

Findings of the Editorial Standards Committee of the BBC Trust

Funding arrangements and sponsorship of documentary and feature programmes on BBC World News (a BBC Commercial service)

November 2011

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****UPDATE FEBRUARY 2012****

At its meeting in January 2012, the ESC considered whether it wished to ask the Executive to take any further remedial action following the Committee's finding. It agreed that given the serious nature of the breaches an on-air apology to the audience was appropriate.

Details of this [can be found on the Trust's website](#) (PDF file, 15KB)

Summary

Background

This is a report by the BBC Trust's Editorial Standards Committee ("ESC" or "the Committee") detailing its findings concerning programmes transmitted on BBC World News since 2009 which were either funded or sponsored by third parties and/or were acquired for low or nominal costs.

BBC World News is the BBC's commercial international news channel broadcasting in all parts of Europe and many parts of the world via satellite and cable. It holds an Ofcom licence and is part of the Global News Division of the BBC.

The Programmes and Background

In February 2010, the BBC was contacted by a freelance journalist who made allegations regarding *Taking the Credit*. This was a programme about carbon trading, which had been broadcast on BBC World News on 23 October 2009. The programme had been made by Rockhopper TV, an independent production company, and acquired by BBC World News at low or nominal cost as was established practice for some programming on this service.

The journalist's allegations centred on the funding arrangements for the programme and specifically suggested that the programme's funder, the Africa Carbon Livelihood Trust (ACLT), had a Managing Director who was also the Chief Executive Officer of Envirotrade, a company featured in the programme. The implication of the allegations was that the arrangement was potentially in breach of the BBC's Editorial Guidelines and Guidelines for Sponsorship and Advertising on BBC International Television Channels¹, since the funder was potentially connected to the subject of the programme.

BBC Global News investigated the allegations and reported to the ESC that it believed that a serious breach of the BBC's Editorial Guidelines had occurred. As a consequence of its serious concerns about the circumstances surrounding this case, the ESC requested that BBC World News conduct an audit of the funding arrangements for all documentary or feature programmes which had been broadcast, commissioned or in production since 28 February 2011² and had been obtained for low or nominal costs. Such programmes were transmitted over the weekend schedule. Through this audit the ESC wanted to satisfy itself that BBC World News was compliant with the BBC Editorial Guidelines and to consider whether any issues were raised over BBC World News' compliance with other relevant regulatory requirements, such as The Advertising & Sponsorship Guidelines for BBC Commercial Services (together "the Guidelines") and the Ofcom Broadcasting Code.

After the above Audit had been commissioned by the ESC, allegations were published in *The Independent* newspaper³ on 17 August 2011 about programmes FBC (FactBased Communications) Media (UK) Ltd⁴, a production company, had produced and which were broadcast on BBC World News. The newspaper alleged that the company had links with the Malaysian Government and had been paid to conduct a "Global Strategic Communications Campaign" on its behalf. FBC Media (UK) Ltd had produced programmes which were shown on BBC World News about Malaysia, the Malaysian Government's policies and its industries (especially its palm oil industry). The newspaper believed that there was a conflict of interest between the work that FBC Media (UK) Ltd had undertaken

¹ These were later updated to BBC Advertising & Sponsorship Guidelines for Commercial Services in January 2010.

² This is the date that Ofcom introduced its new section of its Broadcasting Code, on sponsorship and commercial references in television, as a result of the introduction of product placement.

³ "Why was a TV company that took millions from the Malaysian Government making documentaries for the BBC...about Malaysia?"

⁴ It has been reported that on 24 October 2011, FBC Media (UK) Ltd went into administration.

for the Malaysian Government and the programmes it produced for BBC World News. In light of these allegations, BBC World News suspended programming made by FBC Media (UK) Ltd and launched an investigation into the 20 programmes FBC Media (UK) Ltd had produced for BBC World News since 2009.

The findings of the Committee, in this report, therefore cover the following:

- *Taking the Credit*, transmitted on 23 October 2009
- 6 programmes identified as potentially raising issues following an audit of the 39 programmes that were sponsored or funded documentary or feature programmes which were broadcast, commissioned or in production and were acquired for low or nominal costs by BBC World News between 28 February and 7 August 2011 ("the audited programmes")
- 8 of the 20 programmes supplied by the independent production company FBC Media (UK) Ltd since 2009, which had been identified as potentially raising issues ("the FBC programmes").

Summary of ESC Findings

Of 60 programmes under consideration in this report, the ESC found that 15 were in breach of the relevant Editorial Guidelines and/or the Sponsorship Guidelines for BBC commercial services⁵.

In summary the ESC found the following in breach:

Taking the Credit:

- *Taking the Credit* 23 October 2009, Rockhopper TV

The Committee concluded that the funding in full or in part of this programme by Envirotrade - via the Africa Carbon Livelihoods Trust - amounted to sponsorship. However, the Committee considered that the programme was current affairs and that such sponsorship was in breach of the Guidelines, which prohibit any sponsorship of news and current affairs.

The Committee further considered that, even if sponsorship had been permitted, the identity of the sponsor would have constituted a further breach of the Guidelines. While the programme was found to be editorially sound, there was an inextricable link between the funder organisation and a project featured in the programme. This resulted in a breach of the Guidelines relating to 'conflicts of interests'. Further, the programme portrayed the work of Envirotrade in a positive way and as a result breached the requirement that sponsor's activities should not be promoted. The programme also failed to credit the sponsor in the programme, so the viewers were unaware that there was a funding arrangement in place.

The Audited Programmes:

- *Nature Inc.: Conservation from Chaos* 9 April 2011, One Planet Pictures
- *Nature Inc.: Hard Rain 1* 16 April 2011, One Planet Pictures
- *Nature Inc.: Hard Rain 2* 23 April 2011, One Planet Pictures
- *Earth Reporters: Beating the Plague* 21 May 2011, TVE
- *Nature Inc. 21 Gigatonne Timebomb* 4 June 2011, One Planet Pictures

⁵ The relevant Guidelines for the cases outlined in this report are: The BBC Editorial Guidelines (June 2005 and October 2010 versions); the Advertising & Sponsorship Guidelines for BBC Commercial Services (January 2010 updated May 2011); and Guidelines for Sponsorship and Advertising on BBC International Channels (April 2007 updated April 2008). See Annex 1

The ESC considered that *Nature Inc.: Hard Rain 1* and *Nature Inc.: 21 Gigatonne Timebomb* were both current affairs programmes and were therefore in breach of the prohibition on sponsorship of news and current affairs. For the sake of completeness, the Committee went on to consider the other issues arising from the sponsorship of these programmes, even though they were current affairs programmes and should not have been sponsored.

All of the programmes considered as part of the audit received funding from a variety of external sources, including international organisations (such as UNEP, UNESCO, UNDP, UNFAO⁶) and, in one instance, from a commercial company. However, the Committee concluded that the funding in certain cases - UNEP, UNDP and UNFAO - was inappropriate as the relevant funder and/or its services, interests or activities featured and was also promoted in the sponsored programmes. This is not permitted under the Guidelines. The Committee also found that the commercial company was not credited as required by the Guidelines.

Further, as a result of the connection between certain sponsors and the content of the relevant programmes, the Committee considered that there was a suggestion that commercial, financial or other interests may have influenced the editorial judgments in these programmes and that this had resulted in a breach of the 'conflict of interests' Guidelines. The Committee noted that there was no evidence that any editorial judgments had actually been influenced, but the suggestion of such influence is sufficient to cause a breach.

Finally the Committee considered that all the above programmes as well as another:

- *Earth Reporters: Sea Change*, 5 March 2011 produced by TVE,

either failed to carry sponsor credits or, where there were sponsor credits, they were not sufficiently prominent and clearly identified. This resulted in the audience not being made appropriately aware that a financial relationship existed between the sponsor and the programme maker.

It should be noted, however, that the Committee did not consider that any of these programmes raised issues under the due impartiality requirements.

FBC Media (UK) Ltd Produced Programmes:

- | | |
|--|------------------------------|
| • <i>Develop or Die</i> Series 1 Episode 2 | transmitted 14 February 2009 |
| • <i>Develop or Die</i> Series 2 Episode 1 | transmitted 15 May 2010 |
| • <i>Develop or Die</i> Series 2 Episode 2 | transmitted 22 May 2010 |
| • <i>Develop or Die</i> Series 3 Episode 5 | transmitted 4 June 2011 |
| • <i>One Square Mile: Sarawak</i> | transmitted 12 February 2011 |
| • <i>One Square Mile: Kuala Lumpur</i> | transmitted 9 July 2011 |
| • <i>Third Eye: Egypt</i> | transmitted 12 March 2011 |
| • <i>Third Eye: Asian Food</i> | transmitted 2 July 2011 |

The Committee found all the above programmes in breach of the BBC Editorial Guidelines on 'Conflict of Interests'.

FBC Media (UK) Ltd had produced twenty programmes for BBC World News since 2009. Eight of these programmes contained sections involving Malaysia, the Malaysian Government or Malaysian industry (and, in particular, the palm oil industry). The parent company, FBC Group Ltd, has confirmed that the Malaysian Government was a client. The company stated that this was through its corporate arm. The company has not given the

⁶ United Nations Environment Programme, United Nations Educational, Scientific and Cultural Organisation; United Nations Development Programme; and United Nations Food and Agriculture Organisation respectively.

BBC any further information about when this client relationship was in effect. At the time of broadcast, the BBC Executive was not aware of this apparent relationship.

Based on evidence before the Committee of the apparent financial relationship between FBC Media (UK) Ltd and the Malaysian Government, the Committee concluded that FBC Media (UK) Ltd was not an appropriate producer for these particular programmes, being about Malaysia, its industries and Malaysian Government policies. The Committee considered that it could not be adequately confident that a relationship between FBC Media (UK) Ltd and the Malaysian Government and/or other Malaysian interests had not affected the content of BBC output. In light of the overall content covering Malaysia, the Committee was concerned that the BBC has broadcast programmes which may have promoted particular subject matters (or presented them in a certain way) as a result of a production company's financial interests. At the very least, the Committee felt there was a suggestion that this might have happened. The Committee considered that, in the context of the apparent financial relationship, the overall treatment of Malaysian subjects across the relevant output supported a finding that there had been a breach of the section on 'Conflict of Interests' in the Editorial Guidelines.

The Committee went on to consider the impartiality of these FBC Media (UK) Ltd produced programmes. Overall the ESC considered that, on balance, no one programme, when taken on its own, breached the requirements for impartiality (either because of the treatment of the subject or because of the subject matter in question). However, the Committee considered - in certain cases - that the programme only just did enough to satisfy the BBC's high standards of impartiality (for details see below).

Further, while the Committee considered that no one programme breached the due impartiality requirements, there were significant concerns about the overall heavy focus on Malaysia and Malaysian issues. The Committee expressed concerns at specific script lines, which raised issues in terms of due impartiality or where the programmes appeared to be too favourable to certain Malaysian issues and Government policies (albeit not giving rise to a clear breach of the Guidelines).

Summary of Action taken by BBC Management

The BBC Executive accepted that there was serious weakness in its processes, which created a risk of damage to its reputation that led to the breaches outlined in this finding. In response to the problems identified: (i) in the programme *Taking the Credit*; (ii) arising from its Audit; and (iii) following the allegations made in *The Independent* article, BBC Global News has taken a number of actions to safeguard the BBC's impartiality, and protect against conflicts of interests:

- BBC World News will no longer commission or acquire programmes which are sponsored by non-commercial organisations (such as charitable foundations or non-aligned international bodies such as UN agencies).
- BBC World News will not commission or acquire programming at nominal cost from independent production companies for first broadcast on BBC World News. All programmes will be commissioned or acquired on a transparent commercial basis.
- BBC World News will only commission or acquire sponsored programmes in non-news and current affairs genres including sport, culture, history, travel and lifestyle. It will take a strictly prudential view of the classification of programmes in the context of possible sponsorship; if there is any reasonable question of whether a given programme is a current affairs programme it will not accept

sponsorship for the programme. If such a programme is offered only on a sponsored basis, BBC World News will not commission or acquire it.

- BBC World News will tighten its supplier list. A panel of approved production companies will be established. Production companies will only be chosen as approved suppliers after examination of their editorial track record and on the basis of a high level of transparency about their overall business interests, including sources of funds for their productions.
- BBC World News will strengthen its due diligence processes, so that every programme or series proposed through the approved companies will be subject to a more detailed examination of any potential conflicts in advance of commissioning.
- In addition, BBC World News will introduce tighter approval procedures for programming containing funding from third parties, including a two stage sign off process.
- Contracts with independent producers will be strengthened in relation to conflict of interests.
- A follow-up audit will be commissioned and spot checks will be conducted externally to BBC World News and possibly externally to the BBC, within a year, to confirm the effectiveness of the new controls. The results will be reported back to the Committee.

Conclusions

The ESC considered that the breaches outlined above were serious. They went to the heart of the BBC's international reputation and risked undermining the editorial integrity of its output. The BBC should be transparent when accepting financial assistance with programming and should not transmit programmes where there is any suggestion that a conflict of interest might arise. The Committee welcomed the action plan put in place by the Executive, which was aimed at ensuring that such breaches do not occur again. It also recognised that the Executive accepted that these breaches had taken place and took them seriously.

The Committee noted that the BBC's policies and guidelines are in place to prevent organisations (public, private and not-for-profit) from inappropriately funding programmes about themselves or their activities and, particularly, to prevent them promoting themselves. It appeared that, in these cases, there was a failure to comply with these guidelines. Although the Committee could not attribute these breaches to lack of funding on BBC World News, it strongly endorsed the Director-General's decision to cease the practice of commissioning programmes at low or nominal cost.

The Committee noted that the BBC Executive believed there was a cultural issue, where some staff working for BBC Global News did not appear to recognise that such conflicts could arise from non-commercial sponsorship. It further noted that the guidelines do not explicitly state that non-commercial organisations can be defined as sponsors (although nevertheless it considers that the Guidelines are equally applicable to them). However, it is the view of the Committee that organisations such as NGOs, intergovernmental organisations and charities are entities with identifiable interests and activities and could, in general, benefit from promotion and raised profile in a similar way to other public and private organisations, if not by increases in direct sales or profitability. Further, while some may believe that the work they carry out is non-contentious, they frequently work in areas

that are controversial. The Committee was of the view that rules regarding sponsorship could be said to be as important when dealing with intergovernmental organisations, charities and not-for-profit organisations as with commercial operators.

BBC World News has in place a number of procedures with independent production companies to ensure that where a question of conflict of interest may arise it should be identified so that an assessment may be made. For instance, independent production companies must complete a Producer Declaration to identify potential issues. The Committee found that in some cases identified through the Audit, these Producer Declarations were not clear and were, at times, ambiguous (both in terms of the questions asked by the BBC and the information provided by the independent production companies). The Committee considers that the BBC Executive should have been more alert to the potential for inappropriate sponsorship and should have probed further where there appeared to be confusion. However, the Committee recognises that in some cases it was not clear that the funder's activities had featured in the programme. In future, it recommends that such activities should be better identified between the BBC Executive and the independent production company at an early stage, so that the potential risk of a breach may be appropriately assessed.

In the particular case of programmes produced by the FBC Media (UK) Ltd the Committee recognises that the BBC Executive were not aware of the apparent relationship between the independent producer and the Malaysian Government. It therefore welcomes the BBC Executive's action points, as outlined above, to minimise the chance of this issue reoccurring. However, given this apparent relationship and the content of the programmes, the ESC considered these to be particularly serious breaches of the Guidelines. These concerns were reinforced by the preponderance of Malaysian issues featured in the FBC Media (UK) Ltd programmes. Further, the ESC noted that on a former version of FBC's website⁷ FBC stated that:

"FBC regularly creates one off productions as well as series of documentaries that investigate our clients' issues and subtly position them in a positive space within their target markets."

The above evidence gave rise, in the Committee's view, to the most serious questions over these programmes.

The Committee reaffirmed the importance of all BBC output being, and being seen to be, impartial. This responsibility ultimately lies squarely with the BBC. However, the Committee noted that it had seen no evidence to suggest that any BBC Global News staff had intended to breach the guidelines, but considered that there appeared to be a lack of knowledge, or genuine confusion, in relation to the relevant guidance in this area (in particular, who can be defined as an appropriate sponsor and what is deemed to be promotion in the context of a sponsored programme). This led to some serious editorial failings and put the BBC's reputation at risk.

The Committee was keen to emphasise that, as the BBC Editorial Guidelines state, "Trust is the foundation of the BBC" and nothing the broadcaster does should undermine the relationship the BBC has with its viewers and listeners.

⁷ (now available at <http://www.sarawakreport.org/fbc/>)

The Editorial Standards Committee's Finding in Full

Introduction

The following is the ESC's full findings on a number of programmes transmitted on BBC World News since 2009. These programmes were funded or sponsored to a greater or lesser degree by third parties and/or acquired at low or nominal cost.

