

# **Editorial Standards Findings:** Appeals and other editorial issues to the Trust considered by the Editorial Standards Committee

# Remit of the Editorial Standards Committee

The Editorial Standards Committee (ESC) is responsible for assisting the Trust in securing editorial standards. It has a number of responsibilities, set out in its Terms of Reference at [bbc.co.uk/bbctrust/about/meetings\\_and\\_minutes/bbc\\_trust\\_committees.html](http://bbc.co.uk/bbctrust/about/meetings_and_minutes/bbc_trust_committees.html).

The Committee comprises five Trustees: Richard Tait (Chairman), Chitra Bharucha, Mehmuda Mian, David Liddiment and Alison Hastings. It is advised and supported by the Trust Unit.

In line with the ESC's responsibility for monitoring the effectiveness of handling editorial complaints by BBC management, the Committee considers appeals against the decisions and actions of the BBC's Editorial Complaints Unit (ECU) or of a BBC Director with responsibility for the BBC's output (if the editorial complaint falls outside the remit of the ECU).

The Committee will consider appeals concerning complaints which allege that:

- the complainant has suffered unfair treatment either in a transmitted programme or item, or in the process of making the programme or item
- the complainant's privacy has been unjustifiably infringed, either in a transmitted programme or item, or in the process of making the programme or item
- there has otherwise been a failure to observe required editorial standards

The Committee will aim to reach a final decision on an appeal within 16 weeks of receiving the request.

The findings for all appeals accepted by the Committee are reported in this bulletin, *Editorial Complaints: Appeals to the Trust*.

As set out in its Terms of Reference, the Committee can decline to consider an appeal which in its opinion:

- is vexatious or trivial;
- does not raise a matter of substance;
- relates to the content of a programme or item which has not yet been broadcast;
- concerns issues of bias by omission in BBC news programmes unless the Chairman believes that it is plausible that the omission of an item could have led to a breach of the guidelines on impartiality;
- has not been made within four weeks of the final correspondence with the ECU or BBC Director on the original complaint; and
- relates to matters which are the subject of or likely to be the subject of, or relevant to, legal proceedings.

The Committee will not generally reconsider any aspects of complaints that have already been adjudicated upon or considered by a Court.

Any appeals that the Committee has declined to consider under the above criteria are reported in the bulletin.

In line with its duty to consider topics of editorial concern to the Committee, whether or not such concern arises from a formal complaint, and to commission information requests from the Trust Unit or Executive to support such consideration, the Committee also from time to time requests the Executive to report to the Committee regarding breaches which have been accepted by the Executive and are therefore not subject to appeal to the Committee. The bulletin also may contain findings relating to such cases.

The bulletin also includes any remedial action/s directed by the Committee.

It is published at [bbc.co.uk/bbctrust](http://bbc.co.uk/bbctrust) or is available from:

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BBC Trust Unit  
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# Summary of findings

## **Coverage of the ‘Armenian Genocide’, BBC TV and Radio, 24 April 2007**

The Committee first heard the appeal on 2 October 2007. The Committee came to its finding based on the editorial guideline on impartiality and the diversity of opinion. Prior to the publication of its decision the appellant challenged the finding arguing that not all guidelines associated to his appeal had been considered by the Committee. The Committee noted the challenge and, following privileged legal advice, agreed to re-take the appeal to consider it against three additional editorial standards: accuracy, editorial integrity and independence and serving the public interest.

The Committee re-took the appeal at its 6 May 2008 meeting and was satisfied that its finding on the appeal of 2 October 2007, which considered the appeal against the editorial guidelines related to impartiality and the diversity of opinion, was correct and proposed no changes to it. The Committee was also satisfied that none of the additional guidelines that had been raised by the complainant had breached the BBC’s editorial guidelines and, again, did not uphold the appeal.

Following the sharing of the Committee’s draft finding in July 2008, the Committee received a further challenge from the complainant that he was seeking legal redress against the Committee’s decision and that he was considering bringing proceedings for judicial review. The Committee noted the further challenge and, following legal advice, agreed to consider one aspect of the appeal that had not been explicitly addressed by the Committee previously. That was, the specific complaint made in the complainant’s letter of 20 January 2007 which, in summary, suggested that the BBC’s reporting of the assassination of the Turkish Armenian journalist Hrant Dink had, “mislead the public by withholding crucial information regarding the recognition of the Armenian Genocide.”

The Committee agreed to hear this further element of the complaint but was satisfied that it would not re-open or re-consider any other element of the complaint that it had previously considered and come to a finding on.

The Committee considered the further element of the complaint at its meeting on 8 October 2008 and again at its meeting of 5 November 2008.

The Committee has added a further supplement to the reconsidered finding to address the further consideration on the three articles associated to the reporting of Mr Dink’s death.

The complaint was made on behalf of the Armenian Genocide Trust of Great Britain and concerned two specific complaints that the Trust has made to the BBC over the last 18 months. The complaints are that:

- I. The BBC was guilty of breaching its guidelines by not marking, in 2006 and 2007, the anniversary of the massacre of hundreds of thousands of Armenians in 1915 in any of its output.
- II. The BBC by not accepting the event as genocide, and including the views of the Turkish state, deny the facts and recognition of the event, and as such are in breach of guidelines on impartiality and accuracy.

The Committee concluded:

- there is no editorial guideline that mandates BBC News to cover specific news items in its bulletins.
- coverage of an event is the sole responsibility of BBC News and each news editor to decide which story should be covered.
- that BBC News is aware of important historical events and makes judgements on which anniversaries to cover such as landmark anniversaries.
- it was also appropriate for news to feature an historical event as part of a relevant and developing story.
- there is no consensus over the status of the massacre amongst the international community and no admission by the Turkish State of it being genocide.
- it was not incumbent upon the BBC to describe the massacre as genocide.
- that for BBC News to report impartially it was appropriate for it to reflect the views of the Turkish State when the issue is mentioned. In doing so the BBC is not denying the facts or recognition of the massacre but is ensuring that a controversial subject is being treated with due accuracy and impartiality.

Following a challenge by the complainant the Committee considered three additional editorial standards: accuracy, editorial integrity and independence, and serving the public interest. The Committee concluded:

- that when serving the public interest it was appropriate for BBC News to cover the event when in the context of a story.
- there was no evidence that there had been a developing and relevant story on the days in question.
- that as there is no consensus over the account of the event, even amongst the international community, and taking into account that there was no admission by the Turkish State that this was genocide, it is appropriate that the BBC continues to report this event accurately by stating the facts as they are known, which includes the views of the various sides to the argument without taking a position.

- there was no evidence to suggest that BBC News or any content area had been influenced by external pressures.

A further challenge was received following the sharing of a draft of the reconsidered finding. The Committee agreed to review three BBC News website articles that had reported the assassination of the Turkish Armenian journalist Hrant Dink. In doing so, the Committee noted that it was satisfied that its previous findings taken at its meetings in October 2007 and May 2008 would not be re-opened or reconsidered. The Committee concluded:

- it would be disproportionate to require the BBC to achieve due accuracy and due impartiality by listing or summarising the views of various persons, states and other bodies as to whether the massacre was genocide in all online articles and all broadcast content. Information should be included as and when the context required it to achieve due impartiality and accuracy.

I. “Fury in Turkey at editor’s funeral”

- the article had met the requirements of the various editorial standards it was considered against.
- the report had served the public interest by reporting on an incident of significance and in doing so had reported with due accuracy and due impartiality on the issue of the ‘Armenian Genocide’ by referring to the recognition by many Western historians and international bodies of the event as genocide, whilst also acknowledging Turkey’s denial that it was genocide.
- there was no need for the article to go further and for the BBC to list the people or bodies which recognise the massacre as a genocide or to set out a view as to whether the weight of opinion is such that the massacre amounts to genocide.
- there was no evidence to suggest that BBC News in writing and publishing the article had been influenced by state or partisan interests.

II. “Turkish-Armenian writer shot dead”

- the article had met the required editorial standards of accuracy, impartiality, serving the public interest and editorial independence.
- the report had been duly accurate and impartial in setting out an appropriate summary as to whether or not the massacre of hundreds of thousands of Armenians in 1915 should be considered as genocide.
- the article referred to the agreement by more than a dozen countries, various international bodies and many Western historians that this was genocide whilst also reflecting the Turkish denial. There was no need for the article to go further and for the BBC to list the people or bodies which recognise the

massacre as a genocide or to set out a view as to whether the weight of opinion is such that the massacre amounts to genocide.

- there was no evidence to suggest the report was influenced by political or partisan interests.

### III. “Obituary: Hrant Dink”

- that given the nature of the article, an obituary, which was different in nature to the two other news articles, the obituary had appropriately highlighted the tension between Armenians and Turks within Turkey.
- the inclusion of the sentence “Turkey’s relationship with its once-sizeable Armenian community is still fraught with tension” ahead of the final two sentences of the article indicated that the last two sentences should be read in the context of the internal situation in Turkey. As such, the article, in terms of due accuracy and impartiality, was not required on this occasion to set out the support or otherwise for the definition of this event as a genocide beyond Turkey.
- that the short summary at the head of the article was not required to set out the views of external countries institutions and historians to achieve due impartiality and accuracy in that it was concentrating on the key facts that lay behind his Hrant Dink’s death within the internal Turkish context.
- there was no need for the obituary to go further and for the BBC to list the people or bodies which recognise the massacre as a genocide or to set out a view as to whether the weight of opinion is such that the massacre amounts to genocide.
- as to the guidelines on editorial independence and integrity, there was no evidence to suggest that article had been influenced by political or partisan interests.

The complaint was not upheld.

For the finding in full see pages 17 to 31

### **Outlook, BBC World Service, 12 February 2008**

The complainant felt that the programme was inaccurate and biased in the way it reported reactions to the Archbishop of Canterbury’s speech and the operation of Sharia courts in the UK. He also felt that the programme which included an interview with Frances Harrison, a Religious Affairs correspondent, gave a simplistic and misleading description of the situation of Muslims in Britain.

The Committee concluded:

- that impartiality should be achieved either in the item or across the series in the light of the controversial nature of the Archbishop’s



- speech and the controversy about Sharia courts in the UK.
- that within Outlook it was possible to explore a specific aspect of a topic or present a single view, but it should be signposted as such.
  - that this programme had not provided signposting or context to indicate that it was reflecting one perspective on Sharia courts in the UK.
  - that, although the BBC had indicated that other programmes in the series had included adverse views on Sharia courts, there was no evidence presented to the Committee that such items addressed the UK Sharia court experience or, in particular, that they addressed the reaction to the Archbishop's speech within the timescale that the controversy was active.
  - that on the basis of the evidence put before the Committee impartiality had not been achieved across the series.
  - that, while the two-way had explained that the Archbishop's speech had been cautious and carefully defined, the assessment of the reaction to the speech should have included references to the reasoned arguments against Sharia courts alongside the references to a fear of Muslims and concerns over extreme punishments and that if this context was not carried within the Religious Affairs correspondent's two-way then it should have been presented elsewhere in the item.
  - that, with regard to the studio interviewees, the programme would have benefitted from a wider range of voices.
  - that the questioning of a judge in one of the UK Sharia courts had not been sufficiently probing.
  - that, while the views put across in the Religious Affairs correspondent's two-way had not been those of militant Muslims as claimed by the complainant, additional context should have been included to present an appropriately accurate and balanced picture of the position of Muslims in Britain.
  - that some of the language used in the item had been imprecise – for example the use of the word “staggering” without any further context when referring to the number of Muslims in prison.
  - that these failings constituted a breach of the guidelines on accuracy and impartiality.

The Committee upheld the complaint.

For the finding in full see pages 32 to 42

### **Rogue Traders, BBC One, 4 September 2006**

The Committee was asked to consider the complainant's appeal against the Editorial Complaints Unit's (ECU) decision not to consider his complaint at stage 2 of the BBC's complaints process. The complainant had been featured in a programme of the series aired in 2006 and had made a complaint at the time alleging invasion of his

family's privacy which had been rejected by BBC management. In 2007, the complainant contacted the BBC again raising new issues including that the programme had relied on false information about the complainant from a company that the complainant had previously worked for.

The Committee concluded:

- that although the complainant claimed new information had come to light outside the normal time frame for making complaints, some of the allegations could have been made at the time of transmission. These aspects of the appeal were therefore out of time and would not be returned to the ECU.
- that the evidence suggested Rogue Trader's database of complaints had been the cause of the investigation of the complainant.
- that an ongoing court case had prevented the transmission of some material that had been filmed, contrary to the complainant's allegation that the programme had been persuaded not to show the footage because of an improper relationship with the company involved.
- that there was no evidence before the Committee to support the allegations of an improper relationship between the programme makers and the other solar energy company.
- that the programme had legitimately investigated a matter of public interest and that no evidence had been produced to support the very serious allegations made by the complainant.
- that where evidence did exist it appeared to contradict the complainant's allegations.

The Committee did not uphold the complainant's appeal for his complaint to be heard by the ECU.

For the finding in full see pages 43 to 49

### **Today in Parliament, BBC Radio 4, 19 February 2008**

The complainant alleged that coverage of testimonies to the Justice Committee on the impact of devolution had been biased by the omission of the testimony of Michael Knowles of the Campaign for an English Parliament and had breached the BBC guidelines on impartiality.

The Committee concluded:

- that this topic was of a controversial nature.
- that there was a clear requirement for the argument in favour of an English Parliament to have been reflected in the programme and that there had been a breach of the guidelines on impartiality in respect of avoiding an imbalance of views on controversial subjects.
- that in reflecting the contrary argument it was not necessary to

provide equal time to those opinions or to explain every facet of every argument, but that reference should be made to the opposite opinion.

The Committee upheld the complaint.

For the finding in full see pages 50 to 55

### **Today, BBC Radio 4, 18 February 2008**

The complainant felt the presenter John Humphrys had misled listeners by claiming that the Chancellor of the Exchequer, Alistair Darling had agreed in Parliament that nationalisation would lead to a slow lingering death of the jobs of Northern Rock workers, its assets and Britain's reputation as a major financial services centre.

The Committee concluded:

#### Accuracy

- that the underlying error was with Hansard, a document of record that could be relied on by the BBC in all usual circumstances.
- that, even with the error, the Hansard account was open to interpretation and was far from an unambiguous agreement by Mr Darling that nationalisation would be a disaster.
- that, given that this was the main interview of the day with a senior cabinet minister, more care should have been taken to check and deconstruct exactly what was said.
- that too much reliance had been placed on the BBC blog entry, where the issue of what the Chancellor had said had been raised, and that the preparation and briefing of the presenter had not been thorough.
- that there had been a breach of the accuracy guidelines.

#### Correcting mistakes

- that the correction in Nick Robinson's blog on the evening of the day of broadcast was timely and adequate.
- that the wording of the apology on the Today programme the following day, although explaining in detail the cause of the mistake, underplayed the acknowledgement of a serious factual error.
- that the on-air correction had not fully complied with the guideline on correcting mistakes.

#### Impartiality

- that it was reasonable for the interviewer to rely on the information he had been given, believing it to be correct. Although that section of the interview had been conducted on a false premise, it was the result

- of an incorrect briefing.
- that the interviewer was entitled to conduct the interview in the manner in which he did and that the robust style of questioning was not in itself wrong.
- that the audience had the statement made according to Hansard and what the Chancellor himself said on the matter.
- that during the course of the interview the Chancellor had ample time to put across his points.

The Committee upheld the complaint with regard to accuracy and correcting mistakes but did not uphold with regard to impartiality.

For the finding in full see pages 56 to 63

### **Put Your Money Where Your Mouth Is, BBC One, 11 March 2008**

The complainant felt that the programme was inaccurate and damaging to antiques dealers because it failed to mention the costs incurred in obtaining the items which were sold and implied that large profits could be made with little effort which was untrue.

The Committee concluded:

- that the complainant did not have a sufficiently direct interest in the programme for it to be considered as a first party complaint, and the Editorial Standards Committee does not consider third party fairness complaints.
- that the complaint could be considered against the requirements of the accuracy guideline on misleading audiences.
- that the aim of the programme was to be fun and entertaining, with the well known antiques experts spending £1000 of their own money on antiques in France and donating the money they made to charity.
- that the context of the programme had been clearly signposted on the BBC's website, the Radio Times billing and within the programme itself.
- that the intention of the programme was clearly not to make a serious analysis of the costs and tax liabilities associated with running an antiques business.
- that it was unnecessary for the programme to have included any additional comments to explain its purpose.

The Committee did not uphold the complaint.

For the finding in full see pages 64 to 68

## **Inside Out, BBC One East Midlands, 1 March 2008 & The Morning Show, BBC Radio Nottingham, 7th May 2008**

The ESC was asked to consider whether both programmes had accurately reported on EM Media, an organisation set up to promote film development in the region. The complainant was concerned that the programmes not only contained inaccurate information about the benefits of EM Media's investment in films, but that it provided a platform for a commercial organisation to advance its case for public funding. The ESC was also asked to consider whether BBC integrity and independence had been breached by either programme given that the former chair of EM Media was a senior news editor for BBC News.

The Committee concluded:

### Accuracy

- that, regarding the statement made on the Radio Nottingham Morning Show about the level of local benefit derived from EM Media's investment in the film *Better Things*, it was appropriate to ask a representative of EM Media for such details and the estimate given was a reasonable one provided by a firsthand source.

### Editorial integrity and independence

- that the involvement of two different representatives of EM Media in the radio and television items was editorially justified as on both occasions they had contributed appropriately to the issues under discussion.
- that the references to EM Media were editorially justified within the context of the radio and television items.
- that neither item involved undue prominence of EM Media as set out in the guidelines on editorial integrity and independence.
- that there was no evidence of a relationship between the teams working in the East Midlands on *Inside Story* or the Radio Nottingham Morning Show and the editor of BBC Breakfast who works in London.
- that there was no evidence that the editorial decisions made by the two separate production teams had been influenced by the editor of BBC Breakfast.

The Committee did not uphold the complaint.

For the finding in full see pages 69 to 79

## **In Our Time: Antimatter, Radio 4, 4 October 2007**

The complaint related to an episode of the radio discussion programme, which covered the topic of antimatter. The complainant believed that statements made in the programme were inaccurate and misleading.

The Committee concluded:

#### Accuracy

- that the programme had set out to explore the history and evolution of the scientific theory of antimatter.
- that this was a complex subject and difficult to explain in lay terms to an audience who would have only a limited understanding of the science being discussed.
- that, given the Committee was not a panel of scientists and did not have the expertise to come to a view on the veracity of the arguments put forward by the contributors, it was the Committee's obligation to consider whether the programme had been well sourced and based on the opinion of the respective experts, who had been identified as such to the audience.
- that it was satisfied that the programme had taken sufficient steps to ensure the relevance of the contributors and that the status of the guests had been clearly stated.
- that, given the complexity of the subject matter, the contributors should be given a degree of latitude to express the various concepts in a simpler way in order to enable a lay audience to develop a greater understanding of the subject through the course of the programme.

#### Impartiality

- that the ideas put forward in the programme were not those of the BBC, and the contributors would have been in a position to challenge each other on any points that they felt were wrong.
- that it was appropriate for the programme to allow experts to express a point of view based on their expertise and knowledge in their own words and to simplify their arguments and information to suit the audience.

The complaint was not upheld.

For the finding in full see pages 80 to 85

#### **Newsnight, BBC Two, 27 November 2007**

The complaint relates to a Newsnight item about a legal case being brought against a petroleum company by a group of indigenous Ecuadorians. The complainant alleged

that the report contained several inaccuracies relating to the portrayal of the legal action as being politically influenced by the Ecuadorian government. In addition to accuracy, the Committee considered the complaint against the guideline on impartiality. It also considered the handling of the complaint.

The Committee concluded:

#### Accuracy

- that the reporter's reference to a quarter billion dollars given to Ecuador by Hugo Chavez was imprecise and difficult to source.
- that the financial benefit to Ecuador of individual actions by Venezuela was difficult to determine but that this uncertainty was not indicated within the commentary.
- that the use of the word 'given' in the report had been imprecise. The Committee agreed that the word had been used as shorthand by the reporter but it did not think that the Newsnight audience would be aware that it included, for example, the purchase of government bonds.
- that the combination of the unsubstantiated figure and the reference to this as having been 'given' was inaccurate and could have misled viewers of the programme, and this was a breach of the guideline on accuracy.
- it recognised that, in their response to the ESC's investigation, the programme team had acknowledged an error in editing a comment to inaccurately suggest that it had been the current president who had terminated Occidental Petroleum's contract rather than the previous president.
- that the error would have misled viewers over which president had made the decision, and that this was a breach of the guideline on accuracy.
- that, in addition to the two phrases already examined, Occidental Petroleum had been referred to as the last 'big' US oil company in Ecuador. The Committee noted that it was aware that US oil companies were still working in Ecuador and that this reference was ambiguous.

#### Impartiality

- that the piece had been editorially justified in considering the legal battle of the indigenous Ecuadorians within the complex world of Latin American/US political relations.
- that the report was sufficiently balanced in its presentation of the issues around the politics of Latin America and its relationship with the US.
- that, although recognising that the piece contained two comments that breached the guideline on accuracy, the Committee was satisfied that the item did not breach the guidelines on impartiality.

## Accountability (complaints handling)

- that the issue of whether or not the president of Ecuador had seen the Newsnight report did not concern the broadcast content and therefore was not within the ECU's remit.
- that it may have been helpful for the ECU to have addressed this point but not doing so did not constitute a failure in the complaints handling process.
- that it was satisfied that no further action was required at this point.

The complaint was partly upheld in that the Committee found that the item had breached the guidelines on accuracy but not impartiality or accountability.

For the finding in full see pages 86 to 99

## **Today, Radio 4, 25 June 2007**

The complaint related to a studio interview with the deputy leader of the Labour party and in particular a quotation attributed to her by the interviewer. The complainant believed that the interviewer misled the audience by stating that he had the quotation written down in front of him. The complainant also raised issues with the handling of his complaint.

The Committee concluded:

### Accuracy

- the interviewer's summary of the deputy leader's views had been made in good faith.
- it was accepted journalistic practice to draw on reported comments and for an interviewer to summarise those views.
- in that context, although the specific word "apologise" had not been used, the Committee was satisfied that the interviewer's question was duly accurate.
- the audience had not been misled as the deputy leader had been given sufficient opportunity both to challenge the summary of her previously stated views and to clarify what she had said or had meant to say.

### Impartiality

- given the Committee's decision that the interviewer's question had been duly accurate, it was satisfied that the programme had been even handed in its approach to the subject.
- the interview style would have met audience expectations for a programme like Today, where presenters are expected to ask



challenging questions of their guests.

### Complaints handling

- any problems arising from a delay in the initial stages of the complaint had been rectified by the intervention of the ESC itself.
- overall the complaint had been handled appropriately and no further action is required.
- the new Complaints Framework introduced in August 2008 would ensure in future that those who corresponded with the BBC at stage I would learn about the complaints system and time limits by the inclusion of a link to the complaints website.

The complaint was not upheld.

For the finding in full see pages 100 to 110

# Findings

## Coverage of the 'Armenian Genocide', BBC TV and Radio, 24 April 2007

### I The complaint

The complaint is made on behalf of the Armenian Genocide Trust of Great Britain. It concerns how the BBC has covered the issue of the alleged genocide of Armenians by the Ottoman Turks in 1915. In particular the complainant is concerned at the lack of coverage of the commemoration day, 24 April. The initial complaint was made in April 2006.

In brief the complaint can be summarised as follows:

“The BBC fails to truthfully timely and objectively report on the Armenian Genocide of 1915 and its commemoration day, 24 of April.”

