[GB] Ofcom consultation on a review of changes to the Broadcasting Code

IRIS 2025-7:1/12

Julian Wilkins
Wordley Partnership

Following the High Court judicial review decision, *R (GB News Ltd) v. Ofcom* [2025] EWHC 460 (Admin), brought by GB News and challenging Ofcom's application of section 5 of the Broadcasting Code relating to due impartiality, the regulator launched a consultation which closed on 23 June 2025 entitled "Politicians presenting news: consultation on proposed amendment to Rule 5.3 of the Ofcom Broadcasting Code" (the Consultation).

The High Court decision determined that GB News was allowed to use Jacob Rees-Mogg (who was an MP at the time) to act as a newsreader in a news programme without exceptional justification. The court determined that Mr Rees-Mogg presented news during a current affairs discussion programme whereby news was incidental to the debate rather than a programme devoted to news coverage. The High Court determined that Ofcom had inaccurately interpreted the wording of section 5 and quashed Ofcom's decision.

Ofcom's original decisions centred around two episodes of *Jacob Rees-Mogg's State of the Nation*, a one-hour programme broadcast four times per week on the GB News channel and presented by Rees-Mogg. In one programme on 9 May 2023 the MP had interrupted his normal topical discussion format to read a "breaking news" bulletin covering the decision in civil proceedings in the US against President Trump, whilst in a later episode broadcast on 13 June 2023 he had once again diverted away from his normal format to cut live to a GB News security correspondent in Nottingham for an update on a breaking news story.

Ofcom had determined that Mr Rees-Mogg had acted as a newsreader in breach of section 5 of the code. It further considered that, because Rule 5.3 had been breached, it also constituted a *de facto* breach of the impartiality obligation at Rule 5.1.

Both Ofcom and GB News agreed that *Jacob Rees-Mogg's State of the Nation* was a current affairs programme as it is defined in the code. GB News disagreed with Ofcom's contention that it was *also* a news programme even though part of the programme was devoted to news presentation.

Section 5 of the code currently (i) requires that "news, in whatever form, must be reported with due accuracy and presented with due impartiality" (Rule 5.1)*;* and

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(ii) prohibits any politician from being used "as a newsreader, interviewer or reporter in any news programmes unless, exceptionally, it is editorially justified. In that case, the political allegiance of that person must be made clear to the audience" (Rule 5.3).

The use of the term "programme" is intended to separate items contained within a service into *distinct* categories by subject matter. News programmes are one category, and specific provisions apply to such programmes. Current affairs programmes and religious programmes are examples of other categories, with specific provisions applying to those. The High Court found that a programme could not be *both* a news programme and a current affairs programme.

Ofcom's subsequuent consultation concerns a proposed amendment to Rule 5.3 of the code. The Consultation's proposed change is that the code prohibits politicians acting as newsreaders, news interviewers or news reporters in *any type of programme*, except where there is exceptional editorial justification, and the broadcaster has made the political allegiance of that person clear to the audience.

Ofcom considers this change necessary to ensure the impartiality and accuracy of broadcast news content in whatever category it is presented. As part of the Consultation, it considers freedom of expression and the general impact upon consumers and citizens.

The Consultation's proposed prohibition on politicians will still require broadcasters to exercise a judgment as to when a politician presenter may be used as a "newsreader", "news interviewer" or "news reporter" in the above-mentioned circumstances.

The Consultation is the first review of section 5 since the Code's inception in 2005.

Ofcom intends to publish a statement in September 2025 in response to the Consultation responses.

R (GB News Ltd) v. Ofcom [2025] EWHC 460 (Admin)

https://www.judiciary.uk/judgments/gb-news-v-ofcom/

Politicians presenting news: consultation on proposed amendment to Rule 5.3 of the Ofcom Broadcasting Code

https://www.ofcom.org.uk/siteassets/resources/documents/consultations/category-3-4-weeks/consultation-politicians-presenting-news/main-documents/politicians-presenting-news-consultation.pdf?v=396619

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