



OFCOM CONSULTATION ON THE PROPOSED OFCOM BROADCASTING CODE

**RESPONSE FROM
THE MUSLIM COUNCIL OF BRITAIN**

October 2004

Introduction

1. This response is submitted by The Muslim Council of Britain (the **MCB**). The MCB is the leading umbrella organisation representing the interests of Muslims in Britain, whilst working for the common good of society as a whole. In its short history, the MCB has built a reputation for consultation, co-operation and co-ordination amongst British Muslims, and a step change in contact between them and the wider society. The MCB has over 400 active affiliate organisations, some of them being umbrella organisations themselves.
2. This submission is made in the context of Ofcom's consultation (the **Consultation**) on the proposed Broadcasting Code (the **Proposed Code**).
3. The MCB observes with some concern that there has been a progressively greater prevalence in the depiction and of inappropriate violence, profanity, sexual intimacy, and drug use in material broadcasted in the UK. Of greater concern is the freedom and lack of scrutiny that broadcasters of documentaries and drams have in the depiction of the Muslim community and of Muslim beliefs. It will be demonstrated later in this response that such depictions have detrimental effects on the Muslim community in UK, and are not conducive to good community relations.
4. The MCB welcomes the opportunity to comment on the Proposed Code, and is optimistic that future attempts to scrutinise broadcasted material using the Proposed Code will be a transparent, and collaborative process that does not create a paradox whereby the viewer is given the task of bringing producers and broadcasters to account after an inappropriate programme has been broadcasted.
5. This response deals with those sections of the Proposed Code that the MCB feels relevant to the Muslim community in general.

Section 2 of the Consultation

6. It is apparent from the Consultation that much of the questions are designed to ensure conformity with the rules on restrictions on the freedom of expression elucidated by the European Court of Human Rights (the **ECHR**) (e.g. necessary in a democracy, proportionate etc.). However, the Consultation omits some key rulings from the ECHR as a result of which some decisions taken in conformity the Proposed Code may still be contrary to the ECHR's jurisprudence.
7. The judgements from the ECHR have entered English law by virtue of section 3 of the Human Rights Act 1998. As a public authority, Ofcom is to act in a way that is compatible with the European Convention on Human Rights 1950 (section 6 of the Human Rights Act 1998). However, at no point in the Consultation is reference made to the responsibility that broadcasters have. Indeed, in considering whether a restriction was necessary, the ECHR in *Wingrove v United Kingdom* (1996) held that:

the exercise [of the freedom of expression] carries with it duties and responsibilities
(emphasis added)
8. Notably, this omission may explain the ambiguous language used in the Proposed Code that ostensibly gives broadcasters virtually unrestrained freedom. There is little imperative for a broadcaster to consider whether the material is appropriate, as the public itself is manifestly given the task to complain about inappropriate programmes. This offers little comfort when vulnerable persons such as children may involuntarily be exposed to

inappropriate material, and the burden of dealing with any negative consequences is left to their parents and their community. Greater emphasis should be placed on the social responsibility that producers and broadcasters have for utilising such a powerful medium, particularly when consumed by impressionable people on a mass scale.

Section 4 of the Consultation

9. The last sentence of draft Rule 1.2 should be re-written as follows:

*If such material is not encoded then a clear verbal **and visual (if televised)** warning must be given before the programme starts.*

10. The above amendment would reinforce the intended message on a televised medium. Some viewers may be inattentive or distracted before they begin watching a programme. Therefore, to ensure that a socially responsible approach is taken to broadcasting, every effort must be made to draw the attention of viewers to the fact that the material is unsuitable for children.

11. Similarly, the last sentence to draft Rule 1.4 should be re-written as follows for the same reasons:

*Broadcasters must ~~consider giving~~ **give clear audio and visual** warnings if the material may be unsuitable for young children.*

12. It is not conducive to a socially responsible society if producers were given the minimal burden of “considering” whether to give a warning. No guidance is provided as to what factors are to be considered, or by what standard a producer or broadcaster is to be judged if their consideration is to be called into question. It is proposed that this ambiguity be dispelled with an obligation that entails minimal cost and minimal disruption yet will assist in the protection of children, which should be the paramount concern.

