

BBC Executive Fair Trading Bulletin

February to April 2011 inclusive

The complaints detailed below reflect investigation by the BBC Executive in line with the BBC's process for dealing with Fair Trading Complaints. Further details of this process can be found at: http://www.bbc.co.uk/info/policies/fairtrading_complaints/ Where complainants are dissatisfied with the BBC Executive's findings they have the right of appeal to the BBC Trust.

Summary of complaints

This is a summary of complaints made against the BBC on Fair Trading grounds between February to April 2011 including complaints that have been made to the Office of Fair Trading (OFT), Ofcom and European Commission (Section A) and those made directly to the BBC (Section B).

Where relevant, updates are provided in relation to complaints reported in previous Fair Trading Bulletins. Where complaints have been rejected by external competition authorities, this will also be reported.

Section A - Complaints made to the Office of Fair Trading, Ofcom or the European Commission.

There are no complaints to report.

Section B - Fair Trading Complaints to the BBC

During this period the BBC received two new Fair Trading complaints.

The first complaint was from a firm of solicitors acting on behalf of a number of un-named jingle and music imaging companies.

Complaint regarding the Assignment of Publishing Rights associated with the Full Network Imaging Package for BBC Radio 2 and BBC Radio 6 Music

On 7 February 2011, a firm of solicitors, acting on behalf of a number of un-named jingle and music imaging companies, wrote to the Controller, Fair Trading with a complaint relating to the commissioning of a Full Network Imaging Package (Ident) for BBC Radio 2 and BBC Radio 6 Music.

The terms of the tender for the radio idents included an assignment of publishing rights to BBC Worldwide. The complainant alleged that this breached both EC competition law as well as the Trust's Policy on Fair Trading.

The claimant alleged that:

- the BBC's imposition of a condition assigning publishing rights to BBC Worldwide was contrary to competition law requirements set out in Article 82 of the EC Treaty and potentially Article 86 of the Treaty of Rome.
- the BBC was in breach of the Trust's statement of policy on fair trading on a number of grounds including; the need for financial and operational separation between Public Service and Commercial activities and fair transfer pricing.

The complaint investigation reviewed the process and events leading up to the issuing of the tenders for the BBC Radio 2 and BBC Radio 6 Music idents in the light of the complainants allegations. The following was relevant to the complaint:

- An agreement was in place between the BBC and BBC Worldwide which delivered value back to the licence fee payer through an on-going revenue stream.
- The commercial arrangements between BBC Worldwide and BBC were benchmarked against industry standards.
- These arrangements also complied with the BBC/Musicians Union/British Academy of Songwriters, Composers, and Authors guidelines for the commissioning of music for the BBC.
- The Fair Trading Complaints Panel noted that these arrangements had been successfully used previously for the commissioning of idents for other BBC Radio stations.
- The assignment of ident publishing rights conformed to the custom and practice for both TV idents and radio idents for large commercial radio operators.

The findings of the complaint were presented to the Fair Trading Complaints Panel on 18 March 2011. The Panel did not uphold the complaint, and wrote to the complainant to that effect on 24 March 2011 setting out its conclusions.

The BBC dealt with a second complaint where the complainant elected to retain confidentiality about the detail of the complaint and its identify. No details are therefore included in this bulletin.

Update on previously reported complaints

There are no updates to report.