### 2 Background to the complaint

#### 2006 complaint

The complainant first complained to the BBC on 25 April 2006, the day after the 2006 Armenian Genocide Commemoration day. He stated “On April 24th of every year Armenians around the world, including the British Armenian community, commemorate the Armenian Genocide of 1915, when over one million Armenian subjects of the Ottoman Empire were massacred by the Turkish Government. This historical fact has been recognised by a number of different countries and organisations around the world, but alas, has not received a single mention by BBC on the Internet, television or radio.”

#### BBC Response

BBC Information replied at stage 1:

- “...the choice of news stories to report in our programmes and on the website is frequently very difficult as editorial staff always have more news reports than can be fitted into the time and space available.”
- “Throughout any year our news or current affairs magazine programmes and special programmes mark many notable anniversaries but due to the number of anniversaries [that] take place each year we are unable to feature them all.”
- “I can assure you that we continue to cover the political debate around the events of 1915. For example, last month [May 2006] we covered the proposed

vote in the French National Assembly on a bill that would make it illegal to deny what France already recognises as the Armenian genocide of 1915.”

- “Our coverage of the actual anniversary focused largely on last year's 90th anniversary [2005] and we did offer a significant amount of programming and coverage at the time.”

BBC News management provided a further reply at stage 2 stating:

- “...BBC News has to make a news judgement about which anniversaries to cover. One of the factors in making the decision may be whether the anniversary itself is a landmark one, and the Armenian Genocide was for example marked to some degree in 2005 on the occasion of the ninetieth anniversary.”
- “...we do also cover anniversaries insofar as they have an impact on news developments happening here and now. Thus we have given prominent coverage to the case of writer Orhan Pamuk charged over remarks he made about the Turkish killings of Kurds and Armenians.”

Helen Boaden, Director, BBC News also replied adding:

“None of this is in any way to downgrade the significance of the Armenian Genocide as an historical event; but as news providers reference to it is determined by the light it throws on current issues and its relevance to developments and events today.”

### **January 2007 complaint**

In January 2007, the complainant suggested the BBC online report on the assassination of prominent Turkish-Armenian journalist Hrant Dink “misled the public by withholding crucial information regarding the recognition of the Armenian Genocide”. He then suggested the BBC “fail[s] to give a fair overview of the issue because of this omission”.

The complainant then requested that the BBC “introduce a higher degree of professional integrity” into its coverage “by providing balanced reporting...which is absolutely critical to the understanding of this tragedy”.

He defined fair and accurate reporting of this subject as “giving the whole picture, not just the least common denominator least likely to upset Turkey.”

The complainant then requested that the anniversary on 24 April be given “fair coverage”.

### **BBC Response**

BBC Information replied:

- “There is extreme disagreement over whether the events of 1915 were genocide.”
- “To note as we do in our stories that the Turkish state admits that hundreds of thousands were killed but disputes both the genocide charge and the death toll is not, to accord credibility to Turkey's position, but rather to outline one side of the argument.”
- “Needless to say we also outline the other side of the argument. There is no international consensus on whether it was genocide.”

### **May 2007 complaints**

The complainant made a further complaint in May 2007 due to the lack of coverage of the commemoration day on 24 April.

And in a further letter to the BBC Trust on 20 May he made the following comments:

- “BBC fails to keep its independence and fulfil its Charter requirements by avoiding or minimising any coverage of the Armenian Genocide and belittles it by using qualifiers such as ‘alleged’ or ‘so-called’.”
- “BBC’s reporting is misleading and incomplete, giving the impression of an ‘argument’ between two nations, which is wholly untrue and unrepresentative of the situation.”

### **BBC Response**

Mark Byford, Deputy Director-General, responded to the issue of the coverage of the commemoration day stating that position as set out to the same complaint in 2006 had not changed.

The Head of Editorial Compliance BBC News, on behalf of BBC management, responded to the letter of 20 May stating:

- “...BBC News is neither state nor historian. We report (amongst other things) what states and historians do and say and leave it up to the listener or viewer to think about. When there is argument between states and historians - especially of the depth and bitterness evident in the dispute over the nature of these massacres - we can only report it objectively by giving audiences this context.”
- “... there is no international consensus amongst states as to whether it was a genocide.”
- “We put “genocide” in inverted commas in our online reports and in our television and radio reports we use the word in the context of reporting the dispute about premeditated intent. If we failed to do this... our coverage would indeed be unbalanced and misleading.”

- Regarding the criticism that the BBC “fails to...fulfil its Charter requirements by avoiding or minimising any coverage of the Armenian Genocide”, it stated:

“I don’t think this is borne out by BBC News coverage. The issue of recognition of the Armenian Genocide is reported on news merit — such as in the context of its impact on Turkey’s application for EU membership and in reports about Turkey’s human rights record, or the French Parliament’s bill making denial of the Armenian genocide a crime but also on such occasions as when Orhan Pamuk was awarded the Nobel Prize for Literature.”

We have also made efforts to examine the truth of what happened for ourselves and BBC correspondents have visited Armenian villages and interviewed survivors and descendants as part of that.”

### **June 2007 appeal to the ESC**

In the complainant’s appeal letter to the ESC he stated:

- “...regrettably the BBC News reporting so far is giving undue weight and mention to Turkey’s denial of the Armenian Genocide and fails to adequately report the facts of recognition by the...majority of qualified scholars as well as...official...recognition by states, parliaments and international organisations.”

### **3 Challenge to the ESC’s initial finding (December 2007)**

The Committee initially heard this appeal at its 2 October 2007 meeting. The finding was sent out to the appellant, following ratification of the minutes of that meeting, on 11 December 2007.

On 12 December 2007 the Committee received an email from the appellant stating his dissatisfaction with the appeal on the grounds of “procedural propriety”. The appellant noted that in the finding the Committee had not considered among other things the issue of accuracy. The appellant advised that unless the Committee provided further clarification to every point raised in the submission [appeal] he would proceed to judicial review.

The Head of Editorial Standards, BBC Trust, Francesca O’Brien, responded to the appellant on 8 January 2008 setting out the complaint that had been considered by the Committee, agreeing that not all the guidelines associated to the appeal had been considered and stating that the Committee would re-take the appeal.

The appellant responded to the letter on 17 January asking for the Committee to consider his complaint as set out in his correspondence. He also asked that the Committee consider the complaint against truth and accuracy, editorial integrity and independence and serving the public interest. The appellant also welcomed the decision that the Committee would re-take the appeal.

Francesca O'Brien responded on 11 February that the Committee would have all correspondence in front of it plus the summary of the complaint set out in her letter of 8 January. Ms O'Brien also accepted that the ESC's advice had been incomplete and should have made reference to the three additional guidelines. She did not, however, agree the note was otherwise misleading.

The appellant in correspondence dated 11 February and 21 April provided information on the Swiss Federal Supreme Court's decision to convict an individual of racial discrimination for denying the 'Armenian Genocide' as well as a final submission of views on the paperwork going to the Committee.

#### **4 Challenge to the ESC re-considered finding (July 2008)**

The Committee retook the appeal including the three additional guidelines at its 6 May meeting. The appeal was not upheld. The complainant was informed of the decision on 25 July 2008.

On the 30 July 2008 the complainant informed Francesca O'Brien, the Head of Editorial Standards BBC Trust, that he intended to seek legal redress against the Committee's decision and that he was considering bringing proceedings for judicial review unless he received written responses to every one of the issues and questions raised in his correspondence of 18 April 2007 and 17 January 2008.

The Head of Editorial Standards, responded to his concerns in a letter dated 29 August in which she explained that the ESC would consider one previously unconsidered point of his appeal, the issue of the reporting on the BBC News website of the assassination of Hrant Dink, the Turkish Armenian journalist, which the complainant had raised in his letter of 20 January 2007. In her reply Ms O'Brien shared with the complainant the background note and relevant correspondence inviting him to make comments on the paperwork ahead of the Committee's meeting 8 October 2008.

In response the complainant in an email of 6 September 2008 rejected the ESC's proposal to consider the additional point stating that the proposal continued to ignore the specific points raised in his complaint which included issues concerning the independence of the advice provided to the Committee. The complainant believed the advice had been one-sided, "bordering on scandalous in its anti-Armenian attitude". In a further response of 21 September, the complainant confirmed that he did not think the reconsideration of one point, "constitut[ed] fair, adequate and unbiased process." He declined to submit a final submission on the issue of the three articles.

#### **5 Applicable programme standards**

Section 1 - BBC's Editorial Values

##### **Truth and Accuracy**

We strive to be accurate and establish the truth of what has happened. Accuracy is more important than speed and it is often more than a question of getting the facts right. We will weigh all relevant facts and information to get at the truth. Our output will be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language. We will be honest and open about what we don't know and avoid unfounded speculation.

#### Impartiality & diversity of opinion

We strive to be fair and open minded and reflect all significant strands of opinion by exploring the range and conflict of views. We will be objective and even handed in our approach to a subject. We will provide professional judgments where appropriate, but we will never promote a particular view on controversial matters of public policy or political or industrial controversy.

#### **Editorial Integrity and Independence**

The BBC's global reputation is based on its editorial integrity and independence. Our audiences need to be confident that our decisions are influenced neither by political or commercial pressures, nor by any personal interests. We must not undermine these values by any actions which could bring the BBC into disrepute.

#### **Serving the public interest**

We seek to report stories of significance. We will be vigorous in driving to the heart of the story and well informed when explaining it. Our specialist expertise will bring authority and analysis to the complex world in which we live. We will ask searching questions of those who hold public office and provide a comprehensive forum for public debate.

### **Section 3 - Accuracy**

#### **Introduction**

The BBC's commitment to accuracy is a core editorial value and fundamental to our reputation. Our output must be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language. We should be honest and open about what we don't know and avoid unfounded speculation.

For the BBC accuracy is more important than speed and it is often more than a question of getting the facts right. All the relevant facts and information should be weighed to get at the truth. If an issue is controversial, relevant opinions as well as facts may need to be considered.

We aim to achieve accuracy by:

- the accurate gathering of material using first hand sources wherever possible.
- checking and cross checking the facts.
- validating the authenticity of documentary evidence and digital material.

## **Misleading audiences**

We should not distort known facts, present invented material as fact, or knowingly do anything to mislead our audiences. We may need to label material to avoid doing so.

## **Section 4 – Impartiality and diversity of opinion**

### **Introduction**

Impartiality lies at the heart of the BBC's commitment to its audiences. It applies across all of our services and output, whatever the format, from radio news bulletins via our web sites to our commercial magazines and includes a commitment to reflecting a diversity of opinion.

The Agreement accompanying the BBC's Charter requires us to produce comprehensive, authoritative and impartial coverage of news and current affairs in the UK and throughout the world to support fair and informed debate. It specifies that we should do all we can to treat controversial subjects with due accuracy and impartiality in our news services and other programmes dealing with matters of public policy or of political or industrial controversy. It also states that the BBC is forbidden from expressing an opinion on current affairs or matters of public policy other than broadcasting.

In practice, our commitment to impartiality means:

- we seek to provide a properly balanced service consisting of a wide range of subject matter and views broadcast over an appropriate time scale across all our output. We take particular care when dealing with political or industrial controversy or major matters relating to current public policy.
- we strive to reflect a wide range of opinion and explore a range and conflict of views so that no significant strand of thought is knowingly unreflected or under represented.
- we exercise our editorial freedom to produce content about any subject, at any point on the spectrum of debate as long as there are good editorial reasons for doing so.
- we can explore or report on a specific aspect of an issue or provide an opportunity for a single view to be expressed, but in doing so we do not misrepresent opposing views. They may also require a right of reply.
- we must ensure we avoid bias or an imbalance of views on controversial subjects.
- the approach to, and tone of, BBC stories must always reflect our editorial values. Presenters, reporters and correspondents are the public face and voice of the BBC, they can have a significant impact on the perceptions of our impartiality.

### **Achieving impartiality**



Impartiality is described in the Agreement as "due impartiality". It requires us to be fair and open minded when examining the evidence and weighing all the material facts, as well as being objective and even handed in our approach to a subject. It does not require the representation of every argument or facet of every argument on every occasion or an equal division of time for each view.

## **6 The Committee's decision**

The Committee in re-considering an additional point not previously considered in its finding of the appeal in October 2007 and May 2008 was satisfied that no further consideration need be taken with regard to its initial finding of October 2007 and with its decision of May 2008. The first finding is reproduced below:

The Committee considered the complaint against all the relevant editorial standards, including the BBC's values and other standards set out in the Editorial Guidelines. The Committee took into account all the material before it relating to the appeal; this included submissions from all the relevant parties to the complaint who were asked to comment on the material going before the Committee.

The Committee agreed that the complainant had made two points that required consideration. They were whether:

- BBC News was guilty of a breach of guidelines by not marking, in 2006 and 2007, the anniversary of the massacre of hundreds of thousands of Armenians in 1915 in any of its output.
- The BBC by not accepting the event as genocide, and including the views of the Turkish state, deny the facts and recognition of the event, and as such are in breach of guidelines on impartiality and accuracy.

Regarding the first point the Committee noted that there is no editorial guideline that mandates BBC News to cover specific news items in its bulletins.

The Committee was also aware that BBC News had not compiled a list of stories or events that it considered mandatory for news coverage; coverage of an event, therefore, was the sole responsibility of BBC News and each news editor to decide which news story should be covered.

However, the Committee was aware that important historical events were included in the list of potential news stories offered up at weekly and daily news planning meetings for consideration alongside other diarised items. From this, the Committee noted, BBC News made judgements on which anniversaries to cover. It was aware, for instance, that a landmark anniversary of an event would be a factor in its consideration for inclusion in a news bulletin or website page. This had been the case for the 60<sup>th</sup> anniversary of the Normandy landings in 2004 and the 90<sup>th</sup> anniversary of the 'Armenian Genocide' in 2005, both of which were covered by BBC News. The Committee also noted a number of other examples when the 'Armenian Genocide' had been featured in news stories such as in 2006 when the

French Parliament adopted a bill making it a crime to deny that Armenians suffered genocide at the hands of the Turks and was satisfied that this was the appropriate way for BBC News to cover the event in the context of a relevant and developing story.

The Committee was therefore satisfied that BBC News in not choosing to cover the anniversary of the 'Armenian Genocide' in 2006 and 2007, whilst in no way detracting from the suffering of the many hundreds of thousands of Armenians in this historical event, had not breached any editorial guidelines. It was the nature of news that it should not be mandated to cover any specific event and that the judgement on what is covered should be left to BBC News to choose based on its news value. The Committee was also satisfied that the 'Armenian Genocide' had been given appropriate coverage in relevant news stories over a period of time. The Committee therefore did not consider there had been a breach of guidelines and did not uphold the request for the 'Armenian Genocide' to be given a specific mention on BBC News on its anniversary on 24 April.

As to whether the BBC should recognise the event as genocide, the Committee noted the relevant section of the editorial guidelines regarding impartiality and the coverage of a specific news item. It noted:

We strive to be fair and open minded and reflect all significant strands of opinion by exploring the range and conflict of views.

- we strive to reflect a wide range of opinion and explore a range and conflict of views so that no significant strand of thought is knowingly unreflected or under represented.
- we can explore or report on a specific aspect of an issue or provide an opportunity for a single view to be expressed, but in doing so we do not misrepresent opposing views.
- we must ensure we avoid bias or an imbalance of views on controversial subjects.

The Committee noted and endorsed the comments of the Head of Compliance, BBC News when she said:

“BBC News is neither state nor historian. We report (amongst other things) what states and historians do and say and leave it up to the listener or viewer to think about. When there is argument between states and historians....we can only report it objectively by giving audiences this context.”

The Committee recognises that for the BBC to report impartially it is appropriate for it to reflect the views of the Turkish State when the issue is mentioned to ensure that all views are represented so as to support fair and informed debate. The Committee was satisfied that as there is no consensus over the event amongst the international community and taking into account that there is no admission by the Turkish State of it being genocide, it is appropriate that the BBC continues to report this event impartially stating the facts as they are known and the views of the various

sides to the argument without taking a position. In doing so the BBC is not denying the facts or recognition of the event but is ensuring that the controversial subject is being treated with due accuracy and impartiality.

As to the language of how the Armenian massacre and starvation is reported the Committee noted the comments of the Head of Editorial Compliance, BBC News who stated:

“We put ‘genocide’ in inverted commas in our online reports, and in our television and radio reports we use the word in the context of reporting the dispute about premeditated intent. If we failed to do this, contrary to what you suggest, our coverage would indeed be unbalanced and misleading – unbalanced because the Republic of Turkey vigorously denies that its predecessor administration had any such policy and bitterly criticises some if not all of the source material you quote; misleading because we would be through our use of language addressing the issue as if it were decided when the news developments revolve around the disputed nature of the events.”

The Committee endorsed the comments expressed by BBC management, although it was concerned that the use of inverted commas was not always consistent in online content. It considered the use of quotes was not always necessary as long as the piece mentioning the event noted the level of dispute as to the use of the terminology.

**The Committee then considered the three additional guidelines regarding accuracy, editorial integrity and independence and serving the public interest.**

The Committee noted that the BBC’s Editorial Values on serving the public interest set out that the BBC:

“[...] seek[s] to report stories of significance. [The BBC] will be vigorous in driving to the heart of a story and well informed when explaining it. Our specialist expertise will bring authority and analysis to the complex world in which we live. [The BBC] will ask searching questions of those who hold public office and provide a comprehensive forum for public debate.”

The Committee was satisfied that in news terms reporting a story of significance applied to a relevant and developing story. It agreed therefore that the appropriate way for BBC News to cover the event was in the context of a story. The Committee was satisfied that there was no evidence that there had been a developing and relevant story on the days in question and that BBC News (in choosing not to cover the anniversary of the Armenian “Genocide” in 2006 and 2007), had not breached this editorial guideline.

The Committee also noted that the BBC’s Editorial Value on Truth and Accuracy states:

“[The BBC] strives to be accurate and establish the truth of what has happened. Accuracy is more important than speed and it is often more than a question of getting the facts right. [The BBC] will weigh all relevant facts and information to get at the truth. [The BBC’s] output will be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language. [The BBC] will be honest and open about what [The BBC] don’t know and avoid unfounded speculation.”

The Committee recognised that for the BBC to report accurately (and impartially) it was appropriate for reports to reflect the views of the Turkish State when there was mention of the issue in order for all views to be represented and relevant facts mentioned so as to support fair and informed debate. The Committee noted that as there is no consensus over the account of the event, even amongst the international community, and taking into account that there was no admission by the Turkish State that this was genocide, it is appropriate that the BBC continues to report this event accurately by stating the facts as they are known, which includes the views of the various sides to the argument without taking a position. In doing so the BBC is not denying the facts or failing to recognise the event but is ensuring that the controversial subject is being treated with due accuracy and impartiality.

***Finally the Committee noted that the editorial integrity and independence principle states that:***

“[The BBC] must be independent of both state and partisan interests”.

The Committee considered whether in the presentation of the event or in the choice of when it was featured or not featured, the BBC had been in some way influenced by either state or partisan interests. The Committee was satisfied that there was no evidence to suggest that BBC News or any content area had been influenced by external pressures. The Committee was therefore satisfied that there was no evidence to suggest coverage or lack of coverage of the event breached guidelines on the integrity and independence of the BBC.

In summary the Committee was satisfied that the Armenian massacre of 1915 had been given appropriate coverage in relevant news stories over a period of time. The Committee did not consider there had been a breach of guidelines and did not uphold the request for the Armenian ‘Genocide’ to be given a specific mention on BBC News on forthcoming anniversaries.

**The Committee then considered the one element of the complaint that had not been previously considered regarding the three BBC News website articles that referred to the assassination of the Turkish Armenian journalist Hrant Dink.**

**The complainant set out this element of his complaint in his letter to the Committee dated 20 January 2007 in which he stated: (reformat complaint text)**

“In your online reporting on the assassination of the prominent Turkish Armenian journalist Hrant Dink [1] you mislead the public by withholding crucial information regarding the recognition of the Armenian Genocide, namely the fact that it is not only the Armenians who consider the massacres of over a million Armenians in 1915 a genocide, but also a large and constantly growing number of states, international and supranational organisations and scholars [2].

You fail to give a fair overview because of this omission. Not very well informed readers may be forgiven if after reading your reporting they would conclude “well, seems it’s a matter of opinion, Armenians say it was genocide, Turks say it wasn’t”. It is as much a matter of opinion as the Holocaust is.

Ignoring (by not mentioning) not only the tangible historical evidence in the archives of Britain, United States, France, Germany and Russia, but also collective opinion of such distinguished organisations as the International Association of Genocide Scholars and the European Parliament – as well as Britain’s own Parliamentary Blue Book prepared by Viscount Bryce and officially published by the Parliament decades ago – is not how the BBC should operate.

We respectfully request you to introduce a higher degree of professional integrity into your coverage of this issue by providing balanced reporting and not withholding information which is absolutely critical to the understanding of this tragedy which still haunts our people after almost a century of denial and selective memory. Fair and accurate reporting means giving the whole picture, not just the least common denominator least likely to upset Turkey.

On April 24th this year Armenians worldwide, as well as those who believe that truth has no expiration date, will commemorate another anniversary of the Armenian Genocide. Please put this right by giving a fair coverage of our tragedy which would be worthy of the world’s most respected media organisation.”

(At footnote [1] the complainant presented three reports which appeared on the BBC News website on 19 January 2007. At footnote [2] he provided a non-comprehensive list of scholars, states and other bodies which he said recognise the “genocide” as such.)

**He raised the issue of withholding crucial information regarding the recognition of the Armenian ‘Genocide’ again in his letter of 21 April 2008:**

“1.2. We do not have any objections to the mention of the fact that the Republic of Turkey does not at present recognise the Armenian Genocide,

whether in print or on air, as long as it is also mentioned that the weight of over 90 years of historical study and analysis by independent scholars, which has culminated in the declaration of the International Association of Genocide Scholars, shows the fact of the Armenian Genocide.”

The Committee considered each of the articles in turn against the editorial guidelines on accuracy, impartiality and diversity of opinion, editorial independence and serving the public interest. The three articles were:

- I. “Fury in Turkey at editor’s funeral”
- II. “Turkish-Armenian writer shot dead”
- III. “Obituary: Hrant Dink”

In considering these articles the Committee was aware of its previous decisions in relation to these complaints. In particular that: “there is no consensus over the status of the massacre amongst the international community and no admission by the Turkish state of it being genocide”.

The Committee agreed that it would be disproportionate to require the BBC to achieve due accuracy and due impartiality by listing or summarising the views of various persons, states and other bodies as to whether the massacre was genocide in all on line articles and all broadcast content. Information should be included as and when the context required it to achieve due impartiality and accuracy.

- I. “Fury in Turkey at editor’s funeral”

The Committee noted what was said in the article in relation to international recognition of the Armenian ‘Genocide’:

“Hundreds of thousands of Armenians died in 1915, in what Armenians say was a systematic massacre at the hands of the Ottoman Turks.

More than a dozen countries, various international bodies and many Western historians have recognised it as genocide.

Turkey denies any genocide, saying the deaths were a part of World War I.”

The Committee concluded that the article had met the requirements of the various editorial standards it was considered against. The Committee was satisfied that the report had served the public interest by reporting on an incident of significance and in doing so had reported with due accuracy and due impartiality on the issue of the ‘Armenian Genocide’ by referring to the recognition by many Western historians and international bodies of the event as genocide, whilst also acknowledging Turkey’s denial that it was genocide. It agreed there was no need for the article to go further

and for the BBC to list the people or bodies which recognise the massacre as a genocide or to set out a view as to whether the weight of opinion is such that the massacre amounts to genocide. The Committee also noted that there was no evidence to suggest that BBC News in writing and publishing the article had been influenced by state or partisan interests.

