[GB] Ofcom determines when factual TV becomes promotional and gives undue prominence to a business's service

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In its decision of 28 July 2014, Ofcom, considered that ATN Bangla's programme 'Business Talk with Sufi' had breached the Code of Conduct by using a factual current affairs programme for promotional purposes, as well giving undue prominence to the services of a restaurant being depicted in the programme without editorial justification for such detail.

Pursuant to the Communications Act 2003, Ofcom has a statutory duty to set the standards for broadcast content for radio and TV, and this includes ensuring compliance with the Audiovisual Media Services (AVMS) Directive which sets out the EU standards for advertising on TV and radio services. The AVMS Directive is reflected in Section Nine of Ofcom's Broadcasting Code.

Ofcom's guidance on Rule 9.4 of the Broadcasting Code states: "In general, products or services should not be referred to using favourable or superlative language and prices and availability should not be discussed"

Guidance on Rule 9.5 of the Code states: "Whether a product, service or trade mark appears in a programme for solely editorial reasons...or as a result of a commercial arrangement between the broadcaster or producer and a third-party funder...there must be editorial justification for its inclusion. The level of prominence given to a product, service or trade mark will be judged against the editorial context in which the reference appears."

ATN Bangla, owned by ATN Bangla UK Limited, is a news and general entertainment channel serving the British Bangladeshi Audience. Its programme, 'Business Talk with Sufi' depicts successful Bangladeshi businesses in the UK and the 8th April 2014 broadcast concentrated on a London restaurant called Riverside Lounge.

The owners of the Riverside Lounge made various comments during the broadcast about the restaurant including: "The charge is £13.99. You can eat as much as you want without drink. You need to purchase drink as a separate item. But we give 25% discount, so it is £10.50 and we also give discount in drink..."

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Another comment made by the owners was: “Please come between Monday-Thursday and we will give you 25% discount. It will be on all items.”

There was a phone in-section during the broadcast and most of the callers gave praiseworthy references about the restaurant. Two of the callers were another director of the Riverside Lounge and a representative of ATN.

The presenter, Sufi, did try to encourage critical comment and there was some criticism of the car-parking facilities and the cost of drinks.

The restaurant owners did use some of the airtime to speak about the difficulty of setting up a restaurant and the reality of not making money in the first year, including the need to have good cash provision.

However, Ofcom considered that the predominant feature of the programme was that in respect of Rule 9.4 of the Ofcom rules, the broadcaster had breached the rules as most of the content was promotional, highlighting the services and prices of the restaurant, as opposed to an objective analysis of setting-up and running a successful business.

Ofcom further decided that ATN Bangla had also breached Rule 9.5 by allowing too much prominence to the services of the restaurant without editorial justification. The editorial justification had to be looked at in the overall context in which the references to services are made. Whilst Ofcom recognised that the programme was focusing on successful businesses, and that some reference had to be made as to what the business did and how it did it, the overall content of this particular programme was biased towards promoting or advertising the services and the quality of the restaurant for instance - “You can eat as much as you want. Many families come and they really enjoy it. We have Mr Naga within the sauces. Four, five tins of Mr Nagas finish in a day.”

Ofcom also took account of the fact that there had been previous breaches of Rules 9.4 and 9.5 by ATN Bangla and sought a meeting with the channel to discuss compliance procedures.

Ofcom broadcast bulletin, “Business Talk with Sufi”, Issue 259, 28 July 2014, p.26

http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb25711/obb259.pdf

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