The ESC assessed and made findings on:

- *Taking the Credit*, transmitted on 23 October 2009
- 6 programmes identified as potentially raising issues following an audit of the 39 programmes that were sponsored or funded documentary or feature programmes which were broadcast, commissioned or in production and were acquired for low or nominal costs by BBC World News between 28 February and 7 August 2011 ("the audited programmes")
- 8 of the 20 programmes supplied by the independent production company FBC Media (UK) Ltd since 2009, which had been identified as potentially raising issues ("the FBC programmes")

The BBC has in place a number of guidelines to ensure that programmes are not distorted for commercial or other purposes, and that the overall editorial integrity of the BBC is not undermined by those producing, funding or sponsoring programmes. These guidelines are based around: conflict of interests; editorial integrity and independence; impartiality; and transparency. The ESC judged the programmes against these Guidelines (which of the Guidelines are applicable to a particular programme depends on the transmission date of that programme):

- The Advertising & Sponsorship Guidelines for BBC Commercial Services (January 2010 updated May 2011)
- The Guidelines for Sponsorship and Advertising on BBC International Television Channels (April 2007 updated April 2008)
- The BBC Editorial Guidelines (October 2010)
- The BBC Editorial Guidelines (June 2005)

The Agreement, BBC Sponsorship and Editorial Guidelines

The programmes in this finding have all been broadcast since 2009. There has therefore been more than one version of the Guidelines in place. The Committee considered each programme against the guidelines applicable to it. For the purposes of this summary only, we note that there are certain underlying principles, which are common to both the Editorial Guidelines and the Sponsorship Guidelines. That is:

- Sponsorship arrangements must be transparent
- No news or current affairs programme can be sponsored

- Organisations that are prohibited from advertising are also prohibited from sponsoring programmes
- The BBC must retain editorial control and responsibility for all editorial content and scheduling. Sponsorship should not affect (or appear to affect) editorial content
- 'Controversial subjects'⁸ and other subject matter (as specified in the Editorial Guidelines) should be treated with due impartiality
- There must never be any suggestion that commercial, financial or other interests have influenced BBC editorial decisions or judgments

These policies and Guidelines are in place to prevent organisations from inappropriately funding programmes which promote themselves or their activities within the content of the programmes. The ESC noted that not-for-profit organisations, NGOs or intergovernmental organisations (such as the UN and its agencies) are not specifically identified in the Guidelines. Nevertheless it considers that the Guidelines are equally applicable to them. It is the view of the Committee that all these types of organisations are entities with identifiable interests and activities that would, in general, benefit from promotion and raised profile in a similar way to other public and private organisations, if not by increases in direct sales or profitability. The Guidelines do not require a value judgment of the interests or activities of any given organisation, but are in place to protect against even an impression of the BBC's reputation being brought into disrepute or a perception that there is a conflict of interest. This is a question of fact based on the nature of the activity or interests, which, in the Committee's view, should be discussed transparently at an early stage between the BBC and the independent production company.

There are certain circumstances in which organisations are permitted to fund programmes about matters with which they would like to be associated, with a view to obtaining a "promotional" value from the arrangement. These include informing the viewer of the arrangement via a sponsorship credit. This serves to make the funding arrangement transparent.

There are specific regulatory protections in place to ensure that any such funding is *transparent* (i.e. credited), that there is *no promotion* within the programme and that there is *no editorial influence* by the funder.⁹ In its consideration of the programmes detailed here the Committee agreed that it was essential for BBC commissioners to consider closely the motives of any organisations who offer to contribute funding towards any programme.

The Guidelines relevant to this report are attached at Annex 1.

⁸ See page 52 for explanation of 'controversial subjects'

⁹ Section 9, Ofcom Broadcasting Code (October 2008) (available at <http://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/broadcast-code-2008/>)

Taking the Credit, 23 October 2009

Background

Taking the Credit was broadcast on BBC World News on 23 October 2009. The programme followed the *The Sunday Times* Environment Correspondent as he explored the issue of carbon trading. It centred on a specific project linked to Envirotrade, a carbon credits business founded by a British entrepreneur. The project runs initiatives through which farmers in N'hambita, Mozambique, are paid to protect forests and plant trees that absorb carbon dioxide, creating commodities which are sold as "carbon credits" to companies and individuals wanting to offset their carbon emissions. The programme was timed to air in the run up to the Copenhagen climate change summit, which took place in December 2009.

The programme was an acquisition (i.e. non-BBC produced programme) produced by Rockhopper TV, an independent production company, which specialises in making documentaries on development, health and the environment. The programme had been made by Rockhopper TV, an independent production company, and acquired by BBC World News at low or nominal cost as was established practice for some programming on this service.¹⁰

In February 2010, four months after the documentary was broadcast, a freelance journalist contacted the BBC with allegations including that:

- the documentary had been financed by Envirotrade via the Africa Carbon Livelihoods Trust (ACLT), a non-governmental organisation which aims to promote accomplishment of the Millennium Development Goals through community-based programmes linking local African communities with world carbon markets and other sources of finance
- the Chief Executive Officer of Envirotrade was also the Managing Director of the ACLT, establishing a link between the funder and the organisation featured in the programme
- the programme was uncritical of Envirotrade and its activities in Africa.

BBC World News management, on hearing of the allegations, carried out an investigation of the programme, which recommended actions to strengthen BBC World News's compliance process for acquired programming (see page 4)¹¹.

Summary of the BBC Global News Investigation into Taking the Credit

The full report of BBC Global News's investigation into *Taking the Credit* is attached at Annex 2 to this finding.

BBC Global News's investigation into the programme drew the following conclusions:

- the allegation that the documentary had been financed in full or in part by Envirotrade via the ACLT was true, since there was a link between the

¹⁰ BBC Global News had explained to the Committee that the principle of broadcasting low or nominal cost material to international audiences had been long established in Global News through the activities of the BBC World Service Trust, which makes programmes which are externally funded by the Department for International Development, the European Union and some NGOs and are then broadcast on the World Service. With this type of funding production costs are underwritten by a foundation, UN department or charity, the programme is made by an Independent, the BBC retains executive control and the rights then revert to the funder.

¹¹ These actions were further strengthened, once other issues with respect to compliance came to light (as outlined in these findings).

documentary's funder (ACLT) and the organisation featured in the programme (Envirotrade)

- it was unclear as to the extent of Rockhopper TV's awareness of this link, although it nevertheless produced an apparent conflict of interest
- following further review, the programme was considered to have been editorially sound:
 - it had not always presented the project on which it had focussed in a positive light and had included criticism of forestry schemes and noted that the company behind the scheme was loss-making (although it had not dwelled on these aspects)
 - the programme had been rather narrowly focussed on a single carbon sequestration project, but in the context of other BBC World News broadcasts in the run up to the Copenhagen Summit this was acceptable
 - there was no evidence that Envirotrade had influenced the direction of the programme in any way, although if the BBC had made the programme it might have been more broadly based and covered other possible angles
- although editorial impartiality and integrity were not, in fact, compromised and BBC World News maintained editorial control over its output, there was a conflict of interest which risked bringing the reputation of the BBC into disrepute due to links between the funder and the company featured in the programme, which were unknown to the BBC commissioner. This meant that the funding was contrary to the BBC Guidelines and inappropriate
- it decided, with the exception of fully compliant programmes already scheduled for transmission, that BBC World News should not broadcast any further Rockhopper TV programmes until the channel was completely satisfied that the risk of a similar occurrence was negligible, i.e. mitigated to an irreducible minimum
- BBC Global News also put forward a number of action plans, which are outlined at the beginning of this report (see page 4).

Finding of the ESC – *Taking the Credit*

In its discussion, the Committee considered relevant policies and guidelines, which were in place at the time of broadcast. These included:

- The BBC's Editorial Guidelines (June 2005)
- The Guidelines for Sponsorship and Advertising on BBC International Television Channels (April 2007 updated April 2008)
- The Agreement Between Her Majesty's Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation (2006).

The Committee noted that the Editorial Guidelines were clear in that they applied to:

"all...[BBC] content whoever creates or makes it and wherever and however it is received. The guidelines help BBC content producers, whether in-house or Independent, public service or commercial, to navigate their way through difficult editorial issues and produce distinctive and sometimes controversial programmes and other material to the highest ethical and editorial standards."

The Committee also discussed the BBC Executive report into the matter and took into account the comments made by the independent production company that produced the programme. It also viewed the programme in full.

Did the funding of *Taking the Credit* amount to sponsorship?

The Committee first considered whether the funding arrangements for *Taking the Credit* could be seen to amount to sponsorship and therefore whether the Guidelines for Sponsorship and Advertising on BBC International Television Channels (April 2007 updated 2008) applied.

In considering this matter, the Committee noted that BBC Global News's initial investigation in May 2010 had found that the funding arrangement in place for *Taking the Credit* was part of an established practice of acquiring low or nominal cost material for broadcast to international audiences (see below for further details of this principle). However, BBC Global News had also later acknowledged that in principle sponsorship could be considered to have occurred although they deemed any potential breach, as a result of a sponsorship arrangement, would not have been significant because the BBC retained editorial control.

The Committee noted that BBC Global News had explained that the BBC World News programme commissioners had not at the time considered that a charitable organisation such as the ACLT could be deemed to be a sponsor and there was no link to a commercial product. The Committee further noted BBC Global News's report that the connection between the ACLT and Envirotrade had been unknown by the BBC World News commissioning editor, who would have turned it down if such facts had been known because of the potential perception of a conflict of interest in breach of BBC Editorial Guidelines.

The Committee discussed BBC Global News's position and noted that the Television Without Frontiers Directive¹², in place at that time, defined sponsorship as:

"any contribution made by a public or private undertaking not engaged in television broadcasting activities or in the production of audio-visual works, to the

¹² The Television Without Frontiers Directive was the European legislation in place at the time of broadcast. This has since been superseded by the Audiovisual Media Services Directive.

financing of television programmes with a view to promoting its name, its trade mark, its image, its activities or its products.”¹³

Such organisations could include charitable organisations and NGOs. The Committee was of the view that rules regarding sponsorship could be said to be as important when dealing with charities and not-for-profit organisations as with commercial outfits. This is because such organisations were likely to fund programmes about social issues and policies in order to influence public understanding of the topics, rather than simply aiming at the promotion of a commercial product.

As such, the Committee concluded that the funding of this programme amounted to sponsorship, and therefore the Guidelines for Sponsorship and Advertising on BBC International Television Channels (April 2007 updated April 2008) applied.

Current Affairs

Having reached the conclusion that the above Sponsorship Guidelines applied, the Committee had to establish that these Guidelines were complied with.

The Committee therefore considered whether the programme constituted a “current affairs” programme. This was relevant in view of the stipulations in the Guidelines for Sponsorship and Advertising on BBC International Television Channels (April 2007 updated April 2008) which listed “news and current affairs” under the heading of “Content which may not be sponsored” (see above). The Committee also noted the stipulations in Article 17 (4) of the Television Without Frontiers Directive which stated that “News and current affairs programmes may not be sponsored.”

It was the Committee’s view that the programme contained explanation and analysis of current events and issues, including matters of political controversy and matters relating to current public policy¹⁴.

Carbon trading – the subject of this programme – was, at the time of broadcast, itself a matter of political controversy and a matter relating to public policy as governments across the world were preparing for the Copenhagen Summit with their respective views and policy positions. The programme itself dealt with the discussion and debate around carbon trading and therefore must be viewed as a current affairs programme.

Further, there were detailed references to the Copenhagen Summit (at the time a matter of political controversy and a current event) on a number of occasions. The Committee noted that just before the advertising break, the programme reported that the type of carbon offsetting which was practised in N’hambita (i.e. forestry) was not included in the provisions for offsetting which were agreed in the Kyoto Protocol. This placed the carbon credits produced by the N’hambita project in the “voluntary” market, as opposed to the more lucrative “compliance” market (which covers offsetting of the type which is included in the Kyoto Protocol). The Committee noted that the programme went on to report the founder of Envirotrade’s hope that the market for the type of carbon produced in N’hambita would expand, thus making the model more profitable. The programme then states that “N’hambita’s fate will be decided a continent away, in December, when global leaders gather in Copenhagen to discuss a new international policy on climate change.”

There was also an interview with a representative of the Friends of the Earth who put forward a controversial view (which also concerned a matter of public policy) that carbon offsetting should stop, since it discourages industries in the developed world from actually reducing their carbon emissions. The Friends of the Earth spokesman stated that industries who pollute could simply say

¹³ Chapter 1 (e), The Television Without Frontiers Directive ((TVWF) 80/552/EEC as amended by 97/36/EC)

¹⁴ See page 52 for definition of Current Affairs as outlined in the Ofcom Broadcasting Code

“...our emissions don't matter because we can very cheaply buy some offset credits and fund a small project here or there in the developing world”. We actually need to make the emissions reductions in the developed world. And offsetting schemes don't allow us to do that.”

The programme then went on to put these comments in the context of the then upcoming Copenhagen Summit.

The programme also concluded with an examination and discussion about the then imminent Copenhagen Summit.

The Committee noted BBC Global News's report that the commissioning team for *Taking the Credit* had not considered whether the content might amount to “current affairs”. BBC Global News had explained that, although under the BBC Editorial Guidelines the content of the programme may well have been viewed as current affairs (particularly due to its proximity to the Copenhagen Summit), BBC Global News suggested that it might have been regarded as a factual piece rather than current affairs because there was no sense that the programme was making claims that carbon trading was the only, or even one of the best ways, of dealing with carbon emissions.

However, in the context of the transmission of the programme, which was the Copenhagen climate change summit in December 2009, and with such substantial referencing to the Copenhagen Summit, and its close linkage with the subject matter, company and project featured in the programme, the Committee concluded that the documentary did constitute a “current affairs” programme.

The programme should not have been externally funded, and therefore breached the Guidelines for Sponsorship and Advertising on BBC International Television Channels (April 2007 updated April 2008) with respect to ‘Content which may not be sponsored’.

Appropriate Sponsorship

While this programme should not have been sponsored, the Committee went on to consider whether the sponsorship would otherwise have been in accordance with the Guidelines for Sponsorship and Advertising on BBC International Television Channels (April 2007 updated 2008); and whether there was any suggestion of a conflict of interest as outlined in the Editorial Guidelines (June 2005).

The Committee noted that BBC Global News had judged the programme to have been fair and well-rounded and the unknown connection had not, in fact, impacted on the impartiality of the programme. The Committee accepted that there was no evidence of any direct editorial influence in the programme by the funder. The Committee also noted that changes to the programme had been made at the request of the commissioning editor prior to transmission, which had demonstrated that the BBC did retain ultimate editorial control. Nevertheless, the Committee noted that the documentary had portrayed the voluntary sector for carbon offsetting in a generally positive way. The Committee judged the programme's content to have been sufficiently close to the funder's activities to be problematic. The ESC was of the view that it was highly unlikely that the programme would have been made if the funding from the ACLT had not existed¹⁵.

The Committee noted that the mission of the ACLT is to promote accomplishment of the Millennium Development Goals through community-based programmes to mitigate and adapt to climate change by linking local African communities with the world carbon markets and other sources of finance. The Committee noted that it had been the intention of the ACLT to be part-funded from the sale of the Africa Carbon Livelihoods Credits in global carbon offset markets. Envirotrade is represented as a stakeholder on ACLT due to

¹⁵ The production company states that if they had realised there was a conflict of interest, they would have developed the film at the company's own expense.

its status as an investor in the Mozambique project. The Committee was of the view that there was an inextricable link between the funder organisation and project featured in the programme. Even though the BBC was unaware of the link between the funder and the subject of the programme, the Committee concluded that it appeared that for a contribution the company, which was closely linked to Envirotrade, had been able to promote its activities. In reaching this conclusion the Committee noted that there was no suggestion that the company had been aware of the relevant regulation or BBC guidelines when providing the sponsorship and there was no suggestion that the ACLT, Envirotrade or any personnel connected to the organisations had acted improperly.

The Committee found that the programme was in breach of Guidelines for Sponsorship and Advertising on BBC International Television Channels (April 2007 updated April 2008) with respect to 'Content of sponsored programmes' (promotion of a sponsor's activities).

A programme sponsored by an organisation, whose activities feature in that programme, would in the Committee's view give rise to a suggestion of a conflict of interest (whether or not one actually exists). The programme's content was, in this case, sufficiently close to the funder's activities to be problematic.

The funding arrangements of *Taking the Credit* were inappropriate. They risked compromising the BBC's integrity and bringing the BBC into disrepute, an outcome which would be unacceptable to licence fee payers.

As a result the Committee considered that there was a breach of the requirement that there must never be any suggestion that commercial, financial or other interests have influenced BBC editorial decisions (Section 13 of the BBC Editorial Guidelines (June 2005)).

