

Ofcom's Due Impartiality Decisions in Broadcasting: The Case of Minority and Foreign  
Channels

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### Abstract

This study investigates UK communications regulator Ofcom's decisions regarding due impartiality complaints it received from the public about radio and television broadcasters. Specifically, it examines the behaviour of Ofcom while investigating or dismissing the complaints on due impartiality, and reporting the results of investigations to the public for domestic mainstream channels and minority or foreign channels. Decisions made between September 2013 and September 2014 on due impartiality complaints and Ofcom's reports regarding the decisions were analysed. Accordingly, complaints about minority and foreign channels were more likely to lead to full Ofcom investigations than complaints about domestic mainstream channels. Additionally, while reports on cases of minority and foreign channels provided more references to the transcripts of the programmes, reports on domestic mainstream channels provided more references to legal and regulatory texts and statements from the complainants. The differences found here show that results of investigations on minority and foreign channels are reported and explained based heavily on content as a proof of misconduct.

## 1. Introduction

There is research on Ofcom covering various topics including but not limited to the foundation of Ofcom and how it is perceived by the public and its roles in promoting media literacy; however, there is a dearth of academic studies on the “due impartiality” regulations of Ofcom, considering the limited amount of data (Hirst, 2007). Having not found a similar study by the time of the beginning of the data collection process here, the data showing disproportionate involvement of minority and foreign radio and television channels among due impartiality reports and investigation led to this investigation of how these due impartiality decisions are made, and how they are communicated to the public in the cases of these channels.

According to a 2011 census, 18.1% of citizens of the UK do not identify as White British (“Ethnic Minority Groups and Communication Services”, 2013). These ethnic minority groups constitute a large part of the audience for media outlets producing content for or related to ethnic minorities. These media outlets include ethnic minority radio and television channels based in or outside the UK, foreign radio and television channels, channels that broadcast content in a language other than English, and channels that broadcast content designed to appeal to minority concerns or minority issues of discussion. Based on Datamonitor’s report (2010), the UK media industry, including the segments of broadcasting and cable television, publishing, movies and entertainment, and advertising, had a value of approximately £25 billion by the year 2010, where broadcasting and cable television had the largest share (41.5%) among other media.

According to the Minority Groups and Communications Services (2013) report published by Ofcom, the agency in UK that regulates media and communication services and various types of infrastructure including radio and television broadcasting, watching television is a popular

pastime activity among members of ethnic minority groups in the UK. The report also indicates that mainstream private and public media outlets are not preferred among minorities and consequently, when compared to the population average, larger proportion of members of ethnic minority groups subscribe to foreign language channels in the UK.

One key Ofcom rule pertaining to the responsibilities of radio and television broadcasting licensees is the *due impartiality* rule, which requires licensees to provide due weight to different significant opinions and approaches while covering news, subjects of political or industrial controversy, and issues of public policy (Ofcom Broadcasting Code 2013). Ofcom guides broadcasters to focus on specific content, type of the programme and audience expectations while complying with due impartiality requirements (Steel, 2012, p. 83). As a regulatory agency, Ofcom is responsible to not only ensure that the stakeholders operating in the areas mentioned above comply with the relevant codes, but also take the necessary measures while operating in scope of its functions to establish the promotion of competition, development and public interests (Communications Act 2003, Sec. 3(4), 4(8)). Due impartiality takes aim at achieving this promotion by requiring different significant opinions and persons to be represented on radio and television.

The purpose of this study is to examine how Ofcom investigates due impartiality complaints, how it makes decisions on these investigations and explains its decisions in the reports, and whether there are different treatments towards certain communities in these investigations. Towards the purpose mentioned above, an Election Committee Report, one of five documents published by Ofcom on basis of investigations regarding elections, as well as the Broadcasting Bulletins, documents published by Ofcom every two weeks which report decisions

on viewer/listener complaints, were content analysed. The content analysis investigated: in comparison to domestic mainstream TV and radio channels, how much minority and foreign channels are investigated, how often they get breach decisions in investigated cases, and how Ofcom explains its decisions and reasoning to the public about these channels.



