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**Fairness of the Regulatory Bodies' Decisions
about TV News Reports:
Comparative Studies
from the UK and South Korea**

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Acknowledgement

Most journalists tend to be entangled with intensive schedules to cover the news, with daily deadlines to meet. My fifteen years of experience in journalism as a reporter for the South Korean public broadcaster, MBC, has not been different from these routines, which sometimes makes me wonder if I have walked the right path through my journey in journalism. To learn and study at Reuters Institute for the Study of Journalism was an opportunity for me to step away from my daily routine and to look back at the path I have taken while thinking about the future of journalism and my own career as a journalist. The three terms that I have studied at Oxford have given me a new impression and abundant chances that I could not have found anywhere else. I would like to first thank my sponsor, FBC (Foundation for Broadcast Culture) and the other half of my life, MBC, for allowing me to have such a valuable experience in Oxford.

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It is now time to leave Oxford, but my memories in Oxford will stay here forever imprinted in my heart.

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Introduction: What if the Scales of Impartiality are Tilted?

The Republic of Korea is a democratic society where freedom of speech and a free press are fully protected by its constitution and by law. Democracy and freedom of the press in Korea have improved in step with its economic growth, since a nationwide struggle emerged against its authoritarian regime, which led to the declaration of direct elections and a single-term system for the presidency in June 1987. The people's struggle against the authoritarian regime and the movement for democracy also gave a huge opportunity for Korean journalism to break the limits and controls which had restricted it for more than 30 years. In the 1990's, Korean journalism, which by then had become relatively independent, had contributed much to setting agendas and solving diverse problematic issues in Korean society owing to democratization as a whole. In particular, broadcast journalism in Korea, which was led by public broadcasters in the 1990's, widened a spectrum of discussion and debate on various social, economic and political issues and gained a high level of credibility from viewers in Korea.

However, in recent years, there has been dispute in Korea on the matter of broadcast journalism's political impartiality and fairness. Broadcast journalism, which should be considered as a main conduit for the delivery of important information and for the discussion of problematic issues in society, has now become a problem itself as its political impartiality and fairness has been in doubt. According to research into the impartiality of public broadcasters' news content in Korea conducted by Sim Hoon, the index of impartiality, which was evaluated by scholars in journalism, fell steeply by almost half between the governments of Noh Moo-hyun and Lee Myung-bak.¹ One of main reasons why the impartiality and fairness of broadcast journalism is in doubt may be because of increasing political influence and intervention from bodies such as the presidential office, government ministries and political parties. In many cases, the temptation for those political organisation, to have an impact on people's decisions on election or public policy through influencing broadcast news content, has not been suppressed enough to protect the general principle that a democratic society should preserve the independence and freedom of the press.

A radical polarization of the political situation in Korea occurred after the suicide of former president, Noh Moo-hyun in 2008, which was triggered by a criminal investigation into allegations of bribery. This event accelerated the political polarisation of Korean society as a whole because many supporters of former President Noh believed this allegation was false and coordinated by his successor as president, Lee Myung-bak, formerly one of Noh's political rivals. Political polarisation in Korean society also had a huge impact on Korean broadcasters and their journalists as polarisation also happened inside broadcasting organisations, and many journalists became divided according to their political preference. Journalists did not hesitate to show their political preference toward certain political parties or political figures, including the president. Moreover, many journalists changed their careers to become politicians or political appointees of government or the presidential office. Journalists' polarised political preferences offered a foothold for the presidential office and party politicians to intervene implicitly in editorial decisions, in contrast to the more explicit intervention that had happened during earlier authoritarian regimes. Using internal networks, politicians and journalists could communicate with each other for their own political interest over many public issues, especially on politically sensitive ones. Political

¹ Sim Hoon, "Evaluation on news contents of KBS and MBC during Park Geun-hye's government by scholars in journalism", Korean Association for Broadcasting & Telecommunication Studies, 9 November 2013.

appointees of public broadcasters such as CEOs and board members did not try to be balanced in journalistic issues. Internal relationships between journalists and politicians have become closer and have expanded as a result of their familiarity through university, regional and career networks.

In November of 2011, 'TV Channels of Comprehensive Programming' such as 'TV Chosun', 'JTBC', 'Channel A' and 'MBN' were launched as newly licensed competitors to the predominant terrestrial TV broadcasters such as 'KBS', 'MBC', 'SBS'. These four new cable channels were similar to terrestrial TV in that they were licensed to broadcast a variety of programmes such as news, entertainment, TV drama, sports, and so on, unlike other cable TV channels which could only broadcast one or two specific areas of programming.

All of them were awarded their broadcasting licenses by the KCC (Korea Communications Commission), whose chief commissioner at the time, Si Joong Choi, was one of the closest political comrades of then President Lee. 'TV Channels of Comprehensive Programming' were founded by four different conservative newspapers, which had all supported President Lee during his campaign for the presidency, so many people saw these new broadcasting licences as rewards for their support. But the advent of 'TV Channels of Comprehensive Programming' made a huge change to broadcast journalism which fed the crisis of broadcast news credibility because of their open support for the ruling conservative Saenuri Party and the presidency through their politically aligned programmes. They also increased competition in the advertising market among broadcasters which inevitably led to more low quality entertainment programmes in the search for higher viewer ratings.

To keep the impartiality, fairness and soundness of TV news and entertainment programmes, many countries have maintained regulatory organisations: for instance, Ofcom (UK, Office of Communications), FCC (US, Federal Communications Commission) and KOCSC (Korea Communications Standards Commission). In light of the political intervention and influence on broadcasting news and the degrading of entertainment programmes previously described, the role of the regulatory organisation on broadcasting cannot be over-stated.

KOCSC was founded in May 2008 as an independent civilian organisation and its functions used to be operated as one of the departments of KBC (Korea Broadcasting Commission). During the take-over by Lee Myung-bak's regime, the government decided to make this organisation not a part of government but an independent non-state organisation, because the government wanted to reduce the overall size of all governmental functions and, at the same time, insisted on making the function of reviewing and imposing sanctions on broadcasting and the internet more independent and efficient. Since it was founded, KOCSC has had the role of monitoring, reviewing and regulating all broadcasting and the internet-delivered content through, for example, its broadcasting code. In fact, KOCSC is the most important organisation in managing all of the content of broadcasting and the internet, and it plays a significant role in maintaining the value of fairness and impartiality in those areas.

However, there has been dispute over whether KOCSC is functioning well enough, especially with regard to many decisions it has made about violations of the broadcasting code on fairness and impartiality in news and current affairs. There has been criticism of KOCSC's ability to judge news content fairly and impartially when the issues being covered are political and ideological, given that the president and the ruling party appoint a majority of board members in KOCSC, whose political inclination may therefore be expected to have an effect on KOCSC's judgement. In short, the main criticism of KOCSC is that the scales it used to balance the fairness and impartiality of broadcasting content are tilted.

This research has two main purposes. First, by analysing its recent findings, I will explore the extent to which the suspicion of political influence is substantiated in the decisions taken by the Korean regulator. And to provide context for these findings, I set them against the results from the UK's equivalent body, Ofcom, over the same period.

I then look at the roots of the problem, by studying the way in which the regulator is appointed and organised, and the way in which its rules are framed and applied. Through this, I aim to draw answers to the vital questions about how regulatory organisations can best operate in order to implement fair and impartial decisions on complex, disputed and political issues. My research focuses on three key issues. Firstly, how can a regulatory organisation maintain its credibility and impartiality by protecting itself from political influence? Secondly, what is the fair procedure for a regulatory organisation to adopt in deciding whether broadcast content breaches its regulation? Finally, how should regulations best be framed to keep judgements efficient and fair?

My research uses comparative analysis to answer these questions. I compare regulations, decision-making processes, the appointment of members and data on findings between KOCSC and the UK's Ofcom which I selected because it has a quite similar structure and function – in relation to managing broadcast content issues – to KOCSC. Arising from my research, I conclude with some suggestions for the improvement of KOCSC as a main regulatory body in the Korean broadcasting environment.

Part I : Regulation in practice in Korea and the UK

1. The Structure of Korean TV Environment and Definitions

In general, Korean TV Broadcasters are divided into two different groups: terrestrial broadcasters; and paywall TV channels (figure 1 below). From the time when KBS (Korea Broadcasting System) started its local TV broadcasting in 1961, terrestrial broadcasters were the only TV broadcasters and dominated the broadcasting market until cable TV broadcasters were introduced to viewers in 1995.² Terrestrial broadcasters can be categorized into public broadcasters and private broadcasters.

