# [GB] BBC in breach of code for inappropriate scheduling of current affairs documentary

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In a decision published on 3 March 2014, Ofcom found that public sector broadcaster, the British Broadcasting Corporation (BBC), had breached the Ofcom Rules 1.3 and 2.3; namely inappropriate scheduling and a risk of being seen by children, and containing potentially offensive material, by broadcasting a current affairs programme depicting graphic scenes of physical and sexual violence arising during the Sri Lankan Civil War. Under the Ofcom Broadcasting Code.:

Rule 1.3 states: “Children must be protected by appropriate scheduling from material that is unsuitable for them”;

Rule 2.3 states; “In applying generally accepted standards broadcasters must ensure that the material which may cause offence is justified by the context... Appropriate information should also be broadcast where it would assist in avoiding or minimising offence”.

Both the above rules are a consequence of Ofcom’s statutory duty pursuant to the Communications Act 2003 whereby the body has an obligation to set standards for broadcast content as appears to be best calculated to secure their standard objectives including that “persons under the age of eighteen are protected and that generally accepted standards are applied so as to provide adequate protection for members of the public from the inclusion of offensive and harmful material.”

When considering the complaint, Ofcom took into account the broadcasters right to freedom of expression which gives the broadcaster a right to transmit, and the audience a right to receive creative material, information and ideas without interference from a public body, but subject to restrictions prescribed by law and necessary in a democratic society in accordance with Article 10 of the European Convention on Human Rights.

On the weekend of the 9th and 10th November 2013, the BBC, on its 24 Hours News Channel broadcast a documentary entitled “Our World - Sri Lanka’s Unfinished War”. The documentary concerned human rights abuses that have allegedly occurred since 2009, during the Sri Lankan Civil War between the country’s government and the Liberation Tigers of Tiger Ealam (LTTE). The documentary contained various harrowing accounts of what had happened to

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men and women who were allegedly tortured, raped and sexually abused by Sri Lankan Government forces. The programmes showed images of dead people, naked women, albeit with their genitalia masked on screen, plus scars from torture wounds. Apart from the visual imagery various witnesses gave interviews describing the alleged gruesome and disturbing physical and sexual attacks.

The documentary had been initially broadcast on the 24 hour BBC News Channel in a post watershed time slot; the Ofcom code defines this as “The watershed only applies to television. The watershed is at 2100 (hours). Material unsuitable for children should not in general, be shown before 2100 or after 0530”.

A repeat of the programme was broadcast simultaneously at 0530 hours on a Saturday morning on both BBC News Channel, and on BBC1 which is one of the BBC’s mainstream terrestrial channels.

Prior to screening the broadcaster gave a warning to viewers saying that the programme contained “very graphic images and language which some viewers may find distressing”

Although it was early in the morning, and one of the broadcasts was on a news channel, Ofcom considered that the graphic nature of the violence depicted was such that the viewer would not normally expect to see at that time of day. Further, whilst younger audiences were less likely to watch a news channel, nevertheless, a risk existed. Official viewing records showed that at that time of morning there was a very low child audience. In relation to the simultaneous broadcast on BBC1, however, the risks of younger audiences seeing the material increased, and it was not the sort of material one would expect to see at that time of day. The BBC admitted in its submissions to Ofcom that that particular screening was a “significant schedule error”. Ofcom, therefore, concluded that there had been a breach of Rule 1.3 of their Code.

Ofcom also found a breach of Rule 2.3. The material was offensive and in a different time slot, and with suitable warnings, the broadcaster would have justification in showing such a programme. However, despite the warnings ahead of screening Ofcom considered that there was no justification in showing potentially offensive material at 0530 in the morning; especially as there was a risk of children watching at that time of day. Warnings by the broadcaster alone were not sufficient to justify a screening at that time.

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http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb249/obb249.pdf

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