## 2. Ethnic Minorities in the UK: Mass Media Portrayal, Representation and Regulation

### 2.1. Representation of Views and Identities on Mass Media

Representation of views on matters of political controversy on mass media is shaped by the supply of news content by and for citizens (Hetsroni, 2010), and the demand created by citizens consuming the content, covering a wide spectrum of viewers and listeners (Phillips, 2011). This makes sufficiency and fairness of including minority issues in news media a matter of debate. According to Caspi and Elias (2011), when it comes to representation and regulation of representation, media *for* and media *by* minorities differ significantly in terms of design, function and control. Media *for* minorities often come with sponsorship of gatekeepers and mainstream stakeholders, or some amount of control by the regulators.

In mainstream media, cultural differences are often over-simplified and uniformly addressed, and most multiculturalist views are criticised for reinforcing the idea of ‘the exotic other’ in the majority, where a culture is perceived “as a closed system, with a fixed understanding of ethnicity” (Jackson, 2010). Additionally, mainstream media have been criticized for portraying ethnic minorities as a threat to the existing culture, and the economic system (Van Dijk, 1991; Fryberg & Stephens et al., 2012). Official statistics and media items about minorities, presented without other information such as socioeconomic factors related to living standards or how those minorities came to be there, also reinforce the wider public’s idea of minorities as ‘alien races’ who are there to live on the welfare of ‘their great country’ without giving anything back (Sassen, 1999). Misrepresentation of minorities on media reinforces existing stereotypes about such groups among the general public (Phillips, 2011).

Mainstream coverage of unconventional or controversial interests may be biased towards the majority, as media space is occupied by different stakeholders who are not always impartial (Wright, 1997). Critics argue that even if some issues are covered by mainstream media, such coverage is not always followed by open debate. Price (1995) indicates that mainstream coverage of minority issues only provides 'surface architectures' to create an illusion of fair inclusion and it tends to end with the conclusion of particular stories that create the demand for the coverage (cited in Jacobs, 2004). Narratives circulating in the dominant public spheres tend to reinforce the advantageous positions of the dominant groups in the society (Jacobs, 2004, p. 27). Consequently, Jacobs argues, representation of marginalised groups cannot solely depend on mainstream media and dominant publics, but active participation and alternative public spheres are needed. Likewise, according to Caspi and Elias (2011), fair representation of minorities in media would require regulatory measures to facilitate inclusion of minorities in content creation and distribution.

Given these issues pertaining to misrepresentation of minorities and lack of proportionate minority involvement in mainstream media, presence of televisions and radios based outside the UK or produced by minorities living in the UK is of critical importance for due coverage of minority issues and topics of debate that concern their audience. According to Sreberny (2005), for example, transnational communities seeking to keep in touch with their cultures and members of their 'communities' use media that are often independently owned, not part of large conglomerates. Minority media often changes the flow of communication from majority issues to minority issues (Ananthakrishnan, 1987) and challenge the mainstream and stereotypical representations of their communities.



While mainstream media may arguably answer the needs of minorities to reach a wider spectrum of audiences, minority media may be needed to provide additional public space. According to Jacobs (2004, p. 21) such a public space may be used to provide an area of debate and for improvement of the conditions the community lives in. Accordingly, it may also be used to keep mainstream media under watch, and increase visibility in civil society. Moreover, transnational communities often use media as a means of connection to their home. According to a survey by *Zentrum für Türkeistudien* in 1997, 55.7% of German Turks received their information from Turkish newspapers only (Çağlar, 2004). Çağlar suggests that transnationalism may promote cosmopolitanism; however, when it is restricted to the *topos* of ethno-cultural ties, it may hinder development of cosmopolitanism in the society (p. 53). Similarly, the Iranian diaspora in the UK resort to the media content they consume in the UK as a means to establish a connection with their Iranian identity (Sreberny, 2000).

Foreign journalists and news organisations are often denied access to some regions or accreditation for some events, while some are deported or arrested (Dettmer, 2016). Being the only European country with an entire appendix in its legislation on ‘dealing with international criticism’, Hungary is another example not entirely safe for international or minority journalists (Harris, 2011). While it has regulatory requirements to ensure and improve diversity in the media, the UK has been reported to fail at inclusion of ethnic minorities in employment (Scott, 2016). Additionally, foreign journalists attending events in the UK, especially ones from underdeveloped countries, face problems with receiving their visas in time and entry to the country (Osborne, 2016).

