

[GB] Ofcom opens seven new investigations of RT news channel for potential breaches of due impartiality rules under Broadcasting Code

IRIS 2018-7:1/18

*Julian Wilkins
Wordley Partnership and Q Chambers*

On 18 April 2018, in a notable 18-page report, Ofcom announced that it has opened seven new investigations into the observance of due impartiality by the television channel RT News, which is licensed by the regulator through ANO TV Novosti. The investigations concern RT's alleged conduct since the occurrence of an incident in Salisbury, England on 4 March 2018, when Sergei Skripal and his daughter, suffered injury arising from an unlawful assault (possibly carried out with a nerve agent). The British Government asserted in an announcement on 14 March 2018 that "this represented an unlawful use of force by the Russian State against the UK"; the allegation is denied by the Russian Federation.

Between 2011 and 2018, Ofcom has had to investigate fifteen incidents concerning RT, two of which concerned breaches of advertising minutage rules; the remainder concerned due impartiality, misleading material, fairness, and the use of offensive language (see, for example, IRIS 2017-3/15, IRIS 2016-9/18, IRIS 2016-1/15, IRIS 2015-5/15). All fifteen investigations found that breaches had occurred. Ofcom regarded the advertising-related breaches as less severe infringements compared to the other complaints such as those concerning a lack of due impartiality. Ofcom reported no breaches against RT in 2015 and 2017. Ofcom has also noted that until 2018, RT's overall compliance record was not particularly good, compared with that of other news broadcasters of this type.

TV Novosti is financed by the Russian Federation, by whom Ofcom considers it is ultimately controlled. However, a number of broadcasters are state-funded, such as the BBC, Qatar's Al Jazeera Media Network and Japan's NHK Cosmopedia (Europe) Limited. State-controlled broadcasting services licensed by Ofcom have to comply with the Broadcasting Code. Ofcom has regard to (i) UK-focused audiences and (ii) its own need to be alert to breaches of the rules relating to due impartiality and due accuracy in news.

Since the 4 March incident, Ofcom has gathered material giving reason to investigate RT for a number of potential breaches of the Broadcasting Code. TV Novosti holds an Ofcom licence under each of the 1990 and 1996 Broadcasting Acts. Section 3(3) of both Acts provides that Ofcom: "shall not grant a licence to any person unless satisfied that the person is a fit and proper person to hold it;

and ... shall do all that they can to secure that, if they cease to be so satisfied in the case of any person holding a licence, that person does not remain the holder of the licence.”

The withdrawal of a broadcaster’s licence would be regarded as constituting a major interference with freedom of expression. The threshold for finding a broadcaster not fit and proper to hold a broadcast licence is high.

The regulation of a broadcaster is undertaken partly to protect the public from harm, and Ofcom’s Broadcasting Code stipulates the obligation to ensure due accuracy in news and due impartiality. Failure by a broadcaster to comply with the Broadcasting Code and any licence condition on a serious, repeated or ongoing basis may suggest a lack of fitness and properness. When considering this Ofcom will look at the broadcaster’s conduct but also at those who exercise material influence or control over the broadcaster. Ofcom in the course of its regular activity has monitored RT’s programmes - intensively so since the Salisbury incident. Although RT’s audiences expect to see a Russian take on news and current affairs, Ofcom requires RT to preserve due accuracy and impartiality to a level similar to that of UK-focused channels.

Since 14 March 2018 Ofcom has observed an increase in the number of RT’s programmes that they consider warrant investigation as containing potential breaches of the Broadcasting Code, as it relates to the requirement for due impartiality. That is why Ofcom has opened seven new investigations and will investigate these as quickly as possible, in a manner that complies with the requirement to observe fair process.

Ofcom, Update on the RT service - new broadcasting investigations and approach to fit & proper, 18 April 2018

https://www.ofcom.org.uk/data/assets/pdf_file/0012/113043/rt-investigations.pdf