## II. “Turkish-Armenian writer shot dead”

The Committee noted what was said in the article in relation to international recognition of the ‘Armenian Genocide’:

“Hundreds of thousands of Armenians died in 1915 at the hands of Ottoman Turks. Armenians have campaigned for the killings to be recognised internationally as genocide. More than a dozen countries, various international bodies and many Western historians have done so.

Turkey admits that many Armenians were killed but it denies any genocide, saying the deaths were a part of World War I.”

The Committee was satisfied that this article also met the required editorial standards of accuracy, impartiality, serving the public interest and editorial independence. It noted that that report had been duly accurate and impartial in setting out an appropriate summary as to whether or not the massacre of hundreds of thousands of Armenians in 1915 should be considered as genocide. The Committee noted that the article referred to the agreement by more than a dozen countries, various international bodies and many Western historians that this was genocide whilst also reflecting the Turkish denial. It agreed there was no need for the article to go further and for the BBC to list the people or bodies which recognise the massacre as a genocide or to set out a view as to whether the weight of opinion is such that the massacre amounts to genocide. The Committee also agreed there was no evidence to suggest the report was influenced by political or partisan interests.

## III. “Obituary: Hrant Dink”

The Committee noted the specific reference to the ‘Armenian Genocide’ within the article:

“Hundreds of thousands of Armenians died or were driven out of Turkey in 1915, in what many Armenians say was a genocide at the hands of Turks.

Ankara denies the allegations, saying the death were a part of World War I in the dying days of the Ottoman empire.”

The Committee noted that this article, being an obituary, was different in nature to the other two articles. All were on the news section of the site but an obituary gave rise to different expectations and had a precise scope. The Committee was satisfied that given the purpose of the obituary was to provide background to the life and

assassination of Hrant Dink and in particular his writing on the mass killings of Armenians in the first part of the 20<sup>th</sup> Century, it had appropriately highlighted the tension between Armenians and Turks within Turkey. In particular, the Committee noted that the inclusion of the sentence:

“Turkey’s relationship with its once-sizeable Armenian community is still fraught with tension.” (Our emphasis)

ahead of the final two sentences of the article:

“Hundreds of thousands of Armenians died or were driven out of Turkey in 1915, in what many Armenians say was a genocide at the hands of Turks.

Ankara denies the allegations, saying the death were a part of World War I in the dying days of the Ottoman empire.”

indicated that the last two sentences should be read in the context of the internal situation in Turkey. As such, the article, in terms of due accuracy and impartiality, was not required on this occasion to set out the support or otherwise for the definition of this event as a genocide beyond Turkey.

The Committee also concluded that the short summary at the head of the article was not required to set out the views of external countries institutions and historians to achieve due impartiality and accuracy in that it was concentrating on the key facts that lay behind Hrant Dink’s death within the internal Turkish context.

It agreed there was no need for the obituary to go further and for the BBC to list the people or bodies which recognise the massacre as a genocide or to set out a view as to whether the weight of opinion is such that the massacre amounts to genocide.

As to whether the article met the guidelines on editorial independence and integrity, the Committee concluded that there was no evidence to suggest that article had been influenced by political or partisan interests.

**Finding: Not upheld**



## **Outlook, BBC World Service, 12 February 2008**

### **1 The programme**

Outlook is described on the World Service website as a documentary series which provides “human interest stories behind the headlines”. The edition on 12 February included comments by BBC Religious Affairs correspondent, Frances Harrison, on reactions to the Archbishop of Canterbury’s speech about the possibility of accommodating some aspects of traditional Islamic law in the UK legal system; and interviews with two people who had direct experience of the operation of Sharia courts in the UK.

Source: <http://www.bbc.co.uk/worldservice/outlook/>

### **2 The complaint**

The complainant wrote to the Editor of Outlook on 13 February 2008 objecting to “the disgracefully one-sided presentation of the current Sharia controversy” on the programme. The complainant also noted that the programme had included “a simplistically biased commentary” with Religious Affairs Correspondent Frances Harrison and a statement from a Muslim woman in favour of Sharia courts. The complainant also said out that the programme had not challenged the views of contributor Dr Suhaib Hasan, a judge in one of the Sharia courts operating in the UK, and secretary of the Islamic Sharia Council UK and Eire. The complainant also stated that:

“The whole programme, characteristically I fear on such issues, presented an almost wholly negative view of the UK, with all the usual stuff about “Islamophobia”, to your listeners.”

The Editor of Outlook replied on 3 March 2008 stating that the purpose of the programme was to explain how the Sharia court currently operates in the UK from the perspective of an individual who had experienced the judgement of a Sharia court. He explained it also included an interview from Dr Hasan who had often heard cases under Sharia law). The Editor said it had not been the intention of the programme to debate the rights and wrongs of Sharia law as applied around the world. He also pointed out that the programme took impartiality very seriously and that the programme had in the past included many less positive experiences of Sharia law. Impartiality could be achieved over time.

In a reply to the Editor dated 3 March 2008 the complainant stated that the Editor had failed to address his points. He also reiterated his view that the programme had presented a one-sided view to the world of the reaction in the UK to the Archbishop’s speech as well as presenting a one-sided view of Sharia law as applied in the UK.

The complainant contacted the programme again on 12 March 2008 stating his disappointment that the programme had not replied to his 3 March 2008 email.

The Editor of the programme wrote back on 13 March 2008 pointing out that the programme was not the arena for a detailed dissection for concepts such as Islamophobia or Sharia law but:

“the place for personal stories and testimonies, and close-up interviews with the ‘people living the headlines’.”

The Editor also defended the questioning of France Harrison who had cited examples of some of the “inhuman extreme punishments” carried out in Sharia’s name. He also pointed out that she had been asked to reflect on the reaction of the British press to the story, not to critique the concept of Sharia. He also noted that her commentary whilst concise could not be described as biased or simplistic. With regard to the choice of contributor’s, he stated that the point of the programme was to talk to people about their own direct experiences. The choice of those who had first-hand experience of Sharia law in the UK and were available and eloquent was limited. No British examples with a negative experience had been found. The contributors had been approached with regard to their experience and credentials. Nevertheless, the editor did concede that there had been room in the interview with Dr Hasan to challenge him on the extreme punishments associated with Sharia.

There then followed an exchange of correspondence between the complainant and the programme in which the complainant suggested a number of organisations and individuals with whom the programme could have contacted to have provided an opposite view to the positive view of Sharia judges as stated by a contributor to the programme. The complainant also reiterated his concerns that Dr Hasan should have been challenged over his views as to the application of Sharia law in the UK.

On 16 April 2008 the Executive Editor, World Service Production replied to the complainant having listened again to the programme and having re-read the correspondence. She accepted that the programme was flawed but did not think it was “disgracefully one-sided”. She noted the purpose of the programme was to “illuminate the debate in Britain over Sharia law and that the programme had endeavored to do that in a reasoned and practical way”. She also stated that she did not believe Ms Harrison’s contribution to have been simplistic or biased and that Ms Harrison had been asked to give an informed overview of the debate. She accepted that perhaps they should have asked a question as to what the debate was and that Ms Harrison might have indicated the range of responses. In relation to the two contributors she stated that she would have liked to have heard more first hand testimonies, but that of the one individual heard “I could only conclude that it had worked for her”. However, she did agree that the interview with Dr Hasan should have been more robust, and “he should have been challenged harder.” She also promised to discuss the responses to this complaint with the editor and that she would make sure they are “known, understood and addressed” not only with the Outlook team but also with the World Service Religion team.

The complainant replied to the Executive Editor’s response on 17 April repeating his concerns about Ms Harrison’s contribution as well as stating that Ms Harrison had

reflected the minority viewpoint of militant Muslims and should have qualified her comments which he repeated had given:

“an almost entirely negative view of Muslim experience in the UK”.

The complainant had escalated his complaint to the Editorial Complaints Unit (ECU) on 3 April in which he had repeated his criticisms of the concluding that:

“My complaint is specifically about the failure to accurately report (by omission of the more considered opinions widely expressed) the responses to the Archbishop’s speech, and lack of impartiality in the remainder of the programme (i.e. its failure to report other than positive views of Sharia courts in Britain, or to even question the uniformly favourable accounts being presented). However, I feel I must add that such a simplistic and one-sidedly negative view of the Muslim experience in Britain as was presented to the world by Ms Harrison, and indeed by the programme as a whole, is a serious matter at a time when such issues are (sometimes quite literally) explosive.”

The Head of the ECU replied on 16 May 2008, not upholding the complaint on the grounds the nature of the Outlook programme was somewhat distinct from other news programmes in the usual sense and from the expectations attached to such programmes. He noted that it would not be a programme where listeners would have derived their primary information about news stories which it featured, it was more a programme that offered “insights from a human perspective on stories which will have received their primary news coverage in other outlets.”

The Head of the ECU suggested the relevant guideline in this case was:

“we can explore or report on a specific aspect of an issue or provide an opportunity for a single view to be expressed, but in doing so we do not misrepresent opposing views. They may also require a right of reply.”

The Head of the ECU also agreed with the views expressed by the Executive Editor, World Service Productions regarding the balance of the programme in that it “would have been more informative and illuminating if it had reflected a range of Muslim reactions to the controversy, or negative as well as positive experiences of the operation of Sharia courts in Britain.” Nevertheless, he did believe the flaws amounted to a breach of the editorial standards.

In relation to Mr Harrison’s remarks the Head of the ECU believed that it was clear these remarks were not offered as statements of fact about the UK situation at large, but as an informed judgement as to how matters were perceived by the Muslim communities to which Ms Harrison had talked.

The complainant responded to the Head of ECU’s finding on 25 May 2008 stating that he found it extraordinary that the ECU had found that the guidelines on Impartiality and Diversity of Opinion were not breached. He argued that the item

was not presented as giving one side of an issue but was in part a report on a recent event. The complainant stressed his concern that reactions to the Archbishop's speech had been misrepresented within the programme and said that the view that Ms Harrison was reporting the perceptions of the Muslim community was "either naïve or disingenuous". He concluded by saying:

"The failure by the BBC in this instance to adhere to accuracy of reporting ... of an important event in the UK, and the presenting of simplistic 'perceptions' of some Muslims to a world audience without caveat, was highly irresponsible in the current climate."

The Head of the ECU replied on the same day (28 May 2008) noting that whilst the item was not explicitly introduced as giving one side of an issue, the context of the programme was that there was no expectation that items would give a comprehensive picture of the issues and range of viewpoints associated to the news stories that prompt them.

On 17 June 2008 the complainant appealed to the Editorial Standards Committee reiterating his concerns about the programme.

### **3 Applicable Programme Standards**

#### **Section 3 - Accuracy**

##### **Introduction**

The BBC's commitment to accuracy is a core editorial value and fundamental to our reputation. Our output must be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language. We should be honest and open about what we don't know and avoid unfounded speculation.

For the BBC accuracy is more important than speed and it is often more than a question of getting the facts right. All the relevant facts and information should be weighed to get at the truth. If an issue is controversial, relevant opinions as well as facts may need to be considered.

We aim to achieve accuracy by:

- the accurate gathering of material using first hand sources wherever possible.
- checking and cross checking the facts.
- validating the authenticity of documentary evidence and digital material.
- corroborating claims and allegations made by contributors wherever possible.

#### **Section 4 - Impartiality and Diversity of Opinion**

##### **Introduction**

Impartiality lies at the heart of the BBC's commitment to its audiences. It applies across all of our services and output, whatever the format, from radio news bulletins via our web sites to our commercial magazines and includes a commitment to reflecting a diversity of opinion...

In practice, our commitment to impartiality means:

- we exercise our editorial freedom to produce content about any subject, at any point on the spectrum of debate as long as there are good editorial reasons for doing so.
- we can explore or report on a specific aspect of an issue or provide an opportunity for a single view to be expressed, but in doing so we do not misrepresent opposing views. They may also require a right of reply.
- we must ensure we avoid bias or an imbalance of views on controversial subjects.
- the approach to, and tone of, BBC stories must always reflect our editorial values. Presenters, reporters and correspondents are the public face and voice of the BBC, they can have a significant impact on the perceptions of our impartiality.
- our journalists and presenters, including those in news and current affairs, may provide professional judgments but may not express personal opinions on matters of public policy or political or industrial controversy. Our audiences should not be able to tell from BBC programmes or other BBC output the personal views of our journalists and presenters on such matters.
- we must rigorously test contributors expressing contentious views during an interview whilst giving them a fair chance to set out their full response to our questions.

### **Achieving impartiality**

Impartiality must be adequate and appropriate to our output. Our approach to achieving it will therefore vary according to the nature of the subject, the type of output, the likely audience expectation and the extent to which the content and approach is signposted to our audiences.

Impartiality is described in the Agreement as "due impartiality". It requires us to be fair and open minded when examining the evidence and weighing all the material facts, as well as being objective and even handed in our approach to a subject. It does not require the representation of every argument or facet of every argument on every occasion or an equal division of time for each view.

News, in whatever form, must be presented with due impartiality.

### **Controversial subjects**

In the United Kingdom controversial subjects are issues of significance for the whole of the country, such as elections, or highly contentious new legislation on the eve of a crucial Commons vote, or a UK wide public sector strike.

In the nations and regions of the UK, controversial subjects are those which have considerable impact on the nation or region. They include political or industrial

issues or events which are the subject of intense debate or relate to a policy under discussion or already decided by local government.

In the global context, some controversial subjects such as national elections or referendums will obviously have varying degrees of global significance but will be of great sensitivity in that country or region in which they are taking place. We should always remember that much of the BBC's output is now available in most countries across the world.

We must ensure a wide range of significant views and perspectives are given due weight in the period during which a controversial subject is active. Opinion should be clearly distinguished from fact. When the issues involved are highly controversial and/or a decisive moment in the controversy is expected we will sometimes need to ensure that all of the main views are reflected in our output. This may mean featuring them in a single programme, or even a single item.

### **Impartiality in series**

In achieving impartiality a series of programmes on the same service may be considered as a whole. The Agreement states that in this case due impartiality does not require absolute neutrality on every issue or detachment from fundamental democratic principles. For this purpose there are two types of series:

**Programmes dealing with the same or related issues, within an appropriate period and clearly linked.** In this case a series can include a strand with a common title, or two programmes (such as a drama and a debate about the drama) or a season of programmes on the same subject. These programmes need to achieve impartiality across the series or over a number of programmes within the series. The intention to achieve impartiality across a number of programmes should be planned in advance and normally made clear to the audience when the first programme is transmitted or when practicable.

**Programmes dealing with widely disparate issues from one programme to the next but also clearly linked as a strand with a common title.** These should normally achieve impartiality within individual programmes, or across two or three editorially linked programmes, rather than across the strand as a whole.

### **The Committee's decision**

The Committee considered the Complaint against the relevant editorial standards, as set out in the BBC's editorial guidelines. The guidelines are a statement of the BBC's values and standards.

In reaching its decision the Committee took full account of all the available evidence, including (but not limited to) the Editorial Adviser's Report and the subsequent submissions from the complainant, the programme team and the ECU.

The Agreement of 2006 between the BBC and the Secretary of State for Culture, Media and Sport sets out that the World Service is required to provide accurate unbiased and independent news covering international and national developments. It is also required to present a balanced British view of those developments and an accurate and effective representation of British life.

The Agreement requires the Trust to approve standards for the UK public services. The same guidelines also apply to the World Service.

The Appeal raised issues relating to the guidelines on impartiality and accuracy. The guidelines on impartiality say that it must be adequate and appropriate to the BBC's output. The approach to achieving it will vary according to the nature of the subject, the type of output, the likely audience expectation and the extent to which the content and approach is signposted to audiences. The BBC must ensure it avoids bias or an imbalance of views on controversial subjects.

The guidelines on impartiality also say that when the issues involved are highly controversial and/or a decisive moment in the controversy is expected the BBC will sometimes need to ensure that all of the main views are reflected in its output. This may mean featuring them in a single programme, or even a single item. The impartiality guidelines also allow the BBC to exercise its editorial freedom to produce content about any subject, at any point on the spectrum of the debate, as long as there are good editorial reasons for doing so..

The guidelines on accuracy say the BBC's output must be well sourced, based on sound evidence, thoroughly tested. It should be honest and open about what it doesn't know and avoid unfounded speculation. All the relevant facts and information should be weighed to get at the truth. If an issue is controversial, relevant opinions as well as facts may need to be considered.

The Committee when coming to its finding divided its consideration into three sections:

- Overall Approach
- The contribution of the Religious Affairs Correspondent
- The contributors

### Overall Approach

The Committee noted the complainant's view that the Outlook programme had given what he called a completely one-sided account of the responses to the Archbishop of Canterbury's speech and of the workings of Sharia courts in the UK. In essence the Committee noted that the complainant considered that the programme had portrayed the criticisms of the archbishop's speech as being based on an understanding of Sharia law which concentrated on inhumane punishments and

that the programme had portrayed the Sharia courts only in a positive light and had not reflected any considered negative views about UK Sharia Courts.

The Committee noted the BBC's point of view that Outlook's remit is to complement the News and Current Affairs output on the World Service – its aim is to provide a human interest dimension and so give a fuller understanding of stories that are in the news. The Committee also took account of the view of the ECU that Outlook was within its rights to provide an opportunity for a single view to be expressed.

The Committee recognised that Outlook was not a primary news programme such as a news bulletin. It accepted that its remit was to provide a human interest perspective and so a fuller understanding of stories that are or have been in the news.

The Committee agreed that within Outlook it was possible to explore a specific aspect of an issue or include a single view – but in such an event a single view or specific aspect should be signposted. The Committee agreed that there was no indication that this item was a single view item. It was not signposted as a single view. The Committee concluded that the programme had not provided signposting and context to indicate it was reflecting one perspective on Sharia courts in the UK.

In addition the Committee concluded that in any event impartiality should be achieved either in the item or across the series in the light of the controversial nature of the Archbishop's speech and the controversy about Sharia courts in the UK.

The Committee considered whether impartiality had been achieved across the series but noted that although the BBC indicated it had included adverse views of Sharia courts in other programmes in the series there was no evidence presented to the Committee that such items addressed the UK Sharia court experience or, in particular, that they had addressed the reaction to the Archbishop's speech in the time scale that the controversy was active. It noted that the existence of other items on the same subject in the series was not signalled to listeners. The Committee concluded on the basis of the evidence in front of the Committee that impartiality had not been achieved across the series.

The Committee then considered whether impartiality had been achieved within the item.

The Committee noted the item opened and closed with a two way (question and answer) between the presenter and the Religious Affairs correspondent. The body of the item consisted of an interview with a satisfied Sharia court user and an interview with Dr Suhaib Hasan a judge in one of the Sharia courts operating in the UK, and secretary of the Islamic Sharia Council UK and Eire.

The contribution of the Religious Affairs Correspondent's two-way (question and answer between the presenter and correspondent)



The Committee then considered the two-way with the BBC Religious Affairs Correspondent. The Committee noted what was said.

Frances Harrison's first contribution at the start of the Outlook item began with an answer to a question by the presenter about why there had been a huge reaction to the Archbishop of Canterbury's comments.

Frances Harrison:

"I think it has played into all the current fears about Islam. When people talk about Sharia law here they think of women being stoned to death, people being beheaded, and hands chopped off, although Dr Rowan Williams was very careful in his speech to say that these sort of inhumane extreme punishments were obviously not something he was propagating in any sense at all.

"His speech is very cautious, very careful to define exactly what he means, and he says that just because there's this fear of Sharia law you shouldn't assume that Islamic law, or parts of it, are not compatible with democracy or democratic values and human rights. But it has played into this sort of media frenzy, which I think really comes after the July bombings, the 7/7 bombings, and the 9/11 bombings, this fear of the 'Other', this fear of Muslims, it's played into that, and people have seized on some of the more out of context remarks and made a lot of them and not really looked at his remarks in context."

Presenter:

"As we are going to hear in a moment Sharia courts have actually unofficially been operating in the UK for quite some time now. But does anybody know how many of them there are operating?"

Frances Harrison:

"I think it's very difficult to have any sort of official statistics for these courts - they're fairly localised, nobody really knows nationally what is going on."

It noted the complainant's view that the two-way had made no mention of what he called the reasoned arguments made by several commentators about the institutional setup of current Sharia courts which predisposed them toward a male-centred viewpoint.

The Committee noted the view of the Executive Editor, World Service Production, that the Correspondent's comments about the reaction to the Archbishop's speech had not been biased or simplistic. It also noted that she had accepted that perhaps they should have asked a question as to what the debate was and that the Correspondent might have indicated the range of responses

It also noted the ECU's view that her two-way had not infringed any impartiality guidelines – that it was a legitimate function of specialist correspondents to provide

an overview of matters within their brief, based on their informed judgement, and she had been doing no more than that.

The Committee concluded that the two way had explained that the Archbishop's speech had been cautious and carefully defined. The Committee however also concluded that an assessment of the reaction to the Archbishop's speech should have referred to the reasoned debate about Sharia courts alongside references to concern about extreme punishments ("women being stoned to death, people being beheaded and hands chopped off") and a fear of Muslims. (Islamophobia). The Committee considered that if this context was not carried within the correspondent's two way then this context was necessary elsewhere in the item.

### The contributors

The Committee then turned to the issue of the two interviewees who appeared on the programme - a satisfied user of a UK Sharia court and Dr Suhaib Hasan. It noted the complainant's view that Outlook had failed to provide alternative views of the workings of Sharia to that of the court user or had raised such views with her. It also noted the complainant's view that the programme had failed to raise any criticisms about Sharia courts in the UK with Dr Hasan.

The Committee considered the arguments put forward by the BBC about these two interviewees. It also considered the comments by the Outlook Editor who said that in relation to the court user the programme had set out to explain how the Sharia court currently operated in the UK from the perspective of an individual who had experience of the court. The Committee noted the Outlook Editor's view that Dr Hasan had been booked in good faith for an interview which the programme knew would focus on civil remedies and not criminal sanctions under Sharia. It also considered the view of the Executive Editor, World Service Production, that the questioning of Dr Hasan should have been more robust and should have been challenged harder.

The Committee concluded that the programme would have benefited from a range of voices. It believed that a proper context should have been provided for the voices that were heard. The Committee also concluded that the questioning in the interview with Dr Hasan had not been sufficiently probing.

The Committee concluded that the item had portrayed the debate about Sharia Courts in the UK in terms of either a positive view of the courts or an extreme reaction against the Archbishop's speech based on a view of Sharia courts relating to inhumane punishments. It had not included other negative opinion based on the workings of the Sharia courts in the UK and it had not been clearly indicated that there were other relevant viewpoints to the ones expressed in the programme nor had the interviews sufficiently challenged the interviewees to demonstrate that there were other viewpoints (see below). The Committee considered that there was opportunity during the item to provide some context but this had not been done. The Committee therefore agreed that the item had not met the impartiality guidelines.

The Committee also considered the concerns of the complainant that the Correspondent's two way had reflected the minority viewpoint of militant Muslims and that the comments should have been qualified as they gave :

“an almost entirely negative view of Muslim experience in the UK”.

The Committee noted what had been said:

Frances Harrison:

“I think already the Muslim communities in Britain, the Muslims I've talked to, feel a great sense of alienation. Socially yes there are pockets of extreme deprivation for Muslims, they do academically worse in many areas, in terms of employment, in terms of housing, so there are real problems there that need to be addressed. A staggering number of the prison population is Muslim in this country already. So those are problems, but I think just in terms of their perception, this idea that if you're a Muslim, if you wear a headscarf you're a terrorist, this is what people talk about, that they don't feel that they have the kind of freedom there that they used to have and that things have become much more difficult for them, and they point to the media, and I think you know that this is a case in point, that they will say that the media is anti Muslim, it stirs up frenzy, it takes things out of context, it suggests that all Muslims are extreme, and I think they would look at this controversy that we are experiencing now as part of that anti media bias, that certainly British Muslims talk about a great deal.”

