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## Standards Cases - Upheld cases

### The Big Story: My Word *Fox News, 28 January, 22:00*

#### Issue

My Word is a personal comment section at the end of an hour-long news programme called The Big Story. On the day of the publication of the Hutton Inquiry Report into the circumstances surrounding the death of Dr David Kelly (which contained criticism of the BBC), John Gibson, the programme anchor, delivered his regular editorial opinion piece. In the course of which, John Gibson claimed:

- a. that the BBC had "a frothing-at-the-mouth anti-Americanism that was obsessive, irrational and dishonest";
- b. that the BBC "felt entitled to lie and, when caught lying, felt entitled to defend its lying reporters and executives";
- c. that the BBC reporter, Andrew Gilligan, in Baghdad during the American invasion, had "insisted on air that the Iraqi Army was heroically repulsing an incompetent American Military";
- d. that "the BBC, far from blaming itself, insisted its reporter had a right to lie – exaggerate – because, well, the BBC knew that the war was wrong, and anything they could say to underscore that point had to be right".

24 viewers complained to Ofcom that that the item was "misleading", "went far beyond reasoned criticism" and "misrepresented the truth".

In light of such a damaging critique, we asked Fox News whether it had offered the BBC an opportunity to respond.

#### Response

- a. As for the factual basis of John Gibson's piece, Fox News said that the BBC had appointed a special executive to monitor 'pro-Arab' bias at the network; that tapping the phrase "BBC anti-American" into Google resulted in 47,200 hits; that the BBC "continually bashed" American policy and ridiculed the American President; and persecuted Tony Blair because he was pro-American. These facts justified the phrase "frothing-at-the-mouth anti-Americanism that was obsessive, irrational and dishonest".
- b. The BBC "felt entitled to lie and, when caught lying, felt entitled to defend its lying reporters and executives" was a summation of the BBC's response to the complaint against Andrew Gilligan's embellishment of his interview with Dr David Kelly.
- c. Fox News accepted that Andrew Gilligan had not actually said the words that John Gibson appeared to attribute to him. However, Gibson was paraphrasing Gilligan's words on April 5 2003 when, as US troops moved

towards Baghdad, he said "I'm at the centre of Baghdad ... and I don't see anything, but the Americans have a history of making these premature announcements". The Iraqi Minister of Information said that the Iraqis had recaptured the airport, which Gilligan and the BBC, Fox News contended, accepted at face value.

- d. When it became clear that Gilligan's source, Dr David Kelly, was not as highly placed in the Government as Gilligan had claimed, BBC executives did not relay their concerns to editorial staff as quickly as they should have done, with the result that Gilligan's story gained currency. BBC executives at the highest level "argued that the higher form of journalism practised by the BBC required their vigorous defence of Gilligan". This supported Gibson's statement that "the BBC ... insisted its reporter had a right to lie". It was clear from their reporting of the war, argued Fox News, that the BBC took a position that the war was wrong.

Fox News did not contact the BBC for a reaction or response to John Gibson's comments since this "segment is reserved for his opinion only". But it pointed to an earlier news report that day from London about the Hutton Inquiry

## Decision

The Programme Code requires that all factually-based programmes should be characterised by "a respect for truth"; that in Personal View programmes the opinions expressed, however partial, should "not rest upon false evidence" and the "facts should be respected". To ensure fairness, programmes which contain a damaging critique of any individual or organisation should normally offer those criticised an opportunity to respond.

- a. Ofcom does not accept that Fox News's claim that an appointment of a monitor to detect 'pro-Arab' bias is proof of an "anti-Americanism that was obsessive, irrational and dishonest" within the BBC. Similarly, we do not believe that a simple Internet search for the words "BBC" and "anti-American" is sufficient evidence to back-up such a statement. (An Internet search will only identify those sites which contain those words, it will not make any editorial judgement over how those words are used). Fox News stated that the BBC's approach was "irrational" and "dishonest". However, it did not provide any evidence other than to say the BBC bashed American policy; or that it ridiculed the US President without any analysis; and that it persecuted Tony Blair.
- b. We do not accept that the Hutton Inquiry supported the statement that the "BBC felt entitled to lie and when caught lying, felt entitled to defend its lying". The Inquiry stated that BBC editorial system was "defective". At no stage did Hutton accuse the BBC management of lying.
- c. Fox News argue that the presenter was not directly quoting Gilligan when he claimed that the reporter "insisted on air that the Iraqi Army was heroically repulsing an incompetent American Military". However, the manner in which John Gibson delivered these lines and the fact that he indicated that Gilligan said it "on-air" gave the distinct impression that he was quoting Gilligan directly. It did not appear that he was summarising Gilligan's reporting. Furthermore, Fox News failed to provide any evidence, except that it felt that Gilligan's reporting of the US advance into Baghdad was incorrect, that

supported this statement.

