

Section Five

Due Impartiality, Due Accuracy and Undue Prominence of Views and Opinions

I General Summary of Responses

Responses to the Consultation

We have received substantive responses from the BBC, Channel 4 and Five, ITN, ITV, S4C, Capital Radio, Chrysalis Radio, Campaign Against Censorship, Association of International Broadcasters (AIB), the Campaign for Press and Broadcasting Freedom (CPBF), Campaign Group Centre for Justice and Liberty, the Commercial Radio Companies' Association (CRCA), Discovery Networks Europe, EMAP, Maranatha, mediawatch-uk, MediaWise, the Royal Society for the Prevention of Accidents (RoSPA), the Satellite and Cable Broadcasters' Group (SCBG), the Christian Broadcasting Council, the Church of Ireland Broadcasting Committee, the Churches' Media Council, the Evangelical Alliance and United Christian Broadcasters. We also received responses from individuals. We received a confidential response.

Discovery Networks Europe, Maranatha, SCBG, Churches' Media Council and the Church of Ireland Broadcasting Committee and three individuals in general support the principles, rules and meanings. CPBF welcomes the clear statement of principles and the rules on due impartiality, due accuracy and undue prominence of views and opinions.

The Christian Broadcasting Council believes that the principles, rules and meanings are necessary, consistent, and proportionate provided Ofcom realises that balance is always influenced by a worldview and that a Christian broadcast would have a different worldview from most broadcasters, whilst aiming for balance.

United Christian Broadcasting believes there is a case for specialist Christian news programmes to look at issues from a Christian viewpoint, for a predominantly Christian audience, given that the channels are clearly labelled as such. It seeks clarification on whether such programmes would by necessity have to avoid those areas where they could be viewed as drifting into the area of public policy or current controversy. The Evangelical Alliance takes the view that "Christian and other faith-based broadcasters need the freedom to report fairly without being forced into an overriding secular belief system concerning what does and does not concern balance." It suggests each broadcaster should have a "right to reply" type of programme.

A number of respondents, including Maranatha, Ligali, the Church of Ireland Broadcasting Committee, the Churches' Media Council and four individuals, believe that this draft section of the Code sufficiently encourages imaginative and challenging programming.

However, S4C believes that these continued restrictions will prevent programme makers making imaginative or challenging programmes within these areas. Discovery Networks Europe believes that Ofcom must protect free speech within this area and not overburden with regulation. SCBG thinks the key issue is whether these principles and rules guarantee freedom of speech for broadcasters to choose subjects. One individual says that there should be an allowance for interpretation on more niche channels. mediawatch-uk believes the overriding concern should be "respect for human dignity" and truth.

Campaign Group Centre for Justice and Liberty asks that Ofcom consider directing complaints to the channel concerned, for a right of reply. Campaigning organisation

CAC says there should be a right to have a correction broadcast, in the same way that the Press Complaints Commission can require one to be published.

The BBC makes the point that certain aspects of the draft Code differ significantly from its producers' guidelines.

Due Impartiality and Due Accuracy and Undue Prominence of Views and Opinions (sections 319(2)(c), 319(2)(d), 319(8) and 320 of the Act)

II Preamble

This section of the Code does not apply to the BBC, which is regulated on these matters by the BBC Board of Governors.

Responses to the Consultation

The BBC suggests that this preamble should read "This section of the Code does not apply to BBC services funded by the licence fee or grant in aid or to programmes supplied by the BBC to S4C as part of the statutory provision."

Ofcom response

We have amended the preamble to make it clearer that this section does not apply to BBC services funded by the licence fee or grant in aid which are regulated on these matters by the BBC Governors.

The BBC, S4C and Ofcom have been able to clarify the position regarding those programmes supplied by the BBC to S4C as part of the statutory provision. Such programmes must comply with the Broadcasting Code in its entirety as no separate provision has been made in legislation to exclude them.

III Principles

Draft Principle 1 (now Principle 1)

To ensure that news, in whatever form, is reported with due accuracy and presented with due impartiality.

Responses to the Consultation

RoSPA supports the principles of accuracy and impartiality, saying sometimes broadcasters do let their personal prejudices show; for example, on the issue of speed cameras. It is also not uncommon for small but noisy groups to get a disproportionate amount of air time on an issue without anyone challenging their status.