The Committee did not accept that the view given was that of militant Muslims. However the Committee, whilst appreciating the real difficulties of conveying complex positions in a short item, agreed that additional context was needed and that the description was not sufficiently nuanced so as to present an appropriately accurate and balanced picture of the position of Muslims in Britain. In addition the Committee considered some of the language could be considered as imprecise – for example the use of the word “staggering” when referring to the number of Muslim prisoners in jail without further context.

The Committee concluded that the item had breached the impartiality and accuracy guidelines.

**Finding: Upheld**

## **Rogue Traders, BBC One, 4 September 2006**

### **1 The Programme**

Rogue Traders is a consumer series presented by Matt Allwright and Dan Pentead. The episode on 4 September 2006 investigated the practices of solar panel salesmen. The programme featured companies that used scare tactics to persuade people to pay more than was necessary and a company that took payment for a system but then failed to install it.

(Source: [http://www.bbc.co.uk/consumer/tv\\_and\\_radio/roguetraders](http://www.bbc.co.uk/consumer/tv_and_radio/roguetraders))

### **2 The complaint**

After the original transmission of the programme on 4 September 2006 which highlighted the activities of the complainant as a solar panel salesman, the complainant wrote to the BBC complaining that the programme had invaded his family's privacy. The complaint was not upheld.

Following a series of unrelated stories in the media in 2007 concerning breaches in editorial standards in BBC programmes, the complainant wrote again to the BBC on 12 August 2007 stating that although he had been led to believe that his exposure on the programme Rogue Traders had come about following a large number of his customers contacting the programme, he had now seen evidence that proved "beyond doubt" the programme's producer had been contacted by a company he had previously worked for who had agreed to supply the programme's producer with information about the complainant in order to prevent the programme from "exposing their business practices". The complainant alleged that the other company had provided the producer with false information on a number of issues which involved the complainant such as that he had received payment for a product from a customer featured in the programme but then had failed to supply the product, that he was deliberately misleading customers as to the product's performance and that he had been sacked by the company. He concluded his letter with the following comment:

"In summary, the producers of Rogue Traders were unwittingly or otherwise used by a private company as a means to discredit me for their own agenda...The programme conspired with a company generally accepted as Rogue Traders to falsely discredit an individual who was given the opportunity to comment but the comments were not used."

The Head of Complaints, BBC Vision, replied on 15 August 2007 stating that he had found the complainant's allegations to be completely unsubstantiated.

The complainant responded on 20 September 2007 reiterating his complaint and adding that the programme had gone as far as to film two salesmen of the other company, footage that had never been broadcast. He also put forward reasons why the other company had implicated him - "as a means of revenge" - and that the

programme's producer had relied on information and material supplied by a company with an agenda, who had a proven record of deception and dubious business practices to which viewers were not made aware. The complainant also stated that the programme team was aware of an impending action being brought against this company by trading standards. The complainant also believed the response from BBC Vision had been arrogant, dismissive and threatening.

The Head of Complaints, BBC Vision, responded on 12 October 2007 stating

“I have to tell you that your suggestion [that the programme relied on information supplied by a named company] does not seem to hold water. I understand that, after the BBC had received a number of reports and complaints about your sales technique, you were secretly filmed and then questioned by the programme team. The questioning took place on 28 March. A conversation with directors of the company you name took place on 8 May, six weeks after the investigation into your behaviour had been completed.”

On 4 November 2007 the complainant wrote to the BBC Trust enclosing a copy of a letter he had also sent to BBC Vision. In the letter he repeated his claim as to the “truth of the matter” re. the producer's involvement with the other company as well as pointing out the failure of the programme to feature the company as rogue trader's. The complainant also pointed out that the Head of Complaints, BBC Vision, had a flawed understanding of the meeting between the programme's producer and the company and stated that he had the testimony of a former ex-employee who could testify as to when the meeting took place. He also noted that the programme had visited two of his customers who had refused to criticise him, but neither had been featured in the programme which he believed was:

“unbalanced and unfair contrary to your own editorial standards.”

The Complaints Manager, BBC Trust, replied that he had passed the complaint to the Editorial Complaint Unit (ECU) at stage 2 of the BBC's complaints process as the Trust would be unable to consider the complaint until the first two stages of the three stage complaints process had been completed.

There followed an exchange of letters between the complainant and the BBC Trust between January and March 2008 as to the progress of the complaint.

The Head of the ECU replied on 29 April 2008 apologising for the delay as well as explaining the reasons why the ECU would not consider the complaint. The Head of the ECU noted that 10 months had elapsed between the broadcast of the programme on 4 September 2006 and his email of 12 August 2007. The Head of ECU stated that he would regard this as “well beyond the time within which it would be reasonable for the Unit to take on a complaint unless there were circumstances which prevented the complainant from lodging it any sooner.” He added that he did not believe there were such circumstances in this case since it seemed clear from [the complainant's] letter of 12 August 2007 that the complaint had been prompted,

“not by the recent emergence of information about the programme maker’s conduct, but by the emergence of information about unrelated BBC broadcasts [in which viewers had been misled] which suggested that ‘it was a good time to air a complaint’.”

The complainant replied to the Head of the ECU on 8 May 2008 regretting the fact that the ECU had not considered his complaint and that he raised the issue of “the duplicitous behaviour” of the producer at his “earliest opportunity”. He believed the complaint should have been considered under the category of “circumstances prevented the claimant from lodging it [i.e. the complaint] any sooner”.

The Head of ECU replied on 13 May 2008, he explained that the ECU remit was confined to breaches of editorial standards in connection with the content of the item complained of. He pointed out that the issue of editorial standards raised by the complaint concerned whether the programme had contained material that was misleading and thus unfair to the complainant, not whether the programme’s producer had or had not entered into an inappropriate relationship with a company. He also pointed out that the question therefore was “whether there were circumstances which prevented the complainant making a complaint about the inclusion of unfair and misleading material at an earlier date”. The Head of the ECU noted that the complainant had informed the producer of the company’s consumer record prior to the broadcast of the programme. As such, he felt it had been apparent that, even before the programme was broadcast, the complainant anticipated that the programme might contain misleading and unfair material. He concluded therefore that the complainant had been in a position to lodge a complaint sooner i.e. as soon as it had become clear that the programme was being “unfair” or “misleading”.

Following receipt of the ECU reply, the Trust confirmed that it would request all documentation regarding the complaint. On 25 July 2008 the BBC Trust wrote to the complainant stating that it would be unable to hear his complaint on appeal but would request the Committee to reviewing the ECU decision to not consider his complaint. The complainant was informed on 8 September 2008 that the appeal would be heard at the Committee November 2008 meeting.

### **3 Applicable Editorial Standards**

As the appeal to the ESC concerned an appeal on process and not content set against the BBC Editorial Guidelines, the Committee considered the appeal against its responsibilities to oversee the editorial complaints process as set out in the BBC Trust’s Editorial Protocol (D4)<sup>1</sup> which states:

#### Complaints

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<sup>1</sup> BBC Trust’s Editorial Protocol (D4)

[http://www.bbc.co.uk/bbctrust/assets/files/pdf/regulatory\\_framework/protocols/d4\\_editorial\\_standards.pdf](http://www.bbc.co.uk/bbctrust/assets/files/pdf/regulatory_framework/protocols/d4_editorial_standards.pdf)

- 5.16 An important part of the Trust's regulation of applicable standards is its involvement in and oversight of the editorial complaints process. The Trust will expect the Executive Board to have in place suitable procedures for addressing complaints in relation to editorial standards. The Trust's Editorial Standards Committee will determine editorial complaints on appeal. Its procedures are set out in detail on the Trust website.

The Committee also considered the appeal against the BBC's Editorial Complaints Code of Practice in operation at the time.

### **BBC Complaints Code of Practice (February 2005 - August 2008)**

#### **How to complain**

There are three stages to the process. Within 4 weeks from the transmission or publication you can:

- make a complaint via this website <sup>2</sup>
- or ring BBC Information on 08700 100 222
- or write to BBC Complaints, P0 Box 1922, Glasgow G2 3WT

If you prefer to write directly to the programme, channel or division responsible your complaint will be handled in the same way. Should you choose to make your complaint to anyone outside of these areas the published complaints process will still be followed.

If your complaint is about a BBC UK public service or a BBC service licensed by the regulator Ofcom (primarily BBC commercial services in the UK and Europe) you can also complain to Ofcom about all issues except impartiality, inaccuracy, elections and referenda and some commercial issues (these remain the responsibility of the BBC Trust).

Your complaint will be logged by the BBC to ensure that all complaints are tracked and complaints handling can be systematically monitored.

#### **Stage 1: What happens first when I make a complaint?**

- You will receive a response when our research is complete. We aim to reply within 10 working days depending on the nature of your complaint.
- If we made a mistake we will apologise and take action to stop it happening again. When appropriate we publish a public response, correction or apology online at [www.bbc.co.uk/complaints](http://www.bbc.co.uk/complaints).
- We monitor and report in public on the complaints we have received, and learn from them to improve our programmes and services.

#### **Stage 2: If I'm not satisfied with the reply, what can I do next?**

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<sup>2</sup> [www.bbc.co.uk/complaints](http://www.bbc.co.uk/complaints)

BBC Information or the department responsible for the content about which you are complaining will try to resolve your complaint within up to two exchanges of correspondence. If you are still unhappy after these two exchanges you can take your complaint further.

If your complaint was about a specific item broadcast or published by the BBC and you believe it has breached the BBC's editorial standards, please write within 4 weeks of the date of the final stage 1 response to the Editorial Complaints Unit (ECU), BBC, Media Centre, Media Village, 201 Wood Lane, London W12 7TQ. The ECU will:

- independently investigate your complaint in writing
- decide if it is justified
- ensure that the programme or division takes appropriate action in response to the finding.

The ECU aims to complete its investigation into your complaint within 20 working days (a target of 35 days applies to a minority of cases which are judged to be unusually complex).

If your complaint was not about a specific item broadcast or published by the BBC please contact the person who responded within 4 weeks of the date of the final stage 1 response and say that you wish to take the matter further. Depending on the nature of your complaint, it may be referred to a senior manager in the BBC.

### **Stage 3: If I still think the BBC has got it wrong what can I do?**

- If you are still dissatisfied with the response that you have received at Stage 2, you can request an appeal to the BBC Trust's Editorial Standards Committee (ESC) within 4 weeks of the date of the Stage 2 response. Depending on the nature of your complaint, and whether or not it fits the criteria for appeals that the ESC will consider, the ESC may agree to take your complaint.
- The ESC will consider your appeal with the BBC's response and decide whether you have a justified complaint. More details are available at [www.bbc.co.uk/bbctrust](http://www.bbc.co.uk/bbctrust).
- If the ESC upholds your appeal it expects the Executive to take account of its findings.
- You can write to the ESC at 35 Marylebone High Street, London W1U 4AA. The ESC also receives quarterly reports from ECU on complaints and annual reports on complaints handling at both stage 1 and stage 2. The ESC ensures complaints are properly handled by the BBC and that the complaints handling process reflects best practice and opportunities for learning.

We aim to treat every complainant with respect and expect equal consideration to be shown in return to our staff who handle complaints.

## **4 The Committee's decision**

The Committee considered the appeal against its responsibilities to oversee the editorial complaints process as well as against the Editorial Complaints Code of Practice.



In reaching its decision the Committee took full account of all the available evidence, including (but not limited to) the Editorial Adviser's Report and the subsequent submissions from the Head of the Editorial Complaints Unit and the programme team.

The complaint under appeal was lodged well beyond the normal time frame during which complaints alleging a breach of the editorial guidelines are generally considered. The Committee was not being asked to consider the detailed substance of the complaint, but instead whether there were any grounds to overrule the ECU and to send the complaint back to the ECU for a Stage 2 response.

**The Editorial Complaints Code of Practice** which was in operation at the time stated that a complaint should be lodged within 12 weeks of transmission or publication:

“or exceptionally the BBC may allow longer if the BBC decides there is a good reason for the delay.”

The Committee noted the complainant's claim:

“I was only made aware recently of what I consider to be the duplicitous behaviour of your producer and complained at my earliest opportunity.”

The Committee first considered whether any of the points raised by the complainant would have been capable of being lodged within the normal timeframe. It felt that the allegation that viewers had been misled about the return of money to one of the “victims” in the programme, could have been made at the time of transmission. It reached the same conclusion with regard to the complainant's claim that he had been unfairly portrayed making false claims about product performance, and that the programme was wrong to claim he had been sacked. The Committee therefore concluded that these aspects of the appeal were out of time and it would therefore not return these aspects of the appeal to the ECU.

The Committee took account of the serious nature of the remainder of the allegations, and considered whether the nature of the allegations would justify an exception being made to the usual time frame.

It considered these claims made by the complainant:

- the programme makers targeted the complainant because of an improper relationship with another solar energy company, and not because of complaints from customers
- Rogue Traders hid its association with that company
- the programme had coerced the customer shown in the programme into preventing the complainant's company from installing the product he had paid for

The Committee noted the evidence provided by the programme team, that the Rogue Trader database had been the source of complaints and the cause of the

investigation of the complainant. It also noted the legal reasons which had prevented the programme from transmitting the material it had filmed of the other solar energy company and its directors. The Committee noted that at the time of transmission there was an ongoing court case between Bournemouth Trading Standards and the other solar energy company which rendered the material the programme had filmed sub judice (that is it would have been illegal to have broadcast the material). This was contrary to the allegation made by the complainant that Rogue Traders had been persuaded not to broadcast the material in because of an improper relationship with the solar energy company. The Committee noted that it had been provided with no evidence of any improper relationship between Rogue Traders and the other solar energy company, nor evidence of any attempt to coerce the customer into not allowing his solar system to be fitted.

The Committee found that the edition of Rogue Traders had legitimately investigated a matter of public interest and that no evidence had been produced in support of the very serious allegations made by the complainant. Where evidence did exist, it appeared to contradict the allegations made by the complainant.

In rejecting the Appeal, the Committee stated they were confident from the evidence before it that the programme was made with complete integrity.

**Finding: Not Upheld**

## **Today in Parliament, BBC Radio 4, 19 February 2008**

### **1 The programme**

This edition of Today in Parliament included a report on the Justice Committee enquiry “Devolution a Decade On”.

### **2 The complaint**

The complainant wrote to BBC Information on 20 February 2008 complaining of bias in the way the programme had reported testimonies to the Justice Committee looking into the impact of devolution. The complainant noted that the programme had reported on Kenneth Clarke MP, Professor Vernon Bogdanor and Liberal Peer, Lord Tyler’s, contributions to the Justice Committee in which all had been opposed to an English Parliament but had failed to mention the testimony of Michael Knowles of the Campaign for an English Parliament who was addressing the Committee on the same day. The complainant acknowledged that it was understandable for the programme to devote more time to the “assertions of the great and good”, but felt it was unforgivable not to mention another witness putting forward a contrary view.

BBC Information replied on 20 March apologising for the delay in responding as well providing an explanation for the programme’s content from the Controller of BBC Parliament. The reply stated that Today in Parliament did not set out to be a comprehensive record of the work of Parliament and in the case of the report on the Justice Committee, the production team considered the main story of the day to be that of Kenneth Clarke and his views on devolution, as he was speaking in his role as leader of David Cameron’s ‘Democracy Taskforce’. The reply noted that it was normal for the programme to highlight speeches of MPs and witnesses in their reporting of committees. In this case selection was based on the newsworthiness of Mr Clarke’s comments. The programme did not think that Mr Knowles’ comments, lobbying on behalf of the Campaign for an English Parliament, were as newsworthy. The reply also pointed out that half the air time for the programme was given over to the emergency nationalisation of Northern Rock and that squeezed the time for other items. The reply also rejected the suggestion that the BBC was censoring the Campaign for an English Parliament and pointed out that the proceedings of the Justice Committee were shown in full by BBC Parliament on all broadcast platforms and online.

The complainant replied to BBC Information on 28 March 2008 accepting that Kenneth Clarke’s views were more newsworthy as was the item on Northern Rock. However, he did point out that the item not only included Kenneth Clarke but the views of Vernon Bogdanor and Lord Tyler who were not well known. The complainant also reiterated his point that all three contributions were against the establishment of an English Parliament and that evidence from opinion polls was putting support for an English Parliament at between a quarter to a third of England’s population.

BBC Information replied on 14 April noting the complainant's dissatisfaction with the Controller of BBC Parliament's comments and offered details as to how to escalate the complaint to the Editorial Complaints Unit (ECU) at stage 2.

The complainant wrote to ECU on 18 April summarising his complaint. He noted that failing to mention Michael Knowles' evidence was "a serious and obvious editorial omission indicative of conscious or unconscious bias."

The ECU replied on 16 May 2008 noting that the BBC guidelines on impartiality allowed a programme editor to consider whether there were good editorial reasons for including, or excluding, elements of a news story. In this case it was noted that Mr Clarke's contribution was particularly newsworthy. The reply also noted details of the enquiry and that Mr Knowles' evidence was given in what was "essentially a separate session." The reply also drew a distinction between what was considered as debate which was required to be considered under the guideline on due impartiality, and what was not i.e. findings by witnesses as evidence for the purposes of fact gathering. The reply also pointed out that no other sessions were covered by the programme and, as such, the programme's editors had made a consistent editorial judgement. The reply also noted that the choice of Kenneth Clarke, whose contribution would inform the content of the next Conservative Party manifesto, was more significant than any of the others and was in line with the guideline which states:

"...does not require the representation of every argument or facet of every argument on every occasion"

The ECU did not uphold the complaint.

The complainant following a short exchange with the ECU regarding its finding appealed to the Editorial Standards Committee on 18 June 2008.

### **3 Applicable Editorial Standards**

#### **Section 4 - Impartiality and Diversity of Opinion**

##### **Introduction**

Impartiality lies at the heart of the BBC's commitment to its audiences. It applies across all of our services and output, whatever the format, from radio news bulletins via our web sites to our commercial magazines and includes a commitment to reflecting a diversity of opinion.

The Agreement accompanying the BBC's Charter requires us to produce comprehensive, authoritative and impartial coverage of news and current affairs in the UK and throughout the world to support fair and informed debate. It specifies that we should do all we can to treat controversial subjects with due accuracy and impartiality in our news services and other programmes dealing with matters of

public policy or of political or industrial controversy. It also states that the BBC is forbidden from expressing an opinion on current affairs or matters of public policy other than broadcasting.

Special considerations apply during the campaign periods for elections.

In practice, our commitment to impartiality means:

- we strive to reflect a wide range of opinion and explore a range and conflict of views so that no significant strand of thought is knowingly unreflected or under represented.
- we exercise our editorial freedom to produce content about any subject, at any point on the spectrum of debate as long as there are good editorial reasons for doing so.
- we can explore or report on a specific aspect of an issue or provide an opportunity for a single view to be expressed, but in doing so we do not misrepresent opposing views. They may also require a right of reply.
- we must ensure we avoid bias or an imbalance of views on controversial subjects.

#### Achieving impartiality

Impartiality must be adequate and appropriate to our output. Our approach to achieving it will therefore vary according to the nature of the subject, the type of output, the likely audience expectation and the extent to which the content and approach is signposted to our audiences.

Impartiality is described in the Agreement as "due impartiality". It requires us to be fair and open minded when examining the evidence and weighing all the material facts, as well as being objective and even handed in our approach to a subject. It does not require the representation of every argument or facet of every argument on every occasion or an equal division of time for each view.

News, in whatever form, must be presented with due impartiality.

## **4 The Committee's decision**

The Committee considered the Complaint against the relevant editorial standards, as set out in the BBC's editorial guidelines. The guidelines are a statement of the BBC's values and standards.

In reaching its decision the Committee took full account of all the available evidence, including (but not limited to) the Editorial Adviser's Report and the subsequent submissions from the complainant, the Head of the Editorial Complaints Unit and the programme team.

This Appeal raised issues requiring consideration of the editorial guidelines relating to impartiality.

### Impartiality

Impartiality must be adequate and appropriate to the output. The approach to achieving impartiality will vary according to the nature of the subject, the type of output, the likely audience expectation and the extent to which the content and approach is signposted.

The editorial guidelines state that the BBC's commitment to impartiality means, amongst other things, that the BBC has editorial freedom to produce content about any subject, at any point on the spectrum of debate, as long as there are good editorial reasons for doing so.

News, in whatever form, must be presented with due impartiality.

The BBC must also be fair and open minded when examining the evidence and weighing the facts as well as being objective and even handed in its approach. Impartiality does not require the representation of every argument or every facet of an argument on every occasion or an equal division of time for each view

The Committee considered this complaint in relation to whether the item on Today in Parliament breached the guidelines on impartiality, by failing to reflect the case in favour of an English Parliament, while featuring three voices who spoke against it.

The Committee noted the comments from the programme team that it was a particularly busy news day, and that the programme was dominated by the nationalisation of Northern Rock. It also noted the argument put by the Controller of Parliamentary Programmes, that the views of the witness representing the Campaign for an English Parliament were not as newsworthy as those of Kenneth Clarke.

The Committee also noted these comments from the complainant:

“This is not fair reporting. It is understandable that you should devote more time to the assertions of three representatives of the great and the good, but completely unforgivable to omit any reference to the fact that another witness expressed a contrary view.”

....”The fact that...the programme completely failed to mention the Campaign for an English Parliament is really quite indefensible. Ten seconds of air time and one sentence would have sufficed.”

The Committee noted the Controller's comment, that the motivation for commissioning the item, was to report the views of Kenneth Clarke in his capacity as Chairman of the Conservative Party's Democracy Taskforce, and that the voice of the Campaign for an English Parliament was not relevant or necessary in this context.

The Committee agreed that the item went well beyond reporting the opinions of Kenneth Clarke, because it featured two other voices unrelated to the working party he chairs. The Committee agreed that an item could have reasonably focused on Kenneth Clarke's views to the exclusion of other views in, for example, a short clearly signposted soundbite. The Committee's concern in this instance was that this was a 7 minute item, which covered far more ground than just Kenneth Clarke's thinking.

The Committee noted the argument by the Controller of Parliamentary Programmes that Kenneth Clarke and the other witnesses featured in the item had left the committee room when Michael Knowles of the Campaign for an English Parliament began giving evidence and that this was justification for his exclusion from the item.

While the Committee accepted that the Justice Committee's session did not constitute a debate and was an evidence session, it nevertheless felt this was clearly one session of evidence, as confirmed by the Clerk to the Select Committee, and in this respect it was not relevant that Kenneth Clarke had left the room when Mr Knowles began his evidence.

Finally the Committee considered whether the topic itself was of a controversial nature, and it noted the results of the Newsnight poll conducted a month before the item was broadcast, indicating strong support for an English Parliament among English voters. It considered this against the comments from the Controller of BBC Parliament that the Campaign for an English Parliament had "no purchase, no high-profile supporters."

The Committee noted and welcomed the helpful offer by the Controller of BBC Parliament, to reflect the views of the Campaign for an English Parliament when the Select Committee report is published.

In reaching its conclusion, the Committee felt that there was a clear requirement for the argument in favour of an English Parliament to have been reflected in the programme and that there had been a breach of the guidelines on impartiality in respect of this clause:

"we must ensure we avoid bias or an imbalance of views on controversial subjects."

The Committee noted however that in reflecting the contrary argument it was not suggesting that the programme provide equal time to those opinions or that every facet of every argument be explained but that reference should be made to the opposite opinion.

