines closed (between 2003 and 2005); the "15/5 method" by which fifteen out of twenty finalists were selected before lines closed; "final five" by which the final five were selected up to three minutes before lines closed, and "early selection" under which finalists were selected an hour before lines closed (between 2005 and 2007). The effect was to disenfranchise those who had entered the competition after the closure, but at the same time their entries were still accepted. In the period of the investigation, 62 million entries had been made to the various competitions, of which 25 million might be eligible for refunds due to the early selection procedure. The broadcaster had earned GBP 63.6 million worth of revenues from the competitions during the period investigated.

The deception had been carried out by Opera; however, Ofcom decided that the failure of GMTV to operate any reasonable compliance procedure, verification, oversight or management of the arrangements over four years amounted to gross negligence. It was in breach of the provisions in Ofcom's Programme Code and Broadcasting Code requiring that the broadcaster must retain control of, and responsibility for, the service offered (including all content) and that competitions must be conducted fairly.

In view of the seriousness of the breaches, Ofcom imposed a fine of GBP 2 million on the broadcaster (equal to the highest fine previously imposed, which had involved deceptive practises in programme making). The fine would have been even higher had GMTV not taken a number of steps including: the resignation of its Managing Director and its Head of Competitions; and organising and

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publicising refunds.

In separate proceedings, Opera was fined a record GBP 250,000 by ICSTIS, the regulator of premium phone services.

Ofcom Content Sanctions Committee, "Consideration of Sanction Against GMTV in Respect of its Service the National Channel 3 Service", of 29 September 2007

http://www.ofcom.org.uk/tv/obb/ocsc_adjud/gmtv.pdf

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