[GB] Regulator rejects complaint that the BBC breached "due impartiality" rules in its treatment of Brexit

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Ofcom, the UK communications regulator, has rejected a collective complaint from ten pro-Brexit politicians that BBC coverage had breached the rules of due impartiality in the Communications Act and in the Broadcasting Code. The complaints concerned sets of broadcasts on BBC Radio Four. These were: coverage of the fifth round of Brexit negotiations in the flagship 'Today' programme; Series 3 of 'Brexit: A Guide for the Perplexed'; and a special day of broadcasts on 'Britain at the Crossroads'. They were broadcast between 9 October 2017 and 29 March 2018.

The complainants claimed that pro-Brexit opinion was being systematically under-represented in BBC output and that more time, space and emphasis was being given to pro-EU or anti-Brexit voices.

The rules on "due impartiality" are contained in the Communications Act 2003 and in section 5 of the Broadcasting Code, which requires that news in television and radio services be presented with "due impartiality". The Act also requires that due impartiality be preserved in all services on matters of political controversy and on those relating to current policy. The Code makes it clear that "due" is an important qualification to the concept of impartiality. Impartiality means not favouring one side or the other, but not that an equal division of time must be given to every view, or that every argument has to be represented. Context is important, and the approach to impartiality may vary according to the nature of the subject, the type of programme and channel, and audience expectations. This is also emphasised in the guidance notes issued to broadcasters by Ofcom. Ofcom must balance the broadcaster's right to freedom of expression under Article 10 of the European Convention on Human Rights (ECHR) against the due impartiality requirements.

Ofcom decided that a number of contextual factors were relevant here. There was significant variation in the formats and nature of the programmes and in audience expectations. All of them had been broadcast after the Brexit referendum when public debate had developed from a binary choice about EU membership to a more complex and nuanced discussion of the form which Brexit should take. Audiences would have expected a range of different viewpoints about the United Kingdom's exit from the EU and its implications.

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Ofcom found that a range of alternative viewpoints had been included in each of the programmes examined and across different programmes within each strand. Editorial techniques had been used to ensure that alternative viewpoints were represented and impartiality preserved. These included presenters drawing out different viewpoints from guests, the inclusion of views from members of the public, interviews with a range of politicians with different views, reviews of newspapers with contrasting views, and the inclusion of specialist correspondents providing additional analysis and context. Thus, alternative viewpoints had been sufficiently represented in each of the programmes, or series of programmes, assessed by Ofcom.

Ofcom, "Coverage of issues surrounding the UK's exit from the EU', Ofcom Broadcast and on Demand Bulletin 372, 11 February 2019, 23

https://www.ofcom.org.uk/__data/assets/pdf_file/0028/136585/Issue-372-of-Ofcoms-Broadcast-and-On-Demand-Bulletin.pdf

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