

Ofcom Content Sanctions Committee

Consideration of sanction against

Channel 5 Broadcasting Ltd (“Channel 5”) in respect of its service Channel 5 (“Five”).

For

Breaches of Ofcom’s Broadcasting Code: (“the Code”) of:

Rule 2.11: “Competitions should be conducted fairly, prizes should be described accurately, and rules should be clear and appropriately made known.”

in the transmission of the programme *Brainteaser* on Five

On

25 January, 15 February (two occasions), 20 February and 6 March 2007;

taking into account the very serious nature of the breaches themselves and longstanding failures in compliance of *Brainteaser* and *Memory Bank* since 2003.

Decision

To impose a financial penalty (payable to HM Paymaster General) of **£300,000** and, in addition, to require Channel 5 to **broadcast a statement of Ofcom’s findings** on its service Five in a form to be determined by Ofcom on two occasions, once at 12:30 (the time *Brainteaser* was transmitted) and once in peak-time.

Summary

For the reasons set out in full in the Decision, under powers delegated from the Ofcom Board to Ofcom’s Content Sanctions Committee (“the Committee”), Ofcom has decided:

- 1.1 Channel 5 Broadcasting Ltd (“Channel 5”) is a public service broadcaster and its service, Channel 5 (“Five”), is available to a very substantial audience on analogue, Freeview and cable and satellite platforms.
- 1.2 *Brainteaser* was a live daytime game show, broadcast on Five, and based around a panel of contestants who compete to solve word games and puzzles. The programme included an invitation to viewers to enter a series of instant anagram competitions by calling premium rate phone lines. Winners were awarded immediate cash prizes, announced by the presenter. The programme was made for Channel 5 by Cheetah Productions, a subsidiary of an independent production company, Endemol UK (“Cheetah/Endemol”).

- 1.3 On 8 March 2007, Channel 5 announced the suspension of all its programmes involving premium rate services, following evidence that between January and March 2007, *Brainteaser* had on three occasions entered fake names as competition winners and on two occasions production staff posed, on air, as 'winners'. Channel 5 explained that on these occasions the production team had failed to find a winner within the time available and therefore wanted to bring the competition to a close.
- 1.4 The use of production staff posing as 'winners' and the entry of fake names was in breach of Rule 2.11 of the Code which states: "*Competitions should be conducted fairly...*". Viewers were misled into believing that genuine winners had been awarded a prize when in some cases no-one had actually won the competition in accordance with the programme's rules.
- 1.5 During its investigation, Ofcom was also informed by Channel 5 that further similar or identical instances of unfair conduct of competitions had occurred in *Brainteaser* going back to 2003. This had happened on seven separate occasions between January 2003 and November 2006. Further, another four similar or identical instances of unfair conduct had occurred in the programme *Memory Bank* (a spin-off of *Brainteaser*) during 2004. The programme was also produced by the same Endemol production team. Despite the fact that recordings of these programmes were no longer available, Ofcom nevertheless considers that these instances were illustrative of longstanding compliance failures and a clear established procedure. As such, Ofcom therefore considers they were relevant when deciding whether or not to impose a sanction in this case, but it was not necessary to record them as formal breaches.
- 1.6 The instances of unfair conduct first occurred in January 2003, when there were technical problems in getting entrants on air. Where this happened, it was decided to put a member of the production staff on air instead - to answer the question and bring the competition to an end. The production team's intention was that a real winner would subsequently be found off-air from among the genuine entrants, and a prize awarded in the normal way. However, no prize was, in fact, awarded (except on one occasion in 2007).
- 1.7 According to Channel 5, over time the practice of substituting production staff for genuine entrants, became a "more formalised" system. The usual procedure was for telephone operators to ascertain whether an entrant had the correct or incorrect answer before they were put on air. Entrants with the correct answer were coded 'blue' and those with incorrect answers coded 'red'. However, on the occasions where no winner had been found, a further category – 'green' – was created to identify a member of the production team being put on air in order to resolve the competition within time. Channel 5 stated that there was no evidence that the system had been motivated by dishonesty for either personal or financial gain or to prevent prizes being given away. It appears that the production team did not question or challenge the process. However, Channel 5 said that it did not believe that the production team was being cynical or lazy in their approach to viewer competitions, but that it was "*a rare expediency undertaken in good faith to deal with the significant pressures of a live programme*". Channel 5 stated that "*Endemol should never have permitted it to have happened in the first place, or allowed it to have continued*". There was also reference to the 'green caller' system in the current telephone operator's notes which, Channel 5 stated, were posted on the wall in the telephone room as well as a

part of an informal set of notes given to producers and researchers (though Channel 5 states that it had not seen these documents).

- 1.8 Channel 5 accepted that the breaches were serious and the practices that it had uncovered were “wholly unacceptable”. However, Channel 5 submitted that it had done all it could to check that the mechanisms of the programme met the appropriate editorial standards and at no time, Channel 5 stated, were any issues concerning the faking of ‘winners’ raised. Further, given that the instances of unfair conduct had occurred on 16 occasions, it was Channel 5’s belief that the problem would not have come to light “...*unless by sheer coincidence one of these instances had been witnessed. However, this possibility is simply too remote.*”
- 1.9 Channel 5 has since contacted all those entrants whose details were sent to the studio during unfair competitions, and offered them the prize for that competition. Where no data was available (two cases), the phone company has gone back to original contact information to form a list of potential winners. In one case, 20 people have been selected at random and the first five will be offered the prize. One further competition could not be resolved in this manner because the telephone data was no longer accessible, so instead, winners have been selected from all entries made through the website.
- 1.10 In conclusion Channel 5 said that, “*It is clear that on a number of occasions Endemol failed to meet its obligations and the standards required of a production company making this kind of programming.*”
- 1.11 The Committee did not agree that the breaches could be described as isolated, occurring as they did on five occasions in 2007. They were therefore not one-off breaches nor did they arise by accident but had occurred as a result of a decision by the production company to fake ‘winners’ on air, when it considered that it was expedient to do so.
- 1.12 Moreover, this had become an established part of the procedures in place for the conduct of these competitions over a period of years dating back to 2003. The details of this formalised procedure also appeared in two separate documents. In light of this and the length of time during which the unfair procedures which led to the current breaches had been in operation, the Committee considered that the current breaches should be seen against a background of serious and longstanding compliance failures, which nonetheless remained undetected by the broadcaster over a number of years. This was a matter of particular concern to the Committee and added to the seriousness of the case.
- 1.13 The Committee considered that in these cases the audience was substantially misled. The formalised procedure that had been adopted by the programme was totally unacceptable and showed a blatant disregard for not only the audience of the show, but also those participating and spending money by entering some competitions which were not being run fairly. What started as a single attempt – unacceptable in itself – to resolve production difficulties in finding a winner had become an established procedure. The editorial needs of the programme overrode the consideration of fairness to those participating in the competitions and to the audience overall.
- 1.14 Overall, the Committee considered that the compliance procedures of Channel 5 and the production company appeared to have focused

disproportionately on the smooth continuation of *Brainteaser's* production, and the traditional elements of live editorial compliance (e.g. ensuring that callers are aware not to use inappropriate language on-air) without sufficiently focusing on the fundamental issue of fairness at the heart of the conduct of a competition in which the audience participates and pays by entry through a premium rate service.

