

*Diploma in Journalism*

**BROADCAST REGULATION**

**BR20**

Sample 3

Time allowed: 1 hour

**Instructions:**

- Put your **URN** at the top of each page and ensure page numbers are used
- Do **NOT** include your name or the training centre at which you are sitting the exam
- Dictionaries and other reference books are **NOT** allowed
- You have five minutes to read the paper before you start
- Answer **2 out of 3** questions

**Information:**

- The maximum score for this paper is 100 marks.
- Candidates are advised to allocate their time proportionately.
- The *Examining Body* for this paper is the NCTJ. The *paper reference* is BR19.

**DO NOT OPEN THIS PAPER UNTIL TOLD TO DO SO BY THE INVIGILATOR**

For each question you should provide a clear summary of the regulatory and ethical issues relevant to each scenario. The report should include reference to the relevant sections of the Ofcom code.

### **Question 1**

On 1 April 2017 a nail bomb was detonated in a well-known gay night club in central London. 18 people were killed and another 25 were injured, with several people critically injured.

At 10pm the following evening the tragedy is the focus of a live discussion programme on satellite TV religious channel *Praise the Lord* following a pre-recorded news package.

The news presenter Jenny Reynolds who is chairing the discussion says: *“This loss of life is truly shocking and we are praying for the family and friends of those who were killed and maimed by the bomb. However, I’m sure in the cold light of day that the families of the victims will be reflecting that this could have been easily avoided.*

*“If their loved ones had not been gay, then they wouldn’t have been in the club in the first place.”*

She continues to refer to homosexuals in a derogatory way, adding: *“In light of what has happened, we want to offer help to those who are struggling with their sexuality.*

*“All you need to do is sign up for our week-long course in Oxford next month which will help you to see the light and get back on the right path.*

*“Pastor Jim Ranger, the wonderful tutor of this course, has healed countless people who struggled with their sexuality and brought them back to heterosexuality, which has changed their lives for the better. It’s sad to think that if only some of those who were caught up in the bombing yesterday had come to their senses earlier they would still be alive and well.”*

### **Task:**

Summarise the regulatory and ethical issues arising in relation to the comments from *Praise the Lord* presenter Jenny Reynolds.

**(50 marks)**

## Question 2

*Showbiz News* is a daily 30-minute TV programme broadcast at 8pm on weekday evenings, discussing the biggest celebrity stories in the UK.

On Tuesday, 10 May, *Showbiz News* reports on the court case of Jed Rafferty, drummer in British heavy metal band Hot Stripe, who was found guilty of possessing illegal drugs.

The news package includes a statement from the drummer's barrister, Simone Stafford, outside court who says that Jed continues to argue his innocence and will appeal his conviction.

Jed stands next to Simone as she is reading out the statement and camera flashes are visible as over thirty press photographers capture the drummer's reaction.

The package ends and the programme crosses back to *Showbiz News* presenter, Jordon Bing. Live in the studio is fellow Hot Stripe band member, Rick Pemberton.

The presenter asks Rick if this conviction is likely to affect the future of the band, especially if it wants to tour abroad, to which he replies,

*"Jed is such a mainstay of Hot Stripe and we just couldn't imagine touring without him because of something as trivial as a drugs conviction. We knew he used drugs from time to time, let's face it we all did as it's part of the rock and roll lifestyle, but it was never such a bad habit that it affected his work with the band. I'm sure he will be back behind the drums in no time."*

The interview continues and the presenter asks Rick about his own previous experience with drugs:

*"I've never hidden the fact that I used drugs in the past but I entered rehab about five years ago and have been completely drug-free since then. I've turned my life around by finding inner peace through learning how to meditate."*

*"It helped me so much that I decided to spread the word about the benefits of meditation. So I've produced a DVD about different techniques which is released next month, costing £9.99 and available exclusively via my website at: [Rickpemberton.com/meditationtechniques](http://Rickpemberton.com/meditationtechniques). I hope people benefit from meditation as much as I have."*

### **Task:**

Summarise the regulatory and ethical issues arising in relation to the pre-recorded news package and the interview with Rick Pemberton.

**(50 marks)**

### Question 3

The leader of the Green Democrats Party, Tracy Telford, is a guest on current affairs radio programme, *News Review*, broadcast nightly between 9.30pm and 10pm.

She is on the programme to discuss her plans to introduce legislation to tackle pollution caused by emissions by diesel vehicles.

Mid-way through the programme, without warning, the host Ann Nicholson changes the subject to social media rumours about one of her party's MPs.

