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Alex Barker

via email: alexander.barker@nottingham.ac.uk

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Dear Alex Barker

Thank you for contacting Ofcom on 11 September and 4 October 2018, regarding the presence of Heineken branding in Channel Four's coverage of Formula 1.

Reflecting Ofcom's duties under the Communications Act 2003, Section Nine (Commercial References in Television Programming) of Ofcom's Broadcasting Code¹ limits the extent to which commercial references can feature within television programming. This helps to ensure that a distinction is maintained between editorial and advertising.

Section Nine does not prohibit all references to products and services in programmes, but it requires that such references are not given undue prominence. This is not solely a matter of the size or duration of a commercial reference. The nature of the programme, likely audience expectations and the suitability of the commercial reference are some of the other factors Ofcom will take into account when considering whether content complies with the Code

In all cases, the degree of prominence given to a product, service or trade mark will be judged against the editorial context in which the commercial reference appears. As made clear in Ofcom's Guidance Notes to Section Nine², the extent and nature of the exposure a commercial reference receives needs to be considered against the editorial requirements of the programme. This includes specific considerations relevant to sports programming.

The Guidance Notes state: "The degree of prominence it may be acceptable to afford a brand will...depend on the context in which a brand reference appears. For example, when filming coverage of events (e.g. sports and music), it is accepted that a programme is likely to reflect the higher level of branding that is present at venues." This refers to branding that is in situ at the event, rather than superimposed branding added by the programme maker or broadcaster, for which there is likely to be less editorial justification.

Ofcom's *Procedures for investigation of breaches of content standards for television and radio*³ state that we will ordinarily only consider complaints made within 20 working days following the broadcast of the material. Your initial complaint about *Formula One: Canadian Grand Prix Highlights*, broadcast

¹ https://www.ofcom.org.uk/data/assets/pdf_file/0012/100119/broadcast-code-april-2017-section-9.pdf

² https://www.ofcom.org.uk/data/assets/pdf_file/0014/33611/section9_may16.pdf

³ https://www.ofcom.org.uk/data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

on Channel Four on 10 June 2018, was submitted on 11 September 2018, outside of the specified time period.

However, as you pointed out in your initial complaint, Ofcom recently recorded a breach of *Live Singapore GP: Qualifying Highlights* on Channel 4. This content was broadcast on 17 September 2016, and our finding was published on 6 August 2018. We judged that superimposed branding for Rolex was unduly prominent, in part on the basis that the commercial references were not in situ at the event.

You cited examples of superimposed branding for Heineken in *Formula One: Canadian Grand Prix Highlights*, which was broadcast prior to the publication of our finding. Going forward, we expect all broadcasters to take this precedent case into account to ensure that their programming is compliant with the Broadcasting Code.

I understand that you are monitoring all of Channel Four's coverage of Formula 1. If you discover any further examples of commercial references which you consider to be unduly prominent, please make us aware of them within 20 working days of the broadcast, so that we may assess them to determine whether they warrant a formal investigation.

Thank you once again for taking the time to contact us.

Yours sincerely

A handwritten signature in black ink that reads "Paul Ingram". The signature is written in a cursive style with a large initial 'P' and a decorative flourish at the end.

Paul Ingram