- 1.15 The Committee was in no doubt that Channel 5 had acted in good faith at all times and had not intended its service to deceive the audience. It clearly had extensive compliance procedures in place through which it sought to ensure compliance and had regularly monitored and reviewed the procedures for conducting the competitions.
- 1.16 Further, Channel 5 took comprehensive steps retrospectively to remedy harm caused by the unfair conduct of its competitions and fully co-operated with Ofcom once the unfair conduct came to light.
- 1.17 The Committee noted that Endemol was a large and experienced production company and understood Channel 5's reasons for believing it was well equipped to produce such a programme. However, on the evidence available to it, the Committee considered that this confidence had been misplaced and that Endemol appeared to have failed to take the necessary steps to deliver a compliant programme. Channel 5 had stated in its evidence that it was of the view that the landscape of television production and broadcasting in the UK had changed to such a degree that broadcasters now have to rely on production companies "to share responsibility for compliance". The Committee noted Channel 5's argument that it believed its duty was to comply with the Code "so far as...reasonably practicable". However it was the Committee's view that irrespective of the arrangements regarding a programme's production, ultimately it remains the broadcaster's responsibility, as the licensee, to ensure full compliance of all its broadcast content with the Code. Reliance on a third party does not diminish a broadcaster's responsibility under its licence to comply with the Code. Therefore a broadcaster must have sufficient checks and balances in place to ensure that compliance is effective, especially given the risk that a third party might not (as in this case) alert the broadcaster to problems that occurred.
- 1.18 The Committee took the view that the breaches were, as Channel 5 admitted, a formalised process that had existed since 2003. The fact that such compliance failures went undetected for such a long period of time raised extremely serious concerns about the effectiveness of the procedures in place for this programme to ensure compliance with the Code. However, the Committee took into account the following: that Channel 5 had not acted recklessly; that the fakery, in this case, was not motivated with the purpose of direct financial gain; that extensive (albeit not fully effective) compliance procedures were put in place by the broadcaster; and the subsequent remedial action taken by Channel 5.
- 1.19 Ofcom considers that it is essential that the broadcast industry recognises and acknowledges that practices which mislead the audience are unacceptable in any form. These issues go to the very heart of the trust between the broadcaster and its audience and undermine that relationship.
- 1.20 Having considered the relevant facts as outlined in detail in the Adjudication, the Committee decided to impose a financial penalty on Channel 5 of £300,000 (payable to HM Paymaster General) which it considers to be a

proportionate and appropriate penalty in all the circumstances of this case. In addition, the Committee has directed Channel 5 to broadcast a statement of Ofcom's findings in a form determined by Ofcom on its service Five on two occasions, once at 12:30 (the time *Brainteaser* was transmitted) and once in peak-time.

Background

- 2.1 Channel 5 Broadcasting Ltd ("Channel 5") is a public service broadcaster and its service, Channel 5 ("Five"), is available to a very substantial audience on analogue, Freeview and cable and satellite platforms.
- 2.2 *Brainteaser* was a live daytime game show, broadcast on Five, and based around a panel of contestants who competed to solve word games and puzzles. The programme included an invitation to viewers to enter a series of instant anagram competitions by calling premium rate phone lines. Calls cost 75 pence if a BT landline was used. Winners were awarded immediate cash prizes, announced by the presenter. The programme was made for Channel 5 by Cheetah Productions, a subsidiary of an independent production company, Endemol UK ("Cheetah/Endemol"). A company called Intext Media was the telephony service provider for *Brainteaser*. The programme was suspended in March 2007 and Channel 5 has decided that it will not return.
- 2.3 An Ofcom investigation was launched after Channel 5 issued a press release on 8 March 2007 admitting unfair conduct of viewer competitions in *Brainteaser*. These had initially been reported to the broadcaster by the programme's independent production company, Cheetah/Endemol. Its investigations revealed that between January and March 2007, the programme makers had on three occasions entered fake names as competition 'winners' and that on two occasions production staff members had posed as competition 'winners'. Channel 5 explained that on these occasions the programme had failed to find a winner in time and therefore wanted to bring the competition to a close.
- 2.4 During Ofcom's investigation into the conduct of competitions during 2007, Channel 5 informed Ofcom that further instances of unfair conduct had occurred in *Brainteaser* going back to 2003. On seven separate occasions between January 2003 and November 2006, production staff at *Brainteaser* posed as 'winners' and so competition winners were fictitious on these occasions.
- 2.5 Further, Channel 5 also informed Ofcom that its own internal review had revealed four instances of unfair conduct in *Memory Bank*, a spin-off programme of *Brainteaser* in 2004. Channel 5 stated that, "in the interests of completeness", during its own review of *Brainteaser*, it had decided to investigate viewer competitions in *Memory Bank*. This programme was broadcast on Five for approximately six months in 2004. It was produced by the same Endemol production team and featured memory word games in the studio. The programme included the same viewer competition element as *Brainteaser* and was subject to the same Rules and Procedures governing how the competitions were run and winners found.
- 2.6 In March 2007, when these problems were discovered, Channel 5 immediately suspended all programmes involving premium rate telephone services, including output on the main Five channel and on its subsidiary channel, Five US. These services have since returned.