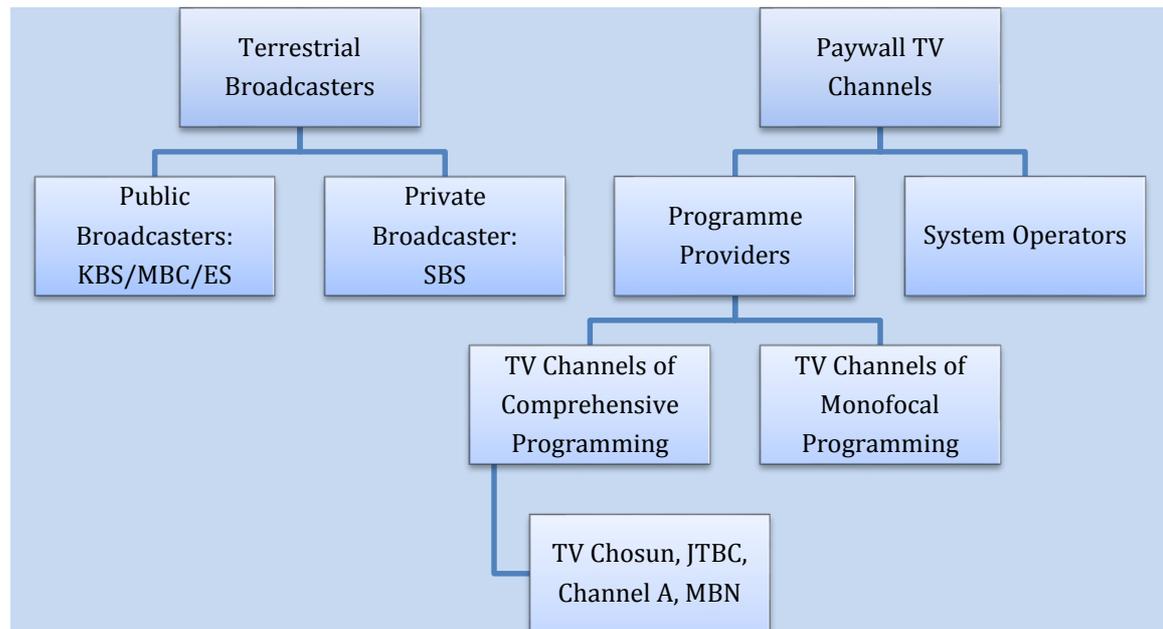


Figure 1. The Structure of Korean TV³

KBS and MBC are public broadcasters that operate various terrestrial, cable and satellite channels, and EBS also broadcasts several channels of education and documentary programmes. SBS is a privately-owned commercial broadcaster which also uses the terrestrial, cable and satellite platforms.

Paywall TV channels are cable and satellite platform broadcasters that can be divided into two different sub-categories, 'Programme Providers' and 'System Operators'. Cable and satellite TV channels in Korea can be watched only when viewers pay a monthly or yearly fee to 'System

² Even though KBS is the first government-owned broadcaster which expanded its broadcasting territory into the whole nation in South Korea, KBS is not the first TV broadcaster in Korea. The first broadcaster which sent a first TV signal up in the air was HLKZ-TV, and it had operated for six years before KBS was launched in 1961, between 1956 and 1961.

³ The categorization used in this hierarchical chart is simplified in order to provide an outline for this analysis.

Operators: 'System Operators' are companies that own and operate cable network services or satellite broadcasting systems, and they provide viewers with many different programmes that are mostly produced by 'Programme Providers'. However, 'System Operators' also produce and deliver a number of their own programmes which consist mostly of soft, regional content.

The 'Programme Provider' category consists mainly of two different kinds of cable and satellite TV channels. Firstly, 'TV Channels of Comprehensive Programming' are the four broadcasting companies which were founded by influential Korean conservative newspaper companies in late 2011 under the authority of governmental organisation Korean Communications Commission (KCC): 'Channel A' (which was founded by the conservative newspaper, 'Donga Ilbo'), 'TV Chosun' (which was founded by the conservative newspaper, 'Chosun Ilbo'), 'JTBC' (which was founded by the conservative newspaper, 'Joongang Ilbo') and 'MBN' (which was founded by conservative 'Maeil Business Newspaper'). Like terrestrial TV broadcasters, 'TV Channels of Comprehensive Programming' are free to broadcast any type of programme.

By contrast, previously existing 'Programme Providers' operate TV channels which are licensed to provide only one specific type of programme, such as TV drama, movies, sports, entertainment, news, and so on. In this research, the term 'TV Channels of Monofocal Programming' is used to describe previously existing 'Programme Provider' channels such as 'TVN', 'OCN', 'KTV', 'YTN', and so on.⁴ Both 'TV Channels of Comprehensive Programming' and 'TV Channels of Monofocal Programming' use only the cable and satellite platforms, and do not send a signal through a terrestrial system.

KOCSC (Korea Communications Standards Commission) regulates the contents of all these broadcasters and channels, and decides whether the content violates the broadcasting code or not. I have used this categorisation of Korean TV broadcasters and channels to analyse the KOCSC's decisions and sanctions in the following section.

2. Increase of Sanctions and Expansion of KOCSC's Role in Broadcasting Regulation

The first striking feature of the recent history of regulation by KOCSC is the expansion of its role and the rise in the number of breach findings and sanctions imposed.

Figure 2 shows the total number of sanctions imposed on terrestrial TV and radio channels in South Korea by KOCSC. The data suggests that the total number of sanctions imposed on contents of terrestrial TV and radio has been increasing continuously since KOCSC became a separate organisation from Korean Broadcasting Commission in May 2008.⁵ In the case of terrestrial television, this has amounted to an increase of over 60% over the most recent five years.

⁴ 'TV Channels of Monofocal Programming' is a term created for this paper in order to distinguish between the two types of broadcasting under the category of 'Program Provider'.

⁵ Data used in the line graph is from case books and year books from 2009 to 2013 which can be found in the official website of KOCSC as follows:

http://www.kocsc.or.kr/02_infoCente/info_Casebook_List.php. Last viewed on 15 January 2015

However, the data from 2008 is not included in the graph because KOCSC started to operate in May 2008. Some restrictions imposed on contents of terrestrial TV and radio channels were decided previously by Korean Broadcasting Commission.

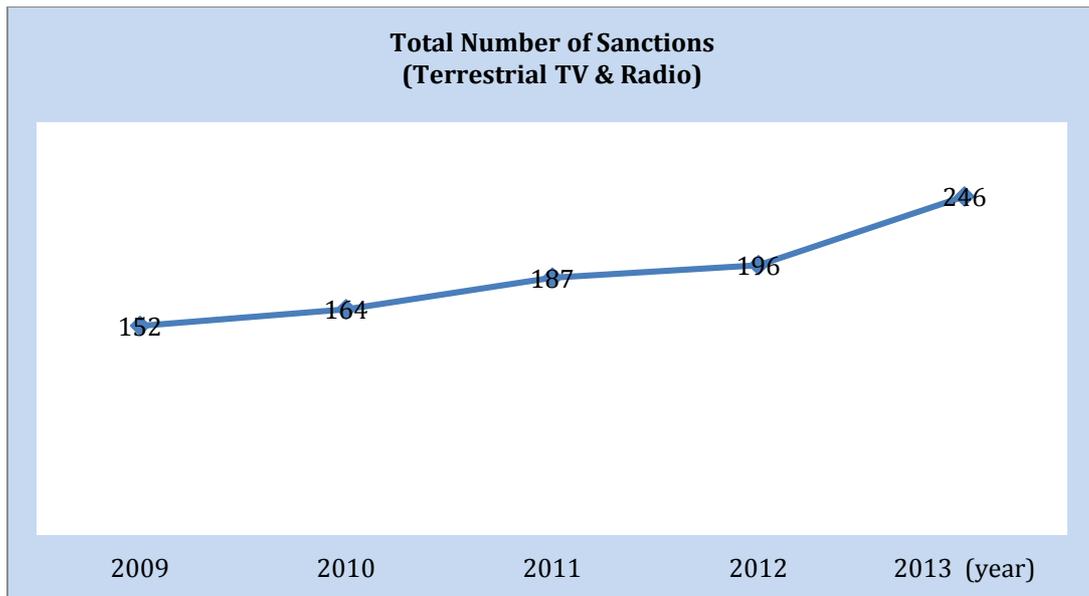


Figure 2. Total Number of Sanctions Imposed by KOCSC on Terrestrial TV & Radio Content between 2009 and 2013

Figure 3 shows the total number of sanctions imposed on paywall TV channels including cable and satellite TV channels in South Korea by KOCSC. Although the total number of sanctions imposed on paywall TV stations is greater than the sanctions for terrestrial TV, and has grown over the last five years, the rate of growth over has been a more modest 22% - and the total number of sanctions imposed on paywall TV decreased once in 2010. However, both graphs suggest a more activist role for KOCSC over the five years.