One of Ofcom's primary functions is to consider the interests of different ethnic communities while fulfilling its duties to "further the interests of all citizens and consumers" ("Citizens, Communications and Convergence," 2008). This requires Ofcom to regulate, investigate and sanction minority media channels in the same way it regulates, investigates and sanctions domestic mainstream media channels. Informing the licensees and the public on the outcomes of its investigations is one of the duties of Ofcom. How it informs citizens and how it justifies its decisions in reports may change on a case-by-case basis. When it comes to freedom of information, different stakeholders in a society have varying needs and demands from the state, as well as differing levels of access and influence in terms of language and status (Darch & Underwood, 2005).

Studies on minority media and broadcasting indicate that across Europe there are regulatory frameworks intended to enhance media pluralism and easy access to media by different minorities (Valcke, 2011a). However, these studies also underline how lack of resources and ill-advised regulation may contribute to underrepresentation of minority issues and lack of media pluralism (Valcke, 2011b). Research also shows that minority issues, languages and establishments are set back by policies of regulatory bodies in various countries (Besters-Dilger, 2007). For example, in 2004, head of the Ukrainian communications authority announced that all nationwide radio and television stations must broadcast content entirely in Ukrainian, while stations in minority settlement areas were required to broadcast at least fifty percent of their content in Ukrainian (p. 264). According to Schwartz (2015), standard democratic institutions do not provide minorities with the same level of access to political authority as their majority counterparts. Additionally, recognition based on certain characteristics of minorities does not

always address the needs of such minorities (p. 358). Indeed, according to a Council of Europe campaign report (“Media & Diversity,” 2010), most regulators in Europe do not agree that they need to ensure media pluralism and fight discrimination directly.

A reason for the setbacks like those mentioned above may be implicit bias against racial minorities. According to critics, authorities may be implicitly biased against ethnic and religious minorities in criminal justice system, policy making, and regulation. While consciously thinking about racial bias may be effective in avoiding discrimination, the same strategic processes may also increase racial bias while making judgments about people from a different race (Strick, Stoeckart, & Dijksterhuis, 2015). According to Jacobs (2004), dominant public spheres incorporate problems of cultural hegemony, however formally open they may be.

Levinson (2007) suggests that implicit racial bias is unknown to decision makers, and while it might seem obviously prejudicial to an outsider, especially to someone directly concerned with the issue, people have poor access to their cognitive functions regarding racial bias. Accordingly, making fundamental mistakes while remembering and evaluating facts about an issue or a case concerning a member of a racial minority is one of the prominent paradigms in implicit racial bias (Levinson, 2007). Moreover, in decision making processes where there are examples of significantly disproportionate racial representation, decision makers usually provide race-neutral justifications for the choices they make (Sommers & Norton, 2007). Based on Sommers and Norton’s findings, even in cases where all black prospective jurors were dismissed, attorneys found it too easy to provide race-neutral reasons for their decisions.

The general public and authorities’ approach on people and communities that are different may be explained by prejudice and bias. In many cases, both the public and the authorities tend to

approach different cultures, individuals, behaviour that does not comply with the general norms, or non-conforming social movements with fear, distrust or contempt, however under-representative or insignificant those may be (Cohen, 2002, pp. 53-55). According to Cohen, society labels non-conforming people as belonging to a group, and once the person is labelled as such, their actions are interpreted in terms of the status they are assigned (4). Cohen suggests that the spurious attribution process is not random, but associated with existing stereotypes people draw upon (56). Sibley (1995) reports that “fierce labour and immigration debates have co-existed next to relatively stable growth rates in countries like the United Kingdom and Ireland” (as cited in Pijpers, 2006). Cohen (2002) argues that overestimation of deviance or extremity leads to more visibility, harsher measures and reactions by the public and the authorities, and eventually more exaggerated conflicts between the minority and the majority (pp. 160-161).