- 2.7 While *Brainteaser* (and *Memory Bank*) were both produced by the independent production company Cheetah/Endemol, Channel 5 has the legal responsibility through its licence conditions to ensure that all its programming complies with the relevant codes. Ofcom therefore investigates Channel 5 with respect to potential Code breaches. Ofcom does not regulate production companies who supply programmes to broadcasters.
- 2.8 Channel 5 has admitted that the instances of unfair conduct which occurred between 2003 and 2006 were similar or identical to those breaches of the Code that occurred in *Brainteaser* in 2007. Ofcom considers that these instances were illustrative of the fact that the unfair procedures which led to the breaches in 2007 had been in place and acted upon for a long period of time. Ofcom considers it is entitled to take these matters into account when considering the seriousness of the breaches and whether to impose a statutory sanction, and if so, at what level.

Legal Framework

The Communications Act 2003

- 3.1 Ofcom has a duty under section 319 of the Communications Act 2003 (“the Act”) to set standards for the content of programmes in television and radio services as appears to it best calculated to secure the standards objectives.
- 3.2 The standards objectives are set out in section 319(2) of the Act. They include:
- That generally accepted standards are applied to the contents of television and radio services so as to provide adequate protection for members of the public from the inclusion in such services of offensive and harmful material (section 319(2)(f)).
- 3.3 In discharging its functions, Ofcom’s principal duties are to further the interests of citizens in relation to communications matters and the interests of consumers (section 3(1)) and to secure a number of other matters including:
- The availability throughout the UK of a wide range of television and radio services which (taken as a whole) are both of high quality and calculated to appeal to a variety of tastes and interests (section 3(2)(c));
 - The maintenance of a sufficient plurality of providers of different television and radio services (section 3(2)(d));
 - The application in the case of all television and radio services of standards that provide adequate protection to members of the public from the inclusion of offensive and harmful material in such services (section 3(2)(e)).
- 3.4 In performing these duties, Ofcom is also required to have regard to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, and any other principles representing best regulatory practice (section 3(3)); and where relevant, a number of other considerations including:

- The desirability of promoting the fulfilment of the purposes of public service television broadcasting in the United Kingdom (section 3(4)(a)); and
- The need to secure that the application in the case of television and radio services of standards relating to harm and offence is in the manner that best guarantees an appropriate level of freedom of expression (section 3(4)(g)).

The Human Rights Act 1998

- 3.5 Under section 6 of the Human Rights Act 1998, there is a duty on Ofcom (as a public authority) to ensure that it does not act in a way which is incompatible with the European Convention of Human Rights (“the Convention”).
- 3.6 Article 10 of the Convention provides for the right to freedom of expression. It encompasses the broadcaster’s right to “impart information and ideas” and also the audience’s “right to receive information and ideas without interference by public authority”. Such rights may only be restricted if the restrictions are *“prescribed in law and necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health and morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary”* (Article 10(2) of the Convention).
- 3.7 Ofcom must exercise its duty in light of these rights and not interfere with the exercise of these rights in broadcast services unless it is satisfied that the restrictions it seeks to apply are required by law and necessary to achieve a legitimate aim.

The Ofcom Broadcasting Code

- 3.8 Standards set by Ofcom in accordance with section 319 of the 2003 Act are set out in Ofcom’s Broadcasting Code (“the Code”) which came into force on 25 July 2005.¹
- 3.9 Accompanying Guidance Notes to each section of the Code are published and from time to time updated, on the Ofcom website.² The Guidance Notes are non-binding but assist broadcasters to interpret and apply the Code.
- 3.10 By virtue of section 325 of the Act, a condition is included in a broadcaster’s licence requiring the broadcaster to secure observance with the Ofcom Code in connection with the provision of their services and the programmes included in their services.
- 3.11 Accordingly, Channel 5 is required under its licence to ensure that the programmes it transmits comply with the Rules of the Code.

Issues and Response

- 4.1 The faking of ‘winners’ affects the fundamental fairness of the conduct of a competition. As part of its investigation Ofcom asked Channel 5 to explain

¹ The Code can be found at <http://www.ofcom.org.uk/tv/ifi/codes/bcode/>

² Guidance Notes can be found at <http://www.ofcom.org.uk/tv/ifi/guidance/bguidance/>

how the competitions on *Brainteaser* on 25 January, 15 February (two occasions), 20 February and 6 March 2007 complied with Rule 2.11 of the Code which states:

“Competitions should be conducted fairly, prizes should be described accurately, and rules should be clear and appropriately made known”.

Channel 5’s Response

4.2 Channel 5 informed Ofcom of five viewer competitions between January and March 2007 where ‘winners’ announced on the programme were either fictitious names or members of the production staff. In each of the competitions, viewers were required to rearrange a group of letters appearing on screen to find the following answers:

- 25 January 2007 – Answer “Saxophone”
- 15 February 2007 – Answer “Parachute”
- 15 February 2007 – Answer “Journalist”
- 20 February 2007 – Answer “Lifeguard”
- 6 March 2007 – Answer “Cranberry”

4.3 Since January 2007, two viewer competitions had been resolved by production staff being put to air as ‘winners’ and three other competitions had been resolved by fictitious names being displayed on screen. However, the broadcaster also gave details of earlier instances of unfair conduct that had since been identified, relating to programmes broadcast prior to 2007.

4.4 Entrants were invited to ring the premium rate line, and a proportion of callers were randomly selected and asked to leave their telephone contact details. This early selection was carried out to enable the competition to be conducted speedily for live transmission, without requiring a disproportionate number of phone lines to take details of all entrants.

4.5 When each on-air competition was closed, a second random selection of entrants was made from among those asked to leave contact details. The first person selected from this new list would then be briefed about live television before being put through to the studio to answer the question. If they got the question right, they were awarded a prize. If they got the question wrong, the next person on the list was put through. The terms and conditions of the competition state that this process would continue until a winner was found.

4.6 The instances of unfair conduct occurred first of all in January 2003, when there were technical problems in getting entrants to air. Where this happened, it was decided to put a member of the production staff on air instead - to answer the question and bring the competition to an end. The intention was that a real winner would subsequently be found off-air from among the genuine entrants, and a prize awarded in the normal way. However, no prize was, in fact, awarded (except on one occasion in 2007).

4.7 Over time, the practice of substituting production staff for genuine entrants, became “more formalised”. The revised system was that telephone operators ascertained whether an entrant had the correct or incorrect answer before they were put to air. Entrants with the correct answer were coded ‘blue’ and those with incorrect answers coded ‘red’. However, on the occasions where the correct answer was not offered by the first two callers, a further category – ‘green’ – was created to identify a member of the production team being put

on air in order to resolve the competition within the time available on air. Channel 5 stated that there was no evidence that the system had been motivated by dishonesty for either personal or financial gain or to prevent prizes being given away.

