

**Protecting participants in TV and radio programmes.
Consultation on new broadcasting rules:
Spelthorne's response.**

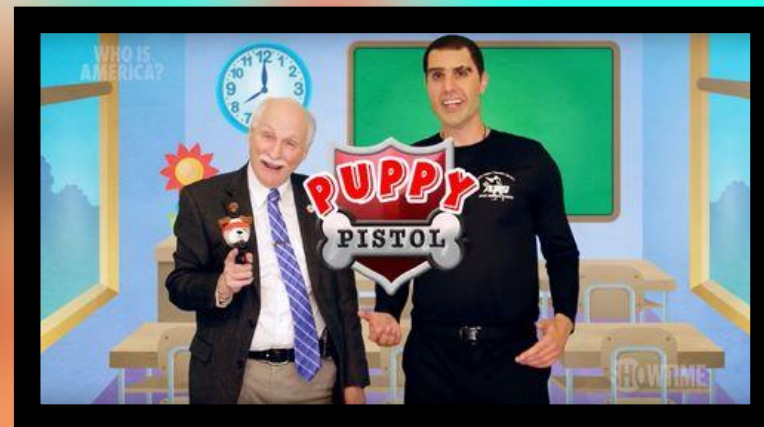


Spelthorne is a comedy entertainment TV production company owned by comedian Sacha Baron Cohen, comedy producer Andrew Newman and Channel 4.

We would like to make some very brief observations on the proposed new rules to protect participants in programmes.

We understand the concern regarding mental health and harm the new rules are seeking to address and have no arguments with the underlying rationale but our main concern is the potential for the rules, as currently drafted and positioned in the code, to have a chilling effect on comedy programming (including parody and political satire).

Sacha Baron Cohen often plays absurd cartoonish characters who interact with unsuspecting public figures in order to playfully satirise and sometime expose issues (including prejudices) in society and politics. Whether that be in the guise of Ali G, Borat, or one of his most recent characters, Israeli pro-gun lobbyist and counter-terrorist ex-army commander, Erran Moran.



Our response contained below is to Question 7 only: Do you agree with the proposed approach to the Code guidance? Please give reasons

Inclusion of the new rules in Section 2

The fairness rules in relation to fairness to (unsuspecting) programme participants are set in rule 7.14. It is not clear to us how the new rules proposed to be introduced in Section 2 of the code will dovetail with those set out in section 7.

In addition, it is not clear why rules designed to protect vulnerable participants would be included in a section designed to protect the audience from harmful and offensive content (rather than section 7, which is designed to protect fairness to participants).

We would be concerned that rights groups would be able to hijack the agenda for their own purpose. For example, in Sacha Baron Cohen's *Who Is America?*, which was made for US cable network Showtime, but also broadcast on Channel 4 last year, his character Erran Morad satirised the US pro-gun lobby by himself lobbying Republican politicians, including US Senators, for the advancement of his 'Kinder Guardians' programme in which 3 years olds are trained and armed in schools. Whilst we understand that gun laws and the right to bear arms is a particular issue in the US, one could see how a political group may seek to bring a complaint where satire is used to challenge a political view-point.

Chilling effect on Parody and Political Satire

The proposed new rules appear to assume that all programme participants are vulnerable (to some degree) and all require the benefit of a positive duty of care to be given (to some degree, to be determined on a case by case basis by Ofcom) in order to protect their welfare, wellbeing and dignity. We would challenge that assumption. For example, in *Who Is America?* Jason Spencer was invited to attend, what he believed, was a self-defence/anti-terrorist training session being conducted by Colonel Erran Morad. Jason Spencer was, at the time, a Republican Georgia state lawmaker who had promoted a law banning the wearing of burqas in certain circumstances.

In the sequence, Jason Spencer was persuaded that the way to intimidate and lead a counter-attack against an ISIS terrorist (holding a gun) was to weaponise his bare buttocks (with the immortal line "*if you want to win, you have to use some skin*"); because, Erran Morad explained, ISIS believed that they would be turned into a homosexual if touched by another man's naked buttocks. This certainly exposed not only Jason Spencer's buttocks, but also his ill-informed views on Muslim beliefs.

There is no question that Jason Spencer's dignity took a hammering on this show (he resigned from office shortly after it aired on Showtime) – and it is not clear how Ofcom might have applied the new proposed standards had a complaint made by Jason Spencer (or indeed a lobby group with an anti-Muslim agenda on his behalf), that no care of any sort had been taken to protect his dignity.

Accordingly, we would urge Ofcom to have regard to the unintended consequences of any new rule and its chilling effect on comedy and political satire. In this regard we would ask Ofcom to ensure that any new rule is narrowly drafted, positioned in the right section, and protects against only the harm (to clearly vulnerable people) that Ofcom has identified.