[GB] Saudi advert infringed Broadcast Advertising Code though it was not a "political" advertisement but a "restrained" advertisement

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The new ruler of Saudi Arabia, Mohammed Bin Salman, visited the United Kingdom in March 2018. The Saudi Centre for International Communication, an agency of the Ministry of Culture, thought it would be a good idea to project his Vision 2030 around the time of his visit. To do so, it bought time on Sky 1 to broadcast a message. The script referred to women being allowed to drive; the reopening of cinemas; the promotion of concerts and cultural events; and the aim to drop the country's reliance on oil and invest in various projects, thus turning Saudi Arabia into a hub connecting three continents.

As usual, the broadcaster submitted the one-minute script to the pre-broadcast clearance agency, Clearcast. It was shown 56 times over three days after Clearcast had made a few changes. Ofcom subsequently received three complaints from viewers who considered the advertisement to be "political advertising".

The statutory position is set out in the 2003 Communications Act, Sections 321 (2) and (3) as reflected in Rules 7.2.1. and 7.2.2 of the UK Code of Broadcast Advertising. There is, it should be noted, an exemption under Section 321(7)(a) which disapplies the prohibitions in relation to advertising of a "public service nature" placed by or on behalf of a government department. Generally, Ofcom's position is that it must consider each message on a case-by-case basis, assessing the particular circumstances and content at the time. In this regard, context is crucial in each case.

In first determining whether that exemption applied to this advertisement, Ofcom took the view that the primary determinant of such an advert is that its purpose is to inform and educate the public by providing information that is in the public interest. Furthermore, Ofcom will so decide on a case-by-case basis. In this case, Ofcom took the view that the message was designed to present Saudi Arabia in a positive light. Accordingly, its decision was that the advertisement did not fall within the class of the exception to the general rule.

Was it a "political advertisement" more narrowly? Ofcom took the view that the purpose was intended to influence public opinion on a matter of public controversy. Thus, Ofcom ruled that the advertisement did infringe the core

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statutory provisions outlawing political advertising. The fact that it had been slightly modified and cleared by Clearcast was not relevant in that Ofcom is firmly of the view that, even if the material is cleared for broadcast, the primary responsibility for conforming to the law and regulations is the broadcaster's.

Ofcom, Broadcast and On Demand Bulletin, Issue 360, 28 August 2018, p. 9

https://www.ofcom.org.uk/__data/assets/pdf_file/0020/119162/issue-360-ofcom-broadcast-on-demand-bulletin.pdf

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