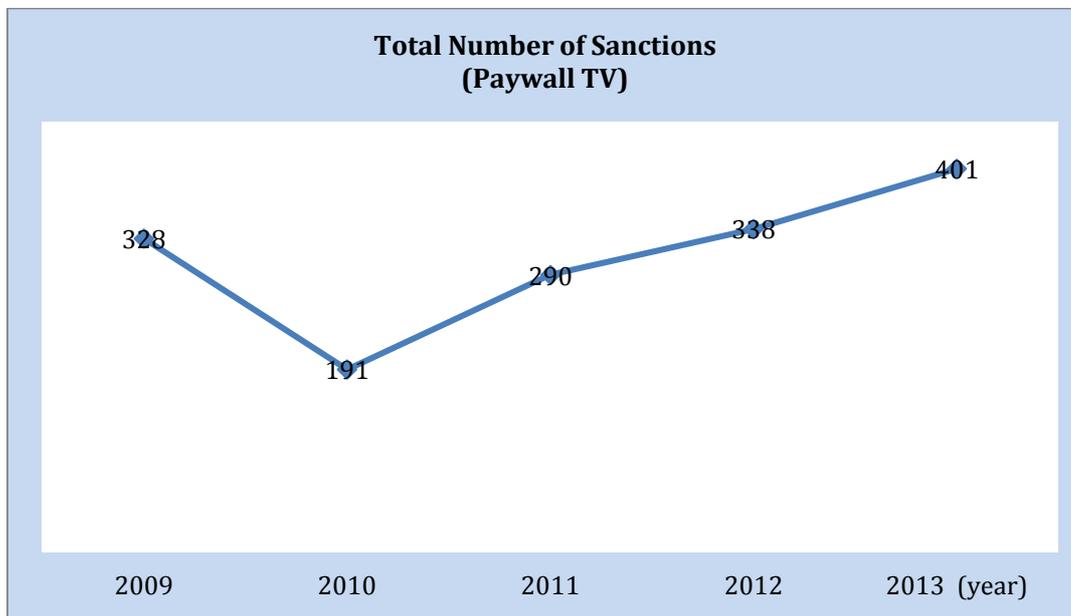


Figure 3. Total Number of Sanctions Imposed by KOCSC on Paywall TV (Cable TV) Content between 2009 and 2013

It is worth noting that, in contrast to the increasing number of KOCSC's sanctions, there has been no distinctive change in the number of breaches judged by Ofcom. In fact, as shown in figure 4, the

total number of breaches of the broadcasting code has actually decreased since it peaked during the period from April 2011 to March 2012.⁶

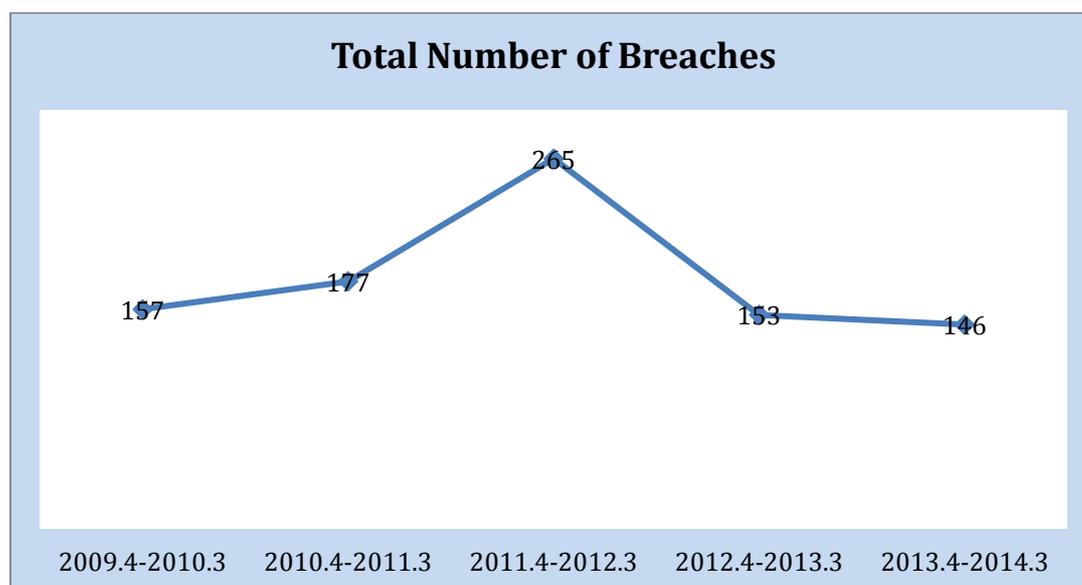


Figure 4. Total Number of Breaches Assigned by Ofcom on TV & Radio Contents between April 2009 and March 2014 ⁷

Conclusion: Although it is important not to overstate the value of the comparison, it is nevertheless striking that the Korean broadcasting regulator, KOCSC has been increasingly active over the last five years, with proportionately a more significant rise in the number of breaches recorded against the terrestrial broadcasters.

3. What Breaches Are Being Found, and Which Rules Are Being Applied by the Regulators?

(1) Statistical Analysis of KOCSC's Cases Violating 'Rules on Broadcast Review'

Having established that the Korean regulator has been increasingly active over the last five years, it is important to understand what issues have been most frequently the focus of the regulator's breach findings, paying particular attention to the regulator's role in relation to news and journalism. I am therefore focusing mostly on the subsection of adjudications that deal with news

⁶ The reason for a peak in statistics during the period from 1 April 2011 to 31 March 2012 is not clear. The change of the handling procedure of complaints in Ofcom at the same period may have affected the outcome. On 1 June 2011, Ofcom introduced revised procedures for the handling of broadcasting complaints, cases and sanctions. Between 1 April 2011 and 31 May 2011, Ofcom handled complaints under its previous procedures.

⁷ Data used in figure 4 is from Ofcom's annual reports covering the period between April 2009 and March 2014. Available as pdf file at <http://www.ofcom.org.uk/about/annual-reports-and-plans/annual-reports/>. Last viewed on 5 May 2015.

Unlike KOCSC's statistics which distinguish between terrestrial and paywall TV, Ofcom's statistics include all TV channels and radio stations.

The number of breaches used in each bar is the total of breaches of the standard broadcasting code as well as upheld (or partly upheld) cases related to fairness and privacy issue.

and journalism, since it is here that political independence is most important for sustaining and promoting strong, independent journalism.

To support this analysis, I have looked separately at the terrestrial and the paywall operators, and have divided the breach findings into those that are aimed at news programmes and those that are derived from entertainment programmes, focusing on 2013 – the most recent year where data exists.

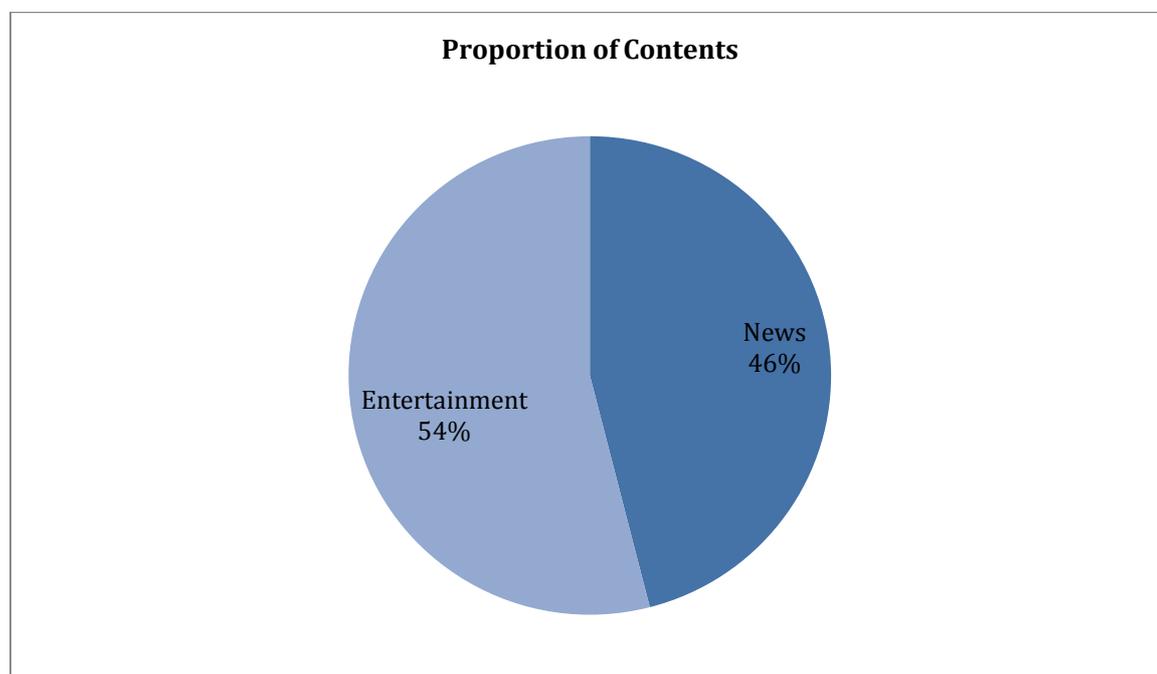


Figure 5. Proportion of Terrestrial News Contents and Entertainment Contents judged by KOCSC in 2013

Figure 5 shows the proportion of the 149 breach findings made in 2013, news contents accounted for 46% of the total cases (69 cases), while entertainment content accounted for 54% (80 cases). As shown in the above chart, entertainment contents tend to be reviewed and judged as a violation of 'Rules on Broadcast Review' more often than news contents for terrestrial TV. However, the difference in the number of cases is slight.⁸

'Rules on Broadcasting Review' are also applied to the paywall TV channels' problematic contents by KOCSC. However, the proportion of the adjudications is very different from that of terrestrial TV broadcasters. Figure 6 shows that, of the 358 cases which resulted in adverse findings, news content accounts for 34% of the total cases (123 cases), while entertainment contents account for 66% (235 cases).

