

Complaint by Mr Murtaza Ali Shah about *Breaking Point with Malick*

Type of case Fairness and Privacy

Outcome Not Upheld

Service Hum News

Date & time 14 July 2019, 20:00

Category Fairness

Summary Ofcom has not upheld this complaint about unjust or unfair treatment in the programme as broadcast.

Case summary

The programme included an interview with Mr David Rose, a journalist, who referred to a news story that denied the existence of an Memorandum of Understanding agreement (“MoU”) between the UK and Pakistan relating to the extradition of Mr Ishaq Dar, a former Pakistan Finance Minister now living in the UK. Mr Shah complained that he was treated unjustly or unfairly in the programme as broadcast because he said that he was the author of the story referred to and that it was untrue that he had denied the existence of the MoU.

Ofcom found that material facts were not presented, disregarded or omitted in a way that was unfair to Mr Shah and it was not necessary for the broadcaster to have afforded Mr Shah with an opportunity to respond to the claims made in the programme.

Programme summary

Hum News is an Urdu language channel broadcast under an Ofcom licence held by Hum Network UK Limited. The programme was broadcast in both Urdu and English. An English translation of the part of the programme broadcast in Urdu was obtained by Ofcom and provided to both parties, who confirmed its accuracy. However, the complaint related to the part of the programme that was broadcast in English.

On 14 July 2019, Hum News broadcast an edition of *Breaking Point with Malick*, a topical news programme presented by Mr Mohammed Malick that discussed current events in Pakistan.

The programme included an interview between the presenter and Mr Rose. The first question the presenter asked Mr Rose was about an article written by Mr Rose for the Mail on Sunday newspaper that had been criticised as being “planted”, which Mr Rose denied. After a discussion about the article and foreign aid, the following conversation took place:

Presenter: *“So, basically, you did, you did approach them [the PLM-N, a political party in Pakistan]. In one part of the story you make a very interesting claim and that you’re saying that the Home Secretary of the UK, Sajid Javid, is discussing the possible extradition of members of [the] Shehbaz family¹ who have taken refuge in London. Could you elaborate on that because I don’t know if there’s any extradition request from Pakistan for [the] Shehbaz’s family, yeah?”*

Mr Rose: *That’s right. There is no tradition, there is no extradition treaty with the UK which means that if Pakistan wants to extradite somebody from Pakistan just as if we in England wanted to extradite...sorry, if somebody from Pakistan, if the Pakistan Government wants to extradite [interrupted by the presenter].*

Presenter: *I know, but who is he [Sajid Javid] discussing it with? Because I’m not aware of anything happening on this end, you said he’s discussing this possible extradition. Who is he discussing [interrupted by Mr Rose]?”*

Mr Rose: *Lawyers who are working with the asset recovery unit have held meetings with Sajid Javid’s office. Shahzad Akbar² has held meetings with Sajid Javid, and already they have a Memorandum of Understanding for the extradition of Ishaq Dar. Now, this is, was, denied by a story on Geo Television and published in the ‘Friday Times’. I can tell you with absolute certainty that that denial was untrue. I have had confirmation from the UK Government that there is a Memorandum of Understanding between Britain and Pakistan to extradite Ishaq Dar from England to Pakistan. In the same talks they had discussed the possibility that members of Shahbaz Sharif’s family may also be subject to Memorandums of Understanding allowing for their extraditions. So, it’s in an early stage, but we’ll see what happens.*

Presenter: *So, it means that earlier, that denial there was no MoU, that was not true, that was incorrect, is that what you’re saying?”*

Mr Rose: *There is an MoU.*

¹ Shehbaz Sharif is the leader of the PLM-N, Pakistan’s opposition party and part of a political family of Pakistan. Mr Rose had alleged in his article that members of Mr Sharif’s family may have been involved in laundering money.

² A special advisor to the Prime Minister of Pakistan.

Presenter: *Okay.*

Mr Rose: *The denial that there was an MoU was made by Geo Television, it was picked up by other Pakistan media, the denial is untrue”.*

The conversation between the presenter and Mr Rose continued with no further reference to the MoU. After the interview ended, the presenter then summarised the conversation:

“Viewers, that was David Rose. Very quickly, if I may sum it up, there are three or four things. Firstly, he said that a statement was broadcast here stating that no MoU was signed between Britain and Pakistan regarding the extradition of Ishaq Dar. He said this was wrong. I have myself seen that MoU, which means that the claim Mr Shahzad Akbar was making regarding Ishaq Dar, stands...”.

The programme then moved on to other topics and story relating to the existence of the MoU was not mentioned again in the remainder of the programme. Mr Shah was not named in the programme.