Ann Nicholson says:

*"This is interesting Tracy, but while you're on the programme I want to ask you about these allegations going around Facebook in the last couple of weeks about a key figure in your party.*

*"I'm not going to name names on air, but if you go onto Facebook it's easy to see who I'm referring to - it's all over social media.*

*"It's been alleged that this particular MP was involved in sexually grooming teenage boys when he worked as a teacher in the 1970s and 1980s."*

Ann Nicholson continues, quoting what she suggests is *"confirmation from one of the boys who was allegedly a victim of the grooming."*

The evidence she quotes is, in places, extremely graphic.

Ann Nicholson asks Tracy Telford to respond live on air.

#### **Task:**

Summarise the regulatory and ethical issues arising in relation to:

- (a) Questioning Tracy Telford on the allegations
- (b) Outlining the graphic allegations on air.

**(50 marks)**

**Total: 100 marks**

© NCTJ 2017

### Marking guide

The following generic performance criteria should be assessed:

- The candidate's ability to identify the main regulatory issues and problems in a given scenario
- The candidate's ability to analyse and discuss the main regulatory issues and problems in a given scenario
- The candidate's ability to identify the relevant sections of the Ofcom code (but not necessarily the numbers and sub-sections).
- The candidate's ability to explain how the regulatory problems/issues identified might be mitigated/minimised or avoided (where relevant) [there should be some discussion of how problems may be ameliorated - e.g. warnings, post-watershed broadcast, pixellation of identity and explanation of when broadcasts are 'warranted']
- Reference to relevant Ofcom adjudications (where relevant)
- Reference to relevant penalties/sanctions under the Ofcom code (where relevant)
- The overall quality of the assignment

#### **Grade A (70%+)**

An answer in this band will address the question in a direct and coherent manner and be well structured. The answer will provide an excellent exposition and explanation of all the relevant regulatory issues with reference to the relevant section(s) of the Ofcom Code. The answer will provide a good analysis of how the identified problems might be avoided or minimised and make reference to relevant adjudications, where relevant. The answer will demonstrate a clear sense of the likely penalties to be imposed by Ofcom.

#### **Grade B (60%-69%)**

An answer in this band will be distinguished from grade A answers by showing a slightly less comprehensive engagement with the regulatory issues and a slightly less confident understanding and application of the Ofcom Code. Nevertheless answers will demonstrate a good awareness of the key regulatory issues/problems and identify the relevant sections of the Ofcom Code. There is likely to be some discussion of how the regulatory problems might be minimised/avoided and reference to likely penalties and relevant adjudications.

#### **Grade C (50%-59%)**

Answers in this band will offer a competent attempt at answering the question and provide a reasonable attempt at explaining and discussing the main regulatory issues with reference to the relevant sections of the Ofcom Code. Answers in this band will be distinguished from grade B answers by providing less analysis of the issues. However there will be no key omissions or misinterpretations of the Code. Reference may be made to likely penalties and the correct sections of the Ofcom Code.

**Grade D (40%-49%)**

Bare fail answers will be those which make some attempt to answer the question but fail to engage satisfactorily with the Ofcom Code and apply the Code to scenario featured in the question. Some of the regulatory issues may be identified but there will be omissions or misinterpretations which bring into question the candidate's knowledge and understanding of the Code and his/her ability to apply it to journalistic scenarios. References to the Code and or penalties for breaching the Code will be weak as compared to a grade C answer and analysis will be limited.

**Grade E (30%-39%)**

Answers in this band will offer little substantial of relevance and leave a serious question as to whether the candidate understands any (relevant) section of the Code. Few of the relevant regulatory issues will be identified and there will be key omissions and/or understandings of the Code. The candidate will not analyse the problems with sufficient reference to the Ofcom Code.

**Grade F (20%-29%)**

Answers in this band will offer nothing substantial of relevance, whatever its source, and leave a serious question as to whether any (relevant) section of the Ofcom Code has been studied and understood. None of the relevant sections of the Code are identified and the candidate shows little understanding of the relevant regulatory issues and how they might be avoided.

The scenarios used in broadcast regulation exams are designed to test candidates' knowledge and application of the Ofcom Code rather than media law. The NCTJ Diploma's essential media law and regulation exam tests knowledge of media law. However if there is a media law issue related to any scenarios used in the broadcast regulation exam, markers should reward candidates for correct exposition of the law in addition to accurate consideration of the relevant regulatory/compliance issues. It is important to note, however, that candidates are able to achieve a grade C or higher without referring to any legal considerations.

## Question 1

This question has been written to assess candidates' knowledge and understanding of Section 2, Harm and Offence and Section 4, Religion. Although candidates are not required to give the name and number of each section and individual rules, they should make clear reference to these two distinct areas of the code. Candidates should outline how the broadcast might have infringed these rules.