On the other hand, the approaches of authorities to minorities and their media are not always found controversial. In the case of the UK, as of 2017, the public service broadcaster BBC provides news in 32 different languages on its website, and several languages in television and radio broadcasting for citizens of the UK, as well as different language communities both in and outside the UK (BBC). Similarly, Wallis (2016) claims that Channel 4, which was initiated in 1980 to cater for minority groups, led to a change in the UK television landscape by a “declining influence of organized religion on UK television.” According to Malik (2008), while the public’s views on Channel 4 have changed in line with their changing opinions on multiculturalism that the channel is considered to represent, it brought a different approach into broadcasting in terms of race and diversity. On the other hand, Malik also emphasizes the controversies regarding transparency and independency of the channel.

## **2.2. Due Impartiality versus Freedom of Expression and Information**

The issue of bias discussed above may be influential in regulatory bodies' decisions. Ofcom, as a regulatory body, may be susceptible to the same kind of bias. That is, differences between domestic and minority channels may be observed in terms of investigations of complaints, breach decisions and approaches used to explain those decisions. On the other hand, such differences may be observed due to other possible reasons such as minority media's lack of access to information, resources or personnel, complications in complying with regulations due to differences between media cultures and regulatory frameworks in terms of platforms broadcasting in multiple locations, and variances in expectations of different communities from the media platforms they subscribe to.

One area where these issues may appear is due impartiality, as it is supposed to serve to protect not only the right of the public to reach information, but also the right of the media organisation to present different political views freely. The disproportionate power of mass media on representing public opinion makes it harder to observe societal dynamics in play about issues of public concern. Wallace (2007) argues that "neither media professionals nor their sources should have a monopoly on power over the selection and media portrayal of political issues" (p. 15). The extent and nature of regulation may significantly affect how well the media represent societal dynamics and fairly include all significant stakeholders.

As required by the Section 319 of the Communications Act, news must be presented with due impartiality. According to Smith (1997), a certain amount of regulation over the content and distribution of media may be necessary for a democratic society. Accordingly, regulation of

media does not necessarily come from a necessity to limit expression, but is to be considered a tool to promote the conditions for free expression. The concept of due impartiality may be seen as a tool to prevent the monopolisation of speech on mass media and the creation of gatekeepers. “The mass media, with the high costs of access and control in the hands of an elite, requires some oversight to prevent its important social and democratic functions being skewed in the interests of a small number of speakers or gatekeepers” (Rowbottom, 2006, p. 493). This approach also aligns well with Ofcom’s stance requiring that a wide range of significant views are provided in news presentation. While such a stance may help the establishment of rules that cover a wider spectrum of representation, it might be still biased towards the dominant opinions, factions and identities in a society.

How impartiality is reinforced might not always serve the needs of a democratic society or the demands of the public, as demanding strict impartiality and promoting democratic, liberal values in the society are two contradictory endeavours (Flood et al., 2011). Similarly, Steel (2012) notes that toleration in liberal societies is often presented as impartiality, but stringent impartiality may bring about toleration of “groups seeking to negate freedom” (p. 14). Seth (2001) also suggests that in most multiculturalist Western societies, cultural practices that do not conflict or challenge the dominant ethos turn out to be the only ones accepted after the limits of tolerance are reached. Although political liberalism seems impartial in nature and aims to reach a common ground among different viewpoints, it may assume that certain forms of morals are superior to others (Rawls, 1993, p. 194).

The principles of any reasonable political conception must impose restrictions on permissible comprehensive views, and the basic institutions those principles require

inevitably encourage some ways of life and discourage others, or even exclude them altogether. Thus, the question arises over how the basic structure encourages and discourages certain comprehensive doctrines and ways of life associated with them and whether how it does this is just (Rawls, 1993, pp. 195, 196).

Kaplan (2006) says criteria of impartiality are also dependent on taken-for-granted norms in the society. According to Kaplan, some approaches of impartiality only create balance among existing, already accepted powers in media instead of opening ways to include other voices. Ofcom's due impartiality approach, for example, requires the inclusion of different 'significant' voices and not necessarily voices that are usually ignored or not heard. Thus, while considering the fair representation of significant views, it may be wise to look at whether all different views in the society are considered significant.

Therefore, in this study, Ofcom's choice to investigate or dismiss viewer and listener complaints and its breach decisions were investigated in order to compare treatment of domestic and minority media organisations in terms of the inclusion of their voice. Ofcom's reasoning demonstrated in relevant reports were also compared in order to see whether there is a difference between domestic and minority media organisations in terms of types of content used to explain such choices and decisions.

