[GB] Ofcom Decision on Biditis Ltd

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On 22 February 2013 Ofcom (Office of Communications), the UK broadcasting regulator, published its decision to fine broadcasting Licensee Biditis Ltd GBP 30,000 for a number of breaches of the Broadcasting Code.

The case concerns the activities of Al-Alamia TV, owned by the licensee Biditis Ltd, which is a satellite broadcaster based in London and broadcasting at various times to southern Europe and the Middle-East. Al-Alamia hosted a beauty contest, Miss Arab London 2011 and broadcast an accompanying television series of the same name on 7, 14, 21, and 29 October 2011. The breaches of the Broadcasting Code arose from this programme. The broadcast was responsible for breaches of rules 2.13 and 2.14 relating to phone and text voting for the results of the contest, and also 9.4, 9.5, 9.8, 9.9, 9.10 and 9.14 concerning various instances of product placement.

As regards the phone and text voting, a number of errors had been made by the television company around the correlation of votes and the timing of the invitation to vote, which meant viewers had been substantially misled. Biditis admitted that despite the telephony voting being through PRS (premium rate services) it lacked the third party verification required by Ofcom, under the broadcaster's Licence Conditions, in order to operate a premium rate service. The Licensee is given a broad scope to implement such a verification system within the outlines of Ofcom's Licence Condition 6(A)(3)(b).

Concerning the instances of product placement, the Miss Arab London 2011 series had involved four businesses that were shown during the programme and were visited by the contestants in pre-recorded segments. Despite the fact that the businesses were all listed as sponsors of the series, thus making them subject to Ofcom's product placement rules, there was no indication of this. The Broadcasting Code requires a neutral logo at the beginning, end, and after each commercial break to indicate to viewers that product placement is taking place during the programme. Al-Alamia had failed to include the required product placement logo at appropriate times to satisfy said rules. Additionally, the Licensee failed to demonstrate the editorial necessity of the inclusion of the businesses in the series, and Ofcom found that the commercial references appeared to significantly influence the programme content and compromised the broadcaster's editorial independence.

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The Licensee, Biditis Ltd, accepted the substance of the regulator's conclusions in each instance but argued in its representation that the fine of £30,000 was disproportionate to the seriousness of the breaches and the harm caused to the viewers. Ofcom disagreed, citing a number of factors in its justification of the penalty, including the seriousness of the breach, the resultant profit for the Licensee, the duration/frequency of violations, any steps to prevent or remedy the breaches, and that the proportionality of the fine related to the size/turnover of the Licensee. Ofcom pointed to a number of precedents where broadcasters had fines imposed along a similar scale for breaches of proportionate magnitude. These included a £275,000 fine imposed upon ITV2 Ltd for violations relating to telephone voting, and a £100,000 sanction of Life Media Limited for breaches of the product placement rules.

Notice of Sanction: Miss Arab London 2011 Al-Alamia TV, 7, 14, 21 and 29 October 2011. Ofcom Broadcast Bulletin, Issue 2254 March 2013

https://www.ofcom.org.uk/siteassets/resources/documents/about-ofcom/bulletins/broadcast-bulletins/archive/obb225/obb225.pdf?v=332454

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