**Finding: Upheld**



**Today, BBC Radio 4, 18 February 2008**

## **1 The context**

This complaint concerned an interview conducted by John Humphrys with the Chancellor of the Exchequer, Alistair Darling MP about the nationalisation of Northern Rock. One aspect of the questioning relied on an official transcript of an exchange in the House of Commons from Hansard. The transcript concerned an exchange in November 2007 when Mr Darling appeared to agree with Labour MP Jim Cousins who had asked the question:

“Does my right hon. friend accept that the policy of nationalisation would lead to a slow lingering death for the jobs of the Northern Rock workers, its assets and Britain's reputation as a major financial services centre, with my right hon. friend the chancellor cast in the role of undertaker—and that only by finding a successor business to grow on those jobs, assets and reputations can we offer any real prospect of the taxpayers getting their money back?”

*Source: Hansard, 19 November 2007*

According to Hansard the Chancellor replied:

"I agree with my hon. friend" before continuing "It is regrettable and surprising that the Liberal Democrats never seemed to support our earlier proposals to keep Northern Rock open. It would also, however, be a mistake to shut off all other options and simply go for one at this stage; that does not seem to me to make any sense at all."

The BBC discovered this transcript was in fact inaccurate when Political Editor Nick Robinson listened to a tape of the exchange later that evening. The recording of the exchange revealed that Mr Darling had in fact been agreeing with a different point:

"I agree with my honourable friend that I think it is regrettable that the Liberal Democrats who never actually seemed to support the proposals we made earlier to keep Northern Rock open and I think that's regrettable and very surprising but I think it would also be a mistake to shut off all other options and simply go for one at this stage that doesn't seem to me to make any sense at all."

*Source: Tape recording of H of C exchange (transcribed by the Trust Unit)*

The same evening Nick Robinson published an explanation and an apology in his blog. The following morning he appeared on the Today programme and during that interview he repeated that explanation.

## **2 The complaint**

The complainant wrote to BBC Information on 9 April 2008 stating that the subject of his complaint was the failure of the BBC during this interview “to act

professionally, responsibly and fairly in reporting statements attributed to the Chancellor.” The complainant felt that John Humphrys had used an accusatory tone when asserting that the Chancellor of the Exchequer had previously stated that the nationalisation of Northern Rock would lead to catastrophic consequences. The complainant noted that Mr Humphrys had clearly implied that he found the change of policy inexplicable and “fair game for launching vigorous comment verging on an unpleasant rant.” The complainant continued stating that the Chancellor continued “steadfastly to maintain that he had not used the words attributed to him”. The complainant pointed out that “after a very unseemly exchange, Mr Humphrys realised he had made a mistake and tried to recover the position after repeated, immediate and forceful denials on the part of the Chancellor.” The complainant noted that Nick Robinson’s statement of regret, broadcast the following morning once the error as to what had actually been said in the Commons was known, “could be construed as a somewhat lame apology” which also implicated Hansard. The complainant questioned whether Mr Humphrys had had access to the information which he felt went to the issue of fair reporting. The complainant also asked for a transcript of the interview.

BBC Information replied on 7 May 2008 referring the complainant to the BBC website blog written by the BBC’s Political Editor, Nick Robinson note that the “the key problem was a missing word in Hansard’s transcript which obviously changed the whole meaning of the Chancellor’s remarks.” The reply noted that once the problem was established Today broadcast a correction the following day. In response to the manner of John Humphrys’ interview with the Chancellor, Alistair Darling, the reply stated that given the information in front of Mr Humphrys “it was not unreasonable of him to press the point with the Chancellor” and that Nick Robinson in correcting the issue the next day had summed it up when he said:

“Hansard had got it a bit wrong and so had we.”

BBC Information acknowledged the debate on what the Chancellor did or did not say overshadowed other important issues surrounding the collapse of Northern Rock, but that it was important part of Today’s role to hold those in power to account. It also stated that an interview like this although tough and robust was something that listeners and politicians expected and welcomed.

The complainant responded to BBC Information on 10 May 2008 asking it to escalate his complaint to the Editorial Complaints Unit (ECU) at stage 2 of the BBC’s complaints process. In his reply he raised concern that he had not received a transcript of the interview and that the emphasis of BBC Information’s reply had been on the topic of Hansard, when in fact his concern was “the extremely unfortunate manner in which Mr Humphrys lost control of the situation and seemed quite unable to accept that the Chancellor was speaking the truth.” He also stated that “politicians expect fairness in questioning and it is wholly improper... to badger interviewees and to attribute to them statements which they have not made.” The complainant again reiterated his request for a transcript of the Today interview and a copy of Nick Robinson’s blog.

The ECU replied on 4 June 2008 enclosing a copy of the blog as well as including the relevant parts of the transcript in its finding. The ECU did not uphold the complaint. It explained that the premise of the relevant section of the interview was based on Hansard the normally accurate report of the proceeding in Parliament which the Chancellor accepted. The finding noted that once the BBC was aware of the error it acted in two ways; firstly by publishing an apology on Nick Robinson's blog; and secondly by inviting Nick Robinson to appear on the programme at the same time as the Chancellor had been interviewed on the previous day to discuss the points in his blog and repeat the apology. The ECU also responded to the issue of the fairness of the interview. It quoted an assistant editor on Today who believed the interview was fair and robust and did not "bear the interpretation of being badgering in nature." The assistant editor also said that the Chancellor had been given "plenty of time" to describe what the Government had done about the collapse of Northern Rock. He also said that the discussion concerning the quote had become "feisty", but at no stage had it become rude or abusive. Finally, The ECU pointed out that the exchange in question was "conducted firmly, but respectfully, with the firmness coming in the tone of voice." The ECU noted there was nothing in the words used that could be taken to be disrespectful and that John Humphrys had persisted with a point he had assumed was accurate.

The complainant appealed to the Editorial Standards Committee on 15 August 2008.

### **3 Applicable Editorial Standards**

#### **Section 3 - Accuracy**

The BBC's commitment to accuracy is a core editorial value and fundamental to our reputation. Our output must be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language. We should be honest and open about what we don't know and avoid unfounded speculation.

For the BBC accuracy is more important than speed and it is often more than a question of getting the facts right. All the relevant facts and information should be weighed to get at the truth. If an issue is controversial, relevant opinions as well as facts may need to be considered.

We aim to achieve accuracy by:

- the accurate gathering of material using first hand sources wherever possible.
- checking and cross checking the facts.
- validating the authenticity of documentary evidence and digital material.
- corroborating claims and allegations made by contributors wherever possible.

#### **Fact checking**

We must check and verify information, facts and documents, particularly those researched on the internet. This may include confirming with an individual or

organisation that they posted material and that it is accurate. Even the most convincing material on the web may not be what it seems.

### **Correcting mistakes**

We should normally acknowledge serious factual errors and correct mistakes quickly and clearly. Inaccuracy may lead to a complaint of unfairness. An effective way of correcting a mistake is saying what was wrong as well as putting it right. Where we may have broadcast a defamatory inaccuracy Programme Legal Advice should be consulted about the wording of a correction.

## **Section 4 - Impartiality and Diversity of Opinion**

### **Introduction**

Impartiality lies at the heart of the BBC's commitment to its audiences. It applies across all of our services and output, whatever the format, from radio news bulletins via our web sites to our commercial magazines and includes a commitment to reflecting a diversity of opinion.

The Agreement accompanying the BBC's Charter requires us to produce comprehensive, authoritative and impartial coverage of news and current affairs in the UK and throughout the world to support fair and informed debate. It specifies that we should do all we can to treat controversial subjects with due accuracy and impartiality in our news services and other programmes dealing with matters of public policy or of political or industrial controversy. It also states that the BBC is forbidden from expressing an opinion on current affairs or matters of public policy other than broadcasting.

### **4 The Committee's decision**

The Committee considered the Complaint against the relevant editorial standards, as set out in the BBC's editorial guidelines. The guidelines are a statement of the BBC's values and standards.

In reaching its decision the Committee took full account of all the available evidence, including (but not limited to) the Editorial Adviser's Report and the subsequent submissions from the complainant.

This Appeal raised issues requiring consideration of the editorial guidelines relating to accuracy and impartiality.

#### Accuracy

The Committee noted that the editorial guidelines on accuracy say that BBC output must be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language. The BBC should be honest about what it does not know and avoid unfounded speculation

The guidelines also provide that the BBC should not distort known facts, present invented material as fact, or knowingly do anything to mislead audiences. It also requires the BBC to check and cross check the facts.

With regard to correcting mistakes the Committee noted that the BBC should normally acknowledge serious factual errors and correct mistakes quickly and clearly.

The Committee first considered this complaint with regards to the accuracy of what was broadcast and the accuracy of the information on which the presenter relied for the interview. The Committee was clear that Hansard is a document of record and in all usual circumstances could be relied upon by the BBC. However the Committee also noted that whilst there was an inaccuracy in Hansard, the incorrect version was open to interpretation and was far from an unambiguous agreement that nationalisation would be a disaster.

The Committee agreed that even with the Hansard error, it was clear that the Chancellor was not ruling out nationalisation. The Committee agreed that given this was the main interview of the day, in the key 08.10 slot, with a senior cabinet minister, that more care should have been taken to check and deconstruct exactly what was said – particularly because it was relying not on what Alistair Darling was said to have said, but what he was said to have agreed with. It concluded that too much reliance had been placed on the blog entry and that the preparation and briefing of the presenter had not been thorough. As a result the error meant that the interview of Mr Darling could not explore the nuance of what had been said.

The Committee agreed that there had been a breach of the accuracy guidelines.

The Committee then went on to consider the nature of the correction against the guideline requirement on correcting mistakes. The Committee felt that the correction in Nick Robinson's blog on the evening of the day of broadcast was timely and adequate.

The Committee noted the exchange on the Today programme the following day;

John Humphrys:

“Lots of people have been having a certain amount of fun with an exchange in the House of Commons, in which the Treasurer, the eh, Mr Darling, the Chancellor appeared to agree with suggestions that the bank was going to die a slow and lingering death under nationalisation. This we took from a Hansard report. It appears we got it slightly wrong.

Nick Robinson:

“Well, yes, I used the quote in my blog. You asked Alistair Darling in a lively exchange yesterday about it. The Tories used it. We were quoting a Labour MP who was questioning Alistair Darling, in which he suggested nationalisation would lead to a slow lingering death with the Chancellor as undertaker and which according to Hansard, the official record of the House

of Commons, Mr Darling said I agree with my honourable friend. Well late last night, when I eventually got around to it, I confess I went back to the tape and I thought let's listen to precisely what was said. Only to discover that Mr Darling didn't quite say what the official record said he said. He did say the words "I agree", but he went on to agree with a different point that had been raised by the Labour MP. In other words, an attack on the Liberal Democrats. So, for once Hansard got it wrong, and so did we, a bit."

The Committee noted that the word "sorry" was not used. The Committee recognised that the two presenters explained how the error had occurred in some detail but concluded that the words "It appears we got it slightly wrong" and "So for once Hansard got it wrong, and so did we, a bit" underplayed the acknowledgement of a serious factual error.

The Committee concluded therefore that the correction had not fully complied with the guideline which states:

We should normally acknowledge serious factual errors and correct mistakes quickly and clearly. Inaccuracy may lead to a complaint of unfairness. An effective way of correcting a mistake is saying what was wrong as well as putting it right.

### **Finding: Upheld**

#### Impartiality and Diversity of Opinion

The Committee noted the complainant's assertion that John Humphrys had acted unfairly:

"...it is wholly improper for a servant of a public corporation such as the BBC to badger interviewees and to attribute to them statements which they have not made and then to have what any fair minded person would describe as the gall not to believe repeated denials."

"..whether the Report was right or wrong is immaterial in relation to the very unpleasant refusal to accept the word of the Chancellor."

The Committee noted that the guideline on Fairness was not an appropriate one to consider on this occasion, as it was a third party complaint from a member of the public, unconnected with the participant in the programme. It therefore considered the interview in relation to the impartiality guidelines - in particular the following extracts :

"we must ensure we avoid bias or an imbalance of views on controversial subjects."

“we must rigorously test contributors expressing contentious views during an interview whilst giving them a fair chance to set out their full response to our questions.”

And

“the approach to, and tone of, BBC stories must always reflect our editorial values. Presenters, reporters and correspondents are the public face and voice of the BBC, they can have a significant impact on the perceptions of our impartiality.”

The Committee noted the statement from the programme:

“A rant is a one-sided monologue... Most of the interview was conducted in a calm manner and covered substantially more ground during which the Chancellor was given ample opportunity to make his points. There was nothing in the conduct of the interview which the Chancellor wouldn't have expected.”

The Committee also noted the ECU's view expressed at Stage 2, that the interview was conducted firmly but respectfully.

The Committee considered that it was reasonable for John Humphrys to have relied upon the information he was given. Although the result was that that entire section of the interview was conducted on a false premise, the Committee concluded that it was the result of incorrect briefing. The Committee accepted that John Humphrys believed that he had been correctly briefed, and that he maintained that belief throughout the interview.

Turning to the interview itself to assess the content in relation to impartiality the Committee did not agree with the view expressed by the complainant that John Humphrys had given the impression that Alistair Darling had directly spoken the words which he is said to have agreed with. It accepted that John Humphrys had attempted on a number of occasions to clarify who had uttered the words. The Committee also disagreed with the complainant's view that John Humphrys had moved on because he realised he had got his facts wrong.

The Committee took the view that John Humphrys was entitled to conduct the interview in the manner in which he did. The robust style of questioning was not in itself wrong. The issue (dealt with above) was the accuracy of the information as opposed to a failure of impartiality. The Committee considered that Alistair Darling maintained his position throughout so that the audience both had the statement

made according to Hansard and what Mr Darling himself said on the matter. With regard to the rest of the interview, the Committee noted that the interview continued for a further seven minutes, during which time the Chancellor had ample time to put his points.

The Committee therefore concluded that there had not been a breach of the guidelines on impartiality.

**Finding: Not Upheld**

**Finding: The Committee upheld the complaints on accuracy (fact checking and correcting mistakes). It did not uphold the complaint on impartiality.**



## **Put Your Money Where Your Mouth Is, BBC One, 11 March 2008**

### **1 The programme**

**Put Your Money Where Your Mouth Is** is described on the BBC website as a series “putting top consumer experts to the test”. In the edition on 11 March “Eric Knowles and James Rylands have to spend £1,000 of their own money at an antiques market in France, with a view to making a profit from the items by selling on their finds”.

Source: <http://www.bbc.co.uk/programmes/b009gkvw>

### **2 The complaint**

The complainant telephoned BBC Information on 11 March 2008 stating that he believed the programme was giving “a false and misleading impression of the antiques business”. In particular he noted that in the programme in question “two well heeled dealers” had gone to France to buy antiques and had returned to sell them at a great profit. The complainant pointed out that in reality, three quarters of the items would have achieved either a cost value or loss. He also stated that many of the BBC’s antique programmes are the same, with the exception of Flog It!.

BBC Information replied on 18 March 2008 acknowledging the complaint.

On 25 March 2008 the complainant wrote that his complaint concerned “damage to the livelihood of ordinary people trying to make an honest living” and that his complaint concerned another of the BBC’s misrepresentations of the antiques trade, “which have done so much damage”. The complainant explained further his concern about the particular edition of the programme in question and that the “cost of the operation” to send the dealers to the South of France would have wiped out what the programme referred to as ‘profit’, which would have highlighted “the ludicrous commercial nonsense it actually was”.

BBC Information replied on 20 April apologising for the delay saying that the complaint had been passed on to the production team for comment. In response to the complaint the production team stated that “at no stage did the programme attempt to portray the antiques business as a whole”. The programme had simply described the way the dealers featured in the programme conduct their business affairs. The reply also stated that the format of the programme clearly showed it be made within a ‘game show’ structure with “devices such as challenges in envelopes, artificial time limits and substantial contributions to charity”. The reply also included details of the BBC complaints policy.

The complainant then wrote to the Editorial Complaints Unit (ECU) at stage 2 of the complaints process on 29 April 2008. The complainant pointed that neither reply from BBC Information had addressed his complaint and that he had never suggested that the programme was about the “antiques business as a whole”, but that “any programme on any business is bound to reflect on that business in a general way”.

The complainant reiterated that in the real world costs were incurred and, had this been made clear in the programme, “the so-called profits would have been closer to nil, or less than nil”. The complainant pointed out that this portrayed antiques dealers as making money “without incurring costs, or indeed, doing any work”. The complainant then reiterated his concerns about how the trade had been portrayed in programmes like the Antiques Roadshow, which had “consistently abused the antiques trade” and had done a great deal to put dealers out of business “by showing the inner workings of the trade”. The complainant believed the BBC had done “very nicely” in making a lot of cheap programmes at the expense of people in the trade.

The ECU replied on 22 May 2008 outlining the complaint and pointing out that the complainant would be considered against the guideline on Fairness, Contributors and Consent and its basic principle:

“The BBC strives to be fair to all – fair to those we’re making programmes about, fair to contributors and fair to our audiences”.

The ECU’s finding stated that it was clear from the beginning that the programme was “never intended to be a realistic depiction of the antiques business or the people who work in it”. It explained that the format of the show, two experts brought together for the purposes of a competition, was set out at the start of the show and that viewers would have recognised that this was a “purely artificial situation”, far removed from anything faced by real dealers”. The finding pointed out that the two experts “had to spend a specific sum of money in a specific town on a specific day and sell their purchases within four weeks”, after which they gave all the money they made to charity. The ECU considered the show to be clearly designed for entertainment and not realism and thus not unfair to dealers in the ‘real world’. The complaint was not upheld.

The complainant replied to the ECU on 9 June 2008 suggesting that the ECU finding had not addressed his concerns regarding the dealers’ takings. He also felt that antiques dealers were treated differently to other trades such as property developers in Homes Under The Hammer, where costs of restoration were made clear.

The ECU replied on 17 June reiterating the points made in its finding.

The complainant then appealed to the Editorial Standards Committee on 21 June 2008 summarising his complaint as well as pointing out that the title of the programme made “a nonsense of what actually happened” and was therefore dishonest. He also pointed out that the contestants by not bearing the costs of the journey to France had misled viewers into the percentage profit (100%) being made. The complainant also pointed out that the viewer might have missed the presenter’s disclaimer at the start of the programme. He felt it would be a simple matter for this programme to remind viewers that takings did in fact represent a considerable loss without spoiling the programme and that the BBC, without apologising, could make a programme that showed what the antiques trade was really like.

## **3 Applicable Editorial Standards**

### **Section 3 - Accuracy**

#### **Introduction**

The BBC's commitment to accuracy is a core editorial value and fundamental to our reputation. Our output must be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language. We should be honest and open about what we don't know and avoid unfounded speculation.

For the BBC accuracy is more important than speed and it is often more than a question of getting the facts right. All the relevant facts and information should be weighed to get at the truth. If an issue is controversial, relevant opinions as well as facts may need to be considered.

We aim to achieve accuracy by:

- the accurate gathering of material using first hand sources wherever possible.
- checking and cross checking the facts.
- validating the authenticity of documentary evidence and digital material.
- corroborating claims and allegations made by contributors wherever possible.

#### **Misleading audiences**

We should not distort known facts, present invented material as fact, or knowingly do anything to mislead our audiences. We may need to label material to avoid doing so.

## **4 The Committee's decision**

The Committee considered the Complaint against the relevant editorial standards, as set out in the BBC's editorial guidelines. The guidelines are a statement of the BBC's values and standards.

In reaching its decision the Committee took full account of all the available evidence, including (but not limited to) the Editorial Adviser's Report and the subsequent submissions from the complainant.

This Appeal raised issues requiring consideration of the editorial guidelines relating to accuracy.

The Committee began by noting that the BBC's Editorial Complaints Unit considered this complaint against the Editorial Guidelines on Fairness, Contributors and Consent. As the Committee does not consider third party fairness complaints, that is, complaints of a lack of fairness from members of the public unconnected with the participants in the programme, it considered whether it should determine this appeal against the fairness editorial principle which says:

“We will be open, honest and straightforward in our dealings with contributors and audiences, unless there is a clear public interest in doing otherwise or we need to consider important legal issues or issues of confidentiality.”

The Committee agreed there was no evidence that the complainant had a sufficiently direct interest in the programme to justify the making of a complaint with him as the person affected. However, they did agree that the issue complained about could be considered against the requirements of the accuracy guideline on misleading audiences which says:

“We should not distort known facts, present invented material as fact, or knowingly do anything to mislead our audiences. We may need to label material to avoid doing so.”

When considering the guideline on misleading audiences the Committee first considered how the programme had described itself on the BBC’s website as well as how it was billed in the Radio Times. The Committee first noted what was said on the BBC website about the programme:

“BBC Daytime's top presenters and experts put their money on the line competing against each other to make profits in their areas of expertise be it property or antiques and collectables. There is real jeopardy as their own money is at stake and viewers get a better insight into the lives of the presenters that they know and love.”

Source: <http://www.bbc.co.uk/commissioning/tv/network/genres/daytime.shtml>

The Committee then noted how this particular programme was billed in the Radio Times:

“Eric Knowles and James Rylands compete to find the best bargains at a French antiques market”

The Committee then considered how the programme’s purpose was described in the transmitted show. The Committee first noted how the programme was introduced:

Presenter:

“Regular daytime viewers will recognise these faces – television’s very own experts always ready with top tips and advice on everything from antiques to heirlooms, from properties abroad to dream homes in the country. But what do our experts get up to when they’re not on TV? Well we’re going to find out as they show us how they risk their own money and reputations by recreating some of their real life deals. The challenge to our experts is clear “Put Your Money Where Your Mouth Is”.

The Committee also noted that within three minutes of the start of the programme the rules of the programme were explained to the two antiques experts. The presenter said:

“Let’s find out the name of the game.”

The two experts then exchange the envelopes they have been given and then one of the experts reads his card first:

“Eric and James, this is your challenge. You have a day to spend £1000 on antiques. You’ve then just got four weeks to make as much money as you can from the items that you buy. The winner is the expert who makes the most cash. But there’s a twist, oh see, other card.”

The other expert then reads his card:

“The £1000 has to be your own money.”

And the presenter then adds:

“And the antiques fair is in Bordeaux....Neither presenter seems to be at all bothered by the fact that they’re not only putting their reputations on the line but they’re also risking their own money. However, they’ve got 800 miles to think about it.”

The Committee agreed that the context of the programme had been clearly signposted – that it was a game show featuring a competition between two well known antiques experts from BBC Daytime television. The Committee also agreed it was perfectly clear that the programme was designed to be fun and entertaining, with the presenters spending £1,000 of their own money on antiques in France, and donating the money they made to charity.

As to the issue of whether the programme was making any sort of serious analysis of the costs and tax liabilities associated with running an antiques business, the Committee was satisfied that this was clearly not the intention of the programme nor did it portray the realities of the antiques trade. The Committee was therefore satisfied that it was unnecessary to include any additional comments to explain the programme’s purpose or add statements such as “the takings on the programme represented a considerable loss”, as suggested by the complainant, to what had been stated in the programme.

### **Funding: Not Upheld**

## **Inside Out, BBC One East Midlands, 1 March 2008 & The Morning Show, BBC Radio Nottingham, 7th May 2008**

### **1 The programmes**

Inside Out is a documentary series “that looks at surprising stories from familiar places across the UK” (source: <http://www.bbc.co.uk/insideout/>). Each BBC region makes its own programmes under this title which are aired in that particular region.

The programme broadcast on 29 February 2008 by BBC East Midlands looked at film making in the East Midlands and included a contribution from Emily Lappin of EM Media, the Regional Screen Agency.

BBC Radio Nottingham’s Morning Show on 7 May 2008 contained an item about a film which was being showcased at the Cannes Film Festival and included a contribution from Emma Hewitt of EM Media.