Praise the Lord is a religious programme and therefore must abide by Section 4 of the Ofcom code. This ensures that religious broadcasters exercise the proper degree of responsibility.

During her live broadcast, presenter Jenny Reynolds states that she can offer help to people who are "struggling with their sexuality". She implies that sexuality is not something, which is inherent, but a decision or a lifestyle choice. She implies that homosexuality can be overcome. Rule 4.6 of the Ofcom code states that: *"Religious programmes must not improperly exploit any susceptibilities of the audience."* This programme may be in breach of 4.6 because 'susceptible' people could be made to feel guilty or ashamed of their sexuality or even encouraged to take action to change their sexuality.

Jenny Reynolds says to prevent someone becoming caught up in such an attack; all it would take would be attending a week-long course. She states that the Pastor Jim Ranger is able to "heal" or cure people, as if homosexuality is an illness. Rule 4.7 states that: *"Religious programmes that contain claims that a living person (or group) has special powers or abilities must treat such claims with due objectivity."*

As well as breaching Section 4 of the Code, the presenter's comments could be considered extremely insulting and provocative, especially given the context of the bombing.

Section 2 of the Ofcom code ensures that generally accepted standards are applied to the content of television services so as to provide adequate protection for members of the public from the inclusion in such services of harmful and/or offensive material.

In effect, Ms Reynolds suggests the victims are at blame for what happened and says it could have been avoided had they not been gay. She also says that when they "went back to heterosexuality", their lives "changed for the better", implying they led an unhappy life because of their sexuality.

Rule 2.3 states that in applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context. Such material here includes discriminatory language and Jenny Reynolds uses derogatory terms for homosexuals throughout this commentary.

Candidates who also refer to Rules 3.2 and 3.3, which reflect the standards' objective on protecting the public from the inclusion of offensive and harmful material, should be rewarded. Under 3.2, material which contains hate speech must not be included in television and radio programmes except where it is justified by the context. According to 3.3, material which contains abusive or derogatory treatment of individuals, groups, religions or communities, must not be included in television and radio services except where it is justified by the context.

Candidates should outline the arguments, which the broadcaster might use to defend itself against the complaint. In this instance this should include some mention of the importance of 'context' as described in Section 2. The broadcaster could argue that religious programmes often consider miracles and faith healing by their very nature and this programme was no different. It might also argue that it had not implied the pastor had special powers, but that the treatment would be practical and evidence-based.

Candidates should mention some of the measures the broadcaster might have taken to avoid any possible infringement. In this case, Ms Reynolds would be required to dramatically change her language and description surrounding the attack and although some mention of the course might be made, it would need to be very carefully described. Ideally the discussion would be best avoided altogether.

Candidates should be rewarded for mention of relevant case studies and sanctions available for such breaches, for example:

In May 2016 Christian programme *Heart for the World* was found to be in breach of Rules 2.1 and 4.6 for claiming serious illnesses, debt and personal problems could be cured through donation of \$1,000 (or similar adjudication.)

The statutory sanctions available to Ofcom include the imposition of a financial penalty.



## Question 2

This question has been designed to assess candidates' knowledge and understanding of Section 1, Protection the Under-Eighteens, Section 2, Harm and Offence and Section 9, Commercial References. Although candidates are not required to give the name and number of each section and individual rules, they should make clear reference to these three distinct areas of the code. Candidates should outline how the broadcast might have infringed these rules.

Section 1 of the Ofcom code ensures that people under eighteen are protected. Section 1.10 in particular states that the use of illegal drugs *"must not be condoned or glamorised"* in programmes broadcast before the watershed, unless there is editorial justification.

During the interview with Rick Pemberton, the band member suggests the drugs conviction is "trivial." He also states that it's part of the rock and roll lifestyle. His attitude here is evidently blasé, as if drug use is part and parcel of a pop star's way of life. This could be seen as condoning drug use.

Section 2 of the Ofcom code ensures that generally accepted standards are applied to television and radio services to provide adequate protection for members of the public from harmful and/or offensive material.

The package features a statement from Jed Rafferty's barrister outside court, which is accompanied by repeated camera flashes from over thirty press photographers present. Section 2.12 states that: *"Television broadcasters must take precautions to maintain a low level of risk to viewers who have photosensitive epilepsy."* This material should not have been broadcast unless justified and certainly not without a warning.

In the second part of the interview, Rick discusses how he turned his life around through practising meditation. He says, because of the transformation, he wants to share those techniques via his new DVD. The rock star informs viewers that it will cost £9.99 and will only be available via his website - this is blatant and unashamed advertisement of the product. Section 9 ensures that editorial content is distinct from advertising. Section 9.4 states that products, services and trademarks must not be promoted in programming.

