

Sky News Response

As reflected in the broader Sky UK response we welcome anything that contributes to the welfare of viewers and people involved in programming. Sky News takes the interests of viewers and contributors extremely seriously. We have robust editorial guidelines that seek to ensure that we are always able to demonstrate to our viewers that we are transparent, honest and fair. Our guidelines also provide for additional steps to be taken in the case of vulnerable adults. That commitment is reinforced by our editorial compliance function and the independent Sky News Board. The Board has responsibility for monitoring our compliance with our own guidelines, the law and the Ofcom code. It also has the capacity to investigate matters if it feels our standards have fallen short of where they should be.

In addition Sky News is a member of the Trust Project an initiative to ensure that news is provided with integrity. The Trust Project aligns perfectly with the Sky News mission statement which makes clear amongst other things that “We earn trust by behaving with integrity”.

Our commitment to provide transparent, honest and fair news remains regardless of any changes to the regulatory framework we exist under.

However, we are concerned that the broad scope of the new rules risks unintended consequences that could have a chilling effect on freedom of expression. We want to avoid anything that could have a detrimental impact on the representation of adults with vulnerabilities in public interest news and current affairs programming.

News and Current Affairs Should be excluded

We welcome Ofcom’s acknowledgement that they want to avoid unintended consequences for programme making that may result in a negative impact on freedom of expression. In our view the inclusion of news and current affairs in the new rules is unnecessary and creates the risk Ofcom want to avoid.

The proposed new rules are properly focussed on addressing public concern about the treatment of participants in programming that has an entertainment focus. The recent publicity around Jeremy Kyle, Love Island and other similar shows has brought this sharply into focus. In response the DCMS launched an inquiry but limited its scope as follows:

The inquiry will consider production companies’ duty of care to participants, and ask whether enough support is offered both during and after filming, and whether there is a need for further regulatory oversight in this area. The DCMS Committee’s decision to launch the inquiry into reality TV comes after the death of a guest following filming for The Jeremy Kyle Show and the deaths of two former contestants in the reality dating show Love Island

The scope of the inquiry and the terms of reference confine themselves to Reality TV and in our view any amendments to Ofcom’s rules should do the same.

We are not aware of any public concern around the exercise of “duty of care” when it comes to news and current affairs programming and point to Ofcom’s own research on news consumption from 2018 that evidences high levels of public trust in news programming in the UK

(https://www.ofcom.org.uk/data/assets/pdf_file/0024/116529/news-consumption-2018.pdf).

We believe that the combination of existing Ofcom rules, laws relating to privacy, data protection and defamation provide adequate protections for those featured in news programming. In particular Ofcom's rules relating to Fairness and Privacy. They provide a robust framework for the protection of adults featured. We accept that the vulnerability or otherwise should be a relevant factor in any assessment made under these rules. The current rules have the added benefit of providing a mechanism by which the public interest in featuring individuals can be assessed.

We are not aware of any significant criticism or dissatisfaction with the rules as they currently operate in respect of news and current affairs. We are concerned that any new rule that failed to provide for an appropriate assessment of the public interest in considering potential breaches could have a chilling effect on freedom of expression. For that reason we believe that concerns around vulnerable contributors are best addressed under the current rules regarding fairness and privacy. As detailed below we are also concerned that the broad definition of participant could lead to misconceived claims by adults, who would not be considered vulnerable, attempting to rely on the new rules to avoid legitimate scrutiny.

Definition of Participant

We believe the definition of participant is too broad. The inclusion of the words "In any way" suggest a duty of care would be owed to anyone featured in news programming in anything but the most incidental way. That could include people caught in the background of shot or someone replying with no comment in response to a legitimate doorstep. It is important that Ofcom provide clear guidelines so that we can properly assess the potential impact of the definition or "participant"

We welcome Ofcom's confirmation that the definition would not apply to those featured in surreptitious filming. We believe that the same principle should apply to all those subject to journalistic investigation. Concerns in these areas are already sufficiently catered for under sections 7 and 8 of the Code. In particular Section 8 in respect of "doorstepping" (8.11) and "suffering and distress" (8.16-19). We would welcome Ofcom's confirmation that those matters currently dealt with under sections 7 and 8 will continue to be dealt with in the same way.

News and current affairs programming is often produced at short notice to serve a vital public interest. A quick assessment needs to be made to assess the level of public interest and whether it warrants any intrusion into the rights of the individual. We are concerned that a lack of clarity in the definition of participant could lead to claims being made under the new rules that would be unsuccessful if they were assessed under Sections 7 and 8.

We are naturally concerned by anything that could inhibit our ability to carry out what we believe to be a fundamental duty to provide legitimate public interest journalism to the public. As already we do not believe it is appropriate or necessary to capture news and current affairs in the broad sweep of the new rules. However, if Ofcom are still minded to do so it is important that clarity is provided about the circumstances in which they will apply to news and current affairs programming.