Section 6 of the Consultation

13. It is proposed that the following wording be incorporated into the Proposed Code:

Material not relevant to the subject matter of a programme and having the propensity to lead the viewer to stigmatise communities should not be broadcasted, unless an effort is made to provide a balanced viewpoint and afford representatives of the communities concerned to express their point of view.

14. The above wording is proposed in light of the many programmes, particularly news programmes, dealing with the subject of terrorism and extremism post 11 September 2004.

15. An example of this is the in-depth reporting into the arrests of ten individuals in April 2004 under the Terrorism Act. Many surreptitious claims (denied by the police) were made that the individuals concerned were planning to destroy Old Trafford stadium in a terrorist attack. Many programmes forcefully reported the fact that they were Muslim and that their racial origins were pre-dominantly Kurdish and North-African.

16. Unfortunately, very little (or no) effort was made to follow up these programmes with the fact that that all ten suspects had been released without charge. This is often the case with many programmes on the subject matter of terrorism and extremism – much is made of the fact that the majority of the 550+ arrested under the Terrorism Act were Muslim. However, it is never reported only three of the 11 convicted under the Terrorism Act are Muslim (as reported by The Institute of Race Relations in September 2004). Of the three

Muslims convicted, none were convicted for commissioning an act of terrorism per se: two were convicted for credit card fraud. Nonetheless, the MCB feels that the Proposed Code ought to put some restraint on sensationalist reporting that will have the propensity to stigmatise the Muslim community and cause many vulnerable members to fear for their security and inhibit their attempts to integrate into British society.

17. Given the existing codes, a complaint could not have been made to Ofcom, despite the fact that the quality of reporting in such programmes was inappropriate and hurtful to many members of the Muslim community. The suggested wording would therefore assist in creating a higher quality of programming in Britain.
18. The MCB believes the above wording is congruent with the stated aim of Ofcom that material “likely to lead to disorder is not included in television or radio services.” Although it could be argued that such a restriction as suggested is indirectly incorporated in the Proposed Code, the pervasive ambiguity in the Proposed Code does not afford a complainant much ground upon which to bring a producer or broadcaster to account. Therefore, a clearer wording will ensure that producers maintain consistency to their proposed subject matter, and do not indirectly stigmatise a vulnerable communities for polemical reasons.

Section 7 of the Consultation

19. The MCB strongly recommends that the following wording be incorporated into the Proposed Code after Rule 4.3

Broadcasters should take advice from a group which is representative of the religion or religious denomination that is the subject of a programme.

20. This wording is similar to that in Section 7.2 of the ITC Programme Code, which appears to be omitted by the Proposed Code. Unhelpfully, the Ofcom Consultation provides no explanation for why this paragraph has been omitted other than that the new rules are a “simplification.” This omission is strongly resisted by the MCB.
21. The MCB has received many complaints from its affiliates and from members of the British Muslim community with regard to the factual misrepresentation, wilful distortion and gross inaccuracy in the portrayal of Islam and British Muslims. Examples are proved in paragraphs 25 to 27 of this response.
22. The MCB is an organisation with limited funds and staffed by mostly voluntary workers, and does not have the resources to monitor broadcasts to ensure that the British Muslim community of Islam is not misrepresented. Very little effort is made by broadcasters to ensure the accuracy or truth of their reports. Some efforts have been made by some broadcasters to consult the MCB on some dramatic programmes or documentaries, but this is usually *ex post facto* and thus devoid of meaningful benefit to any concerned party.
23. It hard to conceive what benefit there is to the British community if broadcasters were given a free reign to broadcast factually incorrect material and expect diligent viewers to complain to Ofcom. The opprobrium created by the broadcast will still subsist with viewers who were unaware of the accurate facts or who may not be aware of any action subsequently taken by Ofcom. However, in contrast, it would be more beneficial to the British community (in ensuring the quality of British programming) and for the British Muslim community (in creating a less offensive viewing experience and reduced feeling of alienation) if attempts were made to consult as early on in the programme-making process as possible.