The Committee noted that the independent production company involved had actively assisted BBC Global News in coming to a resolution and had engaged fully with the process before the Committee. It was also encouraged to note that the independent production company involved had since provided full training to their staff regarding safeguarding trust, with an aim of ensuring full compliance with BBC procedures going forward. Rockhopper TV resumed its status as a supplier of independently produced programmes to BBC World News in April 2010.

Sponsorship Credit

Given that the programme was current affairs, there should not have been any sponsorship arrangement in place. However, it was noted that the programme had, in effect, a funding arrangement in place, yet this was not conveyed to the audience. If it had been appropriate for this programme to be sponsored then the sponsoring organisations should have been credited in accordance with 'Principle for Sponsorship and Advertising' of the Guidelines for Sponsorship and Advertising on BBC International Television Channels (April 2007 updated April 2008).

The link between the funder and the organisation featured in the programme could (and indeed did) create the suggestion that the content had been influenced, particularly since the link was not credited and therefore was not transparent.

BBC World News Audited Programmes, 28 February 2011 – 7 August 2011

Background

In light of its finding on *Taking the Credit* (see above), the Committee asked BBC World News to undertake a review of funding arrangements for all current documentary or feature programmes which were acquired at low or nominal cost to the channel (“the Audit”). These programmes were transmitted over the weekend schedule and produced by independent production companies. The review period covered all such programmes which had been broadcast, commissioned or in production between 28 February 2011 and 7 August 2011. The Committee required this review to satisfy itself that BBC World News is compliant with all regulatory requirements and BBC guidelines in this area. BBC World News was asked to report back to the Committee on this action in September 2011.

Summary of the BBC Global News’ Review into Programmes covered by the Audit

The Audit by BBC Global News covered 39 programmes¹⁶ and its initial findings were presented to the Committee at its 8 September 2011 meeting (see Annex 3). The BBC Executive explained in the report on the Audit that it had identified four programmes which it considered likely to be in breach of the BBC Editorial Guidelines and the Advertising and Sponsorship Guidelines for BBC Commercial Services. Further, it explained that the Audit also looked at the compliance process itself and then reviewed the content for compliance against the relevant Guidelines. The Audit aimed to identify whether each programme:

- was current affairs
- was sponsored, and whether there was any conflict of interest
- gave rise to any other editorial issues which the reviewers felt should be raised.

BBC Global News explained that because of the concerns expressed by the ESC, the audit was extensive and involved 3 stages.

- Stage 1: A researcher reviewed the programme against the Acquisition or Commissioning Agreement and Producer Declaration form for each series or programme in order to assess potential conflict of interests and other issues related to the funding.
- Stage 2: An editorial reviewer analysed the programmes, including watching each of the programmes in full, in conjunction with the supporting documentation in order to assess whether the programme could be defined as current affairs and whether editorial compliance issues in general were raised.
- Stage 3: Any programme for which any issues or concerns were raised by the editorial reviewer, however marginal, were escalated to BBC News’ senior editorial adviser.

BBC Global News noted that all the contracts with the production companies gave BBC World News the right to edit the content as it deemed necessary and was always subject to BBC World News’ final editorial and compliance approval. Further there was always a requirement for the producer to credit all funders in the programme. In addition the

¹⁶ For this finding ‘the Audit’ covers 39 programmes, however, there were a further 15 FBC Media (UK) Ltd produced programmes which were also broadcast, commissioned or in production during this period. These programme were also audited but are dealt with separately under FBC Media (UK) Ltd produced programmes and not here under the Audit.

producer is required to confirm that the programme was in accordance with BBC Guidelines and the Ofcom Broadcasting Code.

Of the 39 programmes audited, the BBC Executive concluded that four were likely to be in breach of the Guidelines. Of these two programmes had been misclassified and were in fact current affairs (and therefore could not be sponsored). The BBC Executive also recognised that there were a number of potential conflicts of interests identified in the Audit where the sponsor had too close a connection with the content of the programmes. BBC World News stated that "None of these potential conflicts had been apparent at the time of transmission and no concerns had been raised until they were flagged in the audit".

As a result of its investigation into the Audit and other programmes the Executive has put into place a further number of actions (see Summary of Action taken by BBC Management on page 4)

Finding of the ESC – BBC World News Audit

The Committee took into account the Executive report presented by BBC Global News at its meeting in November 2011. This was also discussed at its October 2011 meeting. The Committee also took into account correspondence received from the independent production companies which produced these programmes. The Committee viewed the programmes in full.

In its discussion, the Committee considered relevant policies and guidelines which were in place at the time of broadcast. These included the BBC's Editorial Guidelines (October 2010), the Advertising and Sponsorship Guidelines for BBC Commercial Services (January 2010 updated May 2011) and the Agreement Between Her Majesty's Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation (2006). (See Annex 1 for further details.) The Committee noted the relevant provisions in the European Audiovisual Media Services Directive¹⁷, which was in force at the time of broadcast, and also had regard to the Ofcom Broadcasting Code. The Committee noted that it was not within its remit to consider whether there had been a breach of the Ofcom Broadcasting Code, as this was the specific responsibility of Ofcom. However, the Committee noted its duty to monitor and hold the BBC to account for its compliance with the Directive and Code.

The ESC considered each programme individually and concluded that, of the 39 programmes audited by BBC Global News, six were in breach of the Guidelines. These were:

- *Earth Reporters: Sea Change*, 5 March 2011, produced by TVE
- *Nature Inc.: Conservation from Chaos*, 9 April 2011, produced by One Planet Pictures
- *Nature Inc.: Hard Rain 1*, 16 April 2011, produced by One Planet Pictures
- *Nature Inc.: Hard Rain 2*, 23 April 2011, produced by One Planet Pictures
- *Earth Reporters: Beating the Plague*, 21 May 2011, produced by TVE
- *Nature Inc. 21 Gigatonne Timebomb*, 4 June 2011, produced by One Planet Pictures

The Committee noted that, while these programmes were in breach of the relevant guidelines, there was no evidence to suggest that the editorial integrity of the independent production companies that produced the programmes was compromised. Further, the Committee did not consider that any of these programmes raised issues under the due impartiality requirements. The Committee recognised that the independent production companies involved (One Planet Pictures and TVE) had actively assisted BBC Global News in coming to a resolution and had engaged fully with the process before the Committee.

In each of the programmes outlined below, the Committee asked itself a series of questions in order to establish whether the programmes breached the Guideline(s). The ESC needed to assess:

- a) Whether the programme was current affairs (since current affairs programmes are prohibited from being sponsored)
- b) Whether the programme sponsor was an appropriate sponsor under the Guidelines i.e. was there a potential of a conflict of interest which would result in "any suggestion that commercial, financial or other interests have influenced BBC

¹⁷ Directive 2007/65/EC

editorial judgements" and/or was there a promotion of the sponsor or its activities within the programme?

- c) Was there a credit identifying that a financial relationship existed between the producer and the sponsor and, if so, was it sufficiently transparent in accordance with the Guidelines?

***Earth Reporters: Sea Change*, transmitted 5 March 2011**

Background

Earth Reporters: Sea Change was a factual scientific programme. It profiled developments in oceanography and followed a scientist (the Earth Reporter) from her home in Tasmania to Argentina where she led a mission of international scientists working with technologies to provide a greater understanding of the effects of climate change. The programme was sponsored by the United Nations Educational, Scientific and Cultural Organisation (“UNESCO”) and United Nations Environment Programme (“UNEP”). The Open University was also a co-producer of this programme (providing expertise, advice and some funding towards the programme). These organisations were credited at the end of the programme during the end title sequence. The programme, in particular, focused on a scientific project called Argo, which observes and measures changes in the ocean with free floating oceanic robots. It appears that the Argo project does not receive any funds from either UNEP or UNESCO, but both organisations are involved in supporting it through other means; UNEP provides advice and co-ordination (but not funding) to the Global Oceans Observing System (“GOOS”), under whose auspices Argo is organised, and UNESCO part-funds a small office in Toulouse named JCOMM-OPS, which provides co-ordination services between the national agencies that do fund the Argo project directly.

ESC Finding on *Earth Reporters: Sea Change*

Current Affairs

First, the Committee considered whether this was a current affairs programme. In the view of the ESC, it was not. It focused on the collection and investigation of scientific data about the ocean and followed one scientist and her project. It did not deal directly with government policies or contain explanations or analysis of current events or issues. In the view of the Committee it was fundamentally a science documentary. Therefore, in principle, it was a programme that could be sponsored.

Appropriate Sponsorship

The Committee then considered whether the sponsors of this television programme, UNESCO and UNEP, were appropriate and whether their involvement was in accordance with the Guidelines.

As described above, UNESCO and UNEP have certain links to the Argo project, which was central to the programme. The Committee therefore had to consider whether their sponsorship was in accordance with the Guidelines.

A programme sponsored by an organisation whose activities feature in that programme, would, in the Committee's view, give rise to a suggestion of a conflict of interest and be in breach of the Guidelines. It is also possible that an advisory or co-ordinating role in a particular project may, in principle, mean that an organisation has sufficient proximity to the aims and outcomes of that project that it would be an inappropriate sponsor for a programme about that project. It was the Committee's view that the presence or absence of financial support for the project from the organisation is not, in itself, determinative. The decision must be made on the facts.

On the basis of the information provided to the Committee, it did not consider that the proximity between UNEP (as an adviser to GOOS) and the Argo project is sufficient to

create any suggestion that the project forms any part of UNEP's services. While UNEP may believe in the goals of the Argo project and wish for it to continue, the link between the two is sufficiently removed to mean that promotion of the Argo project would not amount to promotion of UNEP or risk a suggestion of a conflict of interests.

An element of UNESCO's activities does feature more directly in the programme, namely the JCOMMS-OPS office, which co-ordinates the activities of the Argo project's funders and which is part-funded by UNESCO (among other agencies). The reference to JCOMMS-OPS identifies how the project is co-ordinated. However, the ESC considered that while the programme may be considered to contain an implicit promotion of the effective manner in which potentially complicated co-ordination takes place, it would be difficult to characterise this particular relationship as a service or product of UNESCO. It is also noted that funding of JCOMMS-OPS is shared between several bodies and so its exposure to Argo is further reduced. Given the above, the Committee concluded that there was not a breach of 15.2.2 (Conflict of Interest) of the Editorial Guidelines (October 2010).

Given that the sponsor's products or services did not appear directly in the programme, the Committee did not consider whether there was promotion of its products or services.

However, in reviewing this case, the Committee considered that there was promotion of the Argo project itself and, in particular, the last section of the programme appeared to encourage its continued funding. For instance, the voice over stated that the Argo project cost \$24 million annually and "funding this important project is an ongoing quest". This was followed by an interview which stated that the "Biggest challenge to maintaining this...programme probably is getting money from national governments...I hope we will be able to leave something for future generations". Other interviewees said, "Policies that government introduces really need to be underpinned by good strong science and Argo gives us the observations and measurements...to be able to do that science and make sure that good science underpins policy decisions that will affect everybody ultimately". Other comments included, "A robust global ocean observation system is essential...and it's urgent we gather it [the information] now" and "we need to broaden the partnership that underpin the Argo programme".

While the Committee viewed that UNESCO and UNEP's direct activities were adequately removed from the Argo project, the ESC had concerns about the combination of the relationship of the funders to the subject matter and the promotion of the Argo project. While for the reasons above there was no breach of the Guidelines, the ESC believed that the relationship between the sponsor and the subject matter was of the type that should be identified and considered carefully by the BBC and the independent production company.

Sponsorship Credit

Finally, the Committee considered whether the credit which was inserted into the end title sequence of the programme, with the words "With support from...", was sufficiently prominent and adequately labelled so that the audience would be aware of the financial relationship between the sponsor and the programme.

The wording "supported by..." is suggested as an appropriate sponsorship credit in the Advertising & Sponsorship Guidelines for BBC Commercial Services (January 2010 updated May 2011) (see Annex 1, page 47) and therefore the ESC considered that, in this respect, the credit was in accordance with the Guidelines. The Committee then considered whether being in the end titles, where it was positioned, was sufficiently adequate or clear. The Guidelines state that:

“Any sponsorship must be *clearly* identified at the beginning and/or the end of the programme or segment.” [emphasis added]

The Committee noted that this is a matter of judgment and understood that there may have been a certain amount of custom and practice at BBC Global News. Nevertheless, the Committee was keen to emphasise, going forward, the importance of the BBC’s relationship with its audience and that full transparency was essential. It considered that these credits were not as clear as they could have been and, importantly, viewers were likely to have missed the fact that UNESCO and UNEP sponsored the programme. The reason why the Guidelines state that any sponsorship should be “clearly identified” is to ensure transparency. Given the importance of transparency, the ESC recommends that in future such credits should appear as separate billboards.

The Committee concluded that there had been a breach of 6.2 of the Advertising & Sponsorship Guidelines for BBC Commercial Services (January 2010 updated May 2011).

The ESC would like the Executive to return to the Committee with proposals on how it considers, in the future, sponsors’ credits should be transmitted and what words and in what circumstances are appropriate to ensure that audiences are fully aware that a financial relationship exists between the sponsor and the programme.

Nature Inc.: Conservation From Chaos, transmitted 9 April 2011

Background

Nature Inc.: Conservation From Chaos was a programme focusing on the Democratic Republic of Congo ("DRC"), which asked why, despite its great wealth of natural resources, it remained one of the poorest countries in the world. This edition looked at the Congo's environment, which is under threat from decades of conflict and lack of effective government and examines the ways the country can rebuild its economy on a sustainable basis. The programme was sponsored by UNEP. However, there was no indication in the programme that it had received any funding from external sources.

The programme featured an international assessment team from UNEP whose role was to assess the impact of the conflict on DRC.

ESC Finding on Nature Inc.: Conservation from Chaos

Current Affairs

The Committee decided that this programme was not a current affairs programme. It focused on sustainable development and the environment and how the country could rise "from the chaos". The programme also looked at the work of the teams aimed at developing the economy on a sustainable basis. Therefore as it was not a current affairs programme it was, in principle, a programme that could be sponsored.

Appropriate Sponsorship

The programme followed the work of, and contained interviews with, the leader of the Post Conflict Environment Assessment Team which is run by UNEP (referred to in the programme as "an international team"). Details of another UN scheme in which UNEP has an interest ("Reducing Emissions from Deforestation and Forest Degradation") is also included in the programme. Given this, the Committee considered whether there was a conflict of interest and/or a promotion of the sponsor's activities.

The independent production company that produced the programme informed the ESC that interviews with the leader of the Post Conflict Environment Assessment Team were included as a result of a request from the BBC, for editorial reasons. While the Committee noted this, it had to make a judgment on whether the programme as transmitted breached the BBC Guidelines.

A programme sponsored by an organisation whose activities feature in that programme would in ESC's view give rise to a suggestion of a conflict of interest. Funding a programme which contains subject matter about your own activities gives rise to a suggestion of a conflict of interest (whether or not one actually exists). The programme's content was, in this case, sufficiently close to the funder's activities to be problematic. As a result there was a breach of the requirement that there must never be any suggestion that commercial, financial or other interests have influenced BBC editorial judgments¹⁸.

The Committee then went on to consider whether any of the activities of the sponsors, UNEP, were promoted in the programme. The Post Conflict Environment Assessment

¹⁸ It should be noted that the requirements in this area, as outlined in the BBC Editorial Guidelines (October 2010) apply equally to those making content for the BBC as they do to the BBC itself.

Team was able to give its analysis of the situation in DRC and explain its work. Some may see this as relatively objective and factual. However, by giving a significant amount of time in the programme directly to the UNEP team's views and activities, and discussing, indirectly, the benefits of UNEP policies, this resulted, in the ESC's view, in a promotion of UNEP as an organisation and its activities in general. The Committee also noted that the Guidelines state:

"Any reference to a [sponsor's] product or service, in either sound or vision, is only permitted if incidental, non-promotional and editorially justified."

The Committee considered that the reference to UNEP's work could not be described as "incidental".

The Committee also noted that a viewer would not have been aware, (through the programme's content) that UNEP was involved in the Post Conflict Environment Assessment Team or that one of the interviewees belonged to UNEP (as they were not labelled as such).

The Committee considered that the programme could be seen to promote UNEP's activity and was in breach of 6.1 (General Rules) of the Advertising & Sponsorship Guidelines for BBC Commercial Services (January 2010 updated May 2011). There was also a breach of 15.2.2 (Conflict of Interest) of the Editorial Guidelines (October 2010).

Sponsorship Credit

The Committee noted that the programme contained no credit to UNEP, the sponsors of the programme. Given that the programme was sponsored by UNEP, the absence of a credit meant it was in breach of 2.5 and 6.2 of the Advertising & Sponsorship Guidelines for BBC Commercial Services (January 2010 updated May 2011).

***Nature Inc.: Hard Rain 1*, transmitted 16 April 2011**

Background

This edition of *Nature Inc.* looked at the Asian Pacific region and, in particular, India and the Pacific islands of Kiribati. These areas are particularly vulnerable to the increase in the incidence of extreme weather events (for instance, sea level rises). The programme (one of two) examined how these communities are adapting to these environmental and man-made disasters.

