[GB] Regulator Imposes Record Fine on BBC for Offensive Material on the Russell Brand Show

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Ofcom, the UK communications regulator, has imposed a record fine of GBP 150,000 on the BBC for the broadcast of offensive material, invasion of privacy and failures of compliance, in relation to the "Russell Brand Show" broadcast on the radio. The presenters of the pre-recorded show had made offensive phone calls to the answerphone of a distinguished actor, claiming that one presenter, Russell Brand, had had a sexual relationship with the actor's granddaughter; this was broadcast with further reference to the sexual relationship. After a newspaper campaign, Ofcom received almost 2,000 complaints and the BBC almost 43,000.

Ofcom found that the radio series had been turned into an independent production by a company co-owned by Russell Brand. The executive producer was a senior figure at the agency which represents the presenter; the BBC did not appoint its own executive producer or similar senior editorial figure to oversee the series and the producer who actually oversaw the programme was loaned by the BBC to work for the production company. Thus, although it was a high-risk programme, part of its risk management had been ceded to those working for the presenter; according to Ofcom, it would appear that the interests of the presenter had been given greater priority than those of the BBC's risk management systems.

There had been six flaws in the BBC compliance systems for the programme. There was a lack of clarity about the exact role of the senior figure from the agency representing the presenter acting as executive producer; the executive producer had not attended a BBC compliance course, despite this being a condition of the production contract, and compliance forms had not been signed off, despite this being another contractual obligation. There had been no proactive testing and insufficient monitoring of the BBC compliance systems after the series became an independent production; there was an unacceptable conflict of interest for the producer in charge of the series seconded on a part-time basis to the independent production company and a lack of clarity at the BBC about who had "hands-on" editorial oversight of the series. In addition, there had been further very serious problems of compliance in this case, including the failure to obtain the informed consent of the actor or his granddaughter and the failure of any BBC manager to listen to the programme before it was broadcast.

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Ofcom found that the broadcast material breached rules 2.1 and 2.3 of its Broadcasting Code covering offensive material; the breach had been particularly serious as the material was “exceptionally offensive, humiliating and demeaning”. There had also been serious breaches of rule 8.1 on privacy, where there was no justification for gross breaches. The BBC was fined GBP 70,000 for breaches of the rules on offence and GBP 80,000 for breach of the rule on privacy.

Ofcom, “Ofcom fines BBC £150,000 over Russell Brand show”, 3 April 2009

http://www.ofcom.org.uk/media/features/brandfine

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