[GB] Channel 5 makes public apology for “Can’t Pay? We’ll Take It Away!” broadcast

IRIS 2021-6:1/35

Alexandros K. Antoniou
University of Essex

On 19 April 2021, Channel 5 publicly apologised and agreed to pay damages to a couple who were shown in the television programme *Can’t Pay? We’ll Take it Away!*

Channel 5 Broadcasting Ltd is a national broadcaster which broadcasts Channel 5, and also 5HD, 5 + 1, Spike, 5Star and 5USA. It also operates My5, a free video on-demand internet service. *Can’t Pay? We’ll Take It Away!* is a British factual documentary series which follows the work of High Court Enforcement Officers (HCEAs) as they go about their business of collecting alleged debts and repossessing homes. The show has been entered for multiple awards including BAFTA, the National Television Awards and was shortlisted for a Grierson.

On 11 May 2017, two HCEAs attended the home of Mr Andrew Wain and Ms Julie Kelly to enforce a debt incurred in respect of money borrowed from a private individual who had agreed not to pursue the sum owed. A film crew was also in attendance, but withdrew their curious gazes following Mr Wain’s refusal to permit them entry to the couple’s home.

However, the HCEAs, who did enter, wore bodycams (as well as radio microphones) and recorded video and audio footage of what was happening in the claimants’ property. The recordings made in this way were subsequently edited and incorporated in an episode of the programme *Can’t Pay? We’ll Take it Away!* by Channel 5. The episode was broadcast several times from 2017 until late 2020 to over 6.7 million viewers in total.

In September 2020, Mr Wain and Ms Kelly (the claimants) issued proceedings against Channel 5 (the defendant) for the misuse of their private information in respect of the filming, making and multiple broadcasts of the episode in question, which showed the couple in a state of “considerable distress” and caused them “immense upset”. The claimants’ case was that the programme wrongly revealed private matters which took place in their home.

In a joint statement read in open court before The Honourable Mrs Justice Collins Rice, the claimants accepted an offer of settlement in relation to their claim and received a “substantial damages” payment in recognition of the nature of the intrusion suffered and serious breach of their Article 8 ECHR rights. “They are

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both very private individuals and they live in a small community and word soon spread about the programme amongst people they know through work and socially", the court heard.

Channel 5 also agreed to pay the couple's reasonable legal costs and undertook not to broadcast the programme complained of again, or make it available online. The broadcaster accepted that it got the balancing exercise between matters of public interest and the right to privacy "wrong" on this occasion and publicly apologised to the claimants for the "considerable distress" caused to them by the programme.

The matter is now considered concluded.

Wain and Kelly v Channel 5 Broadcasting Ltd (Statement in Open Court, 19 April 2021)

https://hamlins.com/wp-content/uploads/2021/04/Wain-Kelly-v-Channel-5-final-SIOC-25.02.21.pdf

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