Ofcom response

We note RoSPA's support for the principles and its concern. We believe that the rules in this section together with the definition of "due impartiality" will provide sufficient safeguard against single issue lobby groups gaining disproportionate coverage. This principle remains unchanged.

Draft Principle 2 (now Principle 2)

To ensure that controversial political and industrial matters and matters of current public policy are dealt with accurately, fairly and with an appropriate level of objectivity and even-handedness.

Responses to the Consultation

Channel 4 and Five believe that the new section should not have any rules that relate to “fairness”. They propose that Ofcom remove the word “fair” as the concept of fairness applies only to the treatment of individuals and organisations, and not to the expression of ideas. In the second principle they would also like the removal of the word “fairly” and wonder whether “even handedness” is simply a repetition of “objectivity”. They would also like to add the words “by apparently presenting them to viewers” after the words “undue prominence”.

ITN recommends the deletion of the words “fairness” and “even handedness” in the second principle, on the grounds that the statute is sufficiently clear without these additions. It recommends the deletion of the phrase “accurately, fairly and with an appropriate level of objectivity and even handedness”, and its replacement with “with due impartiality”.

The Commercial Radio Companies Association recommends the following amendment to the second principle: “dealt with fairly and the relevant issues and/or opinions should be covered as accurately as possible.” ITV would like the second principle rewritten as follows: “to ensure that controversial political and industrial matters and matters of current public policy are presented with due impartiality.” AIB suggests that the second principle is difficult to maintain as rulings on fairness are subjective, and suggests it be amended.

Ofcom response

We accept that, although such elements as accuracy, fairness, objectivity, and even-handedness may be conducive to due impartiality, due impartiality is not necessarily defined by reference to them. Moreover none of these terms appears in sections 319 and 320 of the Act except accuracy, and that only in relation to the reporting of news. We accept that the application of fairness to the expression of ideas, as opposed to the treatment by broadcasters of individuals and organizations, has not been used (except by the BBC) in this context previously and that in broadcasting regulation terms the phrase has become associated with fairness to individuals and organisations.

This principle was intended to reflect the requirements of the Act. Having considered the matter further, we have replaced principles 2, 4 and 5 and replaced them with a single principle which simply refers to compliance with the special impartiality requirements of the Act.

Draft Principle 3 (now deleted)

To encourage a wide range of views on controversial political and industrial matters and matters of public policy.

Responses to the Consultation

CPBF welcomes the five principles set out in the draft Code, particularly the addition of the third principle.

S4C believes that most of the principles are fine but has reservations about the third principle, which appears to be an attempt to oblige broadcasters to stimulate greater public interest in political matters. This may be desirable but it is questionable whether it is appropriate to require such an obligation as part of the regulatory Code. S4C suggests that it is only appropriate to require broadcasters to “reflect a wide range of views”, which is in keeping with Article 10 of the Convention

Ofcom response

We accept that, whilst the third principle seems desirable, without statutory support, it is an aspiration rather than a principle. We have therefore deleted it.

Draft Principle 4 (now deleted)

To ensure that broadcasters do not use their services as a platform for their views on controversial political and industrial matters and matters of public policy.

Responses to the Consultation

No comments were received.

Ofcom response

As explained above, we have replaced what were principles 2, 4 and 5 with a single principle which simply refers to compliance with the special impartiality requirements of the Act.

Draft Principle 5 (now deleted)

To ensure that the views and opinions of particular persons or bodies on controversial political and industrial issues and events and matters of public policy are not given undue prominence.

Responses to the Consultation

No comments were received.

Ofcom response

As explained above, we have replaced what were principles 2, 4 and 5 with a single principle which simply refers to compliance with the special impartiality requirements of the Act.

IV Rules

Ofcom response

As a general comment, this section of the Broadcasting Code has been restructured including headings, subheadings and notes to help clarify which rules apply to whom. For instance, there are no longer references contained within the rules of the Broadcasting Code to specific services (as was the case in the draft Code). For clarity, references to which rule covers which category of service is now contained in the (sub) headings of the rules. As

stated in the Introduction to the Code, heading and sub-headings are an enforceable part of the Code.

News

Draft 5.1 (now Rule 5.1)

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

Responses to the Consultation

An individual hopes this will be used to prevent presenters putting their own interpretation on reports which have been produced accurately. mediawatch-uk is concerned about the lack of definition of “due accuracy” and “due impartiality.”