### **3. Method**

All of the documents published by Ofcom to report due impartiality decisions in the selected period were collected in order to investigate differences in treatment of domestic and minority radio and television channels in terms of inclusion of views and justification of decisions. At first, the channels were categorised as domestic mainstream channels, domestic minority channels, foreign mainstream channels and foreign minority channels. However, the numbers of channels included in the latter three categories were too low for a comparison and hence they were combined, resulting in two categories: domestic mainstream channels (henceforth called ‘domestic’) and minority or foreign channels (henceforth named as ‘minority’).

#### **3.1. Sampling**

The review process at Ofcom investigated here deals with due impartiality complaints and reports based on the Ofcom Broadcasting Code “Section Five: Due Impartiality and Due Accuracy and Undue Prominence of Views and Opinions” and “Section Six: Elections and Referendums”. This study will focus on Ofcom reports, published between 9 September 2013 and 8 September 2014, regarding due impartiality complaints received about radio and television broadcasters on a total of 259 occasions. During this period a total of 26 pertinent documents consisting of 25 fortnightly Bulletins and 1 Election Committee Report were published and all were analysed for this study. Bulletins and Election Committee Reports are described below.

Bulletins are documents published every two weeks which cover decisions on audience complaints on different issues. Decisions on most of the ‘cases’ are only listed, while some specific cases are investigated in detail with comprehensive reasoning and explanation of the



decision. Bulletins contain information on outcomes of Ofcom's reviews of broadcasting content based on complaints. All Bulletins published in this period were analysed. Decisions on Election Committee Reports are made to resolve disputes among different parties in elections.

For the time period we analysed, there were a total of 259 cases for which Ofcom received a complaint that was categorized as being related to "due impartiality". After receiving a complaint, the first decision that Ofcom makes is whether to investigate the complaint or dismiss it. When Ofcom chooses to dismiss a given case, it includes the case in a list at the end of the Bulletin with all the "assessed / not investigated" cases. These dismissed cases are labelled as "due impartiality / due accuracy" if they are related to these subjects of regulation. Of the 259 cases for which Ofcom received complaints, 23 were investigated, and 18 of the investigated cases were reported in detail. A given programme (aired at a given date) from a given channel will appear on the Ofcom list only once, irrespective of the number of complaints it receives. Hence, to compare the complaints that were investigated for domestic and minority channels, we used the number of times these channels appeared on lists in Bulletins instead of the number of complaints. If the same channel appears on the list under "due impartiality" five times, it is counted as five cases corresponding to five different times when the channel was subject to a complaint (for a single programme aired at different dates and/or for different programmes aired by the channel).

### **3.2.Variables**

**Channel Type and Broadcasting Language:** As discussed above, for the main independent variable, channels were classified either as 'domestic' or 'minority' channel. Additionally,

programmes were also categorised in terms of whether they are broadcast in English or in another language (0).

**Decision to Investigate Complaints:** Given the summary of the Ofcom investigation process provided above, the first dependent variable focused on whether Ofcom's decisions about whether to investigate complaints differed among programmes broadcast in domestic vs. minority channels and in English vs. other languages.

**Ofcom's Decisions Regarding the Investigated Complaints:** For the complaints that Ofcom chose to investigate, the first variable we focused on was Ofcom's decision about whether there was a breach: "breach" (all or part of the investigated rules are breached), or "no breach" (no investigated rule is breached).

**Ofcom's Rationale Regarding the Breach Decision:** In addition to the variables described above, a content analysis was conducted on the full reports of the 18 cases that Ofcom investigated. For this content analysis, the unit of analysis was paragraphs (n = 929). This analysis focused on variables regarding whether the paragraph contains a reference to any laws, rules or regulations on due impartiality, whether the paragraph contains a quote from the programme for illustrative purposes, and whether the paragraph contained a statement by the complainant or the licensee. "Statements by the complainant" contain the complainants' reasons for reporting the programme. "Statements by the licensee" contain the statements licensees provide in defence of their conduct against Ofcom's enquiry.

## 4. Results

### 4.1. Descriptive Statistics

Out of the 259 cases where complaints were received, 8.9% were investigated and 6.9% were reported by Ofcom. 5 cases were marked “investigated, no breach”, and not reported.