⁸ 'Rules on Broadcasting Review' is the standards of judgement that KOCSC applies to individual complaints and problematic cases of broadcasting contents. It is attached to the end of this research paper as appendix B from page 55.

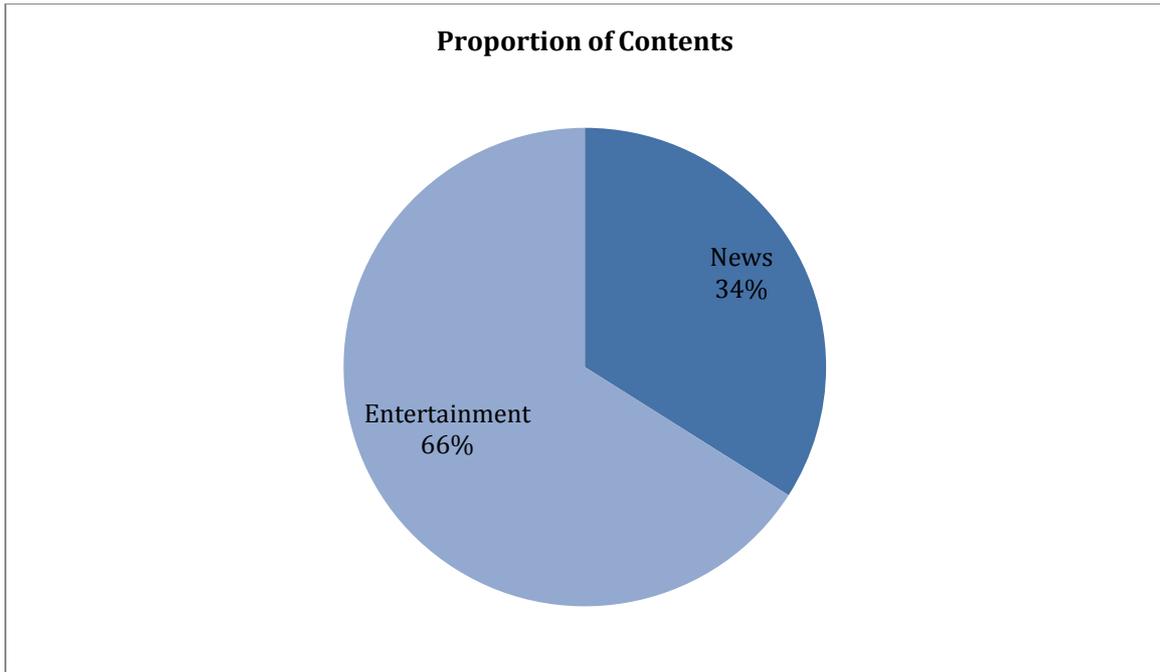


Figure 6. Proportion of Program Provider's News Contents & Entertainment Contents Judged by KOCSC in Year 2013

This comparison suggests that KOCSC has paid more attention to the news of terrestrial broadcasters than that of Program Provider.

Again, the comparison with Ofcom's findings over the same period is instructive.

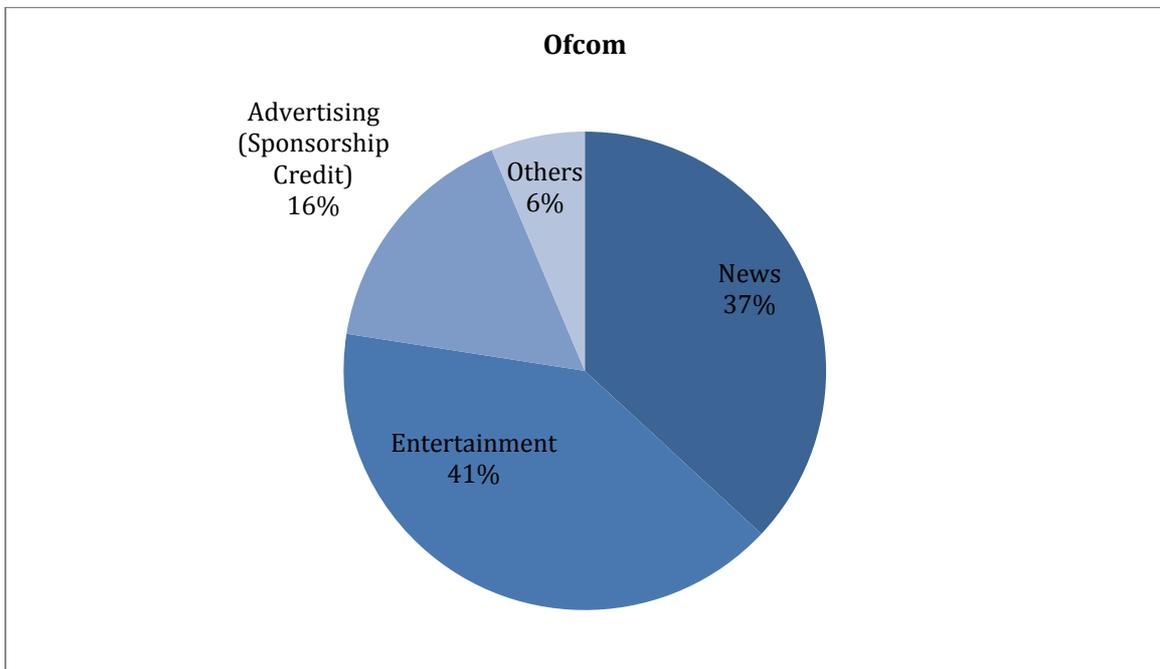


Figure 7. Proportion of TV News, Entertainment Contents and Advertisement, Judged as a Breach of Broadcasting Code

Figure 7 shows the proportion of the 111 breach findings from April 2013 to March 2014 that arose across all TV media including news, entertainment, advertising (mostly sponsorship credits), and others.⁹

News contents accounted for 37% of the total cases while entertainment content accounted for 41%. Moreover, it is very rare to find cases where terrestrial TV news content is judged to have breached Ofcom's broadcasting code: most of these cases in violation relate to satellite platforms and programmes contained within channels aimed at specific minority ethnic groups.

(2) Statistical Analysis of Individual Application of 'Broadcasting Review Rules' for News Contents.

Next, it is important to understand the detail of the breach findings themselves, where there is again a marked difference between the findings relevant to terrestrial broadcasters and the findings against the paywall stations.

Even though KOCSC has 53 diverse 'Rules on Broadcasting Review', there are some frequently applied rules and articles used in judging whether an individual case or complaint, in fact, violated the regulation. Figures 8 and 9 sort individual cases of broadcaster's news contents by the frequency of 'Rules on Broadcast Review' applied by KOCSC.¹⁰

⁹ The statistics used in figure 7 show the total sum of Ofcom's breach findings including standard broadcasting cases and upheld (or partly upheld) cases related to fairness and privacy issues. From April 2013 to March 2014, there were 95 breaches for standard cases, and 16 cases for fairness and privacy issues. The data used in this pie chart is attached to this research paper as Appendix D as an excel file, and the source used to make the data is Ofcom's official bulletins in the same period.

The reason for organising Ofcom's data from April 2013 to March 2014 is because Ofcom follows its own fiscal year for making data for findings whereas KOCSC just follows the calendar year for statistics.

¹⁰ Categorisation used in this bar chart follows the title of sections under the 'Chapter II, General Standards' in KOCSC's 'Rules on Broadcasting Review'. Detailed information on each section can be found in the Appendix B from page 55.