The United Nations Development Programme ("UNDP") Asia-Pacific Regional Centre sponsored the programme. UNDP and the organisation, the German Society for International Cooperation ("GSIC"), were credited at the end of the programme during the end title sequence. (However, it should be noted that while the GSIC was thanked in the end credits, the Committee was informed that the production company did not receive any funding from it.) The programme featured a project that was part-funded by UNDP along with several other donors.

ESC Finding on Nature Inc.: Hard Rain 1

Current Affairs

The Committee concluded that, on balance, this programme was current affairs. Even though it dealt with factual matters around humanitarian and environmental issues it also covered Kiribati policies and relationships with other states. It contained interviews with the President of Kiribati about his country's policies on, for example, education as well as his desire to see the international community invest in the infrastructure to stop rising sea levels. In a section on India, the programme contained interviews which were critical of the government development policies (such as a lack of clean water and education for children) as well as an interview with a government minister. The government minister was critical of the 'growth' policies of China and the US and the effects on the environment. As such this programme contained an analysis and explanation of current events and issues.

Since this programme was current affairs it should not have been sponsored and was therefore in breach of 6.2.1 of the Advertising & Sponsorship Guidelines for BBC Commercial Services (January 2010 updated May 2011).

Appropriate Sponsorship

While this programme should not have been sponsored, the Committee went on to consider, in any event, whether the sponsorship that was in place was in breach of the Guidelines relating to conflict of interests and promotion of sponsor's activities.

UNDP sponsored the programme broadcast on BBC World News. UNDP was not featured specifically in the programme or interviewed as part of it. However, the programme featured the work of the Kiribati Adaptation Programme and contained an interview with its Director.

The Kiribati Adaptation Programme is part-funded by the UNDP. It appears that funding of this project was also provided by the World Bank, the European Union, the New Zealand Government and the Australian Agency for International Development, among others. The Committee understands from the independent producer that there were a very large number of organisations involved in the funding of the project. The funding

was provided through the Global Environment Facility Trust Fund (“GEF”), which is closely related to the UNDP.

A television programme sponsored by an organisation and which also features its services in that programme would in the Committee’s view give rise to a suggestion of a conflict of interest. The question that the ESC therefore considered was whether the activities or services of the Kiribati Adaptation Programme could be considered to be the services of the UNDP.

The producer has informed the ESC that the aspects of the project that were featured in the programme, namely the coverage of nurses and naval recruits, were specifically funded by the New Zealand Government and the German Merchant Navy respectively.

The Committee noted that the shared funding of the Kiribati Adaptation Programme, and the focus of the programme on aspects of the project that were funded by other organisations, may decrease the risk of a suggested conflict of interest and mean that any promotion of the project would not result in a promotion of the UNDP’s activities or services. This may be particularly true in light of the potentially large number of organisations funding the project. The Committee noted that such issues are complex and the judgments are fine. It also noted that such programmes do deal with important issues in the public interest. However, taking the above all into account, the ESC believed that the UNDP appeared to be relatively closely associated with the project as a whole and that, on balance, the existence of other funders in itself does not distance the UNDP from the project sufficiently to extinguish the potential suggestion that there may be a conflict of interest. As a result, there was a breach of the requirement that there must never be any suggestion that commercial, financial or other interests have influenced BBC editorial judgments¹⁹.

On a similar basis, it was also the Committee’s view that the proximity between the UNDP and the project was such that the programme resulted in an indirect promotion of the activities of the sponsors, UNDP. While some may view the Kiribati Adaptation Programme’s participation in the broadcast as relatively objective and factual, it did, however, result in the promotion of the work of UNDP. By explaining the work of the Kiribati Adaptation Programme and interviewing a Director of the Programme in the broadcast and discussing, indirectly, the benefits of UNDP policies, it resulted in promoting the UNDP’s work by association. The Committee also noted that the Guidelines state:

“Any reference to a [sponsor’s] product or service, in either sound or vision, is only permitted if incidental, non-promotional and editorially justified.”

The ESC considered that the reference to the Kiribati Adaptation Programme could not be described here as “incidental”.

The programme could be seen to promote UNDP’s activity and was therefore in breach of 6.1 (General Rules) of the Advertising & Sponsorship Guidelines for BBC Commercial Services (January 2010 updated May 2011). There was a breach, in the Committee’s view, of 15.2.2 (Conflict of Interest) of the Editorial Guidelines (October 2010).

Sponsorship Credit

¹⁹ It should be noted that the requirements in this area, as outlined in the BBC Editorial Guidelines (October 2010) apply equally to those making content for the BBC as they do to the BBC itself.

Finally, the Committee considered whether the credit which was inserted into the end title sequence of the programme, with the words "With thanks to...", was sufficiently prominent and adequately labelled so that the audience would be aware of the financial relationship between the sponsor and the programme.

The Committee was of the view that the words "With thanks to..." are not sufficient to indicate that a financial relationship exists between the sponsor and the programme maker since they may imply cooperation and help and not necessarily assistance with funding.

The ESC then considered whether being in the end titles, where it was positioned, was sufficiently adequate or clear. The Guidelines state that:

"Any sponsorship must be *clearly* identified at the beginning and/or the end of the programme or segment." [emphasis added]

The Committee again noted that this is a matter of judgment and understood that there may have been a certain amount of custom and practice at BBC Global News. Nevertheless, for the reasons outlined on page 20 the Committee judged these credits were not as clear as they should have been.

The Committee considered this to be a breach of 6.2 of the Advertising & Sponsorship Guidelines for BBC Commercial Services (January 2010 updated May 2011).

***Nature Inc.: Hard Rain 2*, transmitted 23 April 2011**

Background

This second edition of *Nature Inc.* also looked at the Asian Pacific region, and in particular Vietnam and the Philippines. These areas are particularly vulnerable to the increase in the incidences of extreme weather events (for instance, sea level rises). The programme (the second of two) examined how these communities are adapting to these environmental and man-made disasters.

UNDP Asia-Pacific Regional Centre sponsored the programme. UNDP and the organisation, the German Society for International Cooperation (“GSIC”), were credited at the end of the programme during the end title sequence. (However, it should be noted that while the GSIC was thanked in the end credits, the production company explained that it did not provide any funding for the broadcast.)

The programme featured a ‘food for work programme’, which is partly funded by UNDP (as well as other UN agencies e.g. UNICEF and UN Population Fund, together with various other organisations).

ESC Finding on *Nature Inc.: Hard Rain 2*

Current Affairs

The Committee considered that, on balance, this episode was not current affairs as it dealt almost exclusively with the effects of environmental disasters (such as tsunamis and resulting evacuations) and humanitarian issues and projects. A large section of the programme covered how some rice plantations are finding ways to grow rice and increase yields by using new techniques and technologies. Therefore as it was not a current affairs programme it was, in principle, a programme that could be sponsored.

However, while the ESC recognised that each programme has to be considered on its own merits, it noted that the first episode of the same name *Nature Inc.: Hard Rain 1* was current affairs (see page 25). This, the Committee believed, had the potential to be confusing and the Committee expressed concern over whether it would be appropriate in the future for one part of a programme of multiple parts, such as this, to be sponsored while the other could not be. It therefore requested that the BBC Executive consider the issues around legitimate sponsorship of programmes which, while not being current affairs, are part of a series that is wholly or partly current affairs.

Appropriate Sponsorship

The programme contained a section on the ‘food for work programme’ (which is a project to clear drainage channels in Albay). This project was partly funded by the UNDP, UN agencies, together with various other organisations. The UNDP were also sponsors of the programme.

A television programme sponsored by an organisation which also features its activities or services in that programme would in the Committee’s view give rise to a suggestion of a conflict of interest. The question the ESC therefore considered was whether the activities or services of the ‘food for work programme’ could be considered to be the services of the UNDP. The Committee noted that the shared funding of the ‘food for work programme’ decreases the risk of a suggested conflict of interest. However, the Committee also noted what appears to be the quite significant participation of other UN agencies. The UNDP

itself takes a co-ordinating role in UN activities in each jurisdiction and, as noted on the UNDP website²⁰:

"In each country office, the UNDP Resident Representative normally also serves as the Resident Coordinator of development activities for the United Nations system as a whole. Through such coordination, UNDP seeks to ensure the most effective use of UN and international aid resources."

As such, the Committee considered that the involvement of the UNDP should also be assessed in light of the fact that it may be acting as a representative of other UN agencies involved in the 'food for work programme' and considered there to be a significant risk that the UNDP is sufficiently close to the project to raise the suggestion of a conflict of interest. As a result there was a breach of the requirement that there must never be any suggestion that commercial, financial or other interests have influenced BBC editorial judgments²¹.

On a similar basis, the programme resulted in a promotion of UNDP. While the ESC recognises that some may view the coverage of the project in the programme as relatively objective and factual, it did nevertheless result, in the Committee's view, in promotion of the work of the UNDP and the interests the UNDP represents. The programme explained how the 'food for work programme' was in the view of the Governor of Albay "reaping benefits". The programme also explained, in detail, how the project worked and contained interviews about it and the positive effects it was having on the poorest members of its society.

By explaining this work, having interviews about the 'food for work programme' and discussing, indirectly, the benefits of UNDP policies, this resulted in promotion for the sponsor. It should also be noted that the Guidelines state:

"Any reference to a [sponsor's] product or service, in either sound or vision, is only permitted if incidental, non-promotional and editorially justified."

The Committee did not consider that the reference to 'food for work programme' could be described as "incidental".

There was a breach of 15.2.2 (Conflict of Interest) Editorial Guidelines (October 2010). Further, in the Committee's view there was also a breach of 6.1 (General Rules) of the Advertising & Sponsorship Guidelines for BBC Commercial Services (January 2010 updated May 2011) because of the references to the sponsor's activities in the content of the programme.

Sponsorship Credit

Finally, the Committee considered whether the credit which was inserted into the end title sequence of the programme, with the words "With thanks to...", was sufficiently prominent and adequately labelled so that the audience would be aware of the financial relationship between the sponsor and the programme.

The Committee was of the view that the words "With thanks to..." are not sufficiently clear to indicate that a financial relationship exists between the sponsor and the

²⁰ http://www.beta.undp.org/content/undp/en/home/operations/about_us.html

²¹ It should be noted that the requirements in this area, as outlined in the BBC Editorial Guidelines (October 2010) apply equally to those making content for the BBC as they do to the BBC itself.

programme maker since they may imply cooperation and help and not necessarily assistance with funding.

The ESC then considered whether being in the end titles, where it was positioned, was sufficiently adequate or clear. The Guidelines state that:

“Any sponsorship must be *clearly* identified at the beginning and/or the end of the programme or segment.” [emphasis added]

The Committee again noted that this is a matter of judgment and understood that there may have been a certain amount of custom and practice at BBC Global News. Nevertheless, for the reasons outlined on page 20 the Committee judged these credits were not as clear as they should have been.

This was a breach of 6.2 of the BBC Advertising & Sponsorship Guidelines for BBC Commercial Services (January 2010 updated May 2011)

Earth Reporters: Beating the Plague, transmitted 21 May 2011

Background

In this episode of *Earth Reporters*, a veterinary epidemiologist tells the story of how Rinderpest (one of the world's most devastating animal diseases) was eradicated. It is estimated that Rinderpest has killed hundreds of millions of cattle worldwide.

UN Food and Agriculture Organisation ("UNFAO") sponsored the programme and received a credit at the end of the programme, in the end sequence titles. The Open University was also a co-producer of this programme (providing expertise, advice and some funding towards the programme).

ESC Finding on Earth Reporters: Beating the Plague

Current Affairs

The Committee considered that this programme was clearly not a current affairs programme. It focused on the history of Rinderpest, its destructive forces and how it had been eradicated. This was fundamentally a historic and scientific documentary not containing explanation of current events and issues or dealing with politics or governmental policies.

Appropriate Sponsorship

The Committee then considered whether UNFAO the sponsor of this television programme, was appropriate and in accordance with the Guidelines. The UNFAO is the organisation that headed the Rinderpest Eradication Programme. The Rinderpest Eradication Programme is what this television programme was about. The programme also featured interviews with members of the UNFAO.

The broadcast focused on how and why the Rinderpest Eradication Programme (and therefore UNFAO) was so successful. The television programme also contained a number of interviews with representatives of the Rinderpest Eradication Programme as well as UNFAO. A television programme sponsored by an organisation which also features in that programme would in the Committee's view give rise to a suggestion of a conflict of interest. The programme was also all about the sponsor's activities and its project. As a result there was a breach of the requirement that there must never be any suggestion that commercial, financial or other interests have influenced BBC editorial judgments²².

It is also the Committee's view that the programme resulted in the promotion of UNFAO and its activities. While some may argue that this was a factual and historic documentary and very few would argue against the eradication of the disease (making the issue, in this respect, non-controversial), the focus on this subject matter would inevitably result in a promotion of UNFAO and its work. The television programme narrated the story of the challenges of eradicating Rinderpest, including its early failures but also ultimately the success of the Rinderpest Eradication Programme. In doing so, it featured a number of interviewees from the Rinderpest Eradication Programme and UNFAO explaining how the Programme worked and why it was successful. Given that UNFAO was the sponsor of the

²² It should be noted that the requirements in this area, as outlined in the BBC Editorial Guidelines (October 2010) apply equally to those making content for the BBC as they do to the BBC itself.

programme, this was, in the Committee's view a breach of the Guidelines. It should be noted that the Guidelines state:

"Any reference to a [sponsor's] product or service, in either sound or vision, is only permitted if incidental, non-promotional and editorially justified."

The Committee recognises that it is editorially justified to interview and follow the work of UNFAO in a programme about the eradication of Rinderpest. However, in this case, the programme was sponsored by UNFAO and, since there is a financial link, the programme must comply with further rules set out in the Sponsorship Guidance. Here, the Committee does not consider that references to UNFAO's work could be described as "incidental" as required in a UNFAO sponsored programme.

The Committee concluded that the programme promoted the success of the Rinderpest Eradication Programme and therefore promoted UNFAO and was in breach of 6.1 (General Rules) of the Advertising & Sponsorship Guidelines for BBC Commercial Services (January 2010 updated May 2011) as well as 15.2.2 (Conflict of Interest) of the Editorial Guidelines (October 2010) on conflict of interest.

Sponsorship Credit

Finally, the Committee considered whether the credit which was inserted into the end title sequence of the programme, with the words "With support from...", was sufficiently prominent and adequately labelled so that the audience would be aware of the financial relationship between the sponsor and the programme.

The wording "supported by..." is suggested as an appropriate sponsorship credit in the Advertising & Sponsorship Guidelines for BBC Commercial Services (January 2010 updated May 2011) (see Annex 1, page 47) and therefore the ESC considered that, in this respect, the credit was in accordance with the Guidelines. The Committee then considered whether being in the end titles, where it was positioned, was sufficiently adequate or clear. The Guidelines state that:

"Any sponsorship must be *clearly* identified at the beginning and/or the end of the programme or segment." [emphasis added]

The Committee noted that this is a matter of judgment and understood that there may have been a certain amount of custom and practice at BBC Global News. Nevertheless, for the reasons explained above (see page 21) the Committee considered that these credits were not as clear as they should have been.

As such, the Committee concluded that this was a breach of 6.2 of the Advertising & Sponsorship Guidelines for BBC Commercial Services (January 2010 updated May 2011).²³

²³ The Committee considered that the sponsorship credits in all the programmes it viewed were not adequate to ensure complete transparency with the audience.

Nature Inc.: 21 Gigatonne Timebomb, transmitted 4 June 2011

Background

This edition of *Nature Inc.* concerned the 'Montreal Protocol on Substances That Deplete the Ozone Layer', and its effect on global warming. This Protocol sought to stop the manufacture of CFCs (in, for example, refrigerator and aerosols) by 2010. This programme looked at "ozone-friendly replacement" substances and stated that they are, in fact, super greenhouse gases.

The programme was initially sponsored by UNEP. However, when the Producer Declaration identifying this funding was initially submitted, BBC World News informed the producer that the subject matter was current affairs and that it could not be broadcast unless all UNEP funding was removed. During the Audit and subsequent correspondence, the producer stated that the UNEP funds had not been used for the BBC version of the programme, but nor had they been returned to UNEP. The Committee was informed that the UNEP funds were used for foreign language versioning of the programme, not for the BBC version, and that the funds were retained because there was no mechanism for them to be returned to UNEP.

The ESC was further informed that the programme was also funded from profits from series 1 and 2 of *Nature Inc.* and outstanding money from a previous commercial series sponsor. However, while the company was content for the money to be used for the making of the programme it no longer wished to receive a sponsorship credit.