English was the most frequently used language in the programmes that received a complaint: 90.3% of the programmes subject to complaints were broadcast entirely in English. Bengali was the second most frequently used language partly or entirely used in broadcasting by 5% of the programmes. The remaining programmes were broadcast either completely or partly in a different language.

For the reported cases, a “no breach” decision was given for one complaint. All of the remaining cases were decided by Ofcom as “full breach”. Bengali was the most frequently used language in broadcasting among all the cases reported (entirely or partly: 50% of the programmes). 38.9% of the programmes were broadcast entirely in English.

### 4.2. Overrepresentation of Minority Channels among Reported Cases

The majority of 259 cases on the complaints list were filed about domestic channels (83.4%), while the majority of investigated and reported 18 cases were on minority channels (83.3%). This result shows that minority channels are overrepresented among investigated and reported cases. While 2.3% of cases regarding domestic channels were investigated, 42.9% of cases were investigated for minority channels,  $\chi^2(1, N = 259) = 71.178, p < 0.001$ .

Likewise, Ofcom focused disproportionately on programmes broadcast partly or entirely in other languages. The ratio of channels “broadcast entirely in English” among all channels that received complaints was 90.3%. However, only 38.9% of the investigated and reported cases

were on channels broadcast entirely in English. A lot of minority channels and their programmes in the list of all included cases are broadcast entirely in English (42.9%), but only 26.7% in the reported cases were broadcast entirely in English. Thus, minority channels broadcasting in English were less likely to be investigated or reported than minority channels broadcasting partly or entirely in a language other than English. Similarly, while only 4.3% of the programmes broadcast entirely in English were investigated, 61.9% of the programmes broadcast partly or entirely in languages other than English were investigated,  $\chi^2 (1, N = 259) = 79.495, p < 0.001$ .

#### **4.3. Comparison of Breach Decisions for Domestic vs. Minority Channels**

Among the reported cases, the only ‘no breach’ decision was made for 1 domestic channel out of 3, while 100% of the reported cases of minority channels received ‘breach’ decisions,  $\chi^2 (1, N = 18) = 5.294, p < 0.05$ . Language of the broadcast programme was not significantly related to breach decisions. 85.71% of the cases about programmes broadcast entirely in English received ‘breach’ decisions, while 100% of the cases on programmes broadcast partly or entirely in another language received ‘breach’ decisions. These differences were not significant,  $\chi^2 (1, N = 18) = 1.664, p > 0.05$ .

#### **4.3. Justification of Content Subject to Complaint, and Explanation for Decisions by Ofcom**

10.9% of the units in domestic channel cases reference complainants, while 2% of units contain such references in minority channel cases. There were no differences between programmes broadcast in English (4.5%) and in foreign languages (2.2%) in terms of references

to complainants' comments about a given program,  $p > 0.1$ . An example of a reference to a complainant's statement is given below:

A complainant alerted Ofcom to the programme above stating that it presented a one-sided view of the conflict in Syria. The complainant said that the actions of the Syrian Army (supporting the rule of the Syrian leader President Bashar al-Assad) were shown in a positive way and the opposition to the Syrian Government were presented as militant extremists from outside of Syria murdering Syrian civilians (Statement by the Complainant, Ofcom Broadcast Bulletin 244).

The units also provide references to licensees significantly more on domestic channel cases (26.9%) than minority channel cases (17.4%), with a relatively weaker relationship. However, there was a significant difference between programmes broadcast in English and in foreign languages in terms of prevalence of references to comments licensees make in defence of their content regarding the complaints. Namely, the ratio of references to licensees in reports of the investigated programmes broadcast entirely in English (25.5%) was higher than programmes broadcast partly or entirely in other languages (13.9%),  $p < 0.001$ . An example of a reference to a licensee's statement is given below:

ITCE submitted that the programme did not engage the rules in Section Five because the programme was: "not a critique of any controversy surrounding Mr Rahman's policies nor was it a detailed discussion of Mr Rahman's policies". Rather, the programme "was intended to give an insight into Mr Rahman, the person, and not the politician" (and this was made clear at the beginning of the programme by the programme host), and "was intended to promote and showcase the achievements of members of the community to

inspire community pride in an attempt to redress some of the well documented disadvantages the community experiences” (Statement by the Licensee, Ofcom Broadcast Bulletin 250).