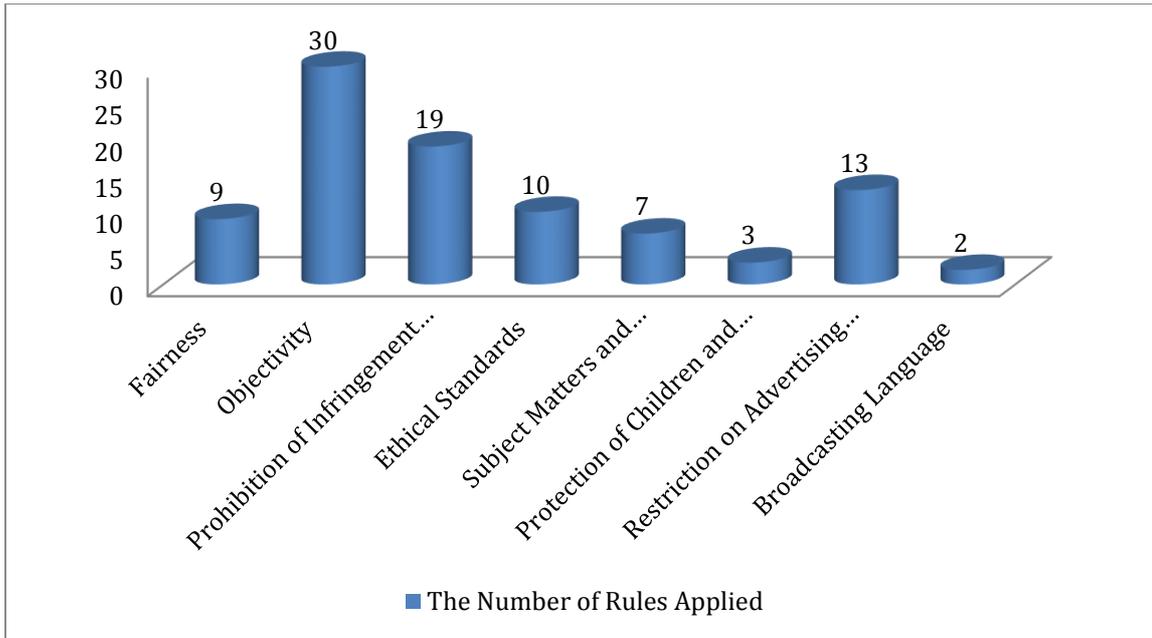


Figure 8. Individual 'Rules on Broadcast Review' Applied by KOCSC to the Cases of Terrestrial Broadcaster's News Contents

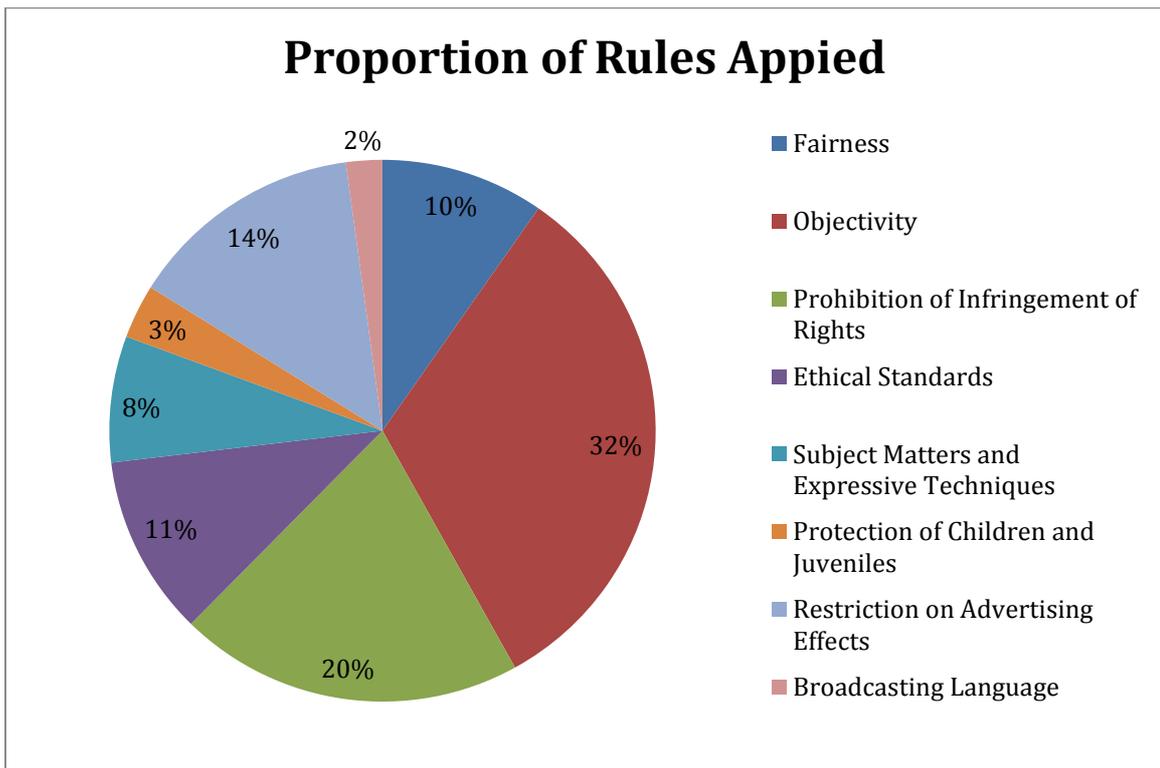


Figure 9. Proportion of Individual 'Rules on Broadcast Review' Applied by KOCSC to the Cases of Terrestrial Broadcaster's News Contents

Figure 9 shows that 42% of the findings relate to the two categories of Fairness and Objectivity – the code requirements that are most likely to be relevant to influencing the coverage of political balance.

However, the result is quite different in the news contents of Program Provider even though the same rules are applied. Figures 10 and 11 show the individual 'Rules of Broadcast Review' frequently applied as a violation of regulations to the Program Provider's News Contents by KOCSC.

Figure 11 shows that only 16% of the breach findings relate to the two categories of Fairness and Objectivity. Instead, the majority of findings relate to subjects less relevant to the coverage of political balance such as Ethical Standards (31%), Subject Matters and Expressive Techniques (16%).

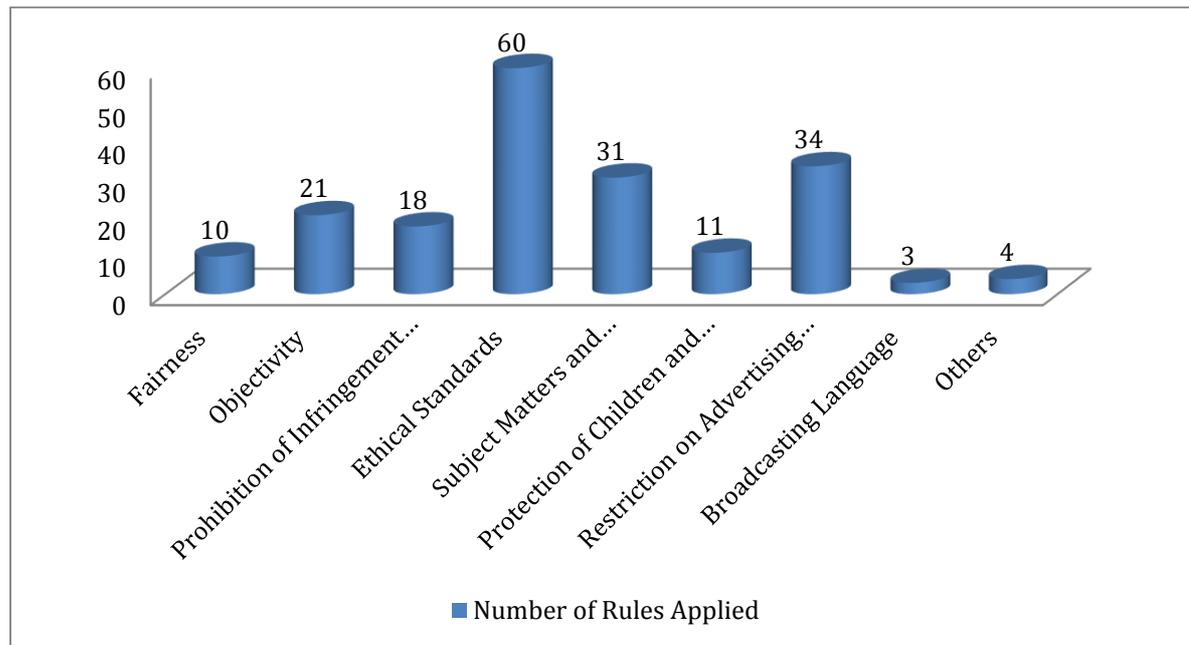


Figure 10. Individual 'Rules on Broadcast Review' Applied by KOCSC to the Cases of Program Provider's News Contents