Emap requests provision for local campaigning that is in the public interest to be included.

Ofcom response

It is accepted the news may contain reports from specialised correspondents or editors, and from reporters with specialised knowledge of a story. These may add an editorial perspective using their specialised knowledge. However they must still comply with this rule.

The distinction between the reporting and presentation of news is explicit in the Act.

Whilst the rule itself remains unchanged, we have restructured this section of the Broadcasting Code and the meaning of “due impartiality” now appears here. We have also amended the meaning of “due impartiality”, having considered the responses to the consultation (see below). The term “due accuracy” reflects the fact that accuracy is not an absolute in regulatory terms but that due accuracy in news should be an important and constant objective.

Local campaigns can be covered in the news as long as they are presented with due impartiality and reported with due accuracy.

Draft Rule 5.2 (now deleted)

An appropriate range of views should be fairly and dispassionately reported and presented over an appropriate time scale when covering controversial political and industrial events and issues and matters of current public policy. This is particularly so on matters of major political or industrial controversy and major matters relating to current public policy.

Responses to the Consultation

ITN recommends removal of the requirement of “fairness”, as impartiality is not about fairness. The BBC, Chrysalis and Commercial Radio Companies Association believe that the words “fairly and dispassionately” should be deleted. ITV is not aware of the legal basis for the requirement “fairly and dispassionately” and feels this phrase should be removed. Channel 4 and Five say that the requirement to report “dispassionately” is unnecessary. The BBC and Chrysalis also suggest deletion of the phrase, “fairly and dispassionately”.

AIB suggests it will be difficult to determine an “appropriate range of views”.

S4C believes this rule is an improvement on the ITC Programme Code.

Ofcom response

Having considered this matter further and in the light of the responses, Ofcom considers that the achievement of due impartiality on relevant matters as defined by the Act is covered by subsequent rules in this section. We have therefore deleted this rule.

Draft Rule 5.3 (now Rule 5.2)

Significant mistakes should be acknowledged as quickly as possible and corrected on air with due weight.

Responses to the Consultation

S4C believes that the new rule is fair and reasonable.

ITN points out that there may be occasions when mistakes are not corrected on air; for example, when the individual concerned does not want a correction and wishes to avoid further public attention to the matter. It suggests rewording as follows: “Where a significant mistake has been made, consideration should be given to an on air correction.” ITV believes this rule should be rewritten to read: “In the event of a serious mistake in a programme, consideration should be given to prompt and appropriate correction, on air or by other means.’

Emap is unclear about the definition of “due weight”. Channel 4 and Five believe that Ofcom is outside of its remit with respect to this rule.

Ofcom response

News is the only genre as required by the legislation to comply with the “due accuracy” obligations, we therefore have to limit the application of this rule to news programmes.

If due accuracy is not achieved in a news programme (e.g. because of a significant error), then we consider it reasonable that the broadcaster should be obligated to correct that significant inaccuracy. It is not sufficient, in our view, that broadcasters should have the option of not correcting significant inaccuracies.

However, we have acknowledged ITN’s point about the possibility of certain individuals not wanting a broadcaster to give further public attention to a mistake through the insertion of the word “normally”. We consider that the timing of a correction is of significance. We have deleted the words “due weight”; the rule now requires corrections to be appropriately scheduled.

We have also re-phrased the reference to significant mistakes being corrected “as quickly as possible”, to “corrected on air quickly”. This is to reflect the fact that correcting a mistake as quickly as possible may not in all circumstances lead to the correction being scheduled appropriately. For instance, as quickly as possible may mean at the next one minute news bulletin – which may not be considered appropriate.

Draft Rule 5.4 (now Rule 5.3)

No active politician should be used as a newsreader, interviewer or reporter in any news programmes. Where, in exceptional circumstances this may be editorially justified, the political allegiance must be made clear to the audience.

Responses to the Consultation

Public Voice believes that news coverage of elections has benefited considerably from the inclusion of reports that are guest presented by active politicians, tackling one of the issues at stake. Chrysalis suggests that active politicians as interviewers or reporters may be beneficial to the public.

CRCA believes that this should be amended to: “The political allegiance of an active politician that may be employed as a newsreader, interviewer, presenter or reporter should be made clear to the audience”.