References as direct quotes from the transcripts of or the images in the programmes differ significantly between cases of minority channels (28.9%) and domestic channels (9.2%),  $\chi^2(1, N = 929) = 20.62, p < 0.001$ . References as direct quotes from the programmes differ significantly between cases of programmes broadcast entirely in English (22.6%) and programmes broadcast partly or entirely in a language other than English (29%),  $\chi^2(1, N = 929) = 4.80, p < 0.05$ . An example of a reference to the transcript of a programme is given below:

This visit of Ed Miliband in Tower Hamlets is somewhat sudden. But the participation of the top leader of the opposition party in the election campaign of John Biggs gives the information, how importantly the Labour Party is considering this mayoral election at Tower Hamlets. On Tuesday, the Labour leader participated in the election campaign in Buxton Street near Brick Lane with two local MPs Rushanara Ali and John Fitzpatrick and other Labour leaders. Other people present this time including Tower Hamlets Labour Leader Serajul Islam, ex-council leader Helal Abbas and councillor Joshua Pack. In response to a question, Ed Miliband informed NTV Europe that competent politician’s like John Biggs are necessary to address the problems of Tower Hamlets which has a mentionable track record (Quote from the Programme, Ofcom Broadcast Bulletin 261).

The proportion of paragraphs where direct legal/regulatory references exist does not significantly differ between domestic channels (37.8%) and minority channels (32%). The proportion of paragraphs where direct legal/regulatory references exist does not significantly differ between

programmes broadcast entirely in English (30.2%) and programmes broadcast partly or entirely in a language other than English (34.5%). The following is an example of a direct regulatory reference:

Rule 5.5: “Due impartiality on matters of political or industrial controversy and matters relating to current public policy must be preserved on the part of any person providing a service... This may be achieved within a programme or over a series of programmes taken as a whole” (Reference to Ofcom Rules, Ofcom Broadcast Bulletin 256).

## 5. Discussion and Conclusion

Existing research on Ofcom spans many different topics including but not limited to the establishment of Ofcom and how it is perceived as an extension of New Labour's competition policy (Smith, 2006) and Ofcom's roles in promoting media literacy (Wallis & Buckingham, 2013); however, there is a dearth of academic studies on the "due impartiality" regulations of Ofcom, considering the limited amount of data (Hirst, 2007). The findings of this study indicate that minority channels and their programmes were included in investigations and breach decisions significantly more than their domestic counterparts. There were also significant differences found between cases of domestic channels and minority channels in terms of how the results of investigations were reported.

*Translated, hybrid or syncretic* cultures, incorporating different cultural traditions have the potential to represent a "powerful creative force", but they are also faced with "fierce and often violent opposition where they are perceived as threatening fundamentalist projects of cultural 'purification'" (Gillespie, 1995). Ofcom might be reinforcing such an approach to these "translated" cultures knowingly or unknowingly, or it might have been led to do so due to technical aspects of the issues like the requirement of translations, or the specific/recurring ways the breaching minority channels behave. Levinson (2007) suggests that implicit bias is unknown to decision makers and people have limited control over their cognitive functions regarding racial bias. It would also explain these results, if minority channel licensees had provided higher amounts of information in their defence to Ofcom.

English was the most frequently used language in cases that were subjects of complaints under due impartiality, while Bengali was the most frequently used language in the reported



cases. On the other hand, more than 80% of members of minorities in the UK speak English either well, or very well (“Palliative and End of Life Care”, 2013). So, while programmes broadcast in English are expected to have a wider audience base about complaints, programmes broadcast in other languages are likely to have received complaints from members of ethnic minority groups. Even if Ofcom just wanted to assess such programmes’ admissibility for investigation, translation would be needed for content that was not broadcast in English. This might have led to a more focused assessment and increased the visibility of possible due impartiality issues. Cohen’s (2002) assertion that different cultures may face fear, distrust or contempt of the general population and that such processes are associated with existing stereotypes may explain this situation. In contrast, this result may also be explained by minorities not having the same level of access to political authority as their counterparts provided by standard democratic institutions (Schwartz, 2015).