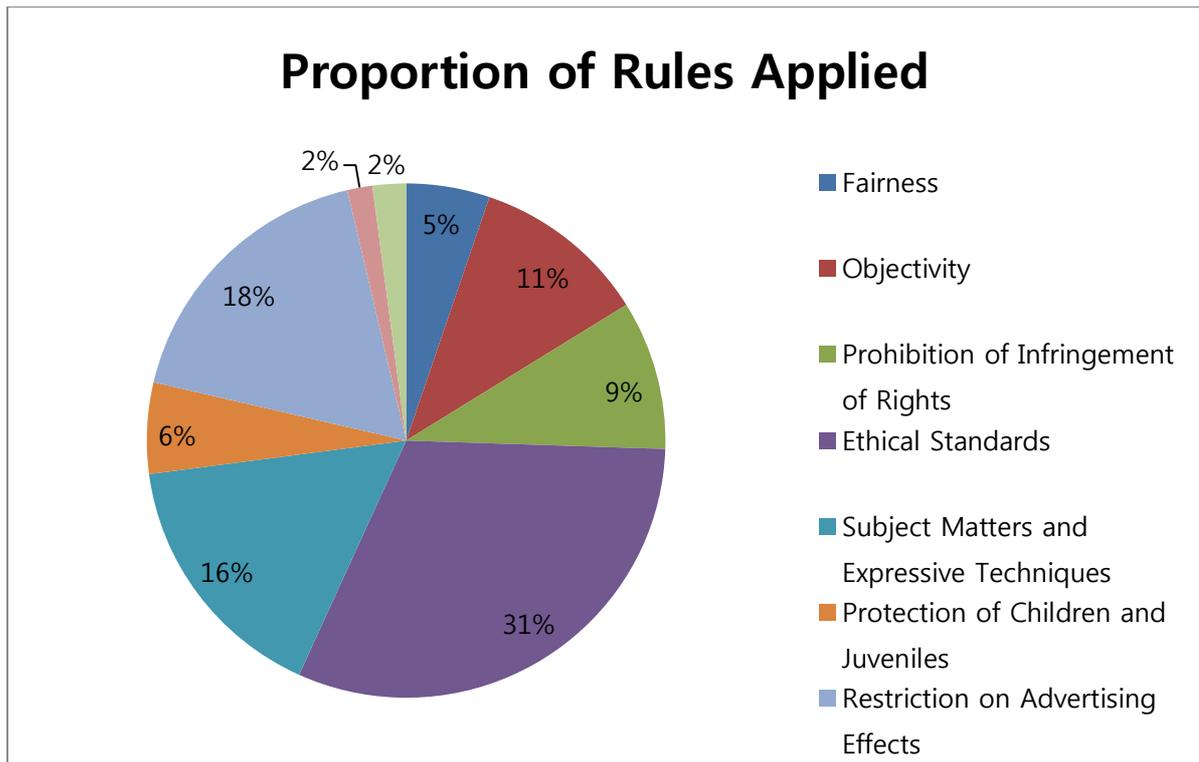


Figure 11. Proportion of Individual 'Rules on Broadcast Review' Applied by KOCSC to the Cases of Program Provider's News Contents

KOCSC's tendency to put more focus on fairness and impartiality issues in terrestrial news content is more apparent when Ofcom's data on UK broadcasters' news contents is compared with that of KOCSC.

Figures 12 and 13 show the specific broadcasting codes applied to the news content by Ofcom from April 2013 to March 2014.¹¹ 33% of the findings relate to the Ofcom code rules covering of fairness, due impartiality and due accuracy (the categories most closely aligned to the KOCSC rules covering fairness and objectivity): a significantly lower figure than KOCSC's figure for terrestrial broadcasters' news contents (42%) but significantly higher than KOCSC's figure for programme provider's news content (16%).¹²

¹¹ Categorisation used in this bar chart follows the title of sections under Ofcom broadcasting code. Available as pdf file at <http://stakeholders.ofcom.org.uk/binaries/broadcast/831190/broadcastingcode2011.pdf>. Last viewed on 17 June 2015.

¹² The concept of fairness in Ofcom's broadcasting code is considered a right to be protected by law for contributors to programmes or for persons/organisations related directly to the programmes. However, the concept of fairness rule in KOCSC's 'Rules on Broadcast Review' is considered a general right of both viewers and persons/organisations without the condition of direct relevance to the programmes. In short, section 1 'Fairness' of KOCSC's 'Rules on Broadcast Review' is more similar to Ofcom's due impartiality in Section 5, and the concept of fairness in Ofcom broadcasting code is not exactly equivalent to that of 'Fairness' in KOCSC's 'Rules on Broadcast Review' even though article 9 under section 1 'Fairness' of KOCSC's 'Rules on Broadcast Review' has the same meaning as rule 7.1 under section 7 'Fairness' of Ofcom broadcasting code.

However, objectivity in KOCSC's 'Rules on Broadcast Review' is very close to due accuracy in Ofcom's broadcasting code in concept.

More detailed comparison about the concept of codes is explained in Appendix A in page 47.

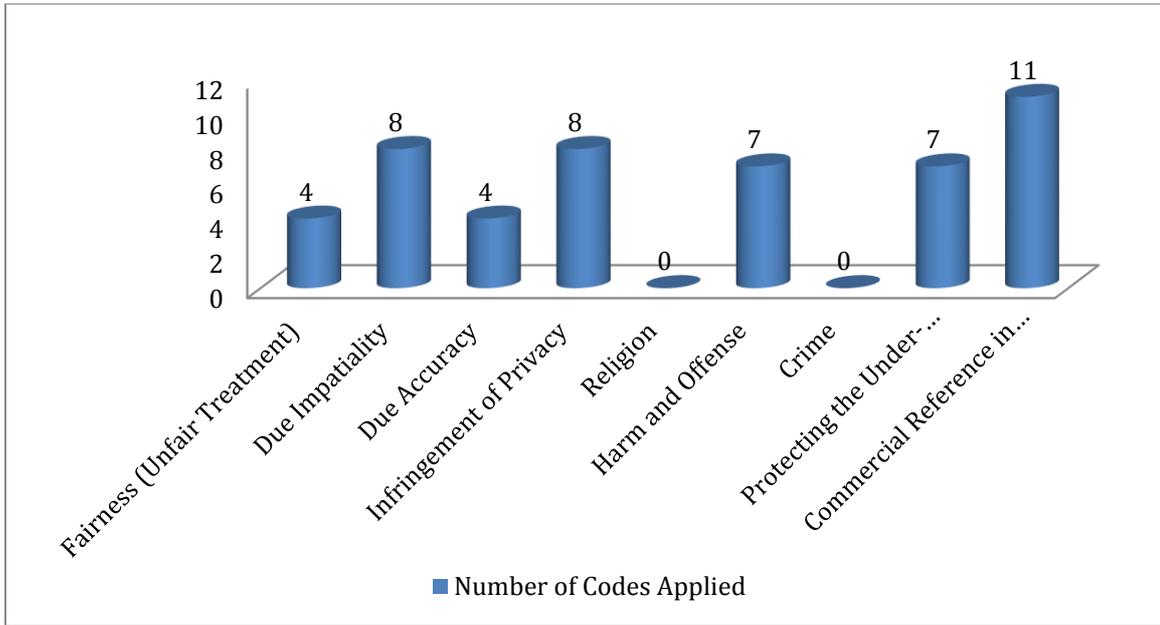


Figure 12. Individual Broadcasting Code Regulations Applied by Ofcom to the Cases of TV News