ITV and the BBC seek guidance as to what constitutes an “active” politician.

Ofcom response

We believe that the use of politicians as reporters or presenters in news programmes present particular impediments to the preservation of due impartiality. Under certain circumstances their use may be justified but we continue to believe this should be the exception rather than the norm. Our amendments to the original draft rule attempt a reasonable balance between our concerns and the views expressed above. We have deleted the word “active” before “politician” and we have therefore given guidance as to what we would consider to be a “politician” in this context.

Draft Rule 5.5 (now Rule 2.10)

Simulated news bulletins in other programmes (eg drama, current affairs) must be produced in such a way that there is no reasonable possibility of listeners or viewers being misled into believing they are listening or watching an actual news bulletin.

Responses to the Consultation

CRCA says that this should be stated elsewhere.

Channel 4 and Five would like to replace “current affairs” with “documentaries”. ITV accepts this rule.

Ofcom response

We accept that this rule does not belong in this section of the Broadcasting Code as it is not about due impartiality or due accuracy in news. Misleading a viewer or listener may lead to harm or offence; we have therefore removed the rule from this section and placed it in Section Two: Harm and Offence.

Special impartiality requirements

Matters of political or industrial controversy and matters relating to current public policy on television services, teletext services, national radio and national digital sound programmes and services

Draft Rule 5.6 (now Rule 5.5)

Due impartiality on matters of political and industrial controversy and matters relating to current public policy must be preserved on the part of the person providing a television service, teletext service, national radio and national digital sound programmes and service. This may be achieved within a programme or over a series of programmes taken as a whole.

Meaning of "due impartiality"

Impartiality requires fairness, accuracy and an appropriate level of objectivity and even handedness of approach to a subject. "Due" is an important word in the context of impartiality. "Due impartiality" does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented. It means adequate or appropriate to the subject and nature of the programme. So the approach to impartiality may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content, and the extent to which the content and approach is signalled to the audience. Context, as defined in Section Two: Harm and Offence of the Code, is important.

Meaning of "matters of political or industrial controversy and matters relating to current public policy"

These are political or industrial issues or events on which politicians, industry and/or the media are in debate. Matters relating to current public policy need not be the subject of debate but relate to a policy under discussion or already decided by a local, regional or national government or by bodies mandated by those public bodies to make policy on their behalf e.g. non governmental organisations, relevant European institutions etc.

Meaning of "series of programmes taken as a whole" (in relation to television and national radio):

This means more than one programme in the same service, editorially linked, dealing with the same or related issues within an appropriate period and aimed at a like audience. A series can mean e.g. a strand, or two programmes (such as a drama and a debate about the drama) or a "cluster" or "season" of programmes on the same subject.

Responses to the Consultation

ITN recommends the deletion of the word "fairness" in the meaning of "due impartiality". Channel 4 and Five would again delete the word "fairness" and would substitute the words "dealing with" or "relating to" for "on". The BBC suggests that as long as a piece is labelled as opinion or comment there is no obligation for accuracy, and that the reference to fairness here should be deleted. CRCA believes that "accuracy" should be only confined to news and that "due impartiality" should not be mixed with "fairness".

S4C believes that this rule corresponds to the current rules but is expressed in clearer terms.

Ofcom response

The rule itself has been slightly amended in the interests of clarity.

However, we have restructured this section of the Broadcasting Code so that it reads more clearly and logically. Draft Rule 5.6 is now Rule 5.5, but it is the same. A minor amendment has been made to the first sentence of the meaning of "matters of political or industrial controversy and matters relating to current public policy"; this does not affect its substance. The meaning of "series of programmes taken as a whole" has also been very slightly amended to add clarity.

What was draft Rule 5.17 in the consultation version of the draft Code has now been moved to precede the rule on due impartiality on matters of political or industrial controversy (see new Rule 5.4 in the Broadcasting Code).

As discussed above, the meaning of “due impartiality” has been brought forward and revised in the final version of this section of the Broadcasting Code.

Draft Rule 5.7 (now Rule 5.6)

The transmission of editorially linked programmes dealing with the same subject matter (as part of a “series” in which the broadcaster aims to achieve due impartiality) should normally be announced to the audience on air.

Responses to the Consultation

An individual says that the announcement should be made at the start and end of each programme and before and after each break. There is a need to cater for people who tune in later.