Furthermore, reports on minority channels were less likely to provide references to the statements by complainants. This might be caused by complainants of minority programmes who are more likely to be members of ethnic minority groups, therefore less likely than the general population to know about the regulations on content (“Media Literacy Audit”, 2006). This may have led to a disproportionate ratio of complaints and confusion on what should be investigated. Justifications or explanations of the decisions in the text were based more on examples from the programme’s transcript for minority channels and legal/procedural references for domestic channels. The ratio of quotes from programmes of minority channels in the report text was more than three times the same ratio for domestic channels. A reason for this result may be a choice by Ofcom to base the justification of their decisions for minority channels on their particular conduct

rather than general legal/procedural formalities. The same result could be reached, if minority channels had provided higher amounts of content in their defence.

Moreover, among all minority channel cases reported, text of the cases on programmes broadcast entirely in English contained fewer references to legal/procedural text, and more references to statements by the licensee. Ofcom seems to include comments on conduct and transcripts of content for minority channels, while providing more legal references and regulatory comments for domestic mainstream channels.

Minority programmes subject to investigation usually report on and propagate events and issues of political controversy taking place outside the UK or give great prominence to one side of a debate on issues concerning due impartiality about elections. As the types of sanctions are not always clearly stated in the reports, it is difficult to make a comparison between domestic and minority channels in this regard.

Finally, it was seen that Bengali media were excessively included in the reports. According to Elahi's (2013) survey of 333 Dhaka-based journalists, 75% reported "their news organisation did not have any ethics and standards guidebook," about 60% rated Bangladeshi journalism ethics poorly, approximately 30% stated they would record a conversation in secret, and a few even "acknowledged having accepted money from a source." According to the study, the surveyed journalists rated the ethical principles of both theirs and their news organisations poorly in many ways and to various extents. A BBC (2005) survey of Bangladeshi citizens, reported that their levels of trust in the media are even lower than their trust in politicians who are considered as highly corrupt in the country. While the ratios of reports and investigations on due impartiality were highly disproportionate between 'minority' and 'domestic' channels in our

study, stricter ethical standards in the UK and the reported structure of the media structure in Bangladesh, especially considering platforms that are broadcast in both countries, may have been influential in the excessive involvement of Bangladeshi platforms in the reports.

One limitation of this study was the short time interval in relation to the number of reported cases among hundreds of complaints based on due impartiality. The data set was used to investigate a one-year period and all of the relevant documents published by Ofcom in this time interval were used in the study. Only 18 cases were reported among 259 instances where programmes received complaints. The results from the analysis about how ‘minority channels’ were represented among these 18 provided significant insights into the current decision-making approach of Ofcom in relation to due impartiality. Another concern about the length of time was the availability of resources. As Ofcom is a relatively new regulatory agency, the number of reports and other documents published by Ofcom is rather small. Only a few reports and audits were published about the exposure and viewing/listening behaviours of members of ethnic minority groups in the last thirteen years. Ofcom’s relatively short history may also have limited the amount of research on the specific issues related due impartiality and foreign and minority media platforms.

Considering the proportions of breach decisions on investigated cases, investigation and reporting rates of all cases included in this study, Ofcom’s ‘complaint filter’ seemed significantly disproportionately used against minority channels and programmes, as well as channels and programmes partly or entirely broadcast in languages other than English. While the results reproduced the conclusions drawn from different sets of data in various other studies in the literature about how the wider public and the authorities view ethnic minority groups, factors like

the need for translation of foreign language content and repetitions of the same or similar breaches by minority channels over a long time period might have led to a difference based on lower expectations or higher visibility of misconduct. Additionally, the explanations made about the investigations and details included in the reports differ significantly between cases on minority and domestic channels, and between channels and programmes broadcast entirely in English and other channels and programmes. Differences among media landscapes around the world may also explain the disproportionate involvement of different types of platforms, especially ones broadcasting in multiple countries, in the reports, as well as differences in explanations of the decisions on investigations to the public. This study aimed to investigate how Ofcom makes its decisions regarding due impartiality complaints by summarising the process in general, and factors that may explain the differences in decision-making and ways of providing the public with information on decisions. A future study with a larger sample may contribute to and reproduce the results of this study, and discuss other relevant issues on this particular topic with addition of other research designs and methods.

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