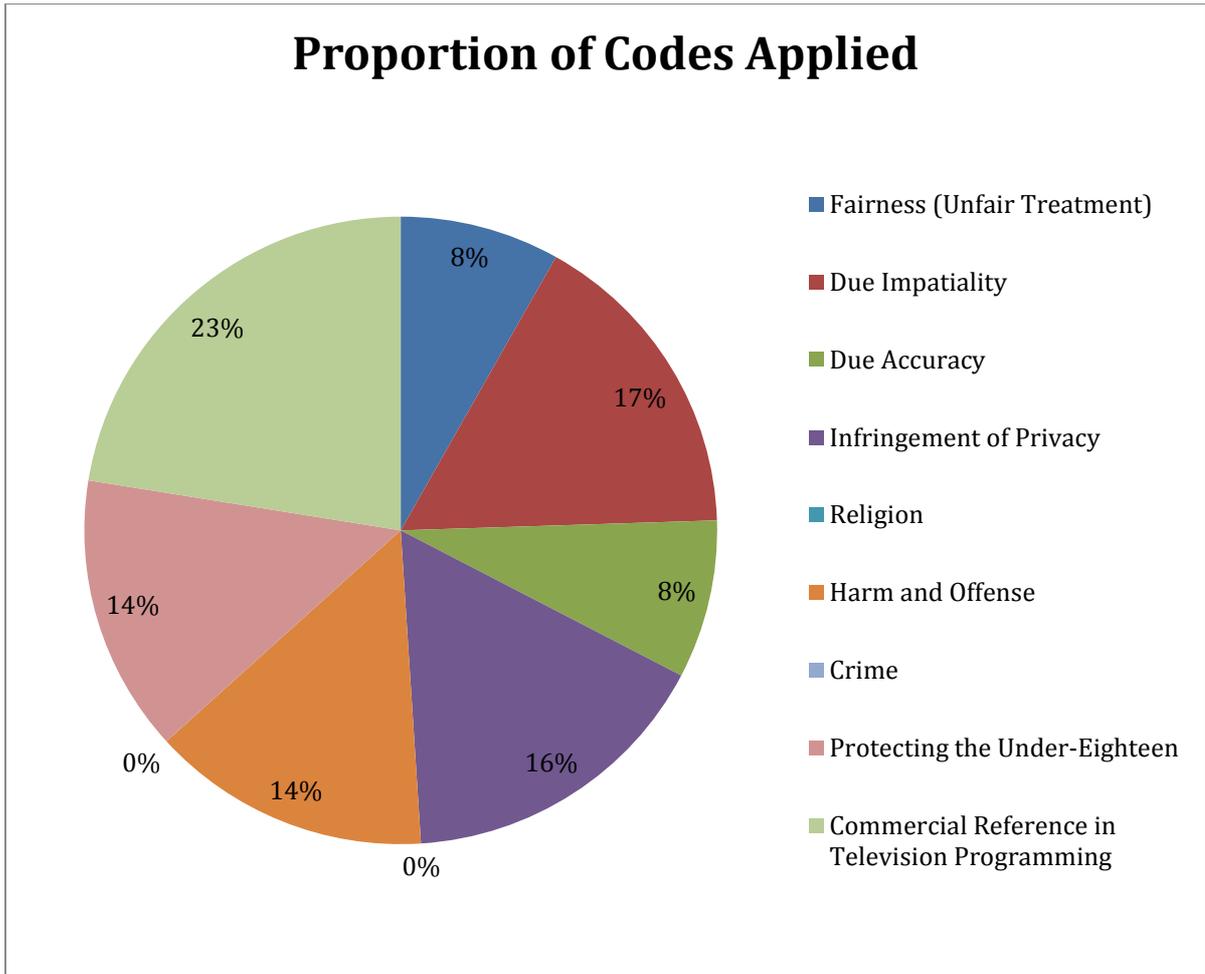


Figure 13. Proportion of Individual Broadcasting Code Regulations Applied by Ofcom to the Cases of TV News

Further analysis of the data relating to KOCSC’s and Ofcom’s findings in relation to terrestrial news contents is revealing. Figure 14 shows the proportion of individual broadcasting code regulations applied by Ofcom to the cases of terrestrial news contents in UK. Only three cases were judged to be a violation of the broadcasting code, which account for 22% of the whole terrestrial news contents. Of these, no case was judged as a breach of due impartiality or due accuracy from April 2013 to March 2014 for the terrestrial news contents by Ofcom. The contrast with KOCSC is striking: 42% of their findings about terrestrial news content relate to fairness and impartiality, as shown in figure 9 (10% account for ‘Fairness’ violation and 32% account for ‘Objectivity’ violation of ‘Rules on Broadcast Review’). In contrast to KOCSC, Ofcom tends to pay more attention to non-terrestrial broadcasters’ news contents than to terrestrial news contents in the UK. Non-terrestrial news contents account for 38% of violations judged as breaches of Ofcom’s broadcasting code (fairness accounts for 3%, due impartiality for 23%, and due accuracy for 12%) as shown in figure 15 whereas KOCSC applied fairness and objectivity rules for only 16% of non-terrestrial news contents which is equivalent to program provider’s news contents, as shown in figure 11.

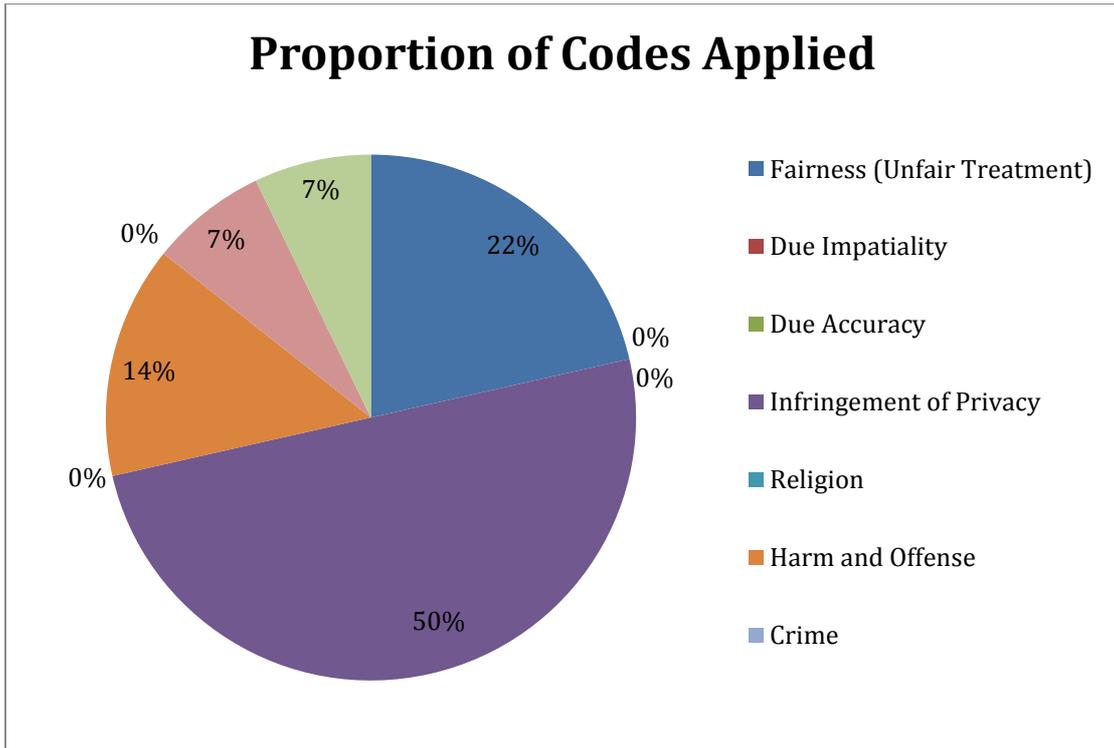


Figure 14. Proportion of Individual Broadcasting Code Applied by Ofcom to the Cases of Terrestrial TV News

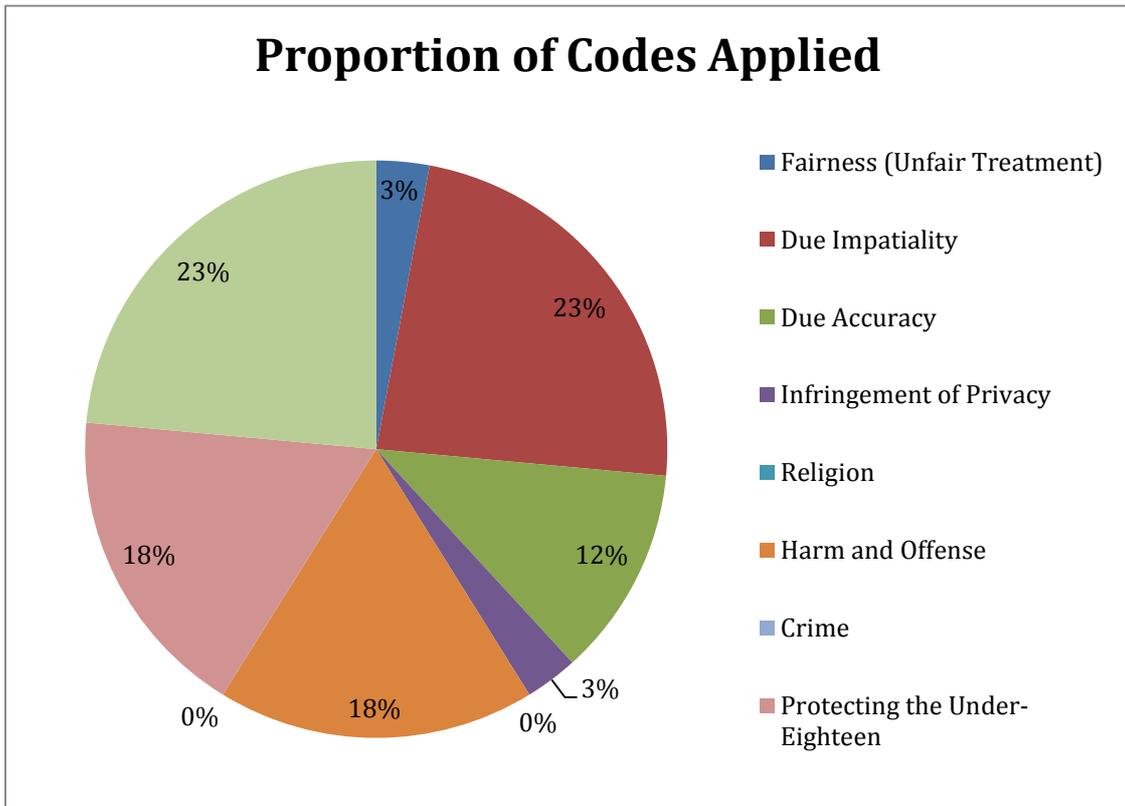


Figure 15. Proportion of Individual Broadcasting Code Regulations Applied by Ofcom to the Cases of Non-terrestrial TV News