S4C believes that this rule corresponds to the current rules but is expressed in clearer terms. Channel 4 and Five believe this should be left to the broadcaster. ITV would like clarification on this matter.

Ofcom response

Requiring such announcements to be made at the beginning, within and at the end of each programme would be a significantly more onerous obligation than present practice. On the other hand, the suggestion that whether such signalling is given, should be left to the editorial discretion of the broadcaster could, in our view, result in a fogging of transparency for some or all of the audience. Some editorial discretion is given to the broadcaster through the word “normally”.

Whilst minor drafting amendments have been made, the substance of the rule remains unchanged.

Draft Rule 5.8 (now Rule 5.7)

Views and facts must be represented clearly, accurately, fairly and with due weight over appropriate time-frames.

Responses to the Consultation

ITN believes “fairly” and “accurately” are inappropriate terms, as is “clearly”, because issues are not always clear cut and Ofcom should not create an editorial role for itself in this fashion. ITV believes that the words between “represented” and “and with due weight” should be deleted.

S4C regards the rules as fair and reasonable.

Ofcom response

We accept that “fairly” and “clearly” may be deleted here for the reasons given by ITN. This is reflected in our amendment to the rule. Accuracy is not a statutory requirement outside of the news. We have replaced it with a requirement that views and facts should not be misrepresented as we consider this an important consideration in achieving due impartiality.

The new rule states that, “Views must be presented with due weight” - this acknowledges that different views may deserve different weight, but ensures that due impartiality can be maintained...

Draft Rule 5.9 (now Rule 5.8)

Any off-air status of a reporter or presenter, which might call into question his or her role in the programme, must be made transparent to the audience.

Responses to the Consultation

ITN recommends deletion of this rule as it increases the regulatory burden for no reason.

Channel 4 and Five are uncertain of the meaning of “any off air status” and propose “any personal interest which might undermine the impartiality of a reporter or presenter of a programme dealing with controversial matters should be made appropriately clear to the audience.” ITV believes this rule should be deleted.

The BBC suggests that Rules 5.9 and 5.10 seem to relax the rules of the legacy regulators in relation to conflicts of public interest. Both ITV and the BBC point out that reporters or presenters with off-air interests in the subject under review would not appear in such a programme.

S4C regards the rules as fair and reasonable.

Ofcom response

This requirement has not previously been explicit in television codes but has been the practice for radio services. We do not believe that the rare occasions when this rule might come into play represent any significant new regulatory burden on broadcasters. We have, however, amalgamated this rule with what was Rule 5.10 in the draft version of the Code; the single rule now refers to “personal interest”.

We accept that the BBC and ITV would not wish to include in a programme a reporter or presenter with off air interests in the subject matter of that programme. However this Broadcasting Code exists to set standards for all services some who have established themselves more recently and have not yet had the opportunity to evolve internal codes and practices to deal with such matters.

Draft Rule 5.10 (now incorporated into Rule 5.8)

If a reporter or presenter is receiving money or benefits from any individual or group whose views are included in the programme, then that must be made clear to viewers or listeners.

Responses to the Consultation

ITN recommends deletion of this rule as it increases the regulatory burden for no reason. Emap also believes these measures are overly restrictive. ITV believes this rule should be deleted. CRCA suggests that Rules 5.9 and 5.10 be reworked to limit the requirement to the declarations of interest.

The BBC points out that this rule would seem to allow a presenter receiving money from an organisation to appear in a programme featuring their views, which is a breach of BBC policy.

S4C says that the rule is fine in principle although it may be difficult to implement in practice. CPBF welcomes Rules 5.9 and 5.10.

Ofcom response

As explained under the previous rule, we have adopted a slightly modified version of suggested wording from Channel 4 and Five. “Money or benefits” is now subsumed in “Any personal interest...” in the new wording.

The BBC is not covered by this section of the Broadcasting Code.

Draft Rule 5.11 (now Rule 5.9)

Presenters, reporters, presenters of “personal view” or “authored programmes” and chairs of discussion programmes may express views on matters of political or industrial controversy or matters relating to current public policy as long as those views are adequately challenged by alternative voices either in the programme (eg through the inclusion of interviews, phone-in or panel debate), or in a series of programmes taken as a whole. Presenter phone-ins must invite and must not exclude alternative views.

