[GB] Ofcom Considers Broadcast of Material as Potentially Harmful and Unfair

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Ofcom's decision of 23 October 2013, considered that material broadcast on ITV's daytime programme 'This Morning' constituted unjust and unfair treatment by revealing a person's identity, and not giving the person a right of reply.

One of Ofcom's duties under section 3(2)(e) of the Communications Act 2003 (The Act) is to ensure that programmes broadcast on television adequately protect the public from the inclusion of offensive and harmful material. Also, under section 3(2)(f) of the Act there is a duty to protect persons from (i) unfair treatment in programmes included in a TV broadcast; and (ii) unwarranted infringements of privacy resulting from the activities relating to a TV broadcast.

Ofcom's responsibilities under the Act are implemented through the Broadcasting Code ("the Code"). Rule 2.1 of the Code states that "Generally accepted standards must be applied to the contents of television ....so as to provide adequate protection for members of the public from the inclusion in such services of harmful and /or offensive material".

Rule 7.1 states that "Broadcasters must avoid unjust and unfair treatment of individuals or organisations in programmes."

On 8 November 2012, 'This Morning' ran a feature about child sex abuse allegations against people in public office, and included the Prime Minister, David Cameron, being interviewed by the programme's presenter Philip Schofield who presented the Prime Minister with a list of names of persons who had been identified from a search of social media suggesting that they may be implicated in child sex abuse. The names were written on a piece of card and handed by Mr Schofield to Mr Cameron. Inadvertently, the card was caught on camera so the names could be seen although they were not legible.

On 2 November 2012, the public sector broadcaster BBC on its flagship news programme had a feature suggesting that a "leading Conservative figure from the (Margaret) Thatcher years" had been involved in sex allegations at a children's care home. Although not specifically named, Lord McAlpine, who had been a leading member of the Conservative Party, was wrongly suggested to be the person guilty of the offence arising from speculation on social media sites. The allegations against him were false. This Morning fuelled the speculation about

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Lord McAlpine by identifying named parties from social media sites.

Once it was apparent that Lord McAlpine was innocent, ITV and BBC issued apologies.

Whilst it was very unlikely that any member of the public would take offence about the interview with Mr Cameron, the presentation of the card to him was sensationalist. Also, the questions asked linked Lord McAlpine to the sex abuse allegations, especially following BBC's Newsnight feature. ITV's presentation was based on cursory internet research and Lord McAlpine was not afforded a right of reply, contrary to good editorial practice, and constituted a breach of Rule 2.1 of the Code. Ofcom considered that there had been a breach of Rule 7.1 of the Code whereby a broadcaster must satisfy themselves that material facts have not been presented, disregarded or omitted in a manner unfair to a person or organisation. ITV presented the facts as if Lord McAlpine were on the list of alleged sex offenders and that speculation had been dressed as fact; this was potentially harmful to Lord McAlpine and also unfair as he had no right of reply.

Apart from having the Ofcom decision upheld, Lord McAlpine awarded £125,000.00 libel damages against ITV.

Ofcom's decision concerning ITV's This Morning - Ofcom Broadcast Bulletin Issue 240, page 22

http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb240/obb240.pdf

Ofcom's decision about BBC2's Newsnight- Ofcom Broadcast Bulletin Issue 240, page 48

http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb240/obb240.pdf

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