24. The proposed wording has been drafted as a strong recommendation rather than a direction, to ensure that broadcasters are not “restrained” in their programme-making, yet given the opportunity to demonstrate responsibility and social-awareness. Examples of manifestly (and in some cases, intentionally) incorrect programmes that will have avoided offence and misinformation by consultation with the MCB are provided below:

25. *England Expects*, broadcasted on BBC1 on 5 April 2004

The programme depicted the growth of a white racist movement opposed to Muslims in East London. The main female Muslim character was depicted as a practising Muslim with a successful career in with an investment bank. However, she was depicted as praying at times at which a Muslim is not permitted to pray simultaneously at a time when a call to prayer is not made (i.e. just following sun-rise). Additionally, she is habitually portrayed as wearing a religious headscarf (a hijab). However, her wearing of the hijab is contradictory in the film, and not worn in situations in which a Muslim woman might be expected to be wear one.

The MCB was consulted in this programme, but only shortly before broadcast. Representations were made to the BBC1, but no changes were subsequently made to the programme.

26. *Spooks*, broadcasted on BBC1 on 9 June 2003

The programme generated the greatest amount of complaints to the MCB. The episode pandered to grossly offensive and Islamophobic caricatures of Imams, Muslim students and mosques.

Although Broadcasting Standards Commission (the **BSC**) concluded its investigation in favour of the BBC (notwithstanding its acknowledgement that the programmed had “appeared to be an affront to [Muslims’] faith and dignity”), the BSC claimed that the programme team “drew on the expertise of a Muslim adviser who in turn consulted other leading Muslims.” The MCB was not consulted, and nor is it aware of any “leading Muslims” who were consulted. Indeed, the identity of the “Muslim adviser” was never furnished. This lack of authoritative consultation led to many Muslims being affronted by the broadcast in question.

27. *The Great British Asian Invasion*, broadcasted on Channel 4 on 8 October 2004

The programme chronicled the recent history British Asians, and included a significant segment on young British Muslims. The content was factually incorrect, and is the subject of a current complaint to Ofcom. Complaints included the grossly incorrect definition of the word “fatwa” as a death sentence, notwithstanding its accepted meaning (corroborated by the Oxford English Dictionary) as an “authoritative ruling on a point of Islamic law.” There were further inaccuracies and denigration of the British Muslim community, which would have been avoided had the programme makers consulted a representative organisation such as the MCB.

28. In addition to the above comments, the MCB feels that the ambiguous wording in the Proposed Code (such as “a proper degree of responsibility” in Rule 4.1 and “improperly exploit” in Rule 4.6) are devoid of efficacy. It is recommended that guidelines or a clearer explanation of what is intended by Ofcom be furnished for comment, as the lack of clarity is likely to lead to an affront to many people for whom religion is a sensitive issue.

Section 11

29. MCB recommends the term “private information” be defined to avoid ambiguity. Suggested wording would be:

“Private Information” includes without limitation a person’s age, financial status, racial origin, religious affiliation, physical or mental health or condition, political opinion etc.

30. The above includes information considered to be “sensitive personal data” by the European Union and incorporated into British law since 1998. Its jurisprudence should be reflected in the Proposed Code with the equivalence to that afforded to jurisprudence from the European Court of Human Rights.

Conclusion

31. Socially responsible broadcasting ought to be an imperative when it comes to broadcasting programmes that include material on Muslims or Islam in general, particularly in the current climate.
32. The results of a poll conducted by YouGov in November 2002 on behalf of the Islamic Society of Britain (www.isb.org.uk/iaw/docs/SurveyIAW2002.pdf) should also be considered. The poll found that that 74% of Britons said that they knew "nothing or next to nothing" about Islam whilst 64% of Britons said that their main source of information on Islam and Muslims was from the media. These results strongly indicate how programs can influence the opinions of a British audience on Muslims and Islam.
33. Manifest inaccuracy is not conducive to educating a largely uninformed audience. Every attempt should be made to ensure that broadcasters maintain the truth, are responsible in the content of their programmes, and fair in their assessment of a community that the Census 2001 shows is suffering from the lack of investment, resources and opportunity. An additional lack of understanding, fairness and consultation and will not help that community integrate into British society.

The Muslim Council of Britain
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