ESC Finding on Nature Inc.: 21 Gigatonne Timebomb

Current Affairs

In the Committee's view, this programme was clearly current affairs. The ESC noted that some of the programme did deal with the scientific facts behind CFCs and replacements gases. However, and significantly, it also covered areas such as the Kyoto negotiations and the reasons why the US Congress would not ratify the treaty (because Kyoto does not commit the newly "industrialised giants" such as China and India to curb their emissions). The programme also discussed various countries' approaches to amendments to the Montreal and Kyoto Protocols (in Bangkok and Cancun respectively) examining what the political and negotiating positions had been.

The programme also contained interviews, for example with the US Department of State, and also with the Indian Environment Minister discussing their political positions and issues around subsidies.

In the Committee's view this was a current affairs programme, and as such should not have been sponsored and that, to the extent there was found to be any sponsorship (see below), this was therefore a breach of 6.2.1. of the Advertising & Sponsorship Guidelines for BBC Commercial Services (January 2010 updated May 2011).

Appropriate Sponsorship

The Committee then went on to consider the funding arrangements for the programme. It noted that there were a number of discussions between the production company and the

BBC concerning how and whether this programme should be funded. Global News had correctly recognised that this was a current affairs programme and that any sponsorship was not appropriate. However, the Committee considered that it was necessary to establish whether the subsequent use of funds by the production company constituted sponsorship.

First, the Committee looked at the UNEP funding for the programme to assess whether this amounted to sponsorship and therefore whether there had been a breach of the Guidelines. The independent production company stated that UNEP funding was not used for the BBC edition but for foreign language versioning. However, the Committee was concerned that, in terms of programme sponsorship, such differentiations are extremely difficult to make. The Committee did not, for example, have information about when the funding was given (before or after the production of the programme) and exactly how it was used. It is possible, for instance, that even if funds did not go directly into the BBC version, the finance was used to make the programme viable and as such could fulfil the definition of programme sponsorship. In the absence of sufficient evidence, the Committee could not conclude whether or not the funding by UNEP amounted to programme sponsorship. As such the Committee concluded that the Sponsorship Guidelines do not apply to this payment. The Committee considered greater clarity in such cases is likely to lead to better compliance with the Guidelines (see Conclusions pages 5 and 6 for recommendations).

The ESC then considered whether, in light of the fact that the production company received funding at some stage from UNEP (if not for the BBC version), this had created a possibility that there was a suggestion of a conflict of interest (even if it did not amount to sponsorship).

The organisation, OzonAction, participated in the television programme. The programme also featured interviews with members of OzonAction.

OzonAction is a branch of UNEP and specifically “assists developing countries and countries with economies in transition to enable them to achieve and sustain compliance with the Montreal Protocol”²⁴. It was the Committee’s view that there was an inextricable link between the programme’s content and the interests of UNEP.

It should be noted that the introduction to the Editorial Guidelines (October 2010) section of Conflict of Interest states:

“A conflict of interest may arise when the external activities of anyone involved in making our content affects the BBC’s reputation for integrity, independence and high standards, or may be reasonably perceived to do so. Our audiences must be able to trust the BBC and be confident that our editorial decisions are not influenced by outside interests, political or commercial pressures, or any personal interests.”

In particular, section 15.2.2 goes on to say:

“There must never be any suggestion that commercial, financial or other interests have influenced BBC editorial judgements. Those involved in the production of BBC content must have no significant connection with products, businesses or other organisations featured in that content.”

and section 15.2.3

²⁴ See UNEP website at <http://www.unep.org/ozonaction/AboutTheBranch/tabid/6182/Default.aspx>

“The BBC must be satisfied that individuals involved in the production of its content are free from inappropriate outside commitments and connections.”

The Committee considered that by retaining the UNEP's funds and using them for a version (albeit foreign) of a programme which discussed UNEP's activities, there would be a suggestion of a potential conflict of interest as outlined in the Editorial Guidelines (October 2010). The ESC also noted that the funds were ultimately applied to activities surrounding the versioning of the same documentary for other markets, which would appear to reinforce such a suggestion. The Committee accepted the production company's assertion that it had been unable to return the funds to UNEP, but considers that it would have been appropriate to inform BBC World News of this to allow for an assessment of any issues arising as a result.

The Committee then considered the funding of the programme by the commercial organisation which had sponsored the first two series of *Nature Inc.* but which had decided for the third and subsequent series that it no longer wished to receive a sponsorship credit. The Committee believed that since the funding from the company was used to fund and produce this programme *Nature Inc.: 21 Gigatonne Timebomb* this amounted to sponsorship. It noted that the company no longer wanted a sponsorship credit; however, the programmes were nevertheless still, in part, funded by the company and as such this would be seen as sponsorship. The funding was given by the commercial company, at the time, “with a view to promoting its products...and trademarks” in accordance with the definition of sponsorship as outlined in European legislation. If sponsorship was not to have taken place, then in the Committee's view, the funding should have been returned to the company. As noted above the programme was current affairs and should not therefore have been sponsored.

The funding arrangements for this programme were complex and subject to change. Given the nature of the programme and the ambiguity that was apparent, the Committee noted that action had been taken by BBC World News to seek to ensure compliance with the Guidelines. However, the ESC also considered that, in a situation like this, further communication is required between the BBC Executive and independent production companies to ensure that the funding mechanisms are appropriate and therefore no potential conflicts of interests arise (see Conclusion pages 5 and 6).

Sponsorship Credit

Given that the programme was current affairs, there should not have been any sponsorship arrangement in place. However, it was noted that the programme had, in effect, a commercial sponsorship arrangement, yet this was not conveyed to the audience. If it had been appropriate for this programme to be sponsored then the sponsoring organisations should have been credited in accordance with 2.5 and 6.2 of the Advertising & Sponsorship Guidelines for BBC Commercial Services (January 2010 updated May 2011).

Programmes supplied to BBC World News by FBC Media (UK) Ltd

Background

After the above Audit had been commissioned by the ESC, allegations were made in *The Independent* newspaper²⁵ on 17 August 2011 about programmes produced by FBC Media (UK) Ltd²⁶, a production company, which were broadcast on BBC World News. The article claimed that FBC Media (UK) Ltd had links to the Malaysian Government and had also produced programmes about Malaysia, the Malaysian Government's policies and its palm oil industry, which were shown on the BBC World News channel. The newspaper believed that there was a conflict of interest between the work that FBC Media (UK) Ltd had undertaken for the Malaysian Government and the programmes it produced. The article quoted FBC Media (UK) Ltd denying, through its lawyers, "any impropriety" and stating that "at no time have the television programmes made for the BBC ever been influenced or affected by...[FBC Media (UK) Ltd's] commercial activities." The article also quoted FBC Media (UK) Ltd stating, through its lawyers, that "FBC ran both production and commercial divisions, which 'are and always have been quite separate and distinct'".

FBC Media (UK) Ltd has produced 20 programmes for BBC World News since the beginning of 2009. On hearing of the allegations the BBC Executive launched an immediate review of all FBC Media (UK) Ltd programmes, the alleged activities of FBC and its relationship with the Malaysian Government. Transmission of FBC Media (UK) Ltd content was suspended. The BBC Executive issued a statement which was printed in *The Independent* that:

"FBC has now admitted to the BBC that it has worked for the Malaysian government. That information was not disclosed to the BBC as we believe it should have been when the BBC contracted programming from FBC. Given this, the BBC has decided to transmit no more programming from FBC while it reviews its relationship with the company."

Review of FBC Media (UK) Ltd Produced Programmes

The review covered 20 programmes and its findings were presented to the Committee at its 8 September 2011 meeting (see Annex 3). The programmes were acquired by BBC World News at minimal or nominal cost. BBC World News had the right to show the programmes first but FBC Media (UK) Ltd retained the rights to sell the programmes elsewhere.

Of the 20 programmes acquired from FBC Media (UK) Ltd, eight programmes contained content about Malaysia and/or the Malaysian Government (one of these had only a very brief mention of a Malaysia opposition politician).

FBC Group Ltd (the parent company) confirmed to the BBC Executive that the Malaysian Government had been a client, but stated that it had been on its *corporate side* that it had acted on their behalf, and maintained that these clients never had any influence over the content of its programmes.

The BBC has seen no evidence of when the Malaysian Government contract was entered into and what period it covered. The BBC Executive asked for this information but FBC did

²⁵ "Why was a TV company that took millions from the Malaysian Government making documentaries for the BBC...about Malaysia?"

²⁶ It has been reported that FBC (UK) Ltd went into administration on 24 October 2011

not supply it. However, the FBC Group said in a letter to the BBC Executive dated 3 August 2011 that:

“We certainly do not have and have never had any contract with Malaysian Prime Minister Razak and we do not currently have any contract with the Malaysian Government. Nor have we had any contract with the Malaysian Government or any ministries since our Develop or Die, One Square Mile and Third Eye programmes have been aired”.

It is noted that Prime Minister Razak is the current Prime Minister of Malaysia and took office on 3 April 2009.

The review stated that it appeared that the BBC World News staff were not aware of a connection between FBC and the Malaysian Government when the FBC programmes were contracted or transmitted. However, the FBC Group stated, through its lawyers, that there had never been “...any question as between FBC and BBCW of FBC being under any duty to make any disclosure at any stage of the identities of their commercial clients from time to time...”

The FBC Group stated their programmes would stand the highest level of editorial scrutiny regarding fairness, balance and impartiality. It also said that it kept the two sides of its business, i.e. corporate and programme production, completely separate. It stated that no FBC Group client had ever been offered or had any influence on a BBC programme and no FBC Group client has ever featured in a BBC programme or been offered any broadcasting slots on the BBC.

It appears from publicly available documents (US lobbying declarations filed by lobbyists APCO), that FBC Media (UK) Ltd was working for the Malaysian Government in 2008. Further, in 2009 the Malaysian Government appeared to have awarded them a substantial sum of money for services relating to “global strategic communications”. The first Memorandum of Understanding between FBC Media (UK) Ltd and BBC World News was signed in December 2008.

The BBC Executive undertaking the review watched all of the programmes made by FBC Media (UK) Ltd for the BBC and analysed those relating to Malaysia or Malaysian interests in the context of the BBC Editorial Guidelines.

The BBC Executive considered that overall the cumulative effect of much of the coverage seemed favourable to the Malaysian Government and its interests. The review highlighted, in particular, that there were seven programmes containing significant Malaysian coverage (one more had a very brief reference to a Malaysian opposition politician). This is in comparison with, for example, two programmes concentrating partly or fully on Vietnam, and one about South Korea. There were no programmes about Indonesia, the Philippines or Singapore.

In conclusion the BBC Executive stated that despite FBC Media (UK) Ltd’s assertions that, at no time, had the programmes made for the BBC ever been influenced by their commercial activities, “we cannot be confident that the programmes considered in this report have not been influenced by commercial interests or political pressures”.

Background to FactBased Communications (“FBC”)

Before reaching a finding, given the nature of the issues under consideration, the Committee fully noted and took into account the background of FBC Media (UK) Ltd²⁷ as a company and its alleged relationship with the Malaysian Government.

FBC was founded in 1998 and is a:

“European-based media and entertainment group specialising in television format creation, production, distribution and strategic communications”

The website stated that FBC is made up of “a number of divisions”. These were:

- FBC Branded Entertainment
- FBC Group Ltd
- FBC India
- Strategic Communications

FBC Group Ltd is:

“...a London-based media, strategic communications and entertainment holding group, whose activities include strategic communications and national branding campaigns, current affairs content for television, airlines and online, plus original TV format creation and quality production for the UK television market in the entertainment, factual entertainment, sport and factual genres, as well as FBC's international sales, sponsorship and distribution of syndicated programmes, our strategic communications branded content creation and placement service, and related services.”

FBC Strategic Communications is:

“...a specialist boutique that conducts national branding campaigns, and offers strategic communications, brand awareness and positioning and strategic international media advisory services, along with a range of associated deliverables.

“Our clients include national, regional and local governments, Special Economic Zones and development agencies, multilateral institutions such as agencies of the United Nations and the European Commission, non-governmental organisations and non-profit environmental, social and other empowerment agencies, and Fortune 500 companies in technology, consumer goods, finance and transport, as well as a range of European luxury brands.”

There appeared to be no reference made to FBC Media (UK) Ltd on the FBC website. However, this was the company that had a contract with BBC World News to supply programmes to the BBC World News channel. FBC Media (UK) Ltd was also registered at Companies House (Company No. 05302864). FBC Media (UK) Ltd was a wholly owned subsidiary of FBC Group Ltd. FBC Group Ltd was also a registered company with Companies House (Company No 03498727). There does not appear to be any FBC-based companies listed with Companies House with respect to strategic communications.

²⁷ The information was available on FBC's website (now available at <http://www.sarawakreport.org/fbc/>) before it was taken down following the allegations printed in *The Independent*.

However, it appears from publicly available documents (US Congress lobbying report) that Washington-based lobbying company, APCO, had a contract with FBC Media (UK) Ltd itself for "Raising awareness of the importance of policies in Malaysia that are pro-business and pro-investment as well as the significance of reform and anti-terrorism efforts in that country". The "Effective Date of Registration" on this document is 3 October 2008.

Further, as highlighted in *The Independent* there is documentary evidence that in 2008-09, money was paid by the then Malaysian Prime Minister's office to FBC Media (UK) Ltd to conduct a "Global Strategic Communications Campaign" for the Malaysian Government. This article claims that money was paid out in 2008 and 2009 and reprints a copy of the document with FBC Media (UK) Ltd's name on it.

In summary, the Committee noted that FBC Media (UK) Ltd had a contract with BBC Global News to produce programmes for BBC World News. These programmes were transmitted between 2009 and 2011. From the evidence available, the Committee further noted that payments were also made to the same company, FBC Media (UK) Ltd, in 2008 and 2009 to lobby on behalf of the Malaysian Government.

Finding of the ESC – FBC Media (UK) Ltd Produced Programmes

The Committee took into account the BBC Executive's review presented at its meeting in November 2011. The ESC also took into account the comments made to the Committee by the FBC Group as well as correspondence between the BBC Executive and the FBC Group, in which the independent production company explained its position. The ESC also viewed all the relevant programmes in full.

In its discussion, the Committee considered relevant policies and guidelines, which were in place at the time of broadcast. The following Guidelines are relevant to the assessment of FBC Media (UK) Ltd produced programmes which have been broadcast since 2009:

- Advertising & Sponsorship Guidelines for BBC Commercial Services (January 2010 updated May 2011);
- The Guidelines for Sponsorship and Advertising on BBC International Television Channels (April 2007 updated April 2008)
- The BBC Editorial Guidelines (June 2005)
- The BBC Editorial Guidelines (October 2010)

and the Agreement Between Her Majesty's Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation (2006). (See Annex 1 for full details.) The Committee also noted the relevant provisions in the Television Without Frontiers Directive²⁸ and the Audiovisual Media Services Directive, which were in force at the time of broadcast, and had regard to the Ofcom Broadcasting Code. The Committee noted that it was not within its remit to consider whether there had been a breach of the Ofcom Broadcasting Code, as this was the specific responsibility of Ofcom. However, the Committee noted its duty to monitor and hold the BBC to account for its compliance with regulatory obligations such as the Directive and Code.

The ESC viewed all of the eight programmes produced by FBC Media (UK) Ltd, which contained coverage of Malaysia, and considered them to be in breach of the Editorial Guidelines on 'Conflict of Interests' (October 2010 and June 2005 versions). The relevant programmes were:

²⁸ Directive 80/552/EEC, as amended by Directive 97/36/EC.

- *Develop or Die* Series 1 Episode 2 transmitted 14 February 2009
- *Develop or Die* Series 2 Episode 1 transmitted 15 May 2010
- *Develop or Die* Series 2 Episode 2 transmitted 22 May 2010
- *Develop or Die* Series 3 Episode 5 transmitted 4 June 2011
- *One Square Mile: Sarawak* transmitted 12 February 2011
- *One Square Mile: Kuala Lumpur* transmitted 9 July 2011
- *Third Eye: Egypt* transmitted 12 March 2011
- *Third Eye: Asian Food* transmitted 2 July 2011

Sponsorship

The Committee considered whether any of the above programmes could be viewed as having been sponsored because of the apparent relationship between FBC Media (UK) Ltd and the Malaysian Government and therefore whether the relevant sponsorship Guidelines²⁹ applied. The Committee noted that this may be relevant in terms of potential promotion under the Sponsorship Guidelines, since the Malaysian Government and its activities were featured in the programmes. Further, the Malaysian Government could also be considered a body which is prohibited from advertising and therefore sponsorship under the requirements of the Communications Act 2003³⁰.

The FBC Group has acknowledged that the Malaysian Government had been a client, although it states that this was on its corporate side (it had not confirmed when). It appears (from publicly available documents) that it was working for the Malaysian Government in 2008 and 2009. In 2009 the Malaysian Government appeared to have paid for services relating to strategic communications. It therefore appears to the Committee that this financial relationship, with FBC Media (UK) Ltd, was for public relations purposes and not directly for either individual or series programme making. The Committee noted that the definition of sponsored programming:

“...is programming that has had some or all of its costs met by a sponsor. It includes advertiser-funded programmes.”