### **2 The complaint**

The complainant wrote initially to BBC Information on 8 March 2008 about the Inside Out programme broadcast on 29 February 2008 claiming the programme had been “a very obvious bit of EM Media propaganda”. The complainant believed Inside Out had “advanced” EM Media’s claim that its ‘subsidy’ of film making in the region had resulted in economic benefit to the regions hoteliers and caterers, an economic argument supported by Oldberg/SPI, “the company that devised EM Media’s strategy”, of which there was no independent research that supported this economic benefit claim. The complainant also pointed out that the programme only put forward the views of EM Media, “one which justifies EM Media’s receiving of some public funds.” The complainant also stated;

“One cannot help but consider that this report took the EM Media line and advanced it in such a biased way because of the involvement of a BBC member of staff with EM Media’s work.”

The complainant asked whether the BBC had a register of staff interests or required staff to declare commercial work where conflicts of interest might arise.

BBC Information responded on 22 April 2008 apologising for the delay which had been due to the reply requiring further research. The acknowledged that the BBC staff member, currently editor of BBC Breakfast had been the chair for EM Media but assured the complainant that this had not played any part in the programme’s decision to cover story. The reply also pointed out that EM Media was only one of a number of contributors and disagreed that the programme presented any form of propaganda. The reply noted it was a positive story for the region. BBC Information pointed out that the report did not suggest that EM Media specifically was responsible for this economic benefit, but that it was a “natural consequence of any location filming.” The reply noted that “there was no linking of [the films] Young Victoria and the Da Vinci Code with EM Media” in the report. The reference to

these films was illustrative of film projects that had taken place in the region. BBC Information's response also noted that all BBC staff complete a Declaration of Personal Interest form which "records external activities or engagements which may potentially impact on their work."

The complainant replied to BBC Information on 24 April reiterating his concern that Inside Out had shown a lack of editorial independence and that the response of 22 April 2008 had not allayed his fears for "the integrity of our regions BBC TV editorial."

BBC Information replied on 6 May 2008 satisfied that the issues had been addressed.

The complainant provided a further response on 10 May 2008 which again raised his concerns as to the platform provided to EM Media to promote its case for funding, which the complainant considered was the central issue of the complaint.

The complainant also wrote on 7 May stating that he wished to complain about Radio Nottingham's Morning Show and an item that concerned a claim that a film co-funded by EM Media "Better Things" in which it had invested £180,000 of its funding would equate in return to the region of a million pounds plus. The complainant stated:

"She offered no substantiation or evidence for this statement. A statement that clearly advanced EM Media's current public funding case."

The complainant also pointed out that the BBC staff member on the board of EM Media was based in the same building as Radio Nottingham and had been previously head of the station. He again raised the question of editorial integrity in relation to this matter and asked if the staff member had declared their involvement with EM Media.

BBC Information replied on 13 May 2008 pointing out the item on Radio Nottingham was celebrating Wellington Films' achievement of getting its film "Better Things" showcased at the Cannes Film Festival. The reply also noted that Emma Hewitt contribution was due to EM Media's involvement in the film. She also explained EM Media's operations. Ms Hewitt also talked about EM Media's investment in the film and the estimated returns for the region as a result of filming taking place in Nottingham and the East Midlands. BBC Information suggested the complainant should contact EM Media to substantiate or provide evidence for the statements made on the programme. The reply also stated that the claims of breaches of editorial integrity were unfounded. BBC Information also stated it could not comment on the staff members' personal contractual arrangements.

The complainant wrote back to BBC Information on 15 May pointing out it was not for him to take his complaint to EM Media but for the BBC to check out the validity of the funding case advanced by EM Media. He also pointed out that the film "Better Things" had not been filmed in Nottingham or the East Midlands but in the Cotswolds.

BBC Information replied on 30 May it had nothing to add as well as setting out the process of escalation.

On 3 June 2008 the complainant emailed both BBC Information and the Editorial Complaints Unit (ECU) pointing out that he was concerned that BBC Information did not wish to address the issue of editorial integrity. He also repeated his points as to the filming of “Better Things” and the claim by EM Media that its investment would result in a million pound spend in the region.

The Head of the ECU responded on 3 July 2008. He stated that with regard to the programme Inside Out, whilst Emma Lappin was captioned as being from EM Media, the organisation was not named or discussed and that no claims were made on its behalf. He stated that he believed the comments about the region’s success at attracting film-makers were “uncontentious”. He also stated that in the sequences of Lincoln Cathedral where local traders were interviewed there was no suggestion of EM Media’s involvement in the two films mentioned (Young Victoria and the Da Vinci Code) or that any benefits to the local economy were attributable to EM Media. The Head of ECU’s reply also noted other elements of the report in which film funding or the benefit from filming in the region was mentioned. He concluded that the item had not:

“[...] contained the specific inaccuracies or conveyed the cumulative impression you complain of, or that EM Media was unduly prominent”

The Head of the ECU in addressing the concerns raised against Radio Nottingham’s Morning Show noted that the filming of “Better Things” was also filmed in Northamptonshire as well as the Cotswolds. He also explained how the benefit from the investment in films, as expressed by Emma Hewitt, was calculated. The reply noted that it was difficult to be precise about the estimate of a million pounds benefit but that “it was no more approximate than was appropriate in a live interview context”. The Head of the ECU conclude that he did not consider that what was said was a serious breach of accuracy, or that it amounted to advancing or advertising the cause of a commercial company. The complaint was not upheld.

The complainant responded to the ECU’s decision on 4 July pointing out that filming of “Better Things” in Northamptonshire was one day only and that the film was not produced by Wellington Films in Nottingham but by Third Films in Newcastle and that the claims made by Emma Hewitt as to spend in the region was false. He claimed that due to these inaccuracies his complaint should be upheld.

The Head of the ECU responded on 11 July stating there was little he could usefully add to his finding other than to point out that filming was over three days in Northamptonshire for the film “Better Things” and that Wellington Films raised the finance and co-owned the company that produced the film.

On the 13 August 2008 the complainant appealed to the trust reiterating his concerns about both programmes (Inside Out and Radio Nottingham’s Morning



Show) as well as stating that he believed that EM Media had gained from the relationship of having a senior BBC news editor as its current chairman.

### **3 Applicable Editorial Standards**

#### **Section 3 - Accuracy**

##### **Introduction**

The BBC's commitment to accuracy is a core editorial value and fundamental to our reputation. Our output must be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language. We should be honest and open about what we don't know and avoid unfounded speculation.

For the BBC accuracy is more important than speed and it is often more than a question of getting the facts right. All the relevant facts and information should be weighed to get at the truth. If an issue is controversial, relevant opinions as well as facts may need to be considered.

We aim to achieve accuracy by:

- the accurate gathering of material using first hand sources wherever possible.
- checking and cross checking the facts.
- validating the authenticity of documentary evidence and digital material.
- corroborating claims and allegations made by contributors wherever possible.

##### **Gathering material**

We should try to witness events and gather information first hand. Where this is not possible, we should talk to first hand sources and, where necessary, corroborate their evidence.

We should be reluctant to rely on a single source. If we do rely on a single source, a named on the record source is always preferable.

We should normally only rely on an agency report if it can be substantiated by a BBC correspondent or if it is attributed to a reputable national or international news agency.

We should record our interviews with sources wherever possible. In circumstances where recording might inhibit the source, full notes should be made, preferably at the time, or if not, then as soon as possible afterwards.

##### **Misleading audiences**

We should not distort known facts, present invented material as fact, or knowingly do anything to mislead our audiences. We may need to label material to avoid doing so.

#### **Section 13 - Editorial Integrity and Independence**

## **Introduction**

The BBC's global reputation is based on its editorial integrity and independence. Our audiences need to be confident that our decisions are influenced neither by political or commercial pressures, nor by any personal interests. We must not undermine these values by any actions which could bring the BBC into disrepute.

### Editorial integrity and independence editorial principles

- We must be independent of both state and partisan interests.
- We must not endorse or appear to endorse any other organisation, its products, activities or services.
- We should not give undue prominence to commercial products or services.
- There must be no product placement in programmes.
- We should ensure that on air and online credits are clearly editorially justified.
- We must not unduly promote BBC or BBC related commercial products and services on our public service outlets.
- The outside activities of people working for the BBC, including presenters, must not improperly influence BBC programmes or corporate decision making.

## **Conflicts of interest**

Conflicts of interest can arise for anyone who appears on air or has responsibility for the content of a programme or service. There must never be any suggestion that personal, commercial, business, financial or other interests have influenced the BBC's editorial or financial decisions.

Presenters, reporters, producers, editors, researchers and managers are all affected. The higher someone's level of editorial responsibility, the greater the need to avoid any possible conflicts of interest. There may be particular sensitivities concerning the activities of on air talent.

Conflicts of Interest Guidelines are available on this Editorial Guidelines website. For most people there is a BBC contractual requirement to comply with these guidelines which include advice on:

- non-BBC writing commitments
- public speaking/public appearances
- media training
- connections to charities and campaigning organisations
- political activities
- hospitality and personal benefits
- financial and business interests
- on air talent and commercial advertising
- independent production companies owned by talent or their agents.

Production and editorial staff are required to declare any personal interest or relationships which may affect their work. They should discuss any possible conflicts of interest with their line manager.

Freelance presenters, reporters, producers and researchers are normally contractually required to declare any personal interests or relationships which may affect their work with the BBC.

There are particular constraints on those involved in financial journalism. If a financial or consumer advice programme or website makes a direct recommendation by a BBC person to buy a particular financial product or service it is essential that the item is produced in accordance with the BBC Financial Journalism Guidelines. It will be necessary to make clear on air or on the website that these guidelines have been followed and where our audience can refer to them.

## **Editorial Guidance - Conflicts of Interest Guidance**

### **General**

The BBC's reputation for impartiality and objectivity is crucial. The public must be able to trust the integrity of BBC programmes and services. Our audiences need to be confident that the outside activities of our programme makers or presenters do not undermine the BBC's impartiality and that editorial decisions are not influenced by any commercial or personal interests.

Conflicts of interest can arise for anyone who appears on air or has responsibility for the content of a programme or service or associated activity. Presenters, reporters, producers, editors and researchers are all affected. There may be particular sensitivities concerning on-air talent. For editorial staff the greater the level of responsibility the greater the need to avoid any possible conflict of interest. Each programme department or team will need to identify its area of vulnerability.

The BBC should be satisfied that everyone involved in editorial decisions and programme making is free from inappropriate outside commitments. The principles apply equally to freelancers or staff. It is also important that independent producers should not have any interests which could undermine the integrity and impartiality of the programmes or websites which they produce for the BBC.

It may also be appropriate to consider whether the position of families and close personal contacts presents a likely conflict of interest.

When drawing up contracts for presenters, freelancers and production staff, the provisions of these guidelines should be taken into account.

BBC production and editorial staff are required to declare any personal interest which may affect their work with the BBC. These interests will be registered with

Human Resources and copied to the relevant manager or Head of Department. Interests should be declared on a Declaration of Personal Interest Form. The staff handbook "Conflict of Interest" available on gateway or from Human Resources Departments gives further details. Production and editorial staff will be asked to update their declarations on a regular basis.

Freelance presenters, reporters, producers and researchers will be required to declare any personal interests which may affect their work with the BBC.

## **Acceptability of outside commitments**

### **Charities and campaigning organisations**

Any work undertaken for a charity should not imply BBC endorsement for a particular cause, or endorsement of one charity over another. There are particular difficulties if the charity deals with matters of controversial public policy and is a campaigning organisation. Programme people in all areas should be careful of involving themselves in lobbying campaigns.

Presenters and editorial people in news, current affairs, topical and consumer programmes should take particular care and they should not normally associate themselves with any campaigning body, particularly if it backs one viewpoint in a controversial area of policy. It is unlikely to be appropriate for a news presenter to front a campaign for a charity or campaigning body as this could undermine the BBC's reputation for impartiality.

Heads of Department should be consulted about any work for charities and campaigning groups and advice may be sought from Editorial Policy.

## **4 The Committee's decision**

The Committee considered the Complaint against the relevant editorial standards, as set out in the BBC's editorial guidelines. The guidelines are a statement of the BBC's values and standards.

In reaching its decision the Committee took full account of all the available evidence, including (but not limited to) the Editorial Adviser's Report and the subsequent submissions from the complainant.

This Appeal raised issues requiring consideration of the editorial guidelines relating to accuracy and editorial integrity and independence.

The Committee first considered the following aspect of the complaint which alleged a specific factual inaccuracy in the item on Radio Nottingham:

“EM Media's Emma Hewitt's claim (on BBC Radio Nottingham's Morning Show) that there was research to say that this film (Better Things) resulted in

a £1 million pound plus spend in our Region was false. This is a factual inaccuracy.”

It looked at whether the claim met the requirements of the accuracy guidelines on gathering material which say:

- We should try to witness events and gather information first hand. Where this is not possible, we should talk to first hand sources and, where necessary corroborate their evidence.
- We should be reluctant to rely on a single source. If we do rely on a single source, a named on the record source is always preferable.

The Committee agreed that the statement made on the Radio Nottingham Morning Show regarding the level of local benefit derived from EM Media’s investment in the film “Better Things” was duly accurate. It said it was appropriate to ask the representative of EM Media for such details and added that the estimate was a reasonable one and was provided by a firsthand source.

The Committee then went on to consider whether the content of either the television or radio items endorsed or appeared to endorse EM Media, its activities or services.

The Committee noted how Inside Out had introduced Emily Lappin of EM Media to viewers. The Committee noted that whilst she was captioned as being from EM Media reference to the organisation was made only once, near the end of the piece, when it was stated:

“East Midlands Media enticed film-makers here with some funding too. They’ve had £6 million from the European Regional Development Fund to subsidise films. Money which has to have been spent by the end of the year.”

The Committee then considered what was said about EM Media on the Radio Nottingham Morning Show.

Presenter:

We’ll just say hello to Emma Hewitt from EM Media. Morning Emma.

Emma Hewitt (EH):

Hello.

Presenter:

And I know that your organisation if you like does help people like Alistair and Wellington films. It kind of gives money, gives them a little bit of financial investment so they can go ahead and make these.

EH:

Yeah, that’s right. We’re what’s called a regional screen agency and we kind of cover the East Midlands region and we, part of our remit, is to develop

talent, audiences and business in the region and Alistair is a very good example of a great East Midlands talent, who's really, you know, just rising and rising. They've got a rising star at the moment Wellington Films. So it's fantastic news that they're now going to Cannes with their second feature.

And :

Presenter:

Who remembers who won that award? I don't. And it's great that just from an office at the Broadway cinema all this stuff's happening. How do you make it happen then Alistair? How important are people like Emma for a start from EM Media in making the dream come true?

Alistair (Other Guest):

Emma, in particular, is very important. But the organisation she works for, EM Media, have been instrumental in our, our, growth, as such we've been going since 2000 making short films. We've made about 30 short films over the years.

And again:

Presenter:

What do you have to do then Emma to stand out from the crowd and get funding from yourselves?

EH:

Well I think, I mean obviously it's a really competitive industry and so what we look for is really dedication because everyone has to go through an application process in order to qualify for investment from EM Media. So they have to fulfil a number of different criteria but it's really important to get that experience, on the ground experience, and a lot of times that means working on, not making your own films but working with other people and working on their films. I'm sure you have worked on lots of different films haven't you Al, not only the one's you've..

Alistair (Other Guest):

Yeah. Particularly Rachel my partner in the company has worked on, well she worked on "Control", "Dead Man's Shoes", various TV programmes, just getting to know bigger, bigger productions and how that works and then bring that knowledge back to our own company.

EH:

Yeah, so it's kinda looking at that long term kind of, it not just about I've got a film that I want to make, its, I've got a film, I've got people interested in working with me, they've done this, they can bring this to the table and long term we can see this audience for this film and its kinda thinking of the bigger picture.

Presenter:

Yeah. You need to know they're not just a fantasist. That has the dream and you're going to make it come true for them. There's a lot of work that has to go on. But do you not want to see bits of work that they've already made like these short films Alistair's talking about?

EH:

Yep, definitely and also work they may have produced. We've run a scheme, a short film scheme every year, called DV Shorts and through that people submit writing, its writer/directors, or writers and directors. They submit work that they've written and then they go through a development stage so in that scheme we take new and emerging talent and help them through an intensive phase of development to develop and hone their skills and get them ready for the production so when the film actually (yes) the short period of production when everything happens that they're ready completely ready for that.

The Committee concluded that the involvement of the two different representatives from EM Media in the two programmes was editorially justified as on both occasions they contributed appropriately to the issues under discussion. On Inside Story Emma Lappin provided insight on film production in the region; where as on the Morning Show Emma Hewitt was part of the story about a film which was achieving international attention.

The Committee also concluded that the references to EM Media in both of these programmes were editorially justified. The references referred to the financial assistance EM Media had received from the European Regional Development Fund to subsidise films in the region or the amount of support and finance the organisation had provide to a specific film being highlighted in the programme. The Committee also noted the general discussion in the Morning Show about the film industry and the involvement of EM Media regarding the development of would be film-makers. The Committee was satisfied that this too was relevant and appropriate to the discussion on the film industry in the region.

The Committee therefore concluded that neither item involved "undue prominence" of the organisation as set out in the guidelines on editorial integrity and independence:

- We must avoid any undue prominence or giving the impression that we are promoting or endorsing products, organisations or services. To achieve this we must ensure that references to trade names, brand names and slogans are clearly editorially justified.

Finally, again looking at the guidelines on editorial integrity and independence, the Committee considered whether the outside activities of anyone working for the BBC had improperly influenced the BBC programmes. The complainant specifically claimed that Editor, BBC Breakfast, in her outside role as Chair of EM Media Board at the time of broadcast of both the television and radio items, improperly influenced

them. The Committee concluded that there was no evidence of a relationship between the production teams working in the East Midlands on Inside Story or Radio Nottingham's Morning Show and the Editor, BBC Breakfast who works in London, and secondly there was no evidence that the editorial decisions made by the two separate production teams had been influenced by her in any way.

**Finding: Not Upheld**



## **In Our Time: Antimatter, Radio 4, 4 October 2007**

### **1 The context**

In Our Time invites guests to discuss the history of ideas with presenter Melvyn Bragg. This programme examined the Dirac equation and the concept of antimatter. The guests were, Ruth Gregory, Professor of Mathematics and Physics at the University of Durham; Frank Close, Professor of Physics at Exeter College, University of Oxford; and Val Gibson, reading high energy physics at the University of Cambridge.

### **2 The complaint including BBC management's response and appeal to the ESC**

The complainant wrote to BBC Information on 21 October 2007 expressing his view that the programme In Our Time: Antimatter, had “been very poorly presented and in certain respects to have been incorrect”. The complainant had then gone into some detail as to where he believed the programme had been misleading. He suggested that the programme had, amongst other concerns, incorrectly referred to bosons, the orientation of electrons, Einstein's theory, pair production and annihilation, and the Dirac equation. He also asked if his letter could be passed on to the presenter and contributors of the programme for their comments.

In reply BBC Information on 7 November accepted that some of the subject matter was speculative and debated amongst the community of physicists, but that the contributors to the programme were of an “unquestionable” calibre and that the programme was “a vehicle for valid and informed opinions on the subject of antimatter from academics of a high pedigree”.

There then followed an exchange of correspondence between BBC Information and the complainant in which the complainant stated it was unacceptable for the BBC not to indicate that it would broadcast a programme on television or radio that corrected the misinformation already broadcast. The complainant also asked if his complaint had been sent to the presenter and had been raised at the “highest level”.

The complainant wrote on 11 January 2008 to the Editorial Complaints Unit (ECU) noting his concern about inaccuracies in science and history in BBC programmes and the inherent danger of broadcasting inaccuracies that would be repeated to students in schools and universities. He requested that the ECU consider his criticisms of the In Our Time programme as set out in his correspondence with BBC Information.

The ECU gave its finding on the complaint on 6 March 2008. The ECU did not uphold the complaint. The ECU in its finding noted the age of the average listener (60) to the programme and, the fact that they would have been many years from discussing such topics in the setting of a formal education. As such, the discussion accommodated that fact and used terminology that a lay audience would understand such as the discussion in terms of one particular type of fermion - the electron. The ECU finding also noted that there was a prima facie case for the contributors, who

were all distinguished academics with a good command of their subject, to discuss the subject in whatever terms they saw fit. The ECU also noted that in much of the complaint the question was not whether the issue was inaccurate but whether the discussion could have been conducted differently.

With regard to the reference to the Dirac equation within the programme, the ECU stated that the presenter Melvyn Bragg had not explicitly said that the Dirac equation predicted antimatter, but referred to “the concept of antimatter” as arising from the Dirac equation.

The complainant in a letter dated 10 March 2008 disputed the finding, saying that the ECU finding had misunderstood every significant point of his complaint and stating: “You have failed to answer any of my criticisms in scientific terms.”

In reply the ECU recognised the complainant’s expertise in the subject but responded that in the context of the programme the explanations provided would not have misled the listener and were matters where physicists could exercise their professional judgement.

The complainant appealed to the ESC on 19 March 2008 reiterating his original points.

### **3 Applicable editorial standards**

#### **Section 3 - Accuracy**

##### **Introduction**

The BBC's commitment to accuracy is a core editorial value and fundamental to our reputation. Our output must be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language. We should be honest and open about what we don't know and avoid unfounded speculation.

For the BBC accuracy is more important than speed and it is often more than a question of getting the facts right. All the relevant facts and information should be weighed to get at the truth. If an issue is controversial, relevant opinions as well as facts may need to be considered.

We aim to achieve accuracy by:

- the accurate gathering of material using first hand sources wherever possible.
- checking and cross checking the facts.
- validating the authenticity of documentary evidence and digital material.
- corroborating claims and allegations made by contributors wherever possible.

##### **Finding contributors**

We should not rely on outside bodies to find contributors for us. In particular, we should not use agencies who deal with actors and performers to find people to talk about matters outside their specific profession or experience. It can be useful to contact news and other specialist agencies but any information or contacts they supply must be verified.

We should not use third party websites, especially those that help people wanting to appear in the media, except when seeking contestants or audiences for entertainment programmes.

### **Checking contributors**

We should make checks to establish the credentials of our contributors and to avoid being "hoaxed". The precise nature of these checks should be appropriate to the nature and significance of their contribution and the genre.

We should consider whether it is appropriate to make more in depth checks about people who are the main subject of, or who are to make a significant contribution to, the programme. This may include ensuring they are interviewed and if necessary checked by, more than one member of the production team using a combination of the following:

- documentary evidence to validate their identity and story.
- corroboration from people other than those suggested by the contributor.
- self declaration of personal information which may bring the BBC into disrepute, for example, criminal convictions or political affiliation. Asking some contributors to consent to a Criminal Records Bureau check may also be considered.

### **Misleading audiences**

We should not distort known facts, present invented material as fact, or knowingly do anything to mislead our audiences. We may need to label material to avoid doing so.

### **Correcting mistakes**

We should normally acknowledge serious factual errors and correct mistakes quickly and clearly. Inaccuracy may lead to a complaint of unfairness. An effective way of correcting a mistake is saying what was wrong as well as putting it right. Where we may have broadcast a defamatory inaccuracy Programme Legal Advice should be consulted about the wording of a correction.

## **Section 4 - Impartiality and Diversity of Opinion**

### **Introduction**

Impartiality lies at the heart of the BBC's commitment to its audiences. It applies across all of our services and output, whatever the format, from radio news bulletins via our web sites to our commercial magazines and includes a commitment to reflecting a diversity of opinion.

In practice, our commitment to impartiality means:

- we exercise our editorial freedom to produce content about any subject, at any point on the spectrum of debate as long as there are good editorial reasons for doing so.