Summary of the complaint and broadcaster’s response

Complaint

Mr Shah complained that he was treated unjustly or unfairly in the programme as broadcast because:

- a) Mr Rose said that a news article written by Mr Shah had denied that an MoU agreement regarding the extradition of Mr Ishaq Dar existed between Pakistan and the United Kingdom. He said that Mr Rose had added that this denial was untrue and that an MoU was in place. Mr Shah also complained that the presenter did not challenge Mr Rose on this point. Mr Shah explained that he had exclusively reported³ about the existence of the MoU and that Mr Rose’s claim was “untrue and false” and that his comments had questioned Mr Shah’s credibility as a journalist.
- b) Mr Shah was not provided with an opportunity to respond to the claims made in the programme.

Broadcaster’s response

- a) The broadcaster said that the overarching topic discussed in the programme related to a story about money laundering of aid money based on an article written by Mr Rose and that reference to this was made across multiple news outlets about the “full blown investigation underway in both the UK and Pakistan into the money laundering on a massive scale”. It said that the claims that Mr Rose’s article⁴ had been “planted” stood to undermine Mr Rose’s work, and that HUM News had interviewed Mr Rose in the programme to obtain his viewpoint on this matter. It said that other Pakistani news channels had held similar interviews with Mr Rose. The broadcaster said that the topic of the extradition and MoU were only a small part of the discussion in the

³ [Pakistan, UK sign MoU for Dar's extradition, The News, 27 May 2019](#); and, [Pakistan, UK sign MoU for Ishaq Dar's extradition, Geo News](#).

⁴ [Did the family of Pakistani politician who has become the poster boy for British overseas aid steal funds meant for earthquake victims, asks David Rose, 14 July 2019](#).

programme. It said that it was Mr Rose who had made reference to the existence of the MoU in relation to Mr Ishaq Dar, and that the presenter had challenged Mr Rose to clarify whether an MoU was in place.

The broadcaster said that the articles which the complainant had provided in support of his complaint relating to the existence of an MoU, dated back to May 2019. It added that through May and June 2019, there were many stories circulating in the press about whether there would be an extradition agreement by way of an MoU. Hum News provided Ofcom with website links to two articles⁵ and said that the articles interpreted the report by Geo Television, the Pakistani news outlet, that there was an MoU in place between Pakistan and the UK. It said that by July 2019 all this information was in the public domain.

The broadcaster said that while Mr Shah may have broken the story in May 2019, by July 2019 there had been “plenty of articles” regarding the MoU. Hum News said that the number of articles on this subject already in the public domain demonstrated that it was “extremely difficult” to identify one journalist as being the original source for these various articles. It added that the presenter had challenged Mr Rose to clarify whether the MoU was in place, and that Mr Rose had confirmed that it was. It said that, based on this, and given that the programme did not make any direct reference to Mr Shah or to any articles written by him, it was unclear how exactly Mr Shah had been treated unfairly. It added that there was no evidence of Mr Shah having written for the Friday Times, which was also referred to by Mr Rose.

- b) The broadcaster said that the focus of the interview was to discuss the story about money laundering based on the article written by Mr Rose and that there was no reason to have invited Mr Shah to take part in the programme. The broadcaster added that any requirements to seek a right to reply would have occurred if Mr Shah had been directly identified in the programme, which it said he was not.

Ofcom’s Preliminary View

Ofcom prepared a Preliminary View that Mr Shah’s complaint should not be upheld. Both parties were given the opportunity to make representations on the Preliminary View, but neither chose to do so.

Decision

Ofcom’s statutory duties include the application, in the case of all television and radio services, of standards which provide adequate protection to members of the public and all other persons from unjust or unfair treatment in programmes in such services.

In carrying out its duties, Ofcom has regard to the need to secure that the application of these standards is in the manner that best guarantees an appropriate level of freedom of expression. Ofcom is also obliged to have regard, in all cases, to the principles under which regulatory activities should be transparent, accountable, proportionate and consistent and targeted only at cases in which action is needed.

⁵ [Pakistan and Britain sign MoU over extradition of ex-finance minister Ishaq Dar, Gulf News, 27 May 2019](#); and, [Pakistan, UK sign MoU over Ishaq Dar’s extradition, Pakistan Today, 23 June 2019](#).

In reaching its decision, Ofcom carefully considered all the relevant material provided by both parties. This included a recording and transcript of the programme, and both parties' written submissions and supporting evidence.

When considering complaints of unjust or unfair treatment, Ofcom has regard to whether the broadcaster's actions ensured that the programme as broadcast avoided unjust or unfair treatment of individuals and organisations, as set out in Rule 7.1 of the Code.

In addition to this Rule, Section Seven (Fairness) of the Code contains "practices to be followed" by broadcasters when dealing with individuals or organisations participating in, or otherwise directly affected by, programmes, or in the making of programmes. Following these practices will not necessarily avoid a breach of Rule 7.1 and failure to follow these practices will only constitute a breach where it results in unfairness to an individual or organisation in the programme.