- d. As previously stated the Hutton Inquiry concluded that the BBC editorial system was "defective". There is no evidence, and Fox News did not provide any, that the BBC "insisted its reporter had a right to lie". Fox News argue that from its "study of BBC reporting" it could claim that the "BBC knew that the war was wrong". Fox News's "study" appears to be based on its own viewing and listening of BBC services. It could provide nothing more than this statement to back up this assertion.

We recognise how important freedom of expression is within the media. This item was part of a well-established spot, in which the presenter put forwards his own opinion in an uncompromising manner. However, such items should not make false statements by undermining facts. Fox News was unable to provide any substantial evidence to support the overall allegation that the BBC management had lied and the BBC had an anti-American obsession. It had also incorrectly attributed quotes to the reporter Andrew Gilligan.

Even taking into account that this was a 'personal view' item, the strength and number of allegations that John Gibson made against the BBC meant that Fox News should have offered the BBC an opportunity to respond.

**Fox News was therefore in breach of Sections 2.1 (respect for truth), 2.7 (opportunity to take part), and 3.5(b) (personal view programmes - opinions expressed must not rest upon false evidence) of the Programme Code.**

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## **Wire in the Blood** ***ITV1, 26 February, 2100***

### **Issue**

This crime drama series was based on the books of Val McDermid, in which a psychologist and police detective investigate serial killers. Eleven viewers were concerned about the violence in this episode, particularly a scene very near the beginning, in which a man was murdered by a nail bar (a sharply-angled metal tool) being rammed down his throat.

### **Response**

ITV1 believed that, by this second series, the drama was clearly established as dark, edgy and sometimes brutal. Recognising that it was not to everyone's taste, the broadcaster had made sure that it had provided the clearest signposting on screen to ensure that viewers made an informed choice. The announcement stated "This programme contains violent and disturbing images and scenes of a sexual nature".

The opening scenes gave snapshot images of violence, with the more graphic acts shown much later in the programme, after 21:45. The broadcaster believed that the scene near the beginning, of a man being beaten up, was brief and restrained. The detective, Carol Jordan, then described his murder - her quiet and understated delivery prevented any perception that the crime was being highlighted or glorified.

The scene featuring the nail bar's impact was less than one-second in duration, with the majority of the scene focused on Jordan's and the psychologist's expressionless faces. ITV1 believed that this established the seriousness of the crime, without dwelling on the act or being gratuitously violent.

Later on in the programme, there were scenes of violence, which were intrinsic to the subject matter. ITV1 believed that the portrayal would not have caused widespread offence. Many of the shots lacked definition or real time motion, making them more indistinct and reducing their impact.

The broadcaster believed that there was a place in the schedule for more edgy, challenging drama and, whilst its appeal did not extend to the entire audience, this should not preclude the exploration of this genre.

## Decision

Within a broad range of drama on ITV1, viewers expect some programmes to have a darker, more adult tone. We also recognise that broadcasters, such as ITV1, must explore and experiment. However, there is also an expectation that any programmes starting immediately after the 9pm Watershed will not swiftly include stronger material, more suited to later in the schedule. Last year, Ofcom's predecessor, the ITC, warned the broadcaster about scenes of violence in the first series and the need to take account of its scheduling immediately after the Watershed.

In this episode, we accept that the warning would have alerted viewers to the nature of the drama, but felt that this did not clearly indicate the strength of the images from the outset, in particular the brutal murder. The pictures of the nail bar being rammed down a victim's throat occurred only three minutes into the programme. Its impact was immensely strong, given the unusual method of murder, the imagery in close-up and the accompanying rasping noises as the tool was forced in. Although this scene was brief, we believe that the depiction of such a gruesome murder, so soon after the 9pm Watershed, would have gone beyond viewers' expectations, even for this genre.

### **This scene was in breach of Section 1.2 (Family Viewing and the Watershed) and Section 1.7 (Violence) of the Programme Code.**

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