Responses to the Consultation

Public Voice believes that this would threaten an honourable tradition of committed documentary journalism which does have a place in the broadcasting system.

ITN states: “The word “challenged” may need to be reviewed. Similarly “voices” could be changed to “viewpoints”.” Channel 4 and Five would like the provision to state “as long as alternative views are appropriately represented in the programme...or in a series of programmes taken as a whole”.

CRCA says that “their own” should be inserted between “express” and “views”.

Ligali thinks “adequately challenged by alternative voices” is ambiguous and suggests “comparatively challenged by alternative authoritative voices”.

The BBC believes this rule is the most important for achieving programme balance but is not applicable to radio. ITV accepts this rule, and S4C believes that the proposed new rule is a marked improvement on the current rule.

Ofcom response

This draft rule attempts to balance the needs of due impartiality and freedom of expression. Broadcasters have for some time argued that the requirement in the ITC Programme Code to balance a polemical authored programme with, for example, a following debate has had an inhibiting effect on the full expression of all shades of opinion on controversial matters. Such “balancing” programmes, they argue, may well be unattractive to audiences. This rule seeks to extend the editorial discretion open to broadcasters which was present in existing television and radio codes, whilst maintaining compliance with the “due impartiality” principle.

We believe that the word “adequately” makes it clear that the challenge must be a sufficient challenge. We have, however, amended the rule slightly in the interests of clarity. We have also incorporated into this rule what was draft Rule 5.12 in the consultation version of draft Code (see below) but we have replaced the words “as a platform to give views undue prominence” with “to promote their views in a way that compromises the requirement for due

impartiality”, since “undue prominence of views” has a specific meaning under the Special Impartiality Requirements of the Act.

This rule applies to national radio and national sound digital services.

Draft Rule 5.12 (now incorporated into Rule 5.9)

Presenters must not use the advantage of regular appearances as a platform to give views undue prominence.

Responses to the Consultation

SCBG questions this rule in that it “appears to target presenters who might exploit regular appearances as a platform to give views undue prominence”. S4C believes this rule reflects good practice.

Ofcom response

This rule is drawn from radio practice and addresses a situation where a presenter may promote a particular view over time by virtue of his or her regular presence. As mentioned above, we have now combined this rule with the preceding rule.

Draft Rule 5.13 (now Rule 5.10)

A “personal view” or “authored” programme must be clearly signalled to the audience at the start and end. (Personality phone-in hosts on radio are exempted from this provision unless their personal view status is unclear).

Meaning of "personal view" and "authored":

'Personal view' programmes are programmes where the presenter is presenting his or her personal view, opinion or beliefs on these matters. Personal views can range from the outright expression of highly partial views e.g. by a person who is a member of a lobby group and is campaigning on the subject, to the considered "authored" opinion of a journalist, commentator or academic, with professional expertise or a specialism in an area which enables her or him to express opinions which are not necessarily mainstream

Responses to the Consultation

ITN states there should not be a requirement to always signal a personal view at the beginning and end of a broadcast, as this is patronising to the public and an unnecessary fetter on editorial freedom. The phrase “at the start and end” should be deleted. Channel 4 and Five do not feel that announcements are necessary.

ITV believes this rule should be rewritten to read: “The status or nature of a “personal view” or “authored programme” must be made clear to the viewer, in its promotion or presentation and/or within its content.”

The BBC suggests that the labelling requirement is too restrictive and thinks “making adequately clear” is sufficient.

The Christian Broadcasting Council wonders whether Rules 5.11, 5.12 and 5.13 provide broadcasters enough flexibility to produce challenging programmes while ensuring that the Act is complied with.

Three individuals believe Rules 5.11, 5.12 and 5.13 and the associated meanings give broadcasters enough flexibility to produce challenging programmes while ensuring the Act is complied with; one of them also suggests any further relaxation would be unwise.

The Evangelical Alliance and Ligali believe that these rules will allow enough flexibility to produce challenging programmes. The Churches' Media Council believes these rules protect viewers and listeners without overburdening broadcasters. The Church of Ireland Broadcasting Committee calls for a flourishing of public media literacy. Maranatha believes the rules allow sufficient flexibility but warns against domination of programmes by certain celebrities and contrived programmes.