- a) We first considered Mr Shah's complaint that he was treated unjustly or unfairly in the programme as broadcast because during an interview Mr Rose had said, falsely, that a news article written by Mr Shah had denied that an MoU regarding the extradition of Mr Ishaq Dar existed between Pakistan and the United Kingdom.

In considering this head of complaint, we had particular regard to Practice 7.9 of the Code which states:

"Before broadcasting a factual programme, broadcasters should take reasonable care to satisfy themselves that material facts have not been presented, disregarded or omitted in a way that is unfair to an individual or organisation...".

Ofcom's role is to consider whether the broadcaster took reasonable care not to present, disregard or omit material facts in a way that resulted in unfairness to Mr Shah. Whether a broadcaster has taken reasonable care to present material facts in a way that is not unfair to an individual or organisation will depend on all the particular facts and circumstances of the case, including, for example, the way in which an individual is portrayed, the seriousness of any allegations made against them, and the context in which such allegations are made.

As set out in the "Programme summary" above, during an interview with Mr Rose there was a discussion about an article he had written about the Shahbaz family in relation to claims about money laundering. In discussing this topic, the presenter asked Mr Rose whether a request had been made by Pakistan to extradite members of the Shahbaz family. Mr Rose clarified that there was no extradition treaty in place between the UK and Pakistan, but that an MoU existed between the two countries relating to the extradition of Mr Ishaq Dar. Mr Rose then said that the existence of an MoU had been "*denied by a story on Geo Television and published in the Friday Times*" and that this denial was "*untrue*". This was clarified by the presenter, and reaffirmed by Mr Rose, who also said that "*the denial that there was an MoU was made by Geo Television, it was picked up by other Pakistan media, the denial is untrue*".

In considering this complaint, Ofcom took account of the relevant context in which the comments were made. From the broadcaster's statement and the news articles provided to Ofcom by the complainant, Mr Shah (see footnote 3 above), it was apparent that in the three months prior to the programme being broadcast in July 2019, there were a number of stories reporting on whether or not there was an MoU in existence relating to the extradition of Mr Ishaq Dar. It was also apparent that Mr Shah had also written online articles in both Geo News and The News in May 2019 reporting on the existence of an MoU in relation to Mr Ishaq Dar.

We took into account that the programme did not name Mr Shah, nor did it make any direct reference to him or any articles written by him. Further, neither the presenter nor Mr Rose attributed the "story" on Geo Television, or the article in the Friday Times, as referred to by Mr Rose, to a specific individual. We also took into account that at no point in the interview did Mr Rose provide any further identifying details, such as the name of the programme or broadcast time/date of the story on Geo Television, or a specific article and publication date for the story in the Friday Times. Rather, Mr Rose spoke in general terms, referring only to a "story" denying the existence of the MoU "on Geo Television and published in the Friday Times". In both cases, Mr Rose attributed the story to the channel/publication in which he said the story had appeared, and not to a particular journalist or author.

We acknowledged that Mr Shah said that he had exclusively reported on the existence of an MoU, and that in correspondence with Ofcom he said that this would have been "known to everyone in the Pakistani community and media industry". However, given that Mr Rose referred only to a story that "denied" the existence of an MoU, we considered that it would have been unlikely that viewers would have understood Mr Rose to have been referring to any articles written by Mr Shah, who by his own admission had only written about the existence of an MoU (and not that an MoU did not exist). We also recognised that Mr Shah had written his articles in May 2019 and that since then, the matter had been widely debated and there appeared to have been a large number of articles on the subject available by the date this programme was broadcast on 14 July 2019. This, we considered, also meant that it was unlikely that viewers would have identified Mr Shah in particular as being the author of the story referred to by Mr Rose. Taking all these factors into account, we considered that the programme was unlikely to have materially and adversely affected viewers' opinions of Mr Shah in a way that was unfair to him.

Ofcom considered that material facts were not presented, disregarded or omitted in a way that resulted in unfairness to Mr Shah in the programme as broadcast.

- b) We next considered Mr Shah's complaint that he was treated unjustly or unfairly in the programme as broadcast because he was not provided with an opportunity to respond to the claims made in the programme.

In assessing this head of complaint, we took into account Practice 7.11 of the Code which states that:

“If a programme alleges wrongdoing or incompetence or makes other significant allegations, those concerned should normally be given an appropriate and timely opportunity to respond”.

Given our view in head a) above that the comments made by Mr Rose did not amount to significant allegations about Mr Shah, or gave rise to any unfairness to him in the programme, we considered that in the circumstances of this case, there was no requirement for the broadcaster to have provided Mr Shah with an appropriate and timely opportunity to respond to the comments made by Mr Rose in the programme.

Ofcom has not upheld Mr Shah’s complaint of unjust or unfair treatment in the programme as broadcast.