

The Last Leg: Locked Down Under

Type of case	Broadcast Standards Complaint Assessment
Outcome	Not Pursued
Service	Channel 4
Date & time	8 May 2020, 22:00
Category	Generally accepted standards
Summary	This programme featured potentially offensive statements about the health of Prime Minister Boris Johnson during the Coronavirus pandemic. We concluded that overall there was sufficient context to justify the potential offence.

Introduction

The Last Leg is a late-night entertainment programme broadcast on Friday nights on Channel 4. The programme is presented by Adam Hills, and also features two regular contributors, Alex Brooker and Josh Widdicombe.

Ofcom received 494 complaints that Miriam Margolyes, a guest on the programme, made offensive comments about the health of the Prime Minister Boris Johnson.

Prior to the start of the programme, the following continuity announcement was broadcast:

“Very strong language and adult humour right now on Channel 4, from Huddersfield to London to the other side of the planet, it's late, it's live and we've got Miriam Margolyes dropping by too so good luck everyone. The Last Leg is locked down under”.

In the programme, during a brief discussion about how the UK Government had handled the Coronavirus crisis, the presenter, Adam Hills, asked Miriam Margolyes:

“How do you think the government have handled everything so far, Miriam?”

Miriam Margolyes replied:

“Appallingly of course, appallingly. It’s a disgrace, it’s a scandal, it’s a public scandal. I mean I had difficulty not wanting Boris Johnson to die, I wanted him to die, and then I thought that reflects badly on me and I don’t want to be the sort of person who wants people to die. So then I wanted him to get better, which he did do, he did get better, but he didn’t get better as a human being and I really would prefer that. So, you know we’re in the shit basically here”.

Adam Hills then asked Miriam Margolyes:

“And what do you think about McDonalds and say KFC reopening some of their restaurants?”

Miriam Margolyes replied:

“Do I have to think about McDonalds and KFC? I know I sound very very snobbish, and indeed I am, but I have standards and I just never go to those particular places unless I need to use the loo...”.

We assessed the complaints about this programme under Rule 2.3 of the Code, which states:

“In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context...”.

Ofcom sought background information from Channel 4 Corporation Limited (“Channel 4” or “the Licensee”) to assist with our assessment of these complaints.

Channel 4’s information

Channel 4 said that *The Last Leg* is a “live, late-night satirical entertainment programme” which is known for its “lively topical content, adult humour, debate and celebrity guests”. It added that the programme is being produced “remotely” during the Coronavirus pandemic, with guests joining from home via video call to give “live and not scripted” interviews. It further added that a “commissioning editor and programme advice lawyer” advise during the preparation for the programme and watch its transmission live, communicating with “the executive producer and others involved in the production” where necessary to ensure “clarifications or apologies” are issued on air.

The Licensee stated that in making her statement about the Prime Minister, Miriam Margolyes was exercising her “freedom of expression” in delivering “political speech” in which she “talked passionately” of her concerns about the UK Government’s handling of the Coronavirus pandemic. Channel 4 said that viewers may have perceived her comments to be “challenging and provocative”, but that it did not consider that her comments would have exceeded audience expectations of the programme. This was because of viewers’ familiarity with guests making comments that are “not to be taken seriously” and which “will amuse some but not all”.

Channel 4 said that although Miriam Margolyes initially expressed an “uncharitable thought” that she “*had difficulty not wanting Boris Johnson to die*”, she “immediately mitigated” her comment and said she realised that this reflected badly on her and that she “*wanted him to get better*”. The Licensee stated that it was clear to viewers that she was giving a “personal opinion...not that of the programme hosts or broadcaster” and that it was doubtful viewers would have thought she had “genuinely” wanted the Prime Minister to die. It added that the reactions of the presenter and other two regular contributors showed that Miriam Margolyes’ view was not “shared or endorsed” by them. Further, given that Adam Hills moved the conversation on to another subject, Channel 4 did not consider it necessary to include any further material relating to these comments in the programme.

Our assessment

Reflecting our duties under the Communications Act 2003, Section Two of the Code provides protection for members of the public from harmful and/or offensive material in programmes.

Ofcom takes into account the broadcaster’s and the audience’s right to freedom of expression set out in Article 10 of the European Convention on Human Rights when considering whether a broadcaster has provided listeners with adequate protection from offensive material in a programme.

Rule 2.3 requires that in applying generally accepted standards, broadcasters must ensure that potentially offensive material is justified by the context. Context includes, but is not limited to, the editorial content of the programme, the time of broadcast and the extent to which the nature of the content can be brought to the attention of the potential audience (for example by giving information).

At a time of serious public health crisis, and reflecting the fundamental importance of freedom of expression, it is clearly legitimate for broadcasters to analyse, discuss and challenge the effectiveness of politicians’ handling of the Coronavirus pandemic. However, audiences are likely to be particularly sensitive to potentially offensive comments about the health of individuals who have contracted the Coronavirus.

During this programme Miriam Margolyes recounted that when the Prime Minister had contracted the Coronavirus, she had initially “*had difficulty not wanting Boris Johnson to die*”, and then soon after she said that although the Prime Minister had recovered from the virus, he “*didn’t get better as a human being*”. We considered that these comments had the potential to cause offence, because Miriam Margolyes sought to derive humour from Boris Johnson’s experience of a serious and potentially fatal health condition, which had required him to be hospitalised and treated in intensive care. In our view, the level of offence was likely to have been exacerbated because Miriam Margolyes’ comments were made at a particularly sensitive time, given the seriousness of the current health crisis.

Ofcom therefore considered whether this content was justified by the context. *The Last Leg* is a live late-night entertainment programme which includes discussions of current affairs with celebrity guests. There is a long tradition in UK broadcasting of satirical programmes where comedy will be derived from contributors making provocative and challenging statements about people in the public eye, including elected politicians. The comments were made by Miriam Margolyes, a comic actor known for her forthright views. Further, the programme was preceded by a continuity announcement, which warned viewers to expect “*Very strong language and adult humour*”. Ofcom acknowledged that

viewers were likely to have expected a range of personal views, some of which may have been contentious. We also recognised the importance of broadcasters, including programme guests, in line with the right to freedom of expression, being able to discuss and scrutinise the effectiveness of government responses to the Coronavirus pandemic.

We considered that Miriam Margolyes' comment that she had "*had difficulty not wanting Boris Johnson to die*" was brief. Further, she quickly clarified her comment, saying she realised this reflected badly on her and that she then wanted the Prime Minister to get better. In our view, this immediate clarification of her initial comment significantly limited the potential for offence. We took into account that Miriam Margolyes, went on to say:

"...but he didn't get better as a human being and I really would prefer that. So, you know we're in the shit basically here".

However, we considered that most viewers would have seen this as Miriam Margolyes expressing, in comedic terms, disagreement with Boris Johnson at a political level, which viewers would have seen as being legitimate for her to have done, in keeping with the format and tone of *The Last Leg*.

We also took into account that the presenter, Adam Hills and regular contributors, Alex Brooker and Josh Widdicombe looked visibly shocked in reaction to Miriam Margolyes' initial comment, and that none of the presenters endorsed her comments about the Prime Minister. Further Adam Hills immediately moved the discussion on to another topic.

It was Ofcom's view that, although Miriam Margolyes' comments were provocative and had the potential to cause offence, taken as a whole they were unlikely to have exceeded viewers' expectations of this live, late-night comedy show on Channel 4.

Ofcom therefore concluded overall that this programme did not warrant investigation under Rule 2.3 of the Code.

Assessment Outcome: Not Pursued