[GB] RT breaches impartiality rules over election coverage

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Ofcom has determined that the news channel RT (formerly known as Russia Today) breached the rules relating to impartiality of election coverage. RT had broadcast a projected election outcome of the United Kingdom for the European Parliamentary elections once the polling stations had opened, in breach of the Ofcom Code.

RT is produced in Russia and is broadcast on satellite and digital terrestrial platforms in the UK. The licence for RT is held by the autonomous non-profit organisation TV Novosti. Under the Communication Act 2003, Ofcom has a statutory duty to set broadcasting standards, including section 320, which requires impartiality. This requirement is reflected generally in section five of the Ofcom Code and more specifically for election coverage at section six of the Code, reflecting the Representation of People Act 1983 (as amended).

Ofcom's Guidance to Section Six (Elections and Referendums) of the Code states that there is no obligation on broadcasters to provide any election coverage. However, if broadcasters choose to cover election campaigns then they must comply with the rules set out in section six of the Code.

Rule 6.4 of the Code states: "Discussion and analysis of election and referendum issues must finish when the poll opens. (This refers to the opening of actual polling stations. This rule does not apply to any poll conducted entirely by post.)"

Rule 6.5 states: "Broadcasters may not publish the results of any opinion poll on polling day itself until the election or referendum poll closes. (For European Parliamentary elections, this applies until all polls throughout the European Union have closed.)" Under section six, the meaning of election includes European Parliamentary elections.

On the 22 May 2014, RT broadcast at 7.00am, just as the polling stations were opening in the UK, the following:

"The UK Independence Party takes a narrow lead in the final opinion polls ahead of the EU Parliamentary election, with Britain's traditional political powers resorting to a smear campaign to battle their new opponent."

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At 7.10am during the same broadcast RT aired the following:

“Meanwhile today, UK citizens will be given the chance to have their say over who will represent them in the European Parliament. Opinion polls have outlined there’s likely to be a neck-and-neck race with the very latest giving the UK Independence Party a narrow lead. However, the traditional titans of British politics aren’t taking the battle lying down.”

This statement was made against a backdrop of a graphic depiction of an opinion poll expressed in percentages showing that the UK Independence Party (UKIP) - an anti-European party - was taking a lead in the polls.

TV Novosti realised that there had been an inadvertent breach of the Ofcom rules and immediately reported the error to Ofcom. Further, they ensured that future editions of the bulletin did not include the references made at 7am or 7.10am. TV Novosti also introduced procedures to ensure against a repetition of such a breach. Whilst stating that given the hour of the day a relatively small number of people would have seen the broadcast, TV Novosti did however recognise that the broadcast content at 7am and 7.10am was a breach of the code, and there was a risk it could influence voters yet to vote on their voting decision.

Ofcom determined that rule 6.4 clearly forbade discussion of election issues whilst the voting was in progress- 7am to 10pm in the UK. As such the 7am and 7.10am broadcasts were in breach of rule 6.4.

So far as depicting an opinion poll result, rule 6.5 reflects Regulation 30 of the European Parliamentary Election Regulations 2004 - namely forbidding publication “in whatever form and by whatever means” of opinion polls about European Parliamentary elections before the close of the polling in the Member State whose electors are the last to vote in those elections.

Whilst Ofcom recognised that TV Novosti had voluntarily declared the breach and also took remedial steps, there were nevertheless breaches of rules 6.4 and 6.5. The Ofcom determination does not state the sanction imposed by them.

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http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb2601/obb261.pdf

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