- we can explore or report on a specific aspect of an issue or provide an opportunity for a single view to be expressed, but in doing so we do not misrepresent opposing views. They may also require a right of reply.
- we must ensure we avoid bias or an imbalance of views on controversial subjects.

#### **4 The Committee's decision**

The Committee considered the complaint against the relevant editorial standards, as set out in the BBC's editorial guidelines. The guidelines are a statement of the BBC's values and standards.

In reaching its decision the Committee took full account of all the available evidence, including (but not limited to) the Editorial Adviser's Report and the subsequent submissions from the complainant, the programme team and the ECU.

The Appeal raised issues requiring consideration of the editorial guidelines relating to accuracy and impartiality.

##### Accuracy and Impartiality

The Committee noted that the editorial guidelines on accuracy say that BBC output must be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language. The BBC should be honest about what it does not know and avoid unfounded speculation.

The guidelines also provide that the BBC should not distort known facts, present invented material as fact, or knowingly do anything to mislead audiences. They also require the BBC to check and cross check the facts.

The BBC is required to establish the credentials of its contributors and to check their appropriateness to the nature and significance of their contribution and the genre.

The Committee also noted that the editorial guidelines state that impartiality applies across all the BBC's services. Impartiality must be adequate and appropriate to the output. The approach to achieving impartiality will vary according to the nature of the subject, the type of output, the likely audience expectation and the extent to which the content and approach is signposted. Impartiality does not require the representation of every argument or every facet of an argument on every occasion or an equal division of time for each view.

The Committee noted that the programme had set out to explore the history and evolution of the scientific theory of "antimatter". The Committee recognised that this was a complex concept to explain in lay terms to an audience via a debate given that the audience would have only a limited understanding of the science being discussed.

The Committee also recognised its limitations in deciding on the accuracy of what was discussed given that the ESC was not a panel of scientists and therefore did not have the expertise to come to a view on the veracity of the arguments put forward by the contributors. The Committee was satisfied that given the issue was disputed and open to different opinions as to how the science could be interpreted, its obligation was to ensure that what was presented as fact was a duly accurate account of widely-accepted scientific opinion on the issue. Accordingly, it would consider whether or not the content of the programme had been well sourced and based on the opinion of the respective experts, who had been clearly identified as such to the audience, working in the field of the subject matter.

The Committee noted how the experts were introduced by the presenter of the programme, Melvyn Bragg:

“With me to discuss antimatter are Ruth Gregory, Professor of Mathematics and Physics at the University of Durham; Frank Close, Professor of Physics at Exeter College, University of Oxford; and Val Gibson, reading high energy physics at the University of Cambridge.”

The Committee also noted the process by which the experts had been chosen by the programme makers to contribute to the discussion. The Committee recognised that the experts were distinguished academics in their own right and that the programme team had taken appropriate steps to ascertain their suitability. The Committee noted that programme makers, having agreed on a selection of experts, had then conducted a lengthy interview with each of them. The Committee also noted that the programme’s structure and script were constructed from this and from further discussions between the producer and each of the guests.

The Committee, therefore, concluded that it was satisfied that the programme had taken appropriate steps to ensure the relevance of the contributors to debate the subject matter of the programme and that the status of each of the guests had been clearly stated at the beginning of the programme so as to establish their credibility on this subject for the audience.

The Committee was also satisfied, given the complexity of the subject matter, that the contributors should be given a certain degree of latitude to express the various concepts – whether or not it had been presented to the complainant’s satisfaction – in a form of shorthand to enable a lay audience to have a greater understanding of the subject at the end of the programme than it did at the beginning.

In terms of impartiality the Committee was satisfied that the choice of subject had been editorially justified given the purpose of the series which was to explore the history and evolution of ideas. The Committee agreed that the ideas put forward were not those of the BBC. The Committee was also satisfied that each of the contributors would have been in a position to challenge each other on the subject if they considered the views put forward had been wrong, although the Committee recognised that the purpose of the programme was not to be confrontational. It was also satisfied that the research and discussions with the guests beforehand would

have clarified the ideas and discussion to be presented within the 40 minutes the programme ran.

Finally, the Committee considered that, given the type of subjects covered in this form of debate, it was wholly proper for a programme to enable experts to express a point of view based on their expertise and knowledge in their own words and to simplify their arguments and information to suit the audience that would be listening to the broadcast. It was satisfied that given the background of the guests the comments made were duly accurate and impartial and met the relevant editorial guidelines.

**Finding: Not upheld**

## **Newsnight, BBC Two, 27 November 2007**

### **1 The programme**

This edition of Newsnight contained a report by an independent reporter Greg Palast about a legal case brought by indigenous Ecuadorians in Ecuador against the oil company Chevron Texaco which they claimed destroyed their health and wrecked the environment. Towards the end of the report Mr Palast referred to political developments in Ecuador including the election of a new government and financial support provided to Ecuador by President Chavez of Venezuela. Mr Palast said:

“So the Indians are attempting to do the impossible. They’ve put on war paint and feathers and, heavily armed with lawyers, they are filing a new law suit. They are demanding no less than 12 billion dollars from Chevron Texaco to clean up their forest. A bunch of natives in feathers in the jungle, demanding twelve billion dollars from an international oil company would just be a sad joke. But across the Andes in Ecuador’s capital something happened which changed everything.

“An uprising of indigenous tribes and native poor when I was here two years ago, forced the president to flee out the back door of the presidential palace.

“In new elections, the left whips George Bush’s allies with the campaign song the nineteen eighties Twisted Sister’s hit ‘We’re Not Gonna Take It Anymore’. The new government kicked out the last of the big US oil companies, Occidental Petroleum.

“And just this month Ecuador’s new president Rafael Correa flew to Saudi Arabia to rejoin the OPEC cartel and told George Bush to shut down the US military base in Ecuador unless Bush gave Ecuador a base in Florida.

“Behind little Ecuador is big Venezuela, and its larger than life leader, Hugo Chavez. Chavez has given Ecuador a quarter billion dollars, and the political weapons to stand up to George Bush.”

Mr Palast then interviewed the president of Ecuador’s National Assembly, a journalist and a lawyer for the Cofan Indians before ending his report with the following:

“Is Chevron Texaco just an easy target for the lawyers backed by the new oil charged politicians of South America? Or is the new oil order a chance for long delayed justice for long ignored natives? And what happens to this jungle and the Cofan when Ecuador’s own oil company begins new drilling? Chevron versus rain forest Indians or Bush versus Chavez. Whatever you call it, it’s just another front in the war over that dark commodity.”

### **2 The complaint**

On 6 December 2007 the complainant wrote to BBC Information outlining his complaint about the Newsnight piece. The complainant believed that the reporter's suggestion that the legal case brought by Ecuadorian Indians was politically motivated or influenced by the current Ecuadorian government, or by any other government, was inaccurate. The complainant then set out five specific parts of the report he had issue with:

- a) He pointed out that some images of the indigenous Ecuadorians had corresponded to a different court case than the one referred to in the report concerning environmental damage.
- b) He also pointed out that the reason the case was not a "sad joke" was not because of any recent political change in Ecuador but because it had been going on for 14 years. The complainant also pointed out that no amount of money had been specified in the indigenous Ecuadorians' demands and any sum stated (\$12bn) was "pure speculation".
- c) The complainant pointed out that the new government had only been in power since January 2007 whereas Occidental's contract had expired in May 2006 under the previous administration.
- d) The complainant wondered what source had supplied the correspondent with the claim that Hugo Chavez, President of Venezuela, had given Ecuador a quarter billion dollars.
- e) The complainant pointed out that it was nonsensical to conclude that the Texaco case could be part of the Chavez-Bush dispute as it had been going for 14 years, long before Chavez came to prominence and before the present Ecuadorian government came to power.

Following an exchange of correspondence about when a reply would be written, the complainant received a reply from the editor of Newsnight on 8 February 2008. In the reply the editor apologised for the delay. He also suggested that the "idiosyncratic style" of the reporter may have been a factor of the report, but that he believed the report was not inaccurate. In response to the other points (a) the pictures of the Indians had been from the defamation case, but both parties (plaintiffs and defendants) saw the moral damages as a pendant claim of the environmental case; (b) he stated that the compensation figure had come from the plaintiffs' lawyers, also the use of the term "sad joke" referred to the fact that even if the Indians won the case their claim would be uncollectible; (d) the figure of quarter of a billion dollars referred to Venezuela's central bank purchase of Ecuador's sovereign debt. He also claimed that both the President of Ecuador and the plaintiffs had seen the report and felt it was a good and fair representation of the case.

The complainant replied to the editor on 22 February 2008 stating his disappointment that the report contained inaccuracies which damaged Ecuador's international image. He also maintained that the compensation figure of \$12bn was



pure speculation, the use of the footage had created a political link to the issue of compensation which had never been the case, the current Ecuadorian government had not received any money from the President of Venezuela - any payment from Venezuela of the Ecuador's sovereign debt had not been done to finance political confrontation and no official, verifiable source had been supplied by the BBC to support the reporter's claim. The complainant also pointed out that he had not received a response to the reference relating to Occidental Petroleum being "kicked out". He also challenged the statement that the President of Ecuador regarded the report as "a good and fair representation" as he had not seen the film.

At the end of February 2008 the editor of Newsnight and the complainant exchanged emails. The editor offered the complainant a chance to speak to the reporter's Ecuadorian researcher. The complainant said he would be happy to do this but felt the issue of publicly correcting inaccuracies lay with the BBC. The editor by return agreed that the BBC took responsibility for the report's fairness and accuracy, even though it was an independent production, but that it may be more satisfactory to talk to the researcher.

On 28 February the complainant contacted the ECU. He said his complaint was about:

"[...] the inadequate way in which the report suggests that the so called 'Texaco Case' is politically influenced by the current Ecuadorian Government. Even worse, is the implication that this might be part of a political dispute between foreign countries: notably Venezuela and The United States."

He also reiterated his three main concerns about the sections of dialogue that referred to:

- the Venezuelan President giving Ecuador a quarter billion dollars
- the Ecuadorian government having "kicked out" the last of the US oil companies, Occidental Petroleum
- the figure of compensation being sought by the indigenous Ecuadorians.

In the case of the removal of Occidental Petroleum he also noted that "another US oil company is still operating in Ecuador".

The complainant also repeated the point that the President of Ecuador had, at the date of his letter to the ECU, not seen the report.

The ECU responded with a letter to the complainant dated 11 April 2008. In response the ECU took each point in turn:

1. *"Behind little Ecuador is big Venezuela, and its larger than life leader, Hugo Chavez. Chavez has given Ecuador a quarter billion dollars, and the political weapons to stand up to George Bush."*

Ecuador had benefitted from Venezuela spending large sums on subsidised oil, trade deals and loans. The ECU had also been informed by Newsnight that the quarter billion dollar figure was based on information obtained from a meeting of Ecuador's finance ministers, and that the amount had been verified when taking into account a range of transactions between the two countries. The ECU also pointed out that the Newsnight audience would have understood the reporter's reference to the word "given" as a term "[that] was likely to refer to the value of the benefit Ecuador received". The ECU also stated that the point the reporter was making was that the close relationship between the two countries had helped both nations to challenge US influence in the region. The ECU therefore felt that:

"[...] the report was appropriately objective and even handed in the way it described the relationship between the two countries..."

The ECU did not uphold this aspect of the complaint.

2. *"The new government kicked out the last of the big US oil companies, Occidental Petroleum."*

The ECU agreed that the reference to the new government having "kicked out" Occidental Petroleum had been an "error". However, the ECU argued that the new president, President Correa, had supported the policy to remove US oil companies when he was Economy Minister and had frequently criticised them since becoming President. The ECU therefore concluded:

"I do not think that the error in the Newsnight report was material to the viewers' understanding of the President's position and so did not amount to a serious breach of the guidelines..."

The ECU did not uphold this aspect of the complaint.

3. *"They've put on war paint and feathers and, heavily armed with lawyers, they are filing a new law suit. They are demanding no less than 12 billion dollars from Chevron Texaco to clean up their forest."*

The ECU noted what Newsnight had been told, that the figure had come from one of the lawyers involved in the case.

The ECU did not uphold this element of the complaint.

The ECU also commented on the images used in the report. It agreed that the complainant had pointed out that the images had related to the suit of defamation but that the Indian claim was complex and that they regularly wore traditional dress to publicise their case. The ECU did not think it misleading to use this footage to illustrate the ongoing legal battle.

On 13 May 2008 the ECU received a letter from the Ecuadorian Ambassador supporting the complaint calling it "timely and fair". The Ambassador also noted that

the programme had shown “a political bias which damages the good name of my country”.

On 5 June 2008 the complainant responded to the ECU’s decision. He disputed the implication that the quarter million dollars had already been paid to Ecuador and that this arrangement was between President Chavez and the current President of Ecuador (Correa). The complainant also disputed the way the ECU had worked out the figures and the discrepancy between the ECU and the editor of Newsnight with the way the figure of a quarter billion dollars was arrived at. The complainant also noted that he had contacted all the Ecuadorian finance ministers who had served since 2005 and none recalled providing the information. The complainant also raised concerns as to whether the issue of financial support from Venezuela was designed to help Ecuador confront the US politically. He also complained about the one-sided nature of the report in featuring a critic of the Ecuadorian government.

As to the issue of Occidental Petroleum, the complainant believed that Newsnight had deliberately changed the facts to suggest that the new Ecuadorian government had “kicked them out” when that was not the case. He also pointed out that it was wrong to imply that President Correa had been privy to the decision as he had not been involved in government at the time of Occidental Petroleum’s contract being terminated in May 2006.

As to the figure of compensation, the complainant said that he had an email from the main representative of the plaintiffs who said that any figure was “pure speculation”, but acknowledged that recent expert opinion suggested estimated damages would be between \$6bn and \$16bn and that the reporter had been “close in his guess”.

In a reply dated 20 June 2008 the ECU, while noting the points raised by the complainant, reiterated its view that it did not believe the Newsnight audience would have been misled as to what the reporter was referring to in the points raised by the complainant.

The complainant on 10 June 2008 lodged his appeal with the BBC Trust’s Editorial Standards Committee. He reiterated his complaint making particular reference to the two main statements which he believed the BBC should correct:

- (a) *“Behind little Ecuador is big Venezuela, and its larger than life leader, Hugo Chavez. Chavez has given Ecuador a quarter billion dollars, and the political weapons to stand up to George Bush.”*
- (b) *“The new government kicked out the last of the big US oil companies, Occidental Petroleum.”*

The complainant was also concerned that the ECU response had not addressed the issue that Newsnight had claimed that President Correa had approved the report when he knew nothing about it. The appeal also contained three letters of support from the Ecuadorian Assembly and government ministers raising points in support of the complainant on the two issues raised in the complaint.

### **3 Applicable editorial standards**

#### **Section 1 - BBC's Editorial Values**

##### **Truth and accuracy**

We strive to be accurate and establish the truth of what has happened. Accuracy is more important than speed and it is often more than a question of getting the facts right. We will weigh all relevant facts and information to get at the truth. Our output will be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language. We will be honest and open about what we don't know and avoid unfounded speculation.

##### **Impartiality & diversity of opinion**

We strive to be fair and open minded and reflect all significant strands of opinion by exploring the range and conflict of views. We will be objective and even handed in our approach to a subject. We will provide professional judgments where appropriate, but we will never promote a particular view on controversial matters of public policy or political or industrial controversy.

#### **Section 3 - Accuracy**

##### **Introduction**

The BBC's commitment to accuracy is a core editorial value and fundamental to our reputation. Our output must be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language. We should be honest and open about what we don't know and avoid unfounded speculation.

For the BBC accuracy is more important than speed and it is often more than a question of getting the facts right. All the relevant facts and information should be weighed to get at the truth. If an issue is controversial, relevant opinions as well as facts may need to be considered.

We aim to achieve accuracy by:

- the accurate gathering of material using first hand sources wherever possible.
- checking and cross checking the facts.
- validating the authenticity of documentary evidence and digital material.
- corroborating claims and allegations made by contributors wherever possible.

##### **Gathering material**

We should try to witness events and gather information first hand. Where this is not possible, we should talk to first hand sources and, where necessary, corroborate their evidence.

We should be reluctant to rely on a single source. If we do rely on a single source, a named on the record source is always preferable.

We should normally only rely on an agency report if it can be substantiated by a BBC correspondent or if it is attributed to a reputable national or international news agency.

We should record our interviews with sources wherever possible. In circumstances where recording might inhibit the source, full notes should be made, preferably at the time, or if not, then as soon as possible afterwards.

### **Misleading audiences**

We should not distort known facts, present invented material as fact, or knowingly do anything to mislead our audiences. We may need to label material to avoid doing so.

## **Section 4 - Impartiality and Diversity of Opinion**

### **Introduction**

Impartiality lies at the heart of the BBC's commitment to its audiences. It applies across all of our services and output, whatever the format, from radio news bulletins via our web sites to our commercial magazines and includes a commitment to reflecting a diversity of opinion.

The Agreement accompanying the BBC's Charter requires us to produce comprehensive, authoritative and impartial coverage of news and current affairs in the UK and throughout the world to support fair and informed debate. It specifies that we should do all we can to treat controversial subjects with due accuracy and impartiality in our news services and other programmes dealing with matters of public policy or of political or industrial controversy. It also states that the BBC is forbidden from expressing an opinion on current affairs or matters of public policy other than broadcasting.

In practice, our commitment to impartiality means:

- we exercise our editorial freedom to produce content about any subject, at any point on the spectrum of debate as long as there are good editorial reasons for doing so.
- we can explore or report on a specific aspect of an issue or provide an opportunity for a single view to be expressed, but in doing so we do not misrepresent opposing views. They may also require a right of reply.
- we must ensure we avoid bias or an imbalance of views on controversial subjects.
- the approach to, and tone of, BBC stories must always reflect our editorial values. Presenters, reporters and correspondents are the public face and voice of the BBC, they can have a significant impact on the perceptions of our impartiality.
- our journalists and presenters, including those in news and current affairs, may provide professional judgments but may not express personal opinions on matters of public policy or political or industrial controversy. Our audiences should not be able to tell from BBC programmes or other BBC

output the personal views of our journalists and presenters on such matters...

- we must rigorously test contributors expressing contentious views during an interview whilst giving them a fair chance to set out their full response to our questions.

### **Achieving impartiality**

Impartiality must be adequate and appropriate to our output. Our approach to achieving it will therefore vary according to the nature of the subject, the type of output, the likely audience expectation and the extent to which the content and approach is signposted to our audiences.

Impartiality is described in the Agreement as "due impartiality". It requires us to be fair and open minded when examining the evidence and weighing all the material facts, as well as being objective and even handed in our approach to a subject. It does not require the representation of every argument or every facet of an argument on every occasion or an equal division of time for each view.

News, in whatever form, must be presented with due impartiality.

### **Correcting mistakes**

We should normally acknowledge serious factual errors and correct mistakes quickly and clearly. Inaccuracy may lead to a complaint of unfairness. An effective way of correcting a mistake is saying what was wrong as well as putting it right. Where we may have broadcast a defamatory inaccuracy Programme Legal Advice should be consulted about the wording of a correction.

## **Section 17 - Accountability**

### **Introduction**

The BBC is accountable to its audiences. Their continuing trust in the BBC is a crucial part of our contract with them. We will act in good faith by dealing fairly and openly with them. We are open in admitting mistakes when they are made and encourage a culture of willingness to learn from them.

We will use the BBC's online presence to provide proper reporting to the public on complaints we have received, and actions we have taken.

### **Feedback & complaints**

Audiences are at the heart of everything the BBC does. Audience feedback is invaluable to us and helps improve programme quality.

Our commitment to our audiences is to ensure that complaints and enquiries are dealt with quickly, courteously and with respect.

## **4 The Committee's decision**

The Committee considered the complaint against the relevant editorial standards, as set out in the BBC's editorial guidelines. The guidelines are a statement of the BBC's values and standards.

In reaching its decision the Committee took full account of all the available evidence, including (but not limited to) the Editorial Adviser's Report and the subsequent submissions from the complainant, the programme team and the ECU.

The Appeal raised issues requiring consideration of the editorial guidelines relating to accuracy, impartiality and accountability.

In coming to its finding the Committee considered the two phrases used in the report and highlighted in the appeal under the guidelines relating to accuracy before considering the piece as a whole against the editorial standards on impartiality. The Committee then considered the issue of complaints handling in relation to whether it was appropriate for the ECU not to have responded to the issue relating to whether the President had seen the report.

### Accuracy

The Committee noted that the editorial guidelines on accuracy say that BBC output must be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language. The BBC should be honest about what it does not know and avoid unfounded speculation.

The guidelines also provide that the BBC should not distort known facts, present invented material as fact, or knowingly do anything to mislead audiences. They also require the BBC to check and cross check the facts.

- a) *"Behind little Ecuador is big Venezuela, and its larger than life leader, Hugo Chavez. Chavez has given Ecuador a quarter billion dollars, and the political weapons to stand up to George Bush."*

The Committee noted the phrasing in the context of the filmed report and the arguments for its inclusion from both the programme team and the ECU. It also noted the comments provided by the expert on Venezuelan and Latin American Affairs Julia Buxton, Senior Research Fellow at the Centre for International Cooperation and Security, University of Bradford, whom the programme had consulted about the item and comments by Greg Palast, the reporter. The Committee noted in particular what each said about how the figure of a quarter billion dollars had been arrived at and the use of the term "given".

The Committee first considered what the editor of Newsnight had said about the use of the figure of a quarter billion dollars in his reply to the complainant:

"First of all I think that Greg Palast's idiosyncratic style may have been a factor in your complaint. His broadcasting style sometimes uses humour and

irony, which may strike some viewers as inappropriate, but it is nevertheless underpinned by rigorous journalism...”

“The figure of a quarter billion dollars refers to Venezuela’s central bank’s purchase of Ecuador’s sovereign debt.”

The Committee then noted what the ECU said about the nature of the financial support Ecuador had received from President Chavez of Venezuela:

“The fact is that Venezuela has spent large sums on subsidised oil, trade deals and loans and Ecuador has been one of the prime beneficiaries. Newsnight told me that it based the \$250 million figure on information obtained from a meeting of Ecuador’s finance ministers. It said it had verified the amount by considering a range of transactions....

“On the basis of such evidence, I believe it was accurate to report that Venezuela has provided substantial financial support to Ecuador, and in the context of a news report, to say that Venezuela has ‘given’ money to Ecuador, without going into specific detail. I imagine regular viewers of Newsnight, who tend to be more informed about world affairs, would understand that such a term was likely to refer to the value of the benefit Ecuador received.”

The Committee noted what was said by the expert Julia Buxton:

“On the figure of ‘a quarter billion dollars’ of Venezuelan financial assistance to Ecuador, dated from 2006, there are a couple of ‘clarity’ issues:

- i) There are no details as to who supplied these figures – just that they were ‘gathered’ from those attending the conference. There are doubts as to accuracy and credibility of the figure, and if these monies were ever delivered...
- ii) The assumed level of financial support needs unpacking. Of the assistance we do know that Venezuela has provided to Ecuador, this has not been without strings and has usually been in the form of technical supply agreements (which are acutely difficult to cost and should not be wrapped up in a ball park ‘cash’ figure).

“... I think it is fair to say that the financial figures provided for that time period were inflated and a misrepresentation of the assistance provided i.e. not ‘a give away’ but loans.”

The Committee then noted what Greg Palast, the reporter, said about how he arrived at the figure:



“It is an agglomeration of benefits and loans to save the previous government – that of Palacio. The money was a combination of all the funding and benefits to Ecuador under Palacio and Correa...the biggest single amount was the agreement to refine and return oil products to Ecuador which did not have the capacity to refine it – there was also an offer of a line of credit but that was not necessarily taken up.