- 4.8 The broadcaster said it was unclear from the evidence how the 'green caller' system developed and why it was viewed by production staff as an appropriate means of completing a competition. The broadcaster stated that, *"It was apparent from interviews with the production staff in Bristol, some of whom had been on the programme for a number of years, that they were all aware of the term 'green caller' and what it meant. The term was used in notes for the telephone operators in the telephone room and in a production manual. It was also apparent that they had not seen it as something inappropriate. It appears that they all believed it was a system put in place early in the history of the programme which was acceptable practice and which none of them questioned or challenged"*. Channel 5 said that it did not believe that the production team was being cynical or lazy in its approach to viewer competitions, but that it was *"a rare expediency undertaken in good faith to deal with the significant pressures of a live programme"*. Channel 5 stated that *"Endemol should never have permitted it to have happened in the first place, or allowed it to have continued"*.
- 4.9 The relatively high number of cases in 2007 had arisen, in part, because of changes to the programme format. The number of competitions was increased from around three per programme to sometimes around 11. The time allowed for entrants to call was often reduced, to allow for 'Quickfire' contests.
- 4.10 Following the last instance on 6 March 2007, the executive producer was informed of the issues and the competition was resolved off-air the following day. The prize was then awarded to a genuine entrant. Later that day, the production company informed Channel 5 of the position. The following day, Channel 5 took *Brainteaser* off air pending an investigation and issued its press statement.
- 4.11 Channel 5 acknowledged that as the licensee, responsibility lies with it for the administration of on-air competitions. However, it explained that the day-to-day running of the programme was managed by Cheetah/Endemol – a company with an established reputation and significant expertise. Although Channel 5 was actively involved in editorial and legal compliance aspects during the set-up and launch of the programme, it considered it was *"entitled to rely on Endemol to deliver the programme and the viewer competitions in a manner which was compliant in all respects."*
- 4.12 The practice for 'green callers' was established by a senior member of the production staff at Cheetah/Endemol without reference to Channel 5. Although this individual had subsequently left Endemol to join Channel 5's Commercial Development team, she had not communicated details of the practice to her new employers as the programme was by then well established, so more detailed scrutiny was not deemed necessary. Consequently, Channel 5 stated that it had remained unaware of the problems.
- 4.13 Channel 5 stated that had it been aware at any stage that production staff had been put to air as 'winners', even on one occasion, the practice would have been stopped immediately. However, it was not aware that Endemol was

failing to run its production team appropriately with regard to either the terms of the competition or the relevant Codes.

- 4.14 While the broadcaster condemned the unfair practices of the producers as “wholly unacceptable”, in mitigation it stated that where technical problems prevented a real winner going to air, viewers were not materially misled or other participants disadvantaged since “this was done purely for editorial continuity”. Nevertheless, the practice is prohibited on Five and the broadcaster gave an assurance it will never be repeated.
- 4.15 Channel 5 has since contacted all those entrants whose details were sent to the studio during unfair competitions, and offered them the prize for that competition. Where no data was available (two cases), the phone company has gone back to original contact information to form a list of potential winners. In one case, 20 people have been selected at random and the first five will be offered the prize. One further competition could not be resolved in this manner because the telephone data was no longer accessible, so instead, winners have been selected from all entries made through the website.
- 4.16 Channel 5 maintained it had every right to expect a responsible and properly resourced production company such as Cheetah/Endemol to exercise proper editorial control in accordance with legal and contractual agreements. The programme was “apparently overseen by experienced and respected programme makers”. In addition there was regular and appropriate contact between Channel 5 and the programme makers, and Channel 5 was of the opinion that it was difficult to see how it could reasonably have been expected to detect these problems.
- 4.17 In conclusion Channel 5 said that, *“It is clear that on a number of occasions Endemol failed to meet its obligations and the standards required of a production company making this kind of programming.”* Channel 5 also admitted that these competitions were not being run in accordance with either its own terms and conditions or the relevant Codes. However, Channel 5 believes that it took all reasonable and appropriate steps regarding the management of the programme in an effort to ensure that the viewer competitions were handled in accordance with the terms and conditions and the Ofcom and ICSTIS³ Codes.

In Breach

Brainteaser, Five, 25 January, 15 February (two occasions), 20 February and 6 March 2007

- 5.1 Having taking into account all relevant material, including Channel 5's representations and its admission of the breaches of the Code, Ofcom concluded that the manner in which Channel 5 conducted the competitions in *Brainteaser* (on 25 January, 15 February (on two occasions), 20 February and 6 March 2007) amounted to very serious breaches of the Code. This was also considered against a background of evidence of a serious and longstanding failure in the broadcaster's compliance procedures (see paragraph 5.3 below).

³ ICSTIS is the industry-funded regulatory body for all premium rate charged telecommunications services.

- 5.2 The use of production staff posing as ‘winners’ and the entry of fake names was in breach of Rule 2.11 of the Code which states: “*Competitions should be conducted fairly...*”. Viewers were misled into believing that genuine winners had been awarded a prize when in these instances no-one had actually won the competition in accordance with the programme’s rules. It was likely that there were contestants who were shortlisted and knew the correct answers to the competition, but because of the unfair procedures in place (i.e. ending the selection process early), did not get an opportunity to win the prize. This was unfair.

Compliance Issues

- 5.3 That there was a longstanding and serious failure in the broadcaster’s compliance procedures for the fair conduct of these competitions is evidenced by the following earlier instances of unfair conduct in both *Brainteaser* and its spin-off programme *Memory Bank*, all of which have been admitted by Channel 5. While Ofcom has recorded breaches of 5 competitions in 4 programmes run in 2007, the previous instances of unfair conduct had occurred in a further 7 competitions between January 2003 and November 2006 in *Brainteaser*:

- 13 January 2003
- 12 February 2004
- 25 April 2005
- 10 June 2005
- 15 July 2005
- 16 December 2005
- 17 November 2006

Unfair conduct of competitions had also occurred on 4 separate occasions in *Brainteaser*’s spin-off programme, *Memory Bank*:

- 20 April 2004
- 26 July 2004
- 13 August 2004
- 1 September 2004

Referral to Ofcom’s Content Sanctions Committee

- 6.1 It was considered that the breaches (paragraphs 5.1 and 5.2) were very serious and repeated, and in the circumstances, in accordance with Ofcom’s published procedures (Outline procedure for the consideration of statutory sanctions in content cases), it was recommended that the case be referred to Ofcom’s Content Sanctions Committee (“the Committee”) for consideration of the imposition of a statutory sanction.
- 6.2 It was also considered that the above breaches and the reasons for them should be considered in the context of the previous instances of unfair conduct in *Brainteaser* competitions (dating back to January 2003) and also in a spin-off programme *Memory Bank* (broadcast between March and October 2004). Ofcom considers that these previous instances demonstrate that the breaches in 2007 occurred against a background of longstanding inadequacies in the proper compliance of these competitions.