Ofcom response

We believe “personal view” and “authored” programmes have an important place in a diverse schedule. We know that audiences are content to vary their level of expectation for due impartiality to some extent when they know they are watching or listening to a “personal view” programme. Whilst we have removed the reference to an end-of-programme signal, we believe that the broadcasters' preferred drafting is insufficiently explicit. We believe that the amended new rule strikes a fair balance between freedom of expression and adequate transparency. We have not specified that this signalling should be in the form of an on air announcement.

The amended rule now refers to an “item” as well as a programme.

Matters of major political or industrial controversy and major matters relating to current public policy on television services, teletext services, national radio and national digital sound programmes and services.

Draft Rule 5.14 (now 5.11)

The rules described under due impartiality above apply. In addition, due impartiality must be preserved by the person providing a television service, teletext service, national radio and national digital sound programmes and service in each programme or in clearly linked and timely programmes on matters of major political and industrial controversy and major matters relating to current public policy, in which the matter is the subject (or a significant part) of the programme.

Meaning of "matters of major political or industrial controversy and major matters relating to current public policy":

These will vary according to events but are generally matters of political or industrial controversy or matters of current public policy which are of national, and often international, importance.

Responses to the Consultation

ITV appreciates the redefinition of “major matters” and points out that they will achieve due impartiality across the whole of their output.

Ofcom response

We have amended the rule slightly in the interests of clarity. We have also extended the meaning under this rule to address matters of similar significance within a smaller broadcast area.

Draft Rule 5.15 (now Rule 5.12)

A full range of significant views and relevant facts must be represented clearly, accurately, fairly and with due weight in each programme or in clearly linked and timely programmes concerning matters of major political and industrial controversy and major matters relating to current public policy.

Responses to the Consultation

ITN recommends the replacement of “full” with “wide” and that the phrase “clearly, accurately, fairly” should be deleted, as all the above set too high a standard. ITV, the BBC, Capital Radio and CRCA say that “a full range” should be replaced by “a wide range”. ITV points out that it is often not possible to present a “full range” and believe that this should be amended to “a wide range of significant views.” Chrysalis suggests that “full range” be replaced by “balanced range.”

AIB wonders who will arbitrate on the requirement of a “full range” of views, and suggests this be reworded in a way that will take into account the international implications as well.

Channel 4 and Five suggest that “full range” be changed “to an appropriately wide range” and challenge the need for the word “fairly” in the second line.

The Christian Broadcasting Council is concerned about the wording of Rules 5.15 and 5.16. It suggests this could affect Christian views and opinions given on Christian broadcasting which it feels are in line with what can be heard on specialist ethnic and lifestyle channels.

The Evangelical Alliance would change this rule to read “a full range of significant views and relevant facts must be represented clearly, accurately, fairly and with due weight in a series of programmes, taken as a whole, concerning matters of major political and industrial controversy and major matters relating to public policy. Programmes of religious instruction and teaching are not included in this special impartiality rule”.

Ofcom response

We acknowledge the concerns that a “full range” of views may be considered as too exhaustive and therefore unattainable. However, major matters under the Act are to be treated differently to “matters of political or industrial controversy or matters relating to current public policy”. We have therefore amended the rule to refer to “an appropriately wide range”. We are content to remove “fairly”, “clearly” and “accurately,” for the reasons set out previously. The rule now says that views and facts must not be misrepresented.

The suggested amendment by the Evangelical Alliance reflects a concern expressed by some religious organisations that this rule may penalise or inhibit their reporting of events and issues from a religious perspective.

We accept that a report on, for example, abortion by a Christian or other religious channel may in certain circumstances be different to that of a mainstream news channel. Nevertheless, Section 320 of the Act applies to all services. We therefore do not believe there is justification for the change proposed by the Evangelical Alliance.

Undue prominence in programming on matters of political or industrial controversy and matters relating to current public policy (local radio services, local digital sound programme services, or radio licensable content services)

Draft Rule 5.16 (now Rule 5.13)

Broadcasters should not give undue prominence to the views and opinions of particular persons or bodies on matters of political or industrial controversy and matters relating to current public policy in programmes included in the service taken as a whole.

Meaning of "undue prominence of views and opinions" (in this section):

Undue prominence is a significant imbalance of views aired within coverage of matters of political or industrial controversy or matters relating to current public policy.

Meaning of "programmes included in the service taken as a whole" (in this section):

Programmes included in the service taken as a whole, means programming dealing with the same or related issues within an appropriate period.