However, the Committee considered that it had no evidence before it to indicate that money paid by the Malaysian Government to FBC Media (UK) Ltd was used directly to fund programmes transmitted on BBC World News. Therefore the Committee did not consider itself able to conclude that the apparent relationship between the Malaysian Government and FBC Media (UK) Ltd would amount to programme sponsorship. Therefore the relevant Sponsorship Guidelines did not apply.

Conflict of Interests

The Committee then went on to consider whether, in the programmes featuring Malaysia (see page 39), the alleged relationship between FBC Media (UK) Ltd and the Malaysian Government resulted in there being a suggestion that commercial, financial or other interests had influenced editorial judgments which resulted in the BBC Editorial Guidelines being breached.

The Committee noted that the introduction to the Editorial Guidelines (October 2010) section on Conflict of Interest states:

²⁹ Guidelines for Sponsorship and Advertising on BBC International Television Channels (April 2007 updated April 2008) or the Advertising and Sponsorship Guidelines for BBC Commercial Services (January 2010 updated May 2011) depending on date of transmission.

³⁰ Section 321 of the Communications Act prohibits any body whose objectives are wholly or mainly of a political nature from advertising.

"A conflict of interest may arise when the external activities of anyone involved in making our content affects the BBC's reputation for integrity, independence and high standards, or may be reasonably perceived to do so. Our audiences must be able to trust the BBC and be confident that our editorial decisions are not influenced by outside interests, political or commercial pressures, or any personal interests."

In particular, section 15.2.2 goes on to say:

"There must never be any suggestion that commercial, financial or other interests have influenced BBC editorial judgements. Those involved in the production of BBC content must have no significant connection with products, businesses or other organisations featured in that content."

and section 15.2.3

"The BBC must be satisfied that individuals involved in the production of its content are free from inappropriate outside commitments and connections."

The Editorial Guidelines in place before October 2010 (i.e. the BBC Editorial Guidelines June 2005) stated:

"Conflict of interests can arise for anyone who appears on air or has responsibility for the content of a programme or service. There must never be any suggestion that personal, commercial, business, financial or other interests have influenced the BBC's editorial or financial decisions."

The ESC also noted that the introduction to the BBC Editorial Guidelines (October 2010) states:

"The BBC Editorial Guidelines apply to all of our content whoever creates or makes it and wherever and however it is received. They set out the standards expected of everyone making or presenting the BBC's output. They will help anyone, in-house or independent, public service or commercial, to deal with difficult editorial issues, meet the expectations of the audience, and produce distinctive and challenging content to the highest ethical and editorial standards."

Similarly, the BBC Editorial Guidelines (June 2005) state:

"The BBC Editorial Guidelines apply to all of our content whoever creates or makes it and wherever and however it is received. The guidelines help BBC content producers, whether in-house or Independent, public service or commercial, to navigate their way through difficult editorial issues and produce distinctive and sometimes controversial programmes and other material to the highest ethical and editorial standards."

As stated above, the Committee was aware that the FBC Group had confirmed that the Malaysian Government was a client. However, the FBC Group had stated that this was through its corporate arm (it had not given further information about when this was). The ESC considered information from publicly available documents which indicated that there was a contract between a Washington-based lobbying company, APCO, and FBC Media (UK) Ltd for "Raising awareness of the importance of policies in Malaysia that are pro-business and pro-investment as well as the significance of reform and anti-terrorism efforts in that country". The "Effective Date of Registration" on this document is 3 October 2008.

The Committee also took into account that there was evidence that in 2008-09 money was paid by the then Malaysian Prime Minister's office to FBC Media (UK) Ltd to conduct a "Global Strategic Communications Campaign" for the Malaysian Government.

FBC Media (UK) Ltd made programmes for the BBC, which were either about Malaysia (and the Government's palm oil policy) or included material about Malaysia. These programmes were transmitted between February 2009 and July 2011.

Based on the evidence before the Committee, namely the apparent financial relationship between FBC Media (UK) Ltd and the Malaysian Government and the content of the programmes - being about Malaysian Government policies, Malaysia and its industries (and, in particular, the palm oil industry) - the Committee concluded that FBC Media (UK) Ltd were not an appropriate producer for these particular programmes. The Committee concluded that it cannot be adequately confident that a relationship between FBC Media (UK) Ltd and the Malaysian Government and/or other Malaysian interests has not affected the content of BBC output. In light of the overall content covering Malaysia (as discussed below), the Committee is concerned that the BBC has broadcast programmes, which may have promoted particular subject matters (or presented them in a certain way) as a result of a production company's financial interests. At the very least, the Committee felt there was a suggestion that this might have happened.

The ESC also noted a former version of FBC's website (now available at <http://www.sarawakreport.org/fbc/>) and, in particular noted, that FBC stated that:

"FBC regularly creates one off productions as well as series of documentaries that investigate our clients' issues and subtly position them in a positive space within their target markets"

This statement is below the title "Documentaries" with the series *Develop or Die* (one of the series under consideration here) listed directly below.

The ESC considered that the very purpose of the 'Conflict of Interests' Guidelines is to guard against editorial judgments in BBC content being inappropriately influenced by financial, commercial or other interests such as offers to promote independent production companies' corporate clients.

Given that the Editorial Guidelines (both the 2010 and 2005 versions) state that "there must never be *any suggestion* [emphasis added] that commercial...financial...or other interests have influenced the BBC's editorial decisions", (and that this should apply to both the BBC and its independent production companies that make programmes for it) the Committee considered that there has been a breach of the Editorial Guidelines.

Specifically:

Section 13 of the BBC Editorial Guidelines (June 2005) for:

- | | |
|--|------------------------------|
| • <i>Develop or Die</i> Series 1 Episode 2 | transmitted 14 February 2009 |
| • <i>Develop or Die</i> Series 2 Episode 1 | transmitted 15 May 2010 |
| • <i>Develop or Die</i> Series 2 Episode 2 | transmitted 22 May 2010 |

and section 15.2.2 of the BBC Editorial Guidelines (October 2010) for:

- | | |
|--|------------------------------|
| • <i>Develop or Die</i> Series 3 Episode 5 | transmitted 4 June 2011 |
| • <i>One Square Mile: Sarawak</i> | transmitted 12 February 2011 |
| • <i>One Square Mile: Kuala Lumpur</i> | transmitted 9 July 2011 |
| • <i>Third Eye: Egypt</i> | transmitted 12 March 2011 |
| • <i>Third Eye: Asian Food</i> | transmitted 2 July 2011 |

The Committee considered these breaches to be particularly serious.

Due Impartiality

Given the apparent relationship between FBC Media (UK) Ltd and the Malaysian Government, and the finding of breach of the Editorial Guidelines on 'Conflict of Interests' the ESC had to be satisfied that the programmes which featured Malaysian issues complied with the BBC's requirement on due impartiality.

During the period in which FBC Media (UK) Ltd produced programmes were transmitted, there have been two different versions of the Editorial Guidelines in place. The Editorial Guidelines (June 2005) and the Editorial Guidelines (October 2010).

The Committee noted that the Editorial Guidelines (October 2010) state that the BBC "...must apply due impartiality to all...[its] subject matter". The June 2005 version stated "It [impartiality] applies across all of our services and output". Both Editorial Guidelines also state that achieving impartiality will vary according to a number of factors such as the subject, nature of the content, the likely audience expectation. Both Guidelines explain that special care needs to be taken with "controversial subjects" (including matters of political or industrial controversy or relating to public policy).³¹ Both Editorial Guidelines also recognise "major matters" as areas that require the highest level of impartiality to be applied.

The BBC Editorial Guidelines (June 2005) explained that controversial subjects are for instance, in the UK, "issues of significance for the whole of the country, such as elections, or highly contentious new legislation on the eve of a crucial Commons vote, or a UK wide public sector strike..." (see page 52 for further details). The Editorial Guidelines (June 2005), require that "a wide range of significant views and perspectives are given due weight in the period during which a controversial subject is active".

The BBC Editorial Guidelines (October 2010) goes wider than the June 2005 version with respect to its interpretation of "controversial subjects". The Editorial Guidelines (October 2010) state that controversial subjects may be matters of political or industrial controversy or relating to public policy but may also include controversy related to other areas - for example religion, science and finance. In the Editorial Guidelines (October 2010), when dealing with controversial subjects, the BBC "must ensure a wide range of significant views and perspectives are given due weight and prominence, particularly when the controversy is active."³²

Therefore, in summary, both Editorial Guidelines envisage different levels of due impartiality applying to the different subject matters (and different levels of due impartiality may also apply within those subject matters).

FBC Media (UK) Ltd produced programmes covering a number of areas such as sustainable palm oil production, education in the developing world, the role of Sharia banking and the future of Egypt following the Arab Spring. Some of these subjects are, in the view of the Committee, "controversial subjects", and, some of these would also be

³¹ It should be noted that "controversial subjects" go wider than "matters of political or industrial controversy or matters relating to current public policy" as referred to in sections 319 and 320 of the Communications Act and the BBC Agreement. All Ofcom licensees (of which BBC World News is one) are required to ensure that they maintain due impartiality on "matters of political or industrial controversy or matters relating to current public policy". However, both BBC Editorial Guidelines go further than that and puts extra requirements on BBC output - requiring it to ensure due impartiality in all subjects and, in particular, when covering "controversial subjects" which while including "matters of political or industrial controversy or matters relating to current public policy" also go wider to cover other areas which the Guidelines envisage controversial subjects (in the 2010 these are specifically spelt out, such as religion, science, finance, culture, ethics and other matters entirely).

³² Section 4.4.7 of the Editorial Guidelines (October 2010).

considered matters of political or industrial controversy or relating to current public policy. Other areas covered in the FBC Media (UK) Ltd produced programmes may fall under 'all BBC output'. In any event, all these programmes, to a varying degree depending on the subject matter, need to be treated with due impartiality in accordance with the Editorial Guidelines. The degree of impartiality that is due is dependent on the subject matter (for instance issues that are politically controversial require a higher standard of impartiality being applied to them than, for instance, a programme about tourism).

Due Impartiality – the Programmes

The Committee looked at each programme in turn and considered whether or not it complied with the relevant BBC Editorial Guidelines on due impartiality.

Overall the ESC considered that, on balance, no one programme, when taken on its own, breached the requirements for impartiality (either because of the treatment of the subject or because of the subject matter in question). The Committee noted in this regard that the BBC Editorial Guidelines (both October 2010 and June 2005) recognise that it is not possible to include every argument and counter-argument or evidence every point made in a programme. However, the Committee expressed concern that - in some cases – the programme only just did enough to satisfy the BBC's high standards of impartiality (for details see below).

The Committee was concerned that, in the context of the apparent financial relationship (discussed above), the overall treatment of Malaysian subjects across the relevant output is such that it would appear to support a finding that there has been a breach of the section on 'Conflict of Interests' in the Editorial Guidelines. While the Committee considered that no one programme breached the due impartiality requirements, the Committee had significant concerns about the overall heavy focus on Malaysia and Malaysian issues. In particular, the Committee noted specific script lines which, while not being clearly in breach of the Guidelines, raise concerns in terms of due impartiality as a result of appearing to be too favourable to certain Malaysian issues and Government policies. These were in programmes:

- *Develop or Die* - Series 1 Episode 2, transmitted 14 February 2009
- *Develop or Die* - Series 2 Episode 1, transmitted 15 May 2010
- *Develop or Die* - Series 2 Episode 2, transmitted 22 May 2010
- *Third Eye: Asian Food*, transmitted 2 July 2011
- *Third Eye: Egypt*, transmitted 12 March 2011

The *Develop or Die* series was a set of programmes examining the challenges now facing some parts of the world; how to develop their economies whilst at the same time handling the growing pressure - mainly from the developed world - to protect the environment, combat pollution and deal with climate change.

For instance, some of the programmes focussed on the palm oil industry. In *Develop or Die - Series 1 Episode 2*, the programme reported on how the Malaysian Government has set up projects to help smallholders produce palm oil.

The programme initially set out the context of the palm oil industry with facts about its size, distribution and use. It then went on to explain the Malaysian Government's project to encourage small holders. It did this in positive terms, by first stating that the project has "slashed the numbers of desperately poor in Malaysia" and then interviewing a palm oil smallholder, who explained that he is now able to educate his children, buy a car and house. Nevertheless, the programme did seek to provide some balance and explained that there is opposition from Western environmentalists with interviews with Greenpeace, for

example. However, this balance was still slightly weighted in favour of Malaysian interests. For instance, the commentary simply stated that “the major players in the [palm oil] industry resent the *sweeping* nature of environmental campaigns” [emphasis added], without any apparent evidence that the environmental campaigns are actually sweeping. In other areas, some of the claims of the industry went unchallenged in the programme. For instance, when the report stated that “Malaysia says...most of the palm oil is grown on land previously used by other crops...”, the programme does not explain that this is challenged by some environmentalists who believe that deforestation is being caused by the planting of palm oil. Later, when Greenpeace calls on the industry to clean up its act, the programme simply stated that “The big companies are looking to do this by improving efficiency of plantations and therefore relieving pressure on remaining rainforests”. While the Committee accepted that the programme does put both viewpoints across here (and elsewhere), it was concerned that there was an apparent acceptance of the palm oil industry arguments, leaving them with the final word and without, on the face of the programme, challenging them or offering supporting evidence.

Develop or Die – Series 2, Episode 1 looked at how the Muslim world is increasingly working together to make business a tool for development. In particular, the programme looked at Sharia-compliant banking and the growing Halal industry. The programme featured the current Prime Minister of Malaysia (Najib Razak, 3 April 2009–current) and past Prime Minister (Abdullah Badawi, 31 October 2003 - 3 April 2009) as well as the former deputy Prime Minister (Musa Hitam, 1981-1986). The programme looked at how Sharia banking can take a different approach to finance compared with Western financial institutions. However, the programme did include some analysis, from finance experts, of Sharia banking and its potential weaknesses.

The Committee noted that *Develop or Die*, Series 2 Episode 2 also used the palm oil industry in Malaysia as an example of best practice. This episode showed farmers from Sierra Leone visiting Malaysia and being taught and trained. The programme explained that the African project was “ultimately...aiming to mirror the smallholders scheme in Malaysia that’s been so successful at reducing poverty”. *Third Eye: Asian Food* also contained a section on the benefits of the Malaysian palm oil industry (referred to as “exemplary” by one interviewee). This view was only really challenged by the programme stating that there were questions over whether “edible oils” are produced in a sustainable way. However, the programme did also state that there were concerns over the risks of deforestation by the growth of palm oil and this threatened the habitat.

Finally, the Committee was concerned about the programme *Third Eye: Egypt*. This episode focused on Egypt and the Arab Spring and its uncertain future. The programme examined the underlying social, political and economic strains that contributed to the revolt.

The programme voiced concerns about the Muslim Brotherhood, which has had support within the country. These concerns focused on its attitude to women and how democratic it is. The programme also examined the organisation’s alleged links with the International Institute for Islamic Thought. The programme reported that this Institute had been investigated, by the US Government, for allegedly financing terrorism. The programme then went on to say that the Institute was co-founded by Anwar Ibrahim, a Malaysian *opposition* politician, who it stated “supported the Muslim Brotherhood”.

The Committee accepted that while this reference, in itself, cannot be seen as a breach of the impartiality guidelines, this critical reference to a Malaysian opposition politician in a programme focusing on Egypt did seem arbitrary and out of place. The lobbying disclosure to the US Congress states that the lobbyist paid by FBC Media (UK) Ltd was for “raising awareness of the importance of policies in Malaysia...as well as the *significance of reform and anti-terrorist efforts in that country*” [emphasis added]. This contributed to

the Committee's overall concerns about the alleged relationship and the suggestion that it might have impacted on the content of these BBC programmes.

Overall Conclusions

The Committee's main conclusions are at the front of this report. However, the ESC was keen to reiterate the importance of ensuring that any arrangement which could be seen to amount to the sponsorship of current affairs should not occur. Further, the Committee emphasised the importance it attaches to transparency with the audience, which can only be protected if BBC producers and executives are fully aware of any financial arrangements independent producers may have entered into which could lead to suggestions of conflicts of interests. It was the Committee's view that this was a serious matter which could potentially affect the integrity of the BBC. The need for transparency on these matters was non-negotiable and should be appropriately understood by both the BBC and the independent production companies with which it works. The Committee was encouraged to note BBC Global News' statements in their report and the action plans it has put forward and expected that this would contribute to the prevention of future occurrences of these serious breaches.

Annex 1

Relevant Guidance, Definitions and Legislation

An Agreement Between Her Majesty's Secretary of State for Culture, Media and Sport and the British Broadcasting Corporation

The Agreement includes in the criteria for commercial services set out in clause 69(1)(c) that:

“they must not jeopardise the good reputation of the BBC or the value of the BBC brand”

Advertising & Sponsorship Guidelines for BBC Commercial Services (January 2010 updated May 2011)

2.3 Editorial Independence

The BBC must retain editorial control and responsibility for all editorial content. Advertising or sponsorship must not give the impression that the commercial relationship has affected our editorial content.

