Audit of compliance in Audio & Music
Report

March 2010

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Introduction

Editorial standards at the BBC are a key concern of audiences and also of the Trust on their behalf.

On 18 and 25 October 2008 the BBC broadcast two editions of the Russell Brand show on Radio 2 which seriously breached the BBC's Editorial Guidelines on privacy and offence. The Trust said on 30 October that it was dismayed by the offensive phone calls and comments and by the deplorable intrusion into the privacy of Mr Sachs and his granddaughter. On the same day the Trust instructed the BBC Executive to improve the compliance procedures in the Audio & Music division, which it had found to be inadequate and required strengthening. The Trust required both immediate action from the Executive to strengthen editorial controls and also the presentation of formal recommendations to strengthen editorial controls and compliance in December 2008. As part of this broader work to improve compliance the Trust wanted to assure itself that the BBC Executive had adequately undertaken this task, and commissioned an independent report by Tim Suter and Tony Stoller. This report set out to examine the systems, checks and training that have been put in place to ensure that programmes broadcast on BBC Radio meet the BBC's Editorial Standards.

The Trust is today publishing the independent report, along with this assessment on progress.

The Trust's conclusions

The Trust would like to thank Tim Suter and Tony Stoller for their report which sets out what has been done by the BBC's Audio & Music division to improve control over programmes and ensure they live up to the high editorial standards expected by the public.

The Trust has concluded:

- Firstly, that a great deal has been done to ensure that the processes, which were largely already in place, now operate effectively. Weaknesses, such as the lack of a hands-on executive producer in some independent productions, have been identified and addressed.
- Secondly, that the recommended spring clean of compliance processes will achieve two ends: it will ensure that all current practices are consistent so that staff and independent producers cannot be in doubt as to what is expected of them and it will also simplify the processes where possible.
- Thirdly, that BBC management must keep practice and process under review to ensure that the current effort put into making content to the highest of editorial standards does not fade and fall away over the years.

This report is a detailed and extremely helpful analysis of the systems which exists to help all content providers, BBC staff or independent, produce work which meets high editorial standards for BBC Audio & Music. It includes a positive assessment of the changes put in place by BBC management in response to the Trust's instruction to improve compliance and controls in 2008.

The Trust accepts the report and its recommendations.

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The Trust welcomes the message in the report that there has been a sea change in the attitude towards compliance in Audio & Music and that a significant amount of excellent work has already been done in response to the Trust's demand for substantial change. It also welcomes the authors' conclusion that they had found no evidence that programmes which ought to be made are not being made because of the need to ensure programmes meet editorial standards.

Licence fee payers can be confident that there is clear evidence that great strides have been made by the management of Audio & Music in response to the Trust's challenge to create a fit for purpose compliance system. BBC staff and independents are currently operating this system successfully across many hours of demanding and creative output.

Whilst the Trust welcomes the positive findings of this report, it will remain alert to audience concerns about editorial control and compliance now and in the future, in its role of holding the BBC Executive to account for the BBC's compliance with its own Editorial Guidelines and other relevant codes and guidelines.

BBC management is responsible for setting and implementing the BBC's compliance systems. The Trust now expects BBC management to implement the three key recommendations in the report: a 'spring clean' of compliance processes to ensure that they are consistent and match best practice on the ground; further attention to training; and a periodic review to catch variations in practice and circumstances, as well to deal with future changes.

Compliance systems have been created to assist programme makers and make sure that programmes are meeting the BBC's editorial standards. A compliance system works when it is clear, understood and used in tandem with sound editorial judgement. Where it is possible to reduce the pressure on producers and ease back on the demands of the compliance system those opportunities should be embraced.

However the Trust is very clear that programmes made by independent production companies and by BBC programme makers must be listened to before they are broadcast on the BBC, be that on delivery or during a recording (unless programmes are live or exceptionally, and with agreement, they are produced very close to broadcast). To broadcast programmes without first listening to them is to fail to take editorial control, and means that not only is the BBC at risk of broadcasting offensive material, or material which in other ways may breach editorial standards, but that the BBC has not checked the material to see if the quality is good enough for broadcast.

The Trust expects the BBC to make distinctive and creative programmes. It recognises that using fresh talent and innovative formats and ideas can be risky. This is not a question of balancing the creation of distinctive high quality programmes against meeting high editorial standards. The Licence Fee Payer expects both and both aims can be met. Meeting high editorial standards is not a burden but an absolute necessity for those who make BBC programmes and on line content. Editorial control and good compliance systems support the making of creative programmes, they do not diminish it.

Background

On 18 and 25 October 2008 the BBC broadcast two editions of the Russell Brand show on Radio 2 which seriously breached the BBC's Editorial Guidelines on privacy and offence. The Trust said that it was dismayed by the offensive phone calls and comments and by the deplorable intrusion into the privacy of Mr Sachs and his granddaughter.

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There was a full investigation and a finding by the Trust which can be read at:
http://www.bbc.co.uk/bbctrust/assets/files/pdf/appeals/esc_bulletins/2008/brand_ross_m
oyles.pdf

The fact that such grossly offensive material was not only recorded but broadcast showed
that the BBC was not in editorial control. All the checks that were in place to stop
offensive material being recorded and broadcast failed to stop this happening. The Trust
said BBC management must improve its editorial controls because they were inadequate.

The Trust asked the Director-General to bring an action plan to the Trust to strengthen
editorial controls and compliance in the non-news areas of the BBC's Audio & Music
division. The Trust also said that it would independently check how the plan had been
implemented and if the changes were working.