Candidates should outline the arguments, which the broadcaster might use to defend itself against the complaint. In this case although there is little defence against the breaches of Sections 1 and 9, the producers might argue that the context of the interview clearly showed that Rick had turned his life around and therefore the implication was that drugs were a negative and damaging aspect of his life.

Candidates should mention some of the measures the broadcaster might have taken to mitigate or avoid any possible infringement. In the case of the footage showing camera flashes, Showbiz News could argue it was editorially justified because it provided balance to the report and one way to minimise the risk would have been to give an adequate verbal and, if appropriate, text warning at the start of the news report.

The presenter could have challenged Rick during his interview to remind him that he might be speaking to younger people and encourage him to encourage people not to take part in illegal activities. Finally, the producers should have liaised with Rick beforehand and asked that no reference to the forthcoming DVD be made.

Candidates should be rewarded for mention of relevant case studies and sanctions available for such breaches, for example:

In 2013 music TV channel Scuzz TV was fined £10,000 by Ofcom for broadcasting a video which featured images of drug-taking, nudity and homophobic language, before the 9pm watershed (or similar adjudication).

Ofcom sanctions include broadcasting a correction or apology or a financial penalty.

### **Question 3**

Question 3 has been written to assess candidates' knowledge and understanding of Section 7, Fairness and Section 2, Harm and Offence. Although candidates are not required to give the name and number of each section and individual rules, they should make clear reference to these two distinct areas of the code.

Section 7.1 of the Ofcom code ensures that broadcasters avoid unjust or unfair treatment of individuals or organisations in programmes. In this interview, host Ann Nicholson has been unfair to both the unnamed MP and the leader of the opposition, Tracy Telford.

While Ann Nicholson does not explicitly name the MP at the heart of the scandal, she directs people to Facebook where they can find that information. She says: “if you go onto Facebook it’s easy to see who I’m referring to - it’s all over social media.”

As these allegations are mere speculation, News Review is being extremely unfair to the MP in highlighting them (while also putting themselves in danger of being sued for libel).

Section 7.9 says: *“Broadcasters should take reasonable care to satisfy themselves that material facts have not been presented in a way that is unfair to an individual or organisation.”*

As the allegations have been widely detailed on social media, it will be obvious to the audience whom News Review is implicating. That MP is clearly not able to defend himself from the unjustified attack. Section 7.11 exists to ensure that, if a programme alleges wrongdoing or makes other significant allegations, those concerned should normally be given an appropriate and timely opportunity to respond.

In terms of the treatment of Tracy Telford, Ofcom states that participants must be informed about areas of questioning. In this circumstance, it is clear the questioning about the MP has come as a surprise to the Leader of the Green Democrats Party.

Section 7.3 states that participants *“must be made aware of any significant changes to the programme as it develops which might reasonably affect their original consent to participate, and which might cause material unfairness.”*

At times, the evidence from an alleged victim is graphic. Section 2 of the Ofcom code ensures that generally accepted standards are applied so as to provide adequate protection for members of the public from the inclusion in such services of harmful and/or offensive material.

Section 2.3 indicates that such material may include sex, sexual violence and distress. Without appropriate warning, listeners would not expect such graphic detail about the

incidents which are alleged to have taken place and they may, therefore, find the material to be distasteful and offensive.

Candidates should outline the arguments, which the broadcaster might use to defend itself against the complaint. In this case the inclusion of unsubstantiated accusations against an identified individual could not be defended, however the broadcaster might argue that it is common practice for interviewers to present additional questions during news interviews to reflect changing news stories. They might also argue that the accusations were so serious that their discussion was in the public interest. It could also be argued that this programme is a current affairs show, where listeners might expect to hear adult and challenging material.

Candidates should mention some of the measures the broadcaster might have taken to mitigate or avoid any possible infringement. In this case the advice of a lawyer should certainly have been sought prior to any discussion of the allegations against a named individual, both for legal and regulatory reasons. If discussion of the issue was thought to be in the public interest, measures should have been taken to better brief Tracy Telford for the interview and to warn listeners about the upcoming content.

Candidates should be rewarded for mention of relevant case studies and sanctions available for such breaches, for example:

In October 2013, BBC's *Newsnight* and ITV's *This Morning* were found to be in breach for airing sex abuse allegations about Lord McAlpine.

[\*This Morning\* presenter Phillip Schofield](#) handed Prime Minister David Cameron a list of Conservative politicians, which he said were possibly involved in child sex abuse allegations live on air.