2.5 Transparency

The nature of the commercial relationship must be transparent and clear to consumers. Surreptitious or subliminal advertising is not allowed.

6.1 General Rules

Organisations may not sponsor content:

- if they are not allowed to advertise in that medium. Companies and organisations associated with the prohibited categories of advertising in section 3 may not sponsor any content;
- which promotes the sponsor's product or service. This includes any promotional references to the sponsor's business. Any reference to a product or service, in either sound or [sic] vision, is only permitted if incidental, non-promotional and editorially justified. The sponsorship should not give rise to concern about conflicts of interest.

6.2 Television Sponsorship

Any sponsorship must be clearly identified at the beginning and/or the end of the programme or segment.

It is essential that BBC programmes are not edited in order to place a sponsor in a favourable light or to remove material which would have otherwise been unfavourable to a sponsor. BBC factual programme content in particular, should not normally be edited to enable sponsorship. Where there is a conflict between a choice of sponsor and editorial content, we would normally drop the sponsorship. Therefore, no person or organisation may sponsor a programme which, had it not been sponsored, could have been expected to contain material which might conflict with the sponsor's interests.

6.2.1

6.2.1.1

Television content with restrictions around sponsorship

BBC News programming

BBC News is a trusted and impartial source for news around the world. Sponsorship arrangements must not jeopardise the good reputation of the BBC or the value of the BBC brand.

BBC News and Current Affairs programmes may not be sponsored directly³³.

Guidelines for Sponsorship and Advertising on BBC International Television Channels (April 2007 updated April 2008)

The BBC Brand

- Sponsorship and advertising should not give rise to doubts about the integrity and impartiality of the BBC or its programmes.
- Sponsorship and advertising must not give the impression of BBC endorsement, nor should it give the impression that it is editorial content or emulate BBC programmes

Principles for Sponsorship and Advertising

- The reputation of the BBC
Advertising and sponsorship should meet audience expectations of BBC services. It should not bring, or give the impression of bringing, the BBC into disrepute.
- Transparency
Sponsorship and advertising arrangements must be transparent. Sponsorship arrangements must be identified to the audience at the beginning of the programme.
- Editorial Independence
The BBC must retain editorial control and responsibility over sponsored programmes and programmes and scheduling must not be, or give the perception of being, distorted for commercial purposes.

³³ It should be noted that the section 6.2.1.1 Advertising & Sponsorship Guidelines for BBC Commercial Services version January 2010 states "The audiovisual media services directive (article 3f(4)) prohibits the sponsorship of news and current affairs...Therefore news and current affairs programmes should not be sponsored."

It is essential that BBC programmes are not edited in order to place a sponsor in a favourable light or to remove material which would have otherwise been unfavourable to a sponsor. BBC factual programme content in particular, should not normally be edited to enable sponsorship. Where there is a conflict between a choice of sponsor and editorial content, we would normally drop the sponsorship. Therefore no person or organisation may sponsor a programme which, had it not been sponsored, could have been expected to contain material which might conflict with the sponsor's interests. Sponsorship should not lead to a programme being edited.

Content which may not be sponsored

- News and Current Affairs

This applies to News bulletins, News programmes, Current Affairs programmes and to any content that includes explanation or analysis of current events and issues, including material dealing with current political, religious or industrial controversy or current public policy.

Inappropriate and restricted sponsors

- Companies or organisations that would not be allowed to advertise on the channel ... may not sponsor programmes.
- Sponsorship by charities will not normally be accepted

Content of sponsored programmes

- A programme may not promote the sponsor, its product or service or include any promotional references to the sponsor's business. Any reference to a product or service, in either sound or [sic] vision, is only permitted if incidental, non-promotional and editorially justified.
- The meaning of "promotional reference" includes, but is not limited to, references that encourage, or are intended to encourage, the purchase or use of a product or service.
- Where the sponsor is a tourism or trade board/organisation, the "product" includes any country, destination, location, facility or attraction that is promoted by them.

Sponsorship credits

- Sponsored programmes must be clearly identified as such at the beginning of the programme.

Sponsor credits are also permitted at the end and around commercial breaks.

- The primary purpose of a sponsor credit is to establish clearly and transparently the relationship between the sponsor and the sponsored programme. Templates and formulations for sponsorship messages for each new BBC channel should be established with the Chief Adviser, Editorial Policy.

BBC Editorial Guidelines (October 2010)

Impartiality

4.2.1

We must do all we can to ensure that 'controversial subjects' are treated with due impartiality in all our output.

4.4.5

We must apply due impartiality to all our subject matter. However, there are particular requirements for 'controversial subjects', whenever they occur in any output, including drama, entertainment and sport.

A 'controversial subject' may be a matter of public policy or political or industrial controversy. It may also be a controversy within religion, science, finance, culture, ethics and other matters entirely.

4.4.6

In determining whether subjects are controversial, we should take account of:

- the level of public and political contention and debate
- how topical the subjects are
- sensitivity in terms of relevant audiences' beliefs and culture
- whether the subjects are matters of intense debate or importance in a particular nation, region or discrete area likely to comprise at least a significant part of the audience
- a reasonable view on whether the subjects are serious
- the distinction between matters grounded in fact and those which are a matter of opinion.

4.4.7

When dealing with 'controversial subjects', we must ensure a wide range of significant views and perspectives are given due weight and prominence, particularly when the controversy is active. Opinion should be clearly distinguished from fact.

Editorial Integrity and Independence from External Interests

14.2.1

We must be independent from outside interests and arrangements which could undermine our editorial integrity.

15. Conflicts of Interests

15.1

A conflict of interest may arise when the external activities of anyone involved in making our content affects the BBC's reputation for integrity, independence and high standards, or may be reasonably perceived to do so. Our audiences must be able to trust the BBC and be confident that our editorial decisions are not influenced by outside interests, political or commercial pressures, or any personal interests.

There is a danger of conflict of interest in every area of programme or content making. Each department or team must be aware of its area of vulnerability. There may be particular sensitivities for on-air talent.

The Principles on conflicts of interest apply equally to everyone who makes our content. Independent producers should not have inappropriate outside interests which could undermine the integrity and impartiality of the programmes and content they produce for the BBC.

15.2.2

There must never be any suggestion that commercial, financial or other interests have influenced BBC editorial judgements. Those involved in the production of BBC content must have no significant connection with products, businesses or other organisations featured in that content.

15.2.3

The BBC must be satisfied that individuals involved in the production of its content are free from inappropriate outside commitments and connections.

BBC Editorial Guidelines – The BBC’s Values and Standards (June 2005)

1. THE BBC’S EDITORIAL VALUES

The BBC is committed to delivering the highest editorial and ethical standards in the provision of its programmes and services both in the UK and around the world.

4. IMPARTIALITY AND DIVERSITY OF OPINION

Impartiality lies at the heart of the BBC’s commitment to its audiences. It applies across all of our services and output, whatever the format, from radio news bulletins via our web sites to our commercial magazines and includes a commitment to reflecting a diversity of opinion.

...we should do all we can to treat controversial subjects with due accuracy and impartiality in our news services and other programmes dealing with matters of public policy or of political or industrial controversy.

- we must ensure we avoid bias or an imbalance of views on controversial subjects.

ACHIEVING IMPARTIALITY

Impartiality must be adequate and appropriate to our output. Our approach to achieving it will therefore vary according to the nature of the subject, the type of output, the likely audience expectation and the extent to which the content and approach is signposting.

Impartiality is described in the Agreement as “due impartiality”. It requires us to be fair and open minded when examining the evidence and weighing all the material facts, as well as being objective and even handed in our approach to a subject. It does not require the representation of every argument or facet of every argument on every occasion or an equal division of time for each view.

News, in whatever form, must be presented with due impartiality.

“CONTROVERSIAL SUBJECTS”

In the United Kingdom controversial subjects are issues of significance for the whole of the country, such as elections, or highly contentious new legislation on the eve of a crucial Commons vote, or a UK wide public sector strike...

In the nations and regions of the UK, controversial subjects are those which have considerable impact on the nation or region. They include political or industrial issues or events which are the subject of intense debate or relate to a policy under discussion or already decided by local government.

In the global context, some controversial subjects such as national elections or referendums will obviously have varying degrees of global significance but will be of great sensitivity in the country or region in which they are taking place. We should always remember that much of the BBC's output is now available in most countries across the world.

We must ensure a wide range of significant views and perspectives are given due weight in the period during which a controversial subject is active. Opinion should be clearly distinguished from fact. When the issues involved are highly controversial and/or a decisive moment in the controversy is expected we will sometimes need to ensure that all of the main views are reflected in our output. This may mean featuring them in a single programme, or even a single item.

13. EDITORIAL INTEGRITY AND INDEPENDENCE

The BBC's global reputation is based on its editorial integrity and independence. Our audiences need to be confident that our decisions are influenced neither by political or commercial pressures, nor by any personal interests. We must not undermine these values by any actions which could bring the BBC into disrepute

CONFLICTS OF INTEREST

Conflicts of interest can arise for anyone who appears on air or has responsibility for the content of a programme or service. There must never be any suggestion that personal, commercial, business, financial or other interests have influenced the BBC's editorial or financial decisions.

14. EXTERNAL RELATIONSHIPS

EXTERNAL RELATIONSHIPS EDITORIAL PRINCIPLES

When entering into an external relationship we must ensure that:

- our editorial impartiality and integrity are not compromised and that we retain editorial control of our output.

Definitions and Meanings³⁴

³⁴ These definitions and meanings are from the Ofcom Broadcasting Code February 2011. But previous Ofcom Broadcasting Codes contained the same definitions and meanings.

Current Affairs: "A current affairs programme is one that contains explanation and/or analysis of current events and issues, including material dealing with political or industrial controversy or with current public policy."

Sponsored programming: "Sponsored programming (which may include a programme, channel, programme segment or block of programmes) is programming that has had some or all of its costs met by a sponsor. It includes advertiser-funded programmes."

Sponsor: "Any public or private undertaking or individual (other than a broadcaster or programme producer) who is funding the programming with a view to promoting its products, services, trade marks and/or its activities."

Sponsor reference: "Any reference to the sponsor's products, services trade marks."

Other relevant legislation

As well as the Guidelines above, the Committee also noted the relevant provisions in the Television Without Frontiers Directive³⁵, which was in force at the time of the broadcast, and had regard to the Ofcom Broadcasting Code. The Television Without Frontiers Directive ("TVWF") 80/552/EEC as amended by 97/36/EC, which was the Directive in force in the UK during some of the time,³⁶ defined sponsorship in Article 1 as "any contribution made by a public or private undertaking not engaged in television broadcasting activities or in the production of audio-visual works, to the financing of television programmes with a view to promoting its name, its trade mark, its image, its activities or its products."

Article 17 (4) also states that "News and current affairs programmes may not be sponsored."

The Committee noted that it was not within its remit to consider whether there had been a breach of the Ofcom Broadcasting Code, as this was the specific responsibility of Ofcom. However, the Committee noted its duty to monitor and hold the BBC to account for its compliance with the Directive and Ofcom Broadcasting Code.

³⁵ Directive 80/552/EEC, as amended by Directive 97/36/EC. The TVWF was superseded by the Audiovisual Media Services Directive in 2010. The definitions of sponsorship and a sponsor remain unchanged (with the exception that it now applies to audiovisual media (as defined) and not just broadcasting content).

³⁶ The Audiovisual Media Services Directive has since superseded the TVWF Directive. However, other than having a wider remit (i.e. now covering audiovisual media as defined) the Directive contains the same definition and same prohibition as referred to here.

Annex 2

Report by BBC Global News, October 2010

What occurred

On 23 October 2009 BBC World News broadcast a programme called *Taking the Credit*.

The documentary was an acquisition made by Rockhopper TV. The programme was not a full commission nor was it considered to be sponsored output. The subject area of the documentary was the voluntary sector for carbon offsetting and it centred on a carbon sequestration project in Mozambique. The programme was timed to air in the run up to the Copenhagen climate change summit which took place in December 2009. Rockhopper pitched the idea and the BBC World News Commissioner agreed the editorial treatment prior to production. A rough cut of the programme was viewed by the BBC World News Commissioner who asked for some changes. These were made, the programme was compiled and aired. There were no complaints or adverse comments received by the BBC at the time of broadcast. It can be viewed on Rockhopper's website:

<http://www.rockhopper.tv/programmes/287>

1.1 Subsequent allegations

In February 2010 the following allegations were made by a freelance journalist in an email to the BBC:

- That the film about a project linked to Envirotrade was financed by Envirotrade via the Africa Carbon Livelihoods Trust (ACLT);
- That the CEO of Envirotrade was also the MD of the ACLT establishing a link between the funder and the company featured in the programme;
- That the programme was uncritical of Envirotrade and its activities in Africa.

2. Relevant BBC Guidelines

2.1 Conflict of interest

There must never be any suggestion that personal, commercial, business, financial or other interests have influenced the BBC's editorial or financial decisions.

2.2 External relationships

We must ensure that:

- our editorial impartiality and integrity are not compromised and that we retain editorial control of our output.
- our choice of partners is editorially justified and will not bring the BBC into disrepute.

3. Main conclusions of the investigation

3.1 Was the film about a project linked to Envirotrade, financed either in full or in part by Envirotrade via the Africa Carbon Livelihoods Trust?

Was the CEO of Envirotrade also the MD of the ACLT establishing a link between the funder and the company featured in the programme?

These allegations proved to be true. The programme was acquired by an experienced World News commissioner who asked about the funding for the

programme. Connections between Envirotrade and ACLT were not made and had World News known that Envirotrade and ACLT shared a director the film would not have been commissioned. Rockhopper's failure to alert the BBC to this conflict of interest risked bringing the BBC's editorial reputation into disrepute. ACLT, however, strongly denied there had been any attempt to influence the content of the programme by Envirotrade. There is no evidence that Envirotrade or its CEO in anyway influenced the editorial content of the film. The Directors of Rockhopper have given the same assurances to World News. The World News commissioner discussed the storyline with the series producer and programme reporter. When a rough cut of the film was viewed by World News some changes were made at World News's request.

However, though there was no evidence of Envirotrade having influenced the editorial content of the documentary, Rockhopper was in breach of clause 5.1.2 of the BBC World News Acquisition Agreement because by accepting the money from a conflicted source they created doubts about the objectivity or impartiality of the programme.

3.2 Did Rockhopper make an impartial programme? Was it uncritical of Envirotrade and its activities in Africa?

The overall conclusion of the investigation was that the programme was editorially sound and impartial. It was rather narrowly focused on a single carbon sequestration project, but in the context of other World News broadcasts in the run up to Copenhagen a narrower focus was acceptable.

There was no evidence that Envirotrade had influenced the direction of Rockhopper's film.

4. Actions taken by BBC World News since the incident

Following an investigation, a range of measures have been, or are being taken by BBC World News to achieve the required level of assurance for acquired programmes:

4.1 Sanction against Rockhopper TV

It was decided in April 2010 that no Rockhopper programmes should be broadcast until BBC World News was completely satisfied that the risk of a similar occurrence was negligible i.e. mitigated to an irreducible minimum. Senior staff at Rockhopper completed the BBC's Safeguarding Trust training and all staff undertook this training. Rockhopper was subsequently able to resume its status as a supplier of independent produced programmes to BBC World News.

4.2 No repeat of *Taking the Credit*

Whilst no repeat was planned, there will be no repeat broadcast of "*Taking the Credit*" on any BBC branded channel or website.

4.3 Recomply other Rockhopper TV output

An 8 part series made by Rockhopper TV was in mid series when the "*Taking the Credit*" issue broke. Remaining programmes in the series were reviewed, recomplied and broadcast without incident.

4.4 Review compliance within World News

Whilst the expectation of due diligence from an independent is explicit in acquisition agreements, the moral responsibility still lies with the BBC. In the light of this principle, World News has reviewed its compliance culture requiring it to be more active in tracing the sources of funding, and establishing the motivation of upstream funders of acquired programmes.

4.5 Strengthen contract

For 100% outside funded programming, the BBC World News acquisition agreement ought to have provided sufficient assurance. But given the circumstances of this case, the acquisition agreement has since been strengthened to include an explicit declaration of due diligence by the independent regarding the upstream sources of funding.

4.6 Review compliance with Rockhopper TV

BBC World News has conducted a compliance review with key staff in Rockhopper to ensure they are fully aware of their compliance responsibilities to the BBC. This dialogue covered all the BBC's compliance requirements especially issues that would require mandatory referral to the BBC. Communication lines have been clarified. All staff at Rockhopper now undertake relevant BBC compliance training such as Safeguarding Trust.

4.7 Credit funders

In future, outside funders will be acknowledged in acquired programme credits as a matter of principle and in the interest of transparency.