Broadcaster's Representations on Sanction

- 7.1 Channel 5 initially stated that it believed very strongly that a sanction would not be appropriate or fair in all the circumstances (it should be noted, however, that when the licensee appeared before the Committee (see paragraphs 8.1 onwards), it accepted that a financial penalty was appropriate. In summary, its further written submissions were as follows:
- 7.2 Whilst it accepted that the practices that had been uncovered were “wholly unacceptable”, it asked that Ofcom take into account the circumstances in which the problems had been brought to light. Channel 5 said that it was the production team itself that raised the problems about the newly introduced ‘Quickfire’ format with the programme’s executive producer, and that credit should be given for the fact that it was brought to light notwithstanding the surrounding press clamour concerning the use of premium rate telephony in programmes.
- 7.3 Channel 5 also submitted that in its investigations it found that the only references to the ‘green caller’ practice were in two documents at the studio, neither of which it considered Channel 5 could reasonably have been expected to know about:
- One was a file of documents relating to the programme which had been prepared by the original series producer. Channel 5 stated that it was not a production bible or manual and “was not referred to in any formal or regular way”. No-one at Channel 5 was sent a copy of this or asked to review its content. The original series producer had claimed that where a member of the production team used the ‘green caller’ practice, it was always the intention that a winner would be found off-air after the competition.
 - The second was a note on the wall of the telephony room which listed the different colour-coded callers. Channel 5 submits that this note was not highlighted by the producers as being of particular importance and had not been seen by any Channel 5 representative. It stated that “*in the circumstances, it would be unusual for someone to scrutinise the documents pinned up on a wall in a busy office and...Five should not be criticised for not discovering this note*”.
- 7.4 Channel 5 further submitted that it had done all it could before the inception of the programme to check that the mechanisms of the programme met the appropriate editorial standards, including the following:
- Prior to commissioning the programme, Channel 5’s Controller of Daytime, Arts and Religion visited the studios in the Netherlands to see the show in production and to understand the mechanisms of the viewer competition. These were reviewed by both Endemol and Channel 5’s lawyers as well as a QC instructed by Endemol.
 - Once *Brainteaser* was commissioned, the programme, and in particular, the viewer competition was subjected to detailed review by Channel 5 from an editorial, legal and compliance perspective. In the summer of 2002, a Channel 5 lawyer reviewed, commented upon and approved “*meticulous written procedures and processes which formed the basis of Brainteaser*”, including the “Telephony Procedures”, the “Rules and Procedures” for the viewer competitions and a standard presenter’s script.

- Channel 5 submitted that it was never notified that there were any practical problems with the mechanic either at the outset of the programme or during the subsequent years or that this process was not being adhered to in every competition. It argued that it was inconceivable that anyone – particularly a company with the expertise of Cheetah/Endemol – would have thought that the ‘green caller’ practice was acceptable in the light of the Code and that it was not reasonable for it to be expected to “legislate for the inconceivable”.
- 7.5 The broadcaster also gave further information on its extensive and regular involvement with the programme on a weekly basis, including:
- The Controller responsible for the programme viewed the programme on a regular basis and regularly reviewed it with the producers from a detailed editorial perspective. Channel 5 stated that it would have expected any problems to have been raised with the Controller but in fact, she had remained unaware that production staff had been put on air as winners or that competitions had not been resolved.
 - Channel 5’s programme lawyer also had regular and ongoing contact with Endemol’s producers, as well as Endemol’s legal and commercial departments. However, at no time was the lawyer informed that there had been any problems on the show. The programme lawyer had advised on, reviewed and approved many aspects of the show’s procedures.
 - Channel 5’s Commercial Development Team also oversaw the programme. The controller of this team had been present when the ‘green caller’ practice was used during the time she previously worked for Cheetah/Endemol, however it was her evidence that it was always intended that a winner would be found off-air and that she believed this had been undertaken so in effect, no material unfairness had occurred.
 - Channel 5 believed that the problem would not have come to light *“...unless by sheer coincidence one of these instances had been witnessed. However, this possibility is simply too remote.”*
- 7.6 Channel 5 also submitted in mitigation that Ofcom should consider its conduct once these problems had come to light. It took an overnight decision to take the programme off air once the irregularities in the competition were confirmed. It also decided to suspend all premium rate telephone services pending an independent audit. Further, it believed it had reported to Ofcom in a frank and open manner.
- 7.7 Channel 5 also argued that it would be unfair to label the breaches as “repeated”. It believed that this term referred to cases where a licensee was aware that a certain action was in breach but nevertheless continued with the course of conduct. In this case, Channel 5 was unaware of the unresolved competitions and as soon as they became aware, stopped the inappropriate conduct to prevent further repetition.
- 7.8 Channel 5 also stated that it had an excellent compliance record since the channel was launched in March 1997. Throughout this period, no sanction has been considered against it.