Responses to the Consultation

Emap believes that the three month period referred to in the predecessor to the Broadcasting Code (the Radio Authority's Programme and News Code) should remain as the introduction of an "appropriate period" will just confuse the situation. CRCA recommends the maintenance of the old rule.

The Evangelical Alliance would change this rule to read: "Broadcasters should not give undue prominence to the views and opinions of particular person or bodies on matters of political or industrial controversy and matters relating to public policy in programmes included in the service taken as a whole. Programmes of religious instruction and teaching are not included in this special impartiality rule".

Channel 4 and Five believe that, in the first meaning, "unjustified" should be inserted before the phrase "significant imbalance of views".

Ofcom response

We have amended the sub-heading and clarified the services to which this rule applies.

We have noted the comments of Emap and CRCA but believe that the rule is less arbitrary than the corresponding rule under the legacy code and offers radio services a little more flexibility. We consider this to be appropriate when dealing with such matters, which do not by their nature have defined timelines. Therefore the substance of this rule is unchanged. However, some minor drafting amendments have been made.

Section 320 of the Act applies to all services. It is not possible to exclude services on religious grounds. Please see the discussion under the previous rule.

We do not consider the word "unjustified" adds to the meaning as "a significant imbalance" presumes that such an imbalance is unjustified.

Views of television and radio licensees and S4C (excluding radio and television restricted services)

Draft Rule 5.17 (now Rule 5.4)

Television and radio services and S4C (with the exception of restricted services) must exclude all expressions of the views and opinions of the persons providing the service on matters of political and industrial controversy and matters relating to current public policy.

Views and opinions relating to the provision of programme services are excluded from this requirement. (The service may include the expression of views and opinions by the persons providing the service if they are speeches in a legislative forum.)

Responses to the Consultation

Capital Radio would like an explanation for the definition, “the person providing the service.’

Ofcom response

As noted above, we have now, for the sake of clarity, moved the rule so that it appears earlier on in this section. The person providing the services is a concept used in connection with the legal requirements for the licensing and compliance of services and refers to a person with general and/or editorial control of those services. In this context, it refers to the licensee and person with editorial responsibility for the service.

V Proposed New Rules

None proposed.

VI Labelling of Transmitted News Services

The consultation asked for views on whether appropriate labelling would help the UK audience understand the nature of retransmitted news services, not primarily intended for the UK market.

Responses to the Consultation

Support for labelling

A number of respondents, including Maranatha, Ligali and four individuals, support such labelling. The Churches’ Media Council is also in favour of improved labelling, along with promotion of media literacy. The Evangelical Alliance and the Christian Broadcasting Council advocate that all “services, included retransmitted news services, on all digital platforms, should carry the identity of the country from which the service is up linked”.

Campaign Group CPBF believes that labelling should be in addition to and not a substitute for full compliance with due impartiality rules. It is important to ensure that the regulation does not lead to a reduction in the number of foreign news services available to UK households.

Discovery Networks Europe believes that this is a pragmatic development and believes that where issues of due impartiality appear this should be adopted as a matter of course.

S4C believes that labelling will probably help but are against changing the rules for retransmitted news services.

Labelling is unnecessary

ITN believes that non UK news channels should be allowed to broadcast in the UK, as long as they operate within the law. However, there is a question as to whether such channels should be labelled to assist media literacy.

SCBG does not support the labelling of retransmitted news services, as this could have negative consequences for journalists who must maintain an impartial reputation.

The BBC, ITV, Capital Radio and Church of Ireland Broadcasting Committee do not believe that transmitted news services licensed by Ofcom should be subject to different rules. Channel 4 and Five would like further consultation on this matter. S4C believes that labelling will probably help but are against changing the rules for retransmitted news services.

AIB does not support the rule that “retransmitted news made originally for a non UK audience should be labelled as such” as this is difficult to achieve, and may place responsibility for complaints against retransmitted material with the viewer rather than the broadcaster. A number of individuals suggest that labelling is unnecessary – two describe it as “nannying”.

Ofcom response

Ofcom is undertaking research into labelling as part of its media literacy work. We recognise the value in transparency for audiences. However, following detailed consideration of the responses we accept that to require labelling at this time is disproportionate. Any requirement to label such services should be part of an overall policy on labelling and not introduced piecemeal to one particular genre.