



ED RICHARDS
Chief Executive

BY E-MAIL

10 February 2012

The Leveson Inquiry

Dear Lord Justice Leveson

Leveson Inquiry: further information requested

I am writing to follow up on a number of points that arose during my appearance at the Inquiry with Colette Bowe on Wednesday 1 February 2012. In that context, I also thought that it may be helpful to flag some additional points from my third written statement, as you did not have an opportunity to review it prior to my giving evidence.

Colette is writing to you separately regarding how we intend to assist you in relation to two substantive pieces of advice we are preparing relating to plurality and our thoughts on how the press could be regulated.

"The extent to which door-stepping is a problem with which we're dealing at the moment" (am: p 100 line 19 to p103 line 8)

The type of door-stepping which typically results in a complaint to Ofcom is rarely, if ever, associated with a media scrum of the kind some witnesses have described to the Inquiry (this may be because a mechanism is in place to deal with this: see my evidence am session, p.104 line 1 to p.105 line 4). Ofcom tends to deal with complaints from individuals about one-off instances of door-stepping by a broadcaster in the making of a particular programme. We are currently considering two relevant complaints. Complaints lead to an adjudication unless they do not meet the statutory threshold for us to entertain, or are resolved prior to adjudication. In a typical year, Ofcom makes about two adjudications involving door-stepping. However, in the past year, none has reached that stage.

Information gathering powers in broadcast licences (pm: p.8 lines 17-22)

I set out below an example of our information gathering power in one television (DTPS) licence. There is a range of television and radio licences depending on the type of service, but the information gathering power is essentially the same in each.

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Page 1 of 4

Condition 12(1)

"The Licensee shall furnish to Ofcom in such manner and at such times as Ofcom may reasonably require such documents, accounts, returns, estimates, reports, notices or other information as Ofcom may require for the purpose of exercising the functions assigned to it by or under the 1990 Act, the 1996 Act, or the Communications Act and in particular (but without prejudice to the generality of the foregoing):

- (a) a declaration as to its corporate structure (or the equivalent if the Licensee is not a body corporate) in such form and at such times as Ofcom shall specify;
- (b) such information as Ofcom may reasonably require from time to time for the purposes of determining whether the Licensee on any ground is a disqualified person by virtue of any of the provisions in Section 143(5) of the 1996 Act and/or Schedule 2 to the 1990 Act or contravenes requirements imposed by or under Schedule 14 to the Communications Act;
- (c) half-yearly income and expenditure returns and supplementary annexes (including, without limitation, such information as Ofcom shall require from time to time in relation to the shares of multiplex revenue attributable to the Licensee (as determined in accordance with Section 15 of the 1996 Act) in relation to such accounting periods as Ofcom may specify;
- (d) annual statements of his multiplex revenue in respect of each entire accounting period of his in such form as Ofcom shall require; and
- (e) details of any change in the Licensee's country of establishment, such notification to be made within 28 days of the Licensee becoming aware of such change."

Any example of a case in which a financial penalty was imposed as a result "of some kind of true investigative journalism"? (pm: p.17 line 3 to p18 line 9)

I am not aware of any case in which Ofcom have imposed a financial penalty as a result of what we would consider "investigative journalism".

Definition of "resolved" (pm: p.22 line 21 to p.23 line 14)

My response to this question related to the resolution of fairness and privacy cases. For completeness, I would add that in standards cases more generally, where a broadcaster has taken immediate and appropriate steps to remedy a breach (for example the broadcast of an apology immediately after the error or demonstrable improvements to compliance procedures), Ofcom may consider it appropriate not to record a breach, and decide that the appropriate outcome is to determine that the case is 'resolved'.

The relationship between the number of "issues" and the number of complaints (see in particular pm: p.25 lines 13-14)

I was asked about the number of complaints by reference to paragraph 29.2 of my first written statement. It may also be helpful to refer to paragraph 29.1 and to paragraphs 1.4 to 1.10 and 1.21 to 1.22 of my third written statement.

In 2010-11, we received 24,462 complaints about broadcasting standards. After taking account of multiple complaints about the same programme, the number of standards decisions relating to programmes or series of programmes reduces to 9,031. In other words, many of the complaints relate to the same case.

Of the 9,031 standards decisions in 2010-11, a significant proportion of the cases were considered not to raise substantive issues under the Broadcasting Code and were not investigated any further or were investigated and subsequently found to be "not in breach". The remaining 168, after investigation, were found to be "in breach" of the Broadcasting Code and we published a reasoned decision for each.

In 2010-11, we received 171 fairness and privacy complaints. Of these a significant proportion (113) were not taken forward for investigation or were discontinued after initial consideration as they did not satisfy the statutory criteria as described above and as set out in the 1996 Act.

Of the remaining 58 cases: 36 were not upheld; 13 were resolved by the broadcaster; and 9 were upheld as a breach of the Broadcasting Code.

How long do cases take? (pm: p35 line 25 to p.36 line 9)

- **Initial assessment stage:** Ofcom aims to complete an initial assessment of all standards complaints within 15 working days. Between June 2011 and Jan 2012 it took Ofcom an average of 4.26 working days to close complaints at the initial assessment stage.
- **Investigation stage:** Ofcom aims to complete those standards cases that it takes forward for investigation within 50 working days. Between June 2011 and Jan 2012 it took Ofcom an average of 33.75 working days to complete those cases it took forward for investigation.
- **F&P complaints:** Ofcom's procedures for considering fairness and privacy cases changed in June 2011, which affects the data available for responding to this question. Ofcom aims to complete the consideration and adjudication of Fairness and Privacy complaints within 90 working days of the complaint being entertained. When our procedures changed, existing cases continued to be handled under our old procedures. We closed our first case under the new procedures in November 2011. Between November 2011 and January 2012 it took Ofcom an average of 86.75

working days to complete the consideration and adjudication of fairness and privacy complaints.

Check transcript of briefing session of 5 October 2011 (pm: p83 line 10-12)

I confirm that of course my evidence at the briefing session of 5 October 2011 may be incorporated into the record. My apologies for not having checked it before -- there are two small errors in the transcript:

- P.28 line 10: "Garden" should be "Gardam".
- P.33 line 3: "factored" should be "correct".

Yours sincerely

A rectangular box with a thin black border, used to redact the signature of Ed Richards.

Ed Richards

cc: *Colette Bowe*