- 7.9 The broadcaster submitted that the problem was a “manifest failure” on the part of the producers and argued that Ofcom should give due weight to the culpability of the producers in this case as, in its view, it had not been dilatory, reckless or grossly negligent in its management of the production company or the programme. As such, while not seeking to abrogate its responsibilities as the licensee, Channel 5 was of the view that the landscape of television production and broadcasting in the UK has changed to such a degree that broadcasters now have to rely on production companies “to share responsibility for compliance”.
- 7.10 The broadcaster argued that the seriousness of the breaches should be viewed in the light of the degree of viewer harm, stating that at least one genuine winner for each of the affected competitions had now been found and awarded a prize, so no financial loss had been suffered. Further, Channel 5 or Cheetah/Endemol have not gained financially from the unfair conduct – the profits from the competitions that have now been resolved fairly will be donated to a cancer charity, together with the gross revenue from the competition that could not be resolved because the telephone data was no longer accessible.
- 7.11 Channel 5 has also introduced further measures to ensure breaches of this nature do not occur again. It stated that competition winners’ names will always be checked against data provided by the telephony service provider, and the names of winners broadcast on air will be reconciled with those who have been sent cheques. Channel 5’s internal auditor will conduct quarterly audits of all its competitions with the relevant production companies and service providers.
- 7.12 Channel 5 has ceased all further broadcasts of *Brainteaser*. It argued that the financial consequences of the Code breaches have already been damaging as it has suffered significant financial penalty by withdrawing the programme from the schedule and during the temporary suspension of all premium rate services while the independent audit was carried out.
- 7.13 Channel 5 pointed to a number of previous cases which it considered served as precedents for the argument that in this case, a financial penalty of more than £50,000 would not be appropriate or proportionate in this case: in particular it referred to the five previous occasions in which Ofcom has deemed a breach sufficiently serious to merit the imposition of a financial penalty of more than £50,000⁴. In the broadcaster’s view, the seriousness of the breaches which led to a fine in those cases was much greater than those identified in this case.

The Hearing

- 8.1 Ofcom held an oral hearing on 22 June 2007 to give the licensee a full opportunity to make representations before deciding whether the breach by Channel 5 warranted the imposition of a statutory sanction, and if so at what level. Ofcom was addressed by, Jonathan Caplan QC, and Channel 5’s Director of Content, Lisa Opie and the Head of Legal and Regulatory Compliance, Paul Chinnery, amongst others gave evidence. (The production company was not represented at the hearing).

⁴ Adjudications are available at http://www.ofcom.org.uk/tv/obb/ocsc_adjud/

- 8.2 Channel 5 accepted, quite clearly, that serious breaches of the Code occurred, in that there was unfair conduct in the course of the competitions. However, it considered that the “*instances of unfair conduct...[were] isolated instances over nearly a five-year period*”. It stated that it acted in good faith and was completely unaware of the occasional irregularities that occurred. It also stated that the fact that it was not aware of the failure of standards in relation to these competitions did not mean that it failed to act reasonably and that it did not employ, consistently, good compliance procedures.
- 8.3 Channel 5 said that the production company Endemol is a reputable, experienced, and well resourced company and Channel 5 should not be expected to “sit on its shoulder” in the management and running of the daily competitions and programmes.
- 8.4 Channel 5 stated that in *Brainteaser*, 12 competitions out of some 3,500 were identified as irregular and 4 in *Memory Bank*. The broadcaster argued while these 16 “irregularities” over four years should never have occurred, they were “in fact” 1 in every 300 competitions. It stated that it therefore did not believe it to be a systemic procedure, and over the period on average, the fake winners only occurred in two to three competitions per year.
- 8.5 It said that as soon as Channel 5 did become aware of the irregularity in March 2007, it acted swiftly and responsibly by reporting it to Ofcom and cooperating fully. Channel 5 did not dispute that it was under a duty to comply with the Code, so far as was reasonably practicable. In the hearing, it did not dispute that a financial penalty of some kind was probably appropriate in this case. However, it believed that there was an issue as to the degree of its culpability and suggested that, taking previous decisions into account, an appropriate level of financial penalty would be in the region of £50,000.
- 8.6 Channel 5 said it had extensive pre-broadcast discussions with the production company, laid down proper compliance procedures, maintained those compliance procedures during the history of the programme, and had extensive contact with the production company. It approved clear and unequivocal rules, approved key personnel, had regular liaison, regularly monitored and regularly reviewed procedures. On five separate occasions between 2003 and 2007, during the course of the regular contact between Channel 5 and the production company, the rules and procedures of the competition were discussed and revised. At no stage did Endemol ever say that there were difficulties being encountered with regard to on-air selection and Channel 5 never knew that a member of the production team set up the ‘green caller’ system. This came to light only when the production company had problems, in March 2007, with getting winners to air in the time available, as a result of a new element of the programme called ‘Quickfire’, which created additional pressures on the live programme. That then led to the investigation, which Channel 5 commenced, and to the use of external auditors to uncover what had happened.
- 8.7 Channel 5 said that the compliance activity carried out went to the heart of the Code. It did not expect to have to explain to the production company that the competitions must be conducted fairly or – in particular - that they should not fake winners. Instead its discussions with the production company had focused on a new element of the competition, in the way that winners were selected, because it was a new method and Channel 5 wanted to ensure that viewers understood perfectly well what was going to happen when they made their telephone call. Channel 5 said that it could reasonably have expected

the production company to have mentioned that it was having difficulties bringing viewers to air to resolve the competitions successfully. In any event it was inconceivable that they would not be able to resolve the competition in time within the programme because of the straightforward nature of the questions, i.e. a winner would always be found from the list of viewers who had called in.

- 8.8 Channel 5 said that it did not feel it was necessary to go back to the production company and further discuss compliance when Ofcom's new Broadcasting Code came into force⁵ (replacing the ITC Programme Code) as the Code did not contain anything that was materially different to the spirit of the ITC code nor was it considered to introduce anything that would require changes to the procedures on the programme.
- 8.9 Channel 5 stated that it should be taken into account that it responded swiftly once it became aware of the issues and disclosed fully the problems it had uncovered to Ofcom and the public. Channel 5 has an excellent record and has never been in serious breach or at risk of a statutory penalty.
- 8.10 Channel 5 wanted Ofcom to be clear that it was not complicit in the irregularities, or grossly negligent in failing to detect it. At worst it could be described as "negligent to some degree", but it had not profited from the fakery and it had not sought at any time to do so. Moreover, this was not a case where the purpose of the deception was to encourage more viewers to telephone in so that the programme generated greater revenues. This was a case where fakery was used only as a last resort – an expediency – in order to allow a 'winner' to be named on air to meet the demands of the on air time available – albeit a wholly inappropriate expedient.
- 8.11 Finally, Channel 5 maintained that harm to viewers in this case was limited. There was only a small number of potential winners, the irregularities which occurred were occasional, and it had done all it could to address the damage. Channel 5 said that by reporting to the public about what had happened at the earliest opportunity and being seen to take appropriate steps immediately it knew of the problem, any understandable concern by viewers as to the fairness of this competition should and would have been substantially allayed.