“It’s silly to say that giving oil at below cost is an ECONOMIC benefit...there is a POLITICAL benefit – you could say the same for Bush at various times. I don’t think any economist would say that giving away product at below cost is economically viable.

“I thought the figures about right – then there were other goodies thrown in – some are difficult to value – the most valuable was when the market for bonds dried up Chavez stepped in and said he would buy them... I had said the quarter billion dollars before in a Newsnight piece. Maybe I could have said ‘can be estimated at’ or ‘at least’.”

Finally, the Committee noted what the editor of Newsnight said as part of the Committee’s investigation into the appeal and whether he would have described the financial benefit as “giving”:

“[...] it was loose language...certainly Chavez spread money around but did he GIVE Ecuador the money? No, he did not. It was loose, shorthand language...”

The Committee concluded that the reference to a quarter billion dollars was imprecise and difficult to unpack and source. The Committee agreed that it was difficult to determine the financial benefit to Ecuador of individual actions by Venezuela but it noted that that lack of certainty was not indicated within the commentary. There appeared to be no consensus as to how the ball park figure was arrived at by the programme or the reporter.

The Committee then considered whether the use of the word “given” had been appropriate in relation to monies and/or benefits that had been provided by the Venezuelan President to Ecuador. It concluded that the use of the phrase had been imprecise and “loose”. The Committee noted that Ecuador had certainly benefitted from cheaper loans and reduced costs for oil but these could not be considered per se as gifts, or as being “given”. The Committee agreed it had been used as shorthand by the reporter but was not persuaded that Newsnight viewers would necessarily have realised that “given” in this context did include for example the purchase of government bonds. The Committee concluded that the combination of the unsubstantiated figure of a quarter billion dollars and the reference to this as having been “given” was inaccurate and could have misled viewers of the programme.

The Committee agreed that the use of the figure and the term had been inaccurate and had been in breach of the guidelines:

“Our output must be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language. We should be honest and open about what we don’t know and avoid unfounded speculation.”

And

“We should not distort known facts, present invented material as facts, or knowingly do anything to mislead our audience.”

- b) “*The new government kicked out the last of the big US oil companies, Occidental Petroleum.*”

The Committee noted what the programme team, the ECU and the reporter said about the use of this comment in the piece. The Committee first noted what the ECU said in response to the complainant:

“I do not think that the error in the Newsnight report was material to the viewers’ understanding of the President’s position and so did not amount to a serious breach of the guidelines ... I am therefore unable to uphold this aspect of your complaint.”

The Committee then noted what the programme team said in response to the Committee’s investigation:

“When the film was being re-edited prior to transmission, a line of track was omitted which would have made it clear that it was Palacio’s government that had kicked out Occidental ... and the line ‘the new governor ...’ referred to that.”

It also noted what the reporter Greg Palast said:

“We reversed the order. It was an absolute error and I didn’t catch it. I know both Correa and Palacio personally so I know their dates and I wouldn’t have reversed it on purpose. I am happy to say let’s correct that.”

The Committee recognised that the programme had acknowledged the error in wrongly editing the comment to inaccurately suggest that it had been the present President, Correa, and not the former President, Palacio, who had terminated Occidental Petroleum’s contract. The Committee, whilst concerned that an error of this kind had been made during editing, accepted that mistakes are made. It concluded that the error would have misled viewers to which President had made the decision.

The Committee upheld these complaints on accuracy.

The Committee also noted that Occidental Petroleum had been referred to as the last “big” US oil company in Ecuador. The Committee noted that it was aware that US oil companies were still working in Ecuador and that this reference was ambiguous.

### Impartiality

Impartiality must be adequate and appropriate to the output. The approach to achieving impartiality will vary according to the nature of the subject, the type of output, the likely audience expectation and the extent to which the content and approach is signposted.

The editorial guidelines state that the BBC’s commitment to impartiality means, amongst other things, that the BBC has editorial freedom to produce content about any subject, at any point on the spectrum of debate, as long as there are good editorial reasons for doing so.

News, in whatever form, must be presented with due impartiality.

The BBC must be fair and open minded when examining the evidence and weighing the facts as well as being objective and even handed in its approach. Impartiality does not require the representation of every argument or every facet of an argument on every occasion or an equal division of time for each view.

The Committee, although recognising that the piece contained two comments that breached the guidelines on accuracy, was satisfied that the item did not breach the editorial guidelines on impartiality. The piece had been editorially justified in considering the legal battle of indigenous Ecuadorians to obtain compensation within a complex world of Latin American/US political relations. The Committee was also satisfied that the report had been sufficiently balanced when looking at the different issues which the report had considered. It was clear that there was a close relationship between Venezuela and Ecuador, within the context of the politics of Latin America and their relationship with the US. As such, the Committee was satisfied that the programme had been even handed in its presentation of the relationship between the two countries and the issue of politics and the extraction of oil in the region.

The Committee concluded the report had not breached the guidelines on impartiality.

### Complaints Handling

The Committee noted the complainant’s concern that the ECU had not responded to his complaint as to whether or not the President of Ecuador had seen the filmed report.

The Committee concluded that as the issue did not concern broadcast content the issue fell outside of the ECU's remit, which is to consider specific complaints of alleged breaches of the BBC's editorial guidelines within broadcast or published content. The Committee noted that it may have been helpful for the ECU to have addressed this point, but not doing so was not a failure in complaints handling. The Committee was satisfied that no further action is required at this point.

**Finding: The Complaint was partly upheld in that the Committee found that the item had breached the guidelines on accuracy but not impartiality or accountability.**

## Today, Radio 4, 25 June 2007

### 1 The item

On the morning in question presenter Edward Stourton was interviewing the newly-elected deputy leader of the Labour party, Harriet Harman. The issue at the centre of the complaint is whether Mr Stourton told the truth or misled the audience when he quoted Ms Harman's views on the war in Iraq.

Here is the relevant transcript of what was said:

Edward Stourton (ES):

“Well, let me ask you about a couple of the other things you raised during the campaign. On the subject of Iraq, for example, you said the war was clearly a mistake, and you said the Government should apologise for it and admit (quote) we were wrong (unquote). Do you still think that today?”

Harriet Harman (HH):

“Well I didn't actually say those two things you said. What I did say...”

ES:

“They're in quotation marks in front of me, but...”

HH:

“No, no, I didn't... no, Ed, I did not say them. I'll tell you what I did say. What I said was that we had to recognise the anger and bitterness that has been caused by Iraq, and we do, whilst at the same time strongly supporting our troops. Now in terms of my own decision I said I voted for the war in the belief that there were weapons of mass destruction, and that that was a mistaken belief, and I had to acknowledge that. That's what I've said, and I have not said the things you've said in quotes.”

### 2 The complaint including BBC management's response and appeal to the ESC

In a letter sent to the Editorial Complaints Unit (ECU) on 25 July 2007 the complainant posed the question as to whether Mr Stourton had misled listeners by using a quote which posed the question as to whether or not Ms Harman would continue to apologise for the Iraq war, an apology which Ms Harman denied having said.

BBC Information replied on 29 August having had the letter passed to them to answer at stage 1 of the BBC's complaints process. In its reply BBC Information noted that there had been a lively debate as to whether Ms Harman had said the Government should apologise for the Iraq war. The reply stated that the issue of the apology had a context which went back to the campaign for the deputy leadership of the Labour party and a debate on the Newsnight programme of 29 May 2007 in which was said:

Jeremy Paxman:

“Do you think the party should say sorry for what has happened [in Iraq]?”

Jon Cruddas (candidate for deputy leader):

“I don’t think we can actually rebuild a sense of trust and a dialogue with the British people unless we fundamentally reconcile ourselves to what the situation is on the ground and our own culpability in creating it.”

Harriet Harman (candidate for deputy leader):

“I agree with that.”

BBC Information also pointed out that the following day (30 May 2007) Ms Harman had made a further statement on her official website that stated:

“I was glad to have the chance to spell out on Newsnight that we have to acknowledge that we got it wrong on Iraq because there were no weapons of mass destruction.”

BBC Information also pointed out that overall the interview on the Today programme had given Ms Harman ample opportunity to set the record straight if she felt her comments were being misinterpreted and to make clear that she denied calling for an apology over Iraq.

On 23 December 2007 the complainant replied regretting that it had taken him so long to respond. In his response the complainant noted that in neither the Newsnight programme nor on Ms Harman’s website had she referred to anything that amounted to an apology. The complainant again asked whether the reporter was actually looking at a quote and, if so, was it true.

On 18 January 2008 BBC Information responded stating that it had nothing to add to the reply of 29 August. BBC Information also pointed out that due to 12 weeks having elapsed between the letter sent out from BBC Information and his reply his complaint could neither be escalated nor investigated further.

Following an appeal the BBC Trust on 14 March 2008 informed the complainant that the Chairman of the ESC believed that, due to the delay which the complaint had suffered at stage 1 (nine weeks) and given that the complainant had not been informed of the 12 week time limit, the correspondence should be passed to the ECU for review as to whether it was appropriate for the ECU to investigate the matter.

The ECU responded to the complainant on 27 May 2008. The ECU did not uphold the complaint. The ECU believed, that although the notes for the programme had not been kept, Edward Stourton had used a quotation from The Daily Telegraph, which had in turn quoted Ms Harman’s comments from the Newsnight programme of 29 May 2007. The ECU provided an online version of the article which said:

“Harriet Harman, the justice minister, and backbencher Jon Cruddas said that the Government should apologise for invading Iraq.

“Miss Harman said the war was ‘clearly a mistake’ and that Labour under a new Brown leadership should acknowledge that ‘we were wrong’.”

The Head of the ECU stated:

“[...] as far as I can see, [Ms Harman’s intervention on Newsnight] can only be understood as assent to the proposition that Labour should apologise. On that basis, I see no inaccuracy in Ed Stourton’s ascription to her of the view that ‘the Government should apologise’.”

The Head of the ECU also addressed the issue of whether there had been an inaccuracy in suggesting the attribution had rested on a direct quotation. He stated:

“[...] it seems clear from the context that what Harriet Harman was disputing was the substance of the position attributed to her, rather than the precise terms in which she had expressed it, her claim being that she had acknowledged error on her own part, but had not called for a similar acknowledgement, or apology, on the part of the Government. In the circumstances, it doesn’t seem to me that any significant issue of accuracy hangs on whether the proposition that she had said the Government should apologise for the war reflected her own use of those words or her assent to their use by another.”

There followed correspondence between the complainant and the ECU as to whether or not Ms Harman’s words prior to the interview on Today had constituted an apology, formal or otherwise. The complainant was of the belief that “we can all express regret for omissions or for sins of commission but it is not a logical inference that such expressions of regret constitute an apology,” and, as such, that it was perfectly reasonable for Ms Harman to say in the Today interview that “she had not apologised”.

The Head of the ECU in reply found no material distinction between Ms Harman’s agreement with the proposal that the governing party should “say sorry” and the report that she had expressed the view that “the Government should apologise.”

#### Appeal to the Editorial Standards Committee (ESC)

The complainant appealed to the ESC reiterating his complaint that:

- Ms Harman was correct in saying that she had never apologised for the Iraq war and was entitled to express her disagreement with Mr Stourton’s “erroneous” proposition which the presenter refused to accept.
- the word apology has come to mean much more than an expression of regret, namely a formal acceptance of personal responsibility.
- the listeners to Today were misled by an interviewer who did not reveal the

true position.

The complainant also noted the problems with the handling of his complaint and the “technical points” which had been raised to prevent his complaint from being considered.

### **3 Applicable programme standards**

#### **Section 3 - Accuracy**

##### **Introduction**

The BBC's commitment to accuracy is a core editorial value and fundamental to our reputation. Our output must be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language. We should be honest and open about what we don't know and avoid unfounded speculation.

For the BBC accuracy is more important than speed and it is often more than a question of getting the facts right. All the relevant facts and information should be weighed to get at the truth. If an issue is controversial, relevant opinions as well as facts may need to be considered.

We aim to achieve accuracy by:

- the accurate gathering of material using first hand sources wherever possible.
- checking and cross checking the facts.
- validating the authenticity of documentary evidence and digital material.
- corroborating claims and allegations made by contributors wherever possible.

##### **Misleading audiences**

We should not distort known facts, present invented material as fact, or knowingly do anything to mislead our audiences. We may need to label material to avoid doing so.

#### **Section 4 - Impartiality and Diversity of Opinion**

##### **Introduction**

Impartiality lies at the heart of the BBC's commitment to its audiences. It applies across all of our services and output, whatever the format, from radio news bulletins via our web sites to our commercial magazines and includes a commitment to reflecting a diversity of opinion.

The Agreement accompanying the BBC's Charter requires us to produce comprehensive, authoritative and impartial coverage of news and current affairs in the UK and throughout the world to support fair and informed debate. It specifies that we should do all we can to treat controversial subjects with due accuracy and impartiality in our news services and other programmes dealing with matters of public policy or of political or industrial controversy. It also states that the BBC is



forbidden from expressing an opinion on current affairs or matters of public policy other than broadcasting.

In practice, our commitment to impartiality means:

- we exercise our editorial freedom to produce content about any subject, at any point on the spectrum of debate as long as there are good editorial reasons for doing so.
- we can explore or report on a specific aspect of an issue or provide an opportunity for a single view to be expressed, but in doing so we do not misrepresent opposing views. They may also require a right of reply.
- we must ensure we avoid bias or an imbalance of views on controversial subjects.
- the approach to, and tone of, BBC stories must always reflect our editorial values. Presenters, reporters and correspondents are the public face and voice of the BBC, they can have a significant impact on the perceptions of our impartiality.

### **Achieving impartiality**

Impartiality must be adequate and appropriate to our output. Our approach to achieving it will therefore vary according to the nature of the subject, the type of output, the likely audience expectation and the extent to which the content and approach is signposted to our audiences.

Impartiality is described in the Agreement as "due impartiality". It requires us to be fair and open minded when examining the evidence and weighing all the material facts, as well as being objective and even handed in our approach to a subject. It does not require the representation of every argument or facet of every argument on every occasion or an equal division of time for each view.

News, in whatever form, must be presented with due impartiality.

## **4 The Committee's decision**

The Committee considered the complaint against the relevant editorial standards, as set out in the BBC's editorial guidelines. The guidelines are a statement of the BBC's values and standards.

In reaching its decision the Committee took full account of all the available evidence, including (but not limited to) the Editorial Adviser's Report and the subsequent submissions from the complainant, the programme team and the ECU.

The appeal raised issues requiring consideration of the editorial guidelines relating to accuracy and impartiality.

### Accuracy

The accuracy guidelines say that BBC output must be well sourced, based on sound evidence, thoroughly tested and presented in clear, precise language.

The guidelines also provide that the BBC should not distort known facts, present invented material as fact or knowingly do anything to mislead its audiences. The guidelines also require the BBC to check and cross check the facts.

The Committee when coming to its finding discussed the relevant interchange between Edward Stourton and Harriet Harman on the Today programme about her views on the Iraq war. It also considered an earlier edition of Newsnight devoted to the Labour deputy leadership campaign. This programme featured comments by Ms Harman upon which Mr Stourton's summary of her views about the Iraq war had apparently been based. The Committee noted what had been said by Ms Harman on the issue of the Iraq war:

Harriet Harman:

“Clearly it was a mistake. It was made in good faith, but I think with a new leadership we have to acknowledge the bitterness and anger that there's been over Iraq, and that we were wrong.”

And then a few minutes later:

Jeremy Paxman:

“Do you think the party should say sorry for what has happened [in Iraq]?”

Jon Cruddas:

“I don't think we can actually rebuild a sense of trust and a dialogue with the British people unless we fundamentally reconcile ourselves to what the situation is on the ground and our own culpability in creating it.”

Harriet Harman:

“I agree with that.”

The Committee also noted the complainant's view that Ms Harman was correct in stating that she had never apologised for the Iraq war and so had been entitled to express her disagreement with what he called Mr Stourton's erroneous proposition. It also noted the complainant's belief that listeners had been misled by an interview which had not revealed the true position.

The Committee also considered the complainant's comments that the Editorial Complaints Unit had not accepted his view that there was a distinction in this case between an “expression of regret” and an “apology.” It noted the ECU's view that the relevant question in this case was whether there was a material distinction between “say sorry” and “apologise”.

The Committee concluded that Mr Stourton's summary of Ms Harman's views on the Iraq war:

“On the subject of Iraq, for example, you said the war was clearly a mistake, and you said the Government should apologise for it and admit (quote) we were wrong (unquote). Do you still think that today?”

had been made in good faith.

The Committee noted that on Newsnight Ms Harman had said: “It was clearly a mistake” and The Daily Telegraph had quoted this as “clearly a mistake”.

The Committee also noted that on her website Ms Harman had said:

“I was glad to have the chance to spell out on Newsnight that we have to acknowledge that we got it wrong on Iraq because there were no weapons of mass destruction.”

And The Daily Telegraph had quoted Ms Harman as saying “we were wrong”.

The Committee noted that Jeremy Paxman had asked:

“Do you think the party should say sorry for what has happened [in Iraq]?”

And following a comment by Jon Cruddas, Harriet Harman had said:

“I agree with that.”

The Committee agreed that it was acceptable journalist practice for the interviewer to not only draw upon reported comments such as those quoted in The Daily Telegraph and those expressed by Ms Harman in the Newsnight programme, but for the interviewer to summarise those views and probe as to their meaning in order to develop the story and inform the audience. In that context although the word apology had not been used by Ms Harman the Committee was satisfied that Edward Stourton’s question was duly accurate.

The Committee also concluded that the audience had not been misled as Ms Harman had been given sufficient opportunity both to challenge the summary of her previously stated views on the Iraq war and to clarify what she had said or had meant to say.

The Committee did not uphold the complaint on accuracy.

### Impartiality

The editorial guidelines state that impartiality applies across all the BBC’s services. Impartiality must be adequate and appropriate to the output. The approach to achieving impartiality will vary according to the nature of the subject, the type of output, the likely audience expectation and the extent to which the content and approach is signposted. Impartiality does not require the representation of every

argument or facet of every argument on every occasion or an equal division of time for each view.

The Committee then considered whether the interview had complied with the guidelines on impartiality. It noted in particular that news programmes were required to be duly impartial and they should be:

“[...] fair and open minded when examining the evidence...as well as being objective and even handed in our approach to a subject.”

The Committee then noted the relevant studio discussion and response from Ms Harman:

Edward Stourton (ES):

“Well, let me ask you about a couple of the other things you raised during the campaign. On the subject of Iraq, for example, you said the war was clearly a mistake, and you said the Government should apologise for it and admit (quote) we were wrong (unquote). Do you still think that today?”

Harriet Harman (HH):

“Well I didn’t actually say those two things you said. What I did say...”

ES:

“They’re in quotation marks in front of me, but...”

HH:

“No, no, I didn’t... no, Ed, I did not say them. I’ll tell you what I did say. What I said was that we had to recognise the anger and bitterness that has been caused by Iraq, and we do, whilst at the same time strongly supporting our troops. Now in terms of my own decision I said I voted for the war in the belief that there were weapons of mass destruction, and that that was a mistaken belief, and I had to acknowledge that. That’s what I’ve said, and I have not said the things you’ve said in quotes.”

The Committee concluded that given that it considered Edward Stourton’s question to Ms Harman duly accurate, the Committee was satisfied that the programme had been even handed in its approach to the subject. The Committee noted that the programme had afforded Ms Harman ample opportunity to respond to the question and to clarify her position and explain what she had meant.

The Committee also concluded that the interview style, a live exchange between presenter and politician, would have met the audience’s expectations for a programme like Today. The Committee noted that the regular Today listener would expect the programme’s presenters to ask challenging questions of their guests in order to elicit informative replies to further listeners’ knowledge of matters of public interest.

Complaints handling

The Committee noted the complainant's belief that the complaints procedure had been too drawn out and that there had been a failure to give fair and reasoned consideration to his complaint.

The Committee noted that any problems arising from the delay in the initial stages of the complaint had been rectified by the intervention of the ESC itself and concluded that overall the complaint had been handled appropriately and that no further action was required. It noted that the new Complaints Framework introduced in August 2008 would ensure in future that those who corresponded with the BBC at stage 1 would learn about the complaints system and time limits by the inclusion of a link to the complaints website in replies from the BBC.

**Finding: Not upheld**

# Rejected Appeals

Appeals rejected by the ESC as being out of remit or because the complaint had not raised a matter of substance and there was no reasonable prospect of success.

## **Bias caused by BBC news programmes promoting BBC programmes**

The appellant suggested that BBC News was biased because of its promotion of BBC programmes within BBC news outlets. The complainant used as an example the 7.00am Radio 4 news summary of 18 May 2008 in which an item on the fourth Indiana Jones film was included on the day that BBC One was showing the third Indiana Jones film, Indiana Jones and the Last Crusade. The complainant believed the news item trivialised the news agenda purely for the benefit of promoting a BBC programme.

The ESC judged that the allegation that the news was being trivialised was not a complaint about a breach of the editorial guidelines and was not within the remit of the ESC to consider. The editorial and creative direction of the BBC was a matter for the BBC Executive. It agreed that the appellant, whilst having strong views on the issue, had not made out a case for the BBC Executive to answer and that there was not a reasonable prospect of success. The Committee concluded that it was not appropriate to take the appeal as it did not raise a matter of substance.

## **BBC Coverage of MotoGP**

The appellant complained that the BBC commentaries of the MotoGPs were inappropriate for a pre-watershed audience in that they contained at times racist terminology, sexual comments, violence and bullying. The appellant provided a number of examples of where he believed the commentary had in his opinion breached the BBC's Editorial Guidelines.

The Committee noted that a number of the complaints were already out of time for consideration due to the fact that the complaint concerned issues that spanned three MotoGP seasons. The Committee therefore only considered matters relating to the broadcasts of May 2008.

The Committee then considered each of the issues in turn:

### Racism

The Committee noted that the complaint concerning the use of the words 'frog' and 'froggie' were out of time, although the Committee endorsed the view of the MotoGP series producer who believed that whilst the 'Team froggy joke' came from Kawasaki itself it was, in hindsight, inappropriate to repeat it.

### Sexual Comments

These were out of time.

### Violence and Bullying

The Committee noted that some complaints concerning these headings were out of time, although it did note some of the phrasing used by the commentators under both of these headings. In particular, with regard to violence the Committee noted the comments:

“Look at Lorenzo you couldn’t kill him with a stick”

“If I were Vermulean I’d kick him on the foot, either one of them, they’re both broken.”

As to the issue of bullying the Committee noted the comment:

Parrish (Commentator):

He believes in himself, much more spectacular in the way he attacks the corners.

Cox (Commentator):

He believes in himself so much I reckon he’s going to grow taller

Parrish:

I think he probably is. Well he’s grown taller in stature as far as his confidence is concerned

Cox:

As we were chatting before the race, mate. Not scared of the rain now, scared’s too strong a word you know. He’s stronger in the rain now and absolutely fierce under brakes, when you always said he got dropped off. Not now.

It also noted the Editorial Complaint’s Units (ECU) finding on these issues where it stated:

“It seems to [the ECU] that the personalities of the two men [the commentators] and the way they express themselves is part and parcel of their presentational style and something that would fall well within the expectations of regular viewers of MotoGP.”

The Committee noted that whilst it was concerned that the commentary should be appropriate and justified by context it was satisfied that the complainant had not made out a case for the BBC Executive to answer regarding the unsuitability of the comments pre-Watershed. It did not believe that with regard to the issues that were within time concerning violence and bullying there was a reasonable prospect of success. The Committee therefore agreed that the matter did not raise a matter

of substance and agreed that it would be inappropriate to hear the complaint on appeal.