BBC management brought an action plan to the Trust for approval in December 2008. It
included:

- A new High Risk Programmes Register;
- New guidance on compliance for pre-recorded programmes;
- recruitment of a new Head of Editorial Standards for Audio & Music, Controller of
  Radio 2 & 6 Music and Head of Compliance for Radio 2 & 6 Music;
- New recommendations for talent-owned independents;
- An audit of compliance processes.

BBC management reported on its progress on the action plan to the Editorial Standards
Committee of the Trust in May and July 2009.

The independent review began in September 2009. It was carried out by Tim Suter of
the independent consultancy Perspective (and former Partner for Content and Standards
at Ofcom) and Tony Stoller former Chief Executive of the Radio Authority. The terms of
reference can be found at:
http://www.bbc.co.uk/bbctrust/our_work/editorial_standards/am_compliance_tor.shtml

The report by Tim Suter and Tony Stoller and a response from BBC management was
considered and accepted by the Trust in March 2010.

The conclusions of the independent review

The report examines how far compliance processes have changed since the Russell Brand
show in October 2008 and assesses if the current processes are appropriate and whether
they will work over time. The authors did not set out to suggest new ways of ensuring the
BBC meets editorial standards.

The authors are clear that:

- No system can substitute for editorial judgment;
- People must be trained in a shared understanding of editorial standards so they
  can think beyond process; and
- Compliance processes must be effective and proportionate for the fast moving
  medium of radio.

The authors recognised that BBC Radio is complex and that the compliance system was
also complex but thorough and was being operated with care and effectiveness. However,

they noted that the pressure on compliance staff resources was very high, and might increase in the foreseeable future.

The report recognises the strenuous efforts made by senior management in the Audio & Music division to ensure that compliance measures are effective and widely understood by all those who are subject to them and have to operate them, although they observed that no process can fully protect against deliberate evasion.

The authors found that the practical work has been less about change in the systems and more about stringent policing and notable leadership towards bringing significant cultural changes in the understanding of the importance of compliance across the whole of the BBC production population. The authors said that it was clear from everyone they spoke to that the lessons of 'Ross Brand' had been fully learned, and that work was well underway to implement them.

The report notes a number of crucial changes since October 2008:

- The role of the executive producer in talent-owned independents has been addressed by changes in BBC policy, and in the contract;
- All content must have named senior oversight within the BBC and the person responsible is fully aware that it is their role, and must ensure that they have the capacity and time to undertake the serious amount of work involved;
- There is a formal approach to the creation and use of 'risk lists' to identify potentially risky programmes at network divisional and pan BBC level;
- There is widespread use of production department and network meetings to discuss and address potential editorial or compliance problems;
- A number of systems for auditing compliance have been introduced:
  - o The Head of Compliance listens to all programmes on the Managed Risk Programme List to ensure compliance with editorial standards.
  - o A register is kept across all networks of how many compliance forms were not properly completed. Issues are followed up with the programme makers and appropriate lessons learned.
  - o BBC Internal Audit is conducting a series of monthly spot checks of compliance and reporting to the Deputy Director-General.
  - o A new Head of Editorial Standards was put in place in 2009 and both executive producers and compliance staff have been recruited in areas where they were needed.

The authors also wanted to establish whether increased care for – and policing of – compliance systems had had the effect of limiting creative programme-making. In their view the compliance process must underpin and enhance editorial confidence and innovation. The authors considered that where there is full editorial interrogation ahead of broadcast about the risks of particular programmes, the eventual output is likely to be strengthened. They found no evidence that programmes which ought to be made are not being made and were of the view that confidence in compliance arrangements can be the best safeguard for those who want to work at the forefront of creativity.

The authors considered the future and what might happen over time as the lessons of October 2008 faded in to the past, and as the pressure on resources increased. They identified four areas for action:

- Inconsistencies within the process as set out in the relevant documentation

- Instances where today's good practice, which has been reported to the Trust by Audio & Music, is not reflected in mandatory requirements within the compliance system;
- Instances where practice on the ground is sufficiently close to the edge of the way the formal system is described, or where the letter of system was not being followed, to give rise to concern that it may be either unsustainable or undesirable in the long term; and
- Steps to ensure training of the key group of executive producers from the BBC's in-house production departments and networks and from the independent production sector

The report recommends three key courses of action: a 'spring clean' of compliance processes; further attention to training; and a periodic review to catch variations in practice and circumstances, as well as to deal with future changes.

The response by the BBC Executive

The BBC Executive has informed the Trust that it welcomes:

- The emphasis on encouraging proper editorial judgements and discussions alongside formal processes
- The suggestions for improvements to the current compliance arrangements
- The suggestions for simplifying processes, streamlining paperwork, and reducing the burden of multiple listening and
- That the audit has found no evidence that the compliance process has resulted in less risk taking by programme makers, and that no content has been dropped in error for fear it might not be compliant.

The BBC Executive says that some changes suggested in the report have already been made, or are already in progress.

The Executive has begun a 'spring clean' of processes so that inconsistencies are ironed out, processes are updated and standardised and written policies are aligned with normal practice. A simplified set of undertakings to the Trust will be prepared.

Many more programmes have been classed as 'low risk' and the requirement for multiple listens (where the Executive Producer may have already heard the programme e.g. at a recording and then is required to listen to it again on completion) has been relaxed.

The BBC Executive did not consider it should progress one recommendation which suggested that: Standard contracts should be amended to make clear who in practice is responsible for the 'final listen' to pre-recorded independent productions. (paragraph 49)

The Executive considered that who actually does the final listen is up to the BBC, and not a contractual matter. It did accept the key point in the report which was that compliance processes should be clear about who does the final listen at the BBC.

Next Steps

BBC Audio & Music will report to the Trust on the implementation of these recommendations in November 2010. The Trust will comment on progress in the Annual Report and Accounts.