Sanctions Decision

- 9.1 The Committee considered carefully all the oral and written submissions provided by Channel 5 regarding the circumstances of the breaches and, in particular, the points raised by the broadcaster in respect of whether to impose a financial penalty and if so the level of any such penalty. In considering the latter, it had regard, in particular, to the criteria set out in the Penalty Guidelines.
- 9.2 The Committee noted that Channel 5 recognised that the instances of unfair conduct were "wholly unacceptable" and were in serious breach of the Code. It further noted that Channel 5 accepted that the breaches were sufficiently serious as to warrant the imposition of a financial penalty but that if the Committee was minded to impose a fine, this should be no more than £50,000.

⁵ Ofcom's Broadcasting Code came into force on 25 July 2005.

- 9.3 The Committee acknowledged that Channel 5 had conducted a review of its programmes and as a result made disclosure to Ofcom of the relevant facts. The broadcaster has also co-operated with Ofcom's investigation and acted swiftly.
- 9.4 When assessing the seriousness of the case, the Committee first considered the nature of the breaches themselves. The Committee considered that the nature of the breaches was very serious given they involved faking winners on air. Breaches involving fakery of any sort are considered to be amongst the most serious kind involving, as they do, a deception of the audience and therefore a breach in the relationship of trust between an audience and the broadcaster. In this case, it involved a public service broadcaster whose service is widely available to a very substantial audience in the UK.
- 9.5 The Committee did not agree that the breaches could be described as isolated, occurring as they did on five occasions in 2007 - they were therefore not one-off breaches nor did they arise by accident but had occurred as a result of a decision by the production company to fake winners on air, when it considered that it was expedient to do so.
- 9.6 Moreover, this practice had become an established part of the procedures in place for the conduct of these competitions over a period of years dating back to 2003. The details of the procedure appeared not only in a written note on the wall of the telephone operator's office, but also in what was originally described as a "production manual" by Channel 5, but later explained to be part of an informal set of notes given to producers and researchers. In light of this and the length of time during which the unfair procedures which led to the current breaches had been in operation, the Committee considered the current breaches should be seen against a background of serious and longstanding compliance failures which nonetheless remained undetected by the broadcaster over a significant number of years. This was a matter of particular concern to the Committee and added to the seriousness of the case.
- 9.7 The Committee considered that in these cases the audience was substantially misled. The formalised procedure that had been adopted by the programme was totally unacceptable and showed a blatant disregard for not only the audience of the show but also those participating and spending money in entering some competitions which were not being run fairly. What started as a single attempt – unacceptable in itself – to resolve the difficulties that occurred in finding a winner had become a formalised procedure. The Committee considered that this was illustrative of the fact that the editorial needs of the programme overrode the consideration of fairness to those participating in the competitions and to the audience overall.
- 9.8 In these circumstances and given the very serious nature of the repeated breaches, the Committee concluded that a financial penalty was appropriate.
- 9.9 The Committee then went on to consider the amount of the penalty to be imposed having regard, in particular, to the criteria set out in Ofcom's Penalty Guidelines. Under the Communications Act 2003, section 237(3), a financial penalty in the case of Channel 5 may not exceed the greater of £250,000 or 5 per cent of the broadcaster's qualifying revenue.

- 9.10 The Committee carefully considered the matters which Channel 5 had raised in mitigation, as outlined above, and in particular, the matters referred to below.
- 9.11 The Committee was in no doubt that Channel 5 had acted in good faith at all times and had not intended its service to deceive the audience. It clearly had extensive compliance procedures in place by which it had sought to ensure compliance and had regularly monitored and reviewed the procedures for conducting the competitions.
- 9.12 Moreover, the Committee recognised that the primary motivation behind the unfair conduct of these competitions was not to cause financial harm to viewers nor with the intention of procuring greater financial gain.
- 9.13 Further, Channel 5 took comprehensive steps retrospectively to remedy the harm caused by the unfair conduct of its competitions and fully co-operated with Ofcom once the unfair conduct came to light.
- 9.14 The Committee also took account of Channel 5's overall very good compliance record. Further, the broadcaster has had no previous breaches of the Code recorded which have been serious enough to have been considered for statutory sanctions. This is therefore the first occasion that Ofcom has considered sanctions against Channel 5.
- 9.15 Nevertheless, the Committee viewed the breaches of the Code as very serious involving as they did a decision not only to fake 'winners' but to establish a system for doing so. It believed the seriousness of these breaches was compounded by the longstanding compliance failures.
- 9.16 While Five did not directly profit financially from the 'green caller' procedure, it was carried out in full knowledge that members of the public were paying money to participate in the competition having been misled into believing that genuine winners would be awarded a prize when, in fact it transpired, that in some cases no-one would actually win. It was likely that there were contestants who were short-listed and knew the correct answers to the competition, but because of the unfair procedures in place, they were not given an opportunity to win the prize until Channel 5 had discovered the unfair conduct. Whilst the unfair procedure did not appear directly to benefit Channel 5 and Cheetah/Endemol, the indirect effect was to ensure the longevity of a programme which was raising significant revenue for the broadcaster. Therefore, the broadcaster and its service providers did indirectly profit financially as a result of the failure to detect unfair conduct.
- 9.17 The Committee noted that Endemol was a large and experienced production company and understood Channel 5's reasons for believing it was well equipped to produce such a programme. However, on the evidence available to it, the Committee considered that this confidence had been misplaced and that Endemol appeared to have failed to take the necessary steps to deliver a compliant programme. Channel 5 had stated in its evidence that it was of the view that the landscape of television production and broadcasting in the UK had changed to such a degree that broadcasters now have to rely on production companies "to share responsibility for compliance". The Committee noted Channel 5's argument that it believed its duty was to comply with the Code "so far as is reasonably practicable". However, irrespective of the arrangements regarding a programme's production, ultimately it remains the broadcaster's responsibility, as the licensee, to ensure full compliance of

all its broadcast content with the Code. Reliance on a third party does not diminish a broadcaster's responsibility under its licence to comply with the Code. Therefore a broadcaster must have sufficient checks and balances in place to ensure that compliance is effective, especially given the risk that a third party might not (as in this case) alert the broadcaster to problems that occurred.