4.8 Further actions to be considered

Depending on the circumstances of each acquired programme, BBC World News may impose further conditions on Independent production companies to reduce compliance and editorial risk. Such measures might include:

- requiring Independents to secure a basket of project funding from more than one donor;
- seconding experienced BBC staff to make the programme;
- requiring key freelance staff working for the Independent to undergo Safeguarding Trust training before filming begins.

4.9 Develop new guidelines

The investigation concluded that BBC World News did not have a sufficiently detailed formal framework of reference to which programme commissioners could refer regarding externally or co-funded programming. To address this underlying issue BBC Global News (the umbrella division with responsibility for BBC World News, BBC World Service, the BBC World Service Trust and BBC Monitoring) is working with BBC Editorial Policy to devise a clear policy governing the use of third party funding plus a set of operational guidelines. These new guidelines will build on those which already exist for other parts of the division. The new guidelines will apply to the comparatively small proportion of externally or co-funded programmes broadcast by BBC Global News for its audiences around the world. It will not apply to UK licence fee funded output.

Until the BBC Trust has approved the new guidelines the Director BBC Global News will authorise any externally funded programme acquisitions. This guidance has been communicated to all BBC World News staff working in commissioning areas.

The importance of ensuring separation between the editorial proposition and the funding of content was recognized in the restructuring of the BBC Global News division earlier this year with the Head of Legal and Rights being given responsibility for ensuring that content is fully compliant with the advertising and sponsorship guidelines. This role ensures that an independent view is taken of all advertising funded or sponsored content. In addition more rigorous and transparent processes have been put in place and when taken together, these steps have created a much more robust compliance regime that should prevent a similar occurrence in future.

Annex 3

World News Compliance Report

1. Introduction

Following the findings of the Editorial Standards Committee of the BBC Trust (ESC) in relation to the Rockhopper programme, *"Taking the Credit"*, the ESC asked the BBC to undertake an audit of funding arrangements for all current documentary or feature programmes which have been commissioned or acquired for a low or nominal cost by World News (BBC WN). The audit period was to cover all programmes which were broadcast, commissioned or in production from 28 February 2011. (February 28 2011 was the date on which the latest revisions of section 9 of the Ofcom Broadcasting Code on Sponsorship came in to effect). The Committee required this audit to satisfy itself that BBC WN is compliant with regulatory requirements and BBC standards and guidelines relating to third party funding and conflicts of interest. As the ESC is aware, subsequent to the audit being commissioned, allegations were made by The Independent newspaper that some programming supplied by the production company FBC Media (UK) Ltd, for transmission on BBC WN, was inappropriate given FBC's links with the Malaysian government. This issue has also been dealt with in this report. The report also sets out the new measures that BBC WN is undertaking to ensure compliance with BBC Editorial Guidelines and other regulatory requirements.

2. Scope and Process

2.1 Overall audit process

For the purposes of this audit, all programming within the definition above which was broadcast, commissioned or in production from Monday 28 February to transmission on Sunday 7 August 2011 (inclusive) was audited. The programmes concerned were transmitted in the BBC WN weekend schedule, which is more focused on documentary and feature material. The weekday news output is not funded by any alternative methods.

The audit covered 54 programmes/episodes from a series of programmes. It audited the compliance process itself and then reviewed the content for compliance with BBC Editorial Guidelines, the BBC Advertising and Sponsorship Guidelines for Commercial Services and the OFCOM Broadcasting Code. The content was reviewed with a focus on whether each programme:

Given the concerns which ESC expressed as a result of the report concerning *Taking the Credit* –an independent production from Rockhopper - BBC WN undertook an extensive audit with each programme within scope examined according to the following process:

- **Stage 1:** A researcher reviewed the programme against the Acquisition or Commissioning Agreement and Producer Declaration form for each series or programme in order to assess potential conflicts of interest and other issues related to the funding.
- **Stage 2:** An editorial reviewer reviewed the programmes, including watching each of the programmes in full, in conjunction with the supporting documentation in order to assess whether the programme could

be defined as current affairs and whether editorial compliance issues in general were raised.

- **Stage 3:** Any programme for which any issues or concerns were raised by the editorial reviewer, however marginal, were escalated to BBC News' senior editorial adviser.

As part of the audit, the reviewers were also asked to consider the following for each individual programme, noting the context of the BBC Editorial Guidelines, BBC Advertising & Sponsorship Guidelines and the Ofcom Broadcasting Code:

- Was the independent production company appropriate and on what basis could BBC WN rely on the production company to adhere to BBC editorial standards?
- How was the programme funded? If externally funded, who sourced the funding (e.g.: production company)?
- Was the external funder appropriate and does an association with it create the risk of a conflict of interest or undermine the integrity or impartiality of the programme? How was this ascertained?
- Was the funder credited in any way? If so indicate the wording of credit. • Did BBC WN have any direct relationship with the funder and were any programme
- assurances given to the funder?
- Was this a current affairs programme as defined in the OFCOM Broadcasting Code? ("A current affairs programme is one that contains explanation and/or analysis of current events and issues, including material dealing with political or industrial controversy or with current public policy")
- Was the programme in accordance overall with BBC Editorial Guidelines and others (including BBC Advertising & Sponsorship Guidelines and the Ofcom Broadcasting Code) e.g.: appropriate funder; no conflict of interest; meets guidelines?
- Was the programme acquired or commissioned at nominal cost (eg a £1 acquisition)?
- As requested by BBC WN the reviewers also highlighted areas where, in their view, content was thought not to be as rigorous editorially as it could be even though there may not be a formal editorial breach. Their comments have been considered by the Director of Global News and taken account of in the BBC WN actions which are set out below.

2.2 Review of FBC Media programmes

Separately a review has been conducted by BBC Editorial Policy and Programme Legal Advice into allegations made by The Independent newspaper concerning programming made by FBC Media for BBC WN. Their review went back further than the time period which ESC had asked BBC WN to cover in its audit. We have however reflected the findings of the review by BBC Editorial Policy/PLA in relation to all FBC programming in this report including those programmes transmitted prior to February 2011.

2.3 BBC WN Audit: Category of programmes examined

Within the programmes examined by the BBC WN audit, there were two types of business model supporting the productions. The two types of funding were:

Non-Commercially Funded (Sponsored) Programming

These are programmes commissioned from an independent production company and executive produced by BBC WN where the independent company has arranged for part or most of the production costs to be met by non-commercial organisations, such as charitable foundations or non-aligned international bodies such as UN agencies. In most cases these programmes would be classified as sponsored programmes under the Ofcom Code. In some instances BBC WN invests in this sort of programming as co-productions.

Programming funded by Independent Production Companies

These are programmes commissioned from independent companies in which the lion's share of the production costs are borne by the production company itself. BBC WN holds the rights to first broadcast. Independent companies hold the rights to secondary and subsequent exploitation. These programmes are not sponsored by any third party.

3. Audit and Review Findings

3.1. BBC WN Contractual and Compliance Audit

Producer declaration forms for all content covered by the audit were held by the editorial department in electronic format, except for one series for which only a hard copy was available. All were completed and signed prior to commissioning, except for the series mentioned above for which the compliance manager had previously found that the declaration had not been made prior to commissioning and therefore rectified the position mid-series.

Signed acquisition / co-production contracts were in place for all broadcast content except for the same series, which was unsigned by the Producer. All contracts gave BBC WN the right to edit the content as it deemed necessary, made it clear that BBC WN could never guarantee the programme would be broadcast and that the finished programme was always subject to BBC WN's final editorial and compliance approval. Contracts for non-commercially funded programmes also put the producer under a commitment to credit all funders. In addition the producer was required to confirm that the programme was in accordance with BBC Editorial Guidelines and the OFCOM code. A reconfirmation of the funding position was also included in the contract. Pre-transmission compliance forms had been signed: copies were available and audited for all content.

In December 2010 the then DDG Mark Byford gave an undertaking that no further programming would be acquired for a nominal fee. The audit has confirmed that since that date BBC WN has complied with this commitment by making a significant contribution to the production cost of all the programmes it has commissioned or acquired either through the licence it has paid or through the provision of production resources, although it has proceeded with two nominal commissions which were entered into before the DDG made his undertaking.

In relation to all other content commissioned since this date, there has been significant financial investment from BBC WN or considerable contribution in kind to the production. In some cases there has been both. Where production services have been the only form of contribution that BBC WN has made, we are satisfied that the value of these services equate to at least the equivalent of the market rate BBC WN would pay for acquiring such a programme for first broadcast.

3.2. BBC WN Content Review

The audit team examined 54 programmes and concluded that, on the basis of information obtained, two programmes (programmes 2 and 3 below) were incorrectly classified and that, although it was not clear to the commissioners at the time, both should be considered as sponsored current affairs programmes. Programme 2 was not judged to be a current affairs programme at the time of transmission. Programme 3 was not judged to be a sponsored programme at the time of transmission. Both also contained a potential conflict of interest with the funder or a potential funder. (See details below).

A further two non-current affairs programmes (see programmes 1 and 4 below) were found to contain a likely conflict between the funders and the subject matter. None of these potential conflicts had been apparent at the time of transmission and no concerns had been raised until they were flagged in the audit. These issues are spelt out in greater detail below. It should be noted that Programmes 1-3 were part of a series from a single producer.

- Programme 1: a non current affairs programme. Although the source of funding was declared in the producer declaration, the audit process found there to be a likely conflict of interest as the funder was linked to a project featured in the programme. In addition, the funder had not been credited in the end credits of programme (which is a breach of BBC guidelines).
- Programme 2: was considered to be a feature led programme but on audit has now been reclassified as current affairs. In addition, the audit process found that a project partly funded by one of the funders featured in the content giving rise to a potential conflict of interest.
- Programme 3: was a current affairs programme funded by an independent company and therefore not considered to be sponsored. Enquiries made as a result of the audit process indicate that a third party organisation had been credited as providing funding on a further version of the programme published on the producer's website. Consequently there is a material risk that the BBC WN version of the programme was inappropriately sponsored current affairs. Additionally, the editorial reviewer felt that an interviewee from that third party organisation was insufficiently challenged on film, giving rise to concerns re editorial and conflict of interest guidelines.
- Programme 4: a non-current affairs programme. Although the source of funding was declared in the producer declaration, the audit process found there to be a conflict of interest as there appeared to be a link between the funders and the subject matter. Additionally, the audit's review of the programme found that the content was too promotional of the subject matter that related to the funder.
- The programming produced by the FBC Group Limited which references Malaysia has also been categorised as in breach of BBC Editorial Guidelines due to the allegations of undisclosed conflicts of interest.

3.3 Editorial Policy / PLA content and compliance review of FBC programmes

As stated above, after the BBC WN audit was commissioned allegations were made in The Independent newspaper that four programmes made by FBC Media featured aspects of Malaysia and were inappropriate as FBC had worked for the Malaysian government. The editorial review carried out by BBC Editorial Policy and

Programme Legal Advice, concluded in relation to all 20 programmes made by FBC since the beginning of 2009: "Looking at the range of FBC programmes about Malaysia or relating to Malaysia in some way we note that several programmes raise issues concerning impartiality or bias towards Malaysian interests, the palm oil industry and the policies of the Malaysian Government. In some cases there is a lack of sufficient questioning about the assertions of the Malaysian government or Malaysian policies. ... Overall the cumulative effect of much of the coverage seems favourable to the Malaysian Government and its interests." (One of the four programmes cited in the Independent was actually produced by BBC WN rather than by FBC and was therefore not included in the audit.)

In meetings with the BBC, and through their lawyers, FBC confirmed that the Malaysian Government had been a client, but they have so far declined to clarify when this contract was entered into and what time period it covered. Of the twenty programmes acquired from FBC eight had a Malaysian Government link and as a result we have determined that they are potentially in breach of BBC Editorial Guidelines due to a conflict of interest.

The Editorial Policy/PLA review concluded: "Despite FBC's assertions that "at no time have the programmes made for the BBC ever been influenced by their commercial activities", we cannot be confident that the programmes considered in this report have not been influenced by commercial interests or political pressures."

The review by BBC Editorial Policy and Programme Legal Advice also examined the question of whether the FBC programming constituted inappropriately sponsored current affairs. But it has so far been unable to be definitive: "As we do not know if money from FBC's corporate clients flowed directly into these programmes it is not possible to consider whether they could be deemed to be sponsored".

No FBC programmes have been broadcast by BBC WN since these allegations were made and the review was undertaken.

4. Actions

Although there is no suggestion that decision-makers at BBC WN were motivated by anything other than a desire to deliver a high quality public service within very limited budgetary means, it is clear there were some serious weaknesses in its processes, which created a risk of damage to the BBC's reputation. In response to the issues identified in its audit and to the allegations made in The Independent article, BBC WN has taken a number of actions to safeguard the BBC's impartiality, and protect against conflicts of interest:

- BBC WN will no longer commission or acquire programmes which are sponsored by non-commercial organisations (such as charitable foundations or non-aligned international bodies such as UN agencies).
- BBC WN will not commission or acquire programming at nominal cost ("£1 acquisitions") from independent production companies for first broadcast on BBC WN. All programmes will be commissioned or acquired on a transparent commercial basis.
- BBC WN will only commission or acquire sponsored programmes in non-news and current affairs genres including sport, culture, history, travel and

lifestyle. It will take a strictly prudential view of the classification of programmes in the context of possible sponsorship; if there is any reasonable question of whether a given programme is a current affairs programme, it will not accept sponsorship for the programme. If such a programme is only offered on a sponsored basis, BBC WN will not commission or acquire it.

- BBC WN will tighten its supplier list. A panel of approved production companies will be established. Production companies will only be chosen as approved suppliers after examination of their editorial track record and on the basis of a high level of transparency about their overall business interests, including sources of funds for their productions.
- BBC WN will strengthen its due diligence processes, so that every programme or series proposed through the approved companies will be subject to a more detailed examination of any potential conflicts in advance of commissioning.
- In addition, BBC WN will introduce tighter approval procedures for programming containing funding from third parties, including a two stage sign off process.
- Contracts with independent producers will be strengthened in relation to conflicts of interest.

Further details of these changes are set out below.

4.1 Approved Supplier List

No company will be able to supply BBC WN, or be commissioned by BBC WN, unless it is first admitted to a BBC WN approved panel of suppliers. To be approved, a company will have to demonstrate a significant track record as a producer; it will have to agree to full disclosure of the sources of its funding for the programming; it will have to make commitments about disclosing any actual or perceived conflict of interest anywhere in its activities; and, if it proposes to hold syndication rights, it will have to demonstrate that it has a history of syndicating similar material. These disclosures will have to be reviewed before the sign off of each commission.

The initial approval of qualifying companies will need sign-off from BBC WN Editorial, Legal, Compliance and Finance. The final decision on admission to the panel will rest with the Director, Global News.

4.2 Commercially Sponsored Programming

These are programmes for which the production costs are met from the revenue of an advertising/sponsorship deal with a commercial client that wishes to be associated with the content.

News and Current Affairs programmes cannot be sponsored. But sport, culture, history and lifestyle can all be sponsored and make a good editorial fit with BBC WN's weekend agenda. In obtaining sponsored productions, BBC WN will abide by the BBC's Editorial Guidelines, the BBC Advertising and Sponsorship Guidelines for Commercial Services and OFCOM Broadcasting Code. As noted above, in the case

of any doubt about the categorisation of the programme, sponsorship will not be accepted.

4.3 Programming part-funded by Independent Production Companies

These are programmes commissioned from independent companies in which the lion's share of the production costs are borne by the production company itself. BBC WN holds the rights to first broadcast. Independent companies hold the rights to secondary and subsequent exploitation. These programmes are not sponsored by any third party. Production companies are required to declare all the sources of funding and any possible conflict of interest for each production or series.

All programmes from Independent Production Companies will be commissioned or acquired on a commercial basis. BBC WN will ensure it understands fully the commercial case for supply for the deficit funding model and how a production company is likely to be able to recoup its costs.

In future, programmes will either be co-productions or BBC WN will make a contribution to production costs and/or resources equivalent in value to the financial contribution it would have made to obtain a licence to broadcast the programme.

4.4 Two-Stage Sign Off

Every programme or series funded by Independent production companies will need to be signed off by two (GND) Board-level executives (one Editorial, one Legal/Compliance), a higher level of sign-off than a present. No production will be commissioned or acquired until this is done. Commissioners will be expected to demonstrate what research has been conducted to ensure there are no potential conflicts of interest between the funder and the source of the programme, or within the business interests of the production company (given that there are many media companies which both produce content and represent commercial clients).

5. Current and Future BBCWN Programming

There is only one current series of programmes which is sponsored by a non commercial organisation. There will no further programmes sponsored by non-commercial organisations after this series comes to an end.

The Channel is already filling its schedule with more BBC produced content by continuing to collaborate with the BBC public service to produce global versions of existing BBC shows, e.g. World Football Focus, Newsnight, The Bottom Line, Talking Books, International Culture Show.