- 9.18 It was clear to the Committee that Channel 5's senior management was not aware of the breaches (or the previous instances of unfair conduct) at the time they occurred. However, despite the fact that the breaches involved an independent production company, it was ultimately the responsibility of Channel 5's senior management to ensure that compliance processes were adequate to prevent such practices from going undisclosed, and for such a long time.
- 9.19 In addition, given the show was a new format introduced to the UK for the first time on Five, the Committee considered that there had not been adequate or appropriate risk assessment or analysis undertaken, in particular about such a fundamental part of the programme as the selection of winners - either at the time of the programme's inception or even when the 'Quickfire' format was introduced which further highlighted the need to bring a viewer to air quickly to resolve the competition fairly in a very short timeframe. Given that the introduction of the 'Quickfire' format dramatically increased the pressures on the live transmission of the programme, it was of particular concern to the Committee that the effects of its introduction on the programme's compliance had not been properly monitored or accounted for by Channel 5.
- 9.20 Therefore, whilst the Committee took the view that Channel 5 had indeed put extensive compliance procedures in place on *Brainteaser*, it was not satisfied that these were sufficiently comprehensive – failing as they did to deal specifically with the fundamental Code requirement of fair conduct in competitions. While Channel 5 argued that it should not have had to explain to the production team that faking winners was unacceptable, the Committee was concerned to note that the compliance procedures had not been reviewed or updated adequately (or additional compliance training provided to staff or producers) following the introduction of the new Code in 2005 (which contained for the first time for television broadcasters a requirement for the fair conduct of competitions, in the form of Rule 2.11) or at the time the new 'Quickfire' format was introduced to the *Brainteaser* programme.
- 9.21 Overall, the Committee considered that the compliance procedures of Channel 5 and the production company appeared to have focused disproportionately on the smooth continuation of *Brainteaser's* production, and the traditional elements of live editorial compliance (e.g. ensuring that callers are aware not to use inappropriate language on-air) without sufficiently focusing on the fundamental issue of fairness at the heart of the conduct of a competition in which the audience participates and pays by entry through a premium rate service.
- 9.22 In all the circumstances, and weighing all these matters carefully, the Committee considers that Channel 5 was at the very least, negligent in terms of its obligation to ensure compliance of its programmes with the Code. These were extremely serious breaches of the Code by a public service broadcaster, resulting, as they did, in the deception of the audience including participants who were paying to enter. They were also not isolated, but repeated breaches, occurring against a background of longstanding failures in

compliance procedures, as demonstrated by the previous instances of unfair conduct referred to above.

- 9.23 However, the Committee was of the view that the breaches would have been significantly more serious had there been evidence of a reckless or deliberate disregard by the broadcaster for the need to set up and operate compliance procedures. The extensive (although not fully effective) nature of Channel 5's compliance procedures persuaded the Committee that the broadcaster had not been reckless in its approach to compliance and this together with other mitigating factors submitted by Channel 5, contributed to the Committee's decision not to impose a higher fine (see paragraph 9.30).
- 9.24 With regard to the amount of any financial penalty which the Committee might be minded to impose, Channel 5 cited five previous occasions in which a breach had been deemed sufficiently serious to merit the imposition of a financial penalty of more than £50,000. These cases, it argued, were considerably more serious than the present case and unlike the present case, had involved a failure by the broadcaster to have any appropriate compliance procedures in place and/or a history of similar breaches by the broadcaster.
- 9.25 Whilst the Committee noted these cases when considering the amount of any financial penalty to be imposed on Channel 5, it considered they were not comparable to this case since they were markedly different in nature, mainly involving breaches of offence rather than actual (as well as potential) harm, by non-public service broadcasters with much smaller audiences than Channel 5. A couple of the cases cited had also resulted in revocation of the licence (as well as a fine) and so were not comparable to the present case for that reason either.
- 9.26 This case involves a public service broadcaster whose service is available to a very wide audience and whose reach and impact is therefore significantly different from a niche satellite channel. Consequently, the maximum potential fine that Ofcom may impose on a public service broadcaster, as set by Parliament, is capable of being far greater than other channels. Moreover, in the Committee's view, cases where the broadcaster misleads the audience, whether knowingly or not, have always been considered to be amongst the most serious breaches of the Code by the regulator (as well as its predecessors). The faking of winners was, as Channel 5 itself admitted, a wholly inappropriate and unacceptable practice, on any occasion - but particularly so where at the same time as committing the deception, the programmes in question were encouraging as many viewers to call in as possible on the basis that they would have a fair chance of winning the competition.
- 9.27 In these circumstances, the Committee did not accept Channel 5's argument that the fact that the instances of fakery occurred only once in every 300 competitions was in itself a mitigating factor. Fakery of a competition is unacceptable under any circumstances and therefore very serious. Its seriousness was further compounded in this case by the fact that the unfair practices which had resulted in the breaches in 2007, had become part of the formalised procedures operating not just in 2007, but over the previous four year period. The use of these procedures not only involved harm to those taking part in the competitions but also involved potential harm to the wider audience.

- 9.28 For all these reasons, the Committee considered that this was the most serious case it had dealt with, to date, with respect to a public service broadcaster and more serious than the cases cited by Channel 5. This was not a misjudgement by the programme makers in a case which required a judgement to be made in an area of editorial discretion but involved a deliberate decision to fake winners on air - on more than one occasion as part of an established pre-planned procedure which was used when conducting competitions on air. For all these reasons, there were no direct comparables that could be cited - it was unprecedented for Ofcom in terms of sanctions cases, since the Committee has not had to adjudicate previously in respect of *editorial* material on a public service broadcaster's channel, involving fakery.
- 9.29 Irrespective of any remedial action taken after the event by a broadcaster, Ofcom considers that it is essential that the broadcast industry recognises and acknowledges that practices which mislead the audience are unacceptable in any form. These issues go to the very heart of the trust between the broadcaster and its audience and undermines that relationship.
- 9.30 Having considered the relevant facts as outlined above and the representations made by Channel 5 and taking account of the factors listed above, the Committee decided to impose a financial penalty on Channel 5 of **£300,000** (payable to HM Paymaster General) which it considers to be a proportionate and appropriate penalty in all the circumstances of this case. In addition, the Committee has directed Channel 5 to broadcast a statement of Ofcom's findings in a form determined by Ofcom on its service Five on two occasions, once at 12:30 (the time *Brainteaser* was transmitted) and once in peak-time.

Content Sanctions Committee

Philip Graf

Millie Banerjee

Joyce Taylor

26 June 2007