A tentative conclusion is therefore that, notwithstanding the larger number of breaches recorded in non-terrestrial news programmes of Korean broadcasters, the breaches most commonly recorded against the terrestrial broadcasters are more likely to be concerned with the code provisions most directly related to political balance and impartiality. **This in itself one of two conclusions: either that the terrestrial broadcasters in Korea are more prone to a lack of balance in their coverage; or that the Korean regulator, KOCSC, is more likely to sanction a terrestrial broadcaster for a perceived lack of balance in the coverage.**

(3) Applying the “Fairness” rules (Article 9 in Section 1 ‘Fairness’ of KOCSC’s ‘Rules on Broadcast Review)

To investigate this further, I have conducted a detailed analysis of the way the regulator has approached the issue of “Fairness”, finding further evidence of its potential impact on the journalism of the terrestrial television stations.

Of the KOCSC’s 53 broadcasting review rules, the most controversial and disputed rule deals with ‘Fairness’. Its implementation of article 9 ‘Fairness’ has gained the attention of the public and commentators whenever it has been applied to the news content of both terrestrial broadcasters and paywall TV channels. In particular, many critics have questioned the legitimacy of KOCSC’s decisions given that it is not completely independent from the government, the presidential office or the ruling political party.

Even after a series of disputes and conflicts about the application of the rule, the number of cases to which KOCSC applied the article 9 ‘Fairness’ has tended to increase gradually every year.

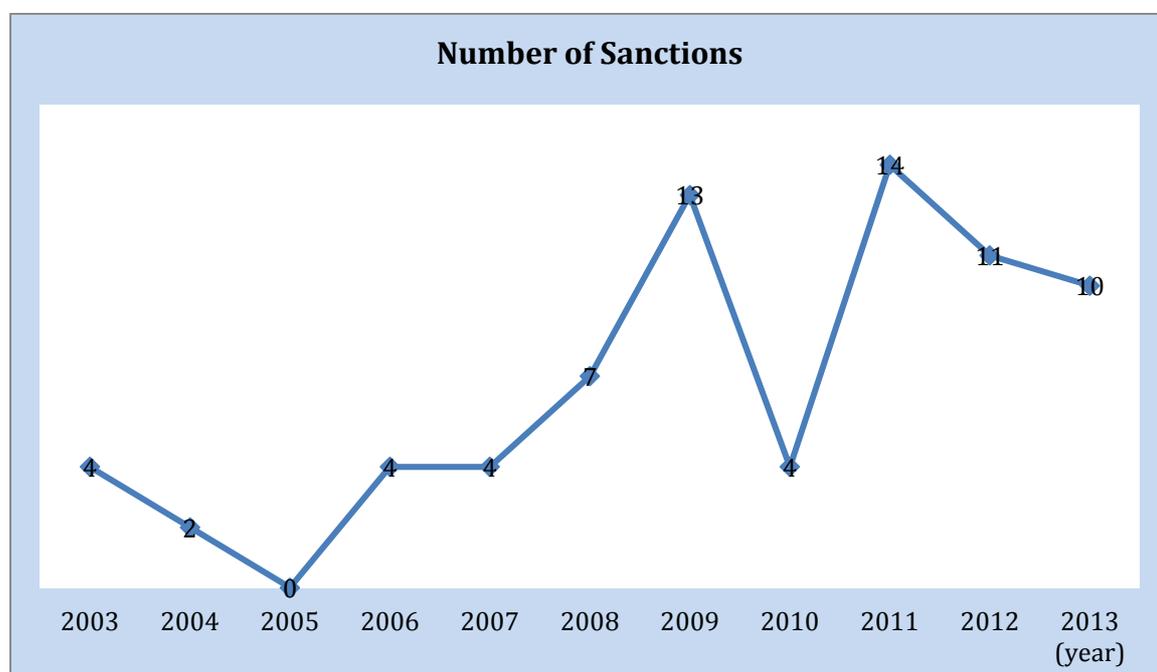


Figure 16. Total Number of Restrictions Imposed on News Contents of Terrestrial TV in Violation of Section 1 ‘Fairness’ between 2003 and 2013

Figure 16 shows the number of findings against the news content of terrestrial TV in violation of article 9 'Fairness' by KOCSC over a ten-year period from 2003 to 2013. Information used in this graph is from a newspaper article published on 2 April 2009.¹³

The data shows that even though there was a steep decrease in 2010, the number of restrictions has increased strikingly since KOCSC started to operate in May 2008 after the new government took office. There was a yearly decrease from 2003 to 2005, followed by slight increases until 2008, at which point it doubles from the previous year. 2008 was when the then newly-elected Lee Myung-bak government started to operate with KOCSC, which by then was separated from former regulator KBC (Korea Broadcasting Commission).

The reason why there was a steep decrease in 2010 is addressed by KOCSC in an answer to a question posed by an MP:

The reason why decisions based on the rule of 'Fairness' reduced in year 2010 is because the former chairman of KOCSC, Jin Gang Lee, insisted at that time that it would be better not to apply the rule of fairness too strictly to individual cases and to leave more decisions to the autonomy of broadcasting businesses. KOCSC, after the remarks from the chairman at that time, took a stance to reduce the decisions based on the rule of fairness if the cases did not involve incidents which provoked huge social criticism. This change of stance led to the decrease in the number of restrictions.¹⁴

It would appear from the statistics that Jin Gang Lee's instruction had an impact on the number of violations in 2010. However, this answer does not fully explain the steep increase in 2009 and in 2011 when Jin Gang Lee still remained as the chairman of KOCSC, and, in those years, the highest numbers of 'Fairness' cases were judged to be in violation. Also, it does not explain why Jin Gang Lee decided to reduce the application of article 9 'Fairness' to individual cases.

One possibility that can be inferred from Jin Gang Lee's decision to reduce the application of article 9 'Fairness' is that the KOCSC might have been influenced by the breach case relating to the documentary about 'human cow disease and agricultural negotiations between Korean government and US trade representative' which was broadcast in the MBC investigative programme called 'PD Sucheop' ('PD Notebook') on 29 April 2008. KOCSC decided to impose the sanction of a 'broadcast apology' on the programme, the heaviest legal sanction available at that time, judging that the programme violated article 9 'Fairness' and two objectivity rules in its finding published on 16 July 2008.¹⁵ In addition to KOCSC's sanction, the programme's producers were referred to the prosecutor's office by government officials who accused them of defamation and distortion of the facts. However, on 20 January 2010, the judiciary court judged that all of accused were innocent because the programme had tried to pursue the public interest and did not defame the relevant government officials.¹⁶ This judgement of the judiciary court can be interpreted as

¹³ See: <http://www.mediatoday.co.kr/news/articleView.html?idxno=78553>. Last accessed on 13 January 2015,

¹⁴ This is an official reply from KOCSC as a response to the request from Korean MP Hojun Jung's Office. Jin Gang Lee was the first chairman of KOCSC from August 2009 to April 2011.

¹⁵ Because this programme invoked one of the hugest protests in recent Korean history in 2008, the Lee Myung-bak government had a strong political motivation to put a pressure on those who involved in the production of the programme.

¹⁶ Supreme Court of Korea also judged that the producers of the programme were innocent for their charge for defamation in 2 September 2011.

See: <http://www.koreaherald.com/view.php?ud=20110902000758>. Last viewed on 18 June

being directly opposed to the KOCSC decision, and it is therefore possible that the chairman Jin Gang Lee (himself a former chairman of Korean Bar Association) decided to raise the threshold for breaches of the 'Fairness' article to avoid further controversial disputes about the role of KOCSC.

Even though this possibility can only be inferred from the circumstances around the KOCSC's decision to reduce fairness cases, it is definitely true that there has overall been a huge increase since KOCSC started to operate in May 2008. In comparison with the number of cases to which the article 9 'Fairness' was applied by the former regulator KBC (Korea Broadcasting Commission) between 2003 to 2007, figure 16 shows that almost four times more cases have been judged to be violating fairness rules from 2009 to 2013 by KOCSC.

4. The Nature of Decision-Making: Disputes on the Majority Rule

Since the KOCSC was founded in May 2008, in accordance with the 'Broadcasting law' implemented in February 2008, disputes about the legitimacy and fairness of the organisation have arisen whenever there has been a sensitive, politically-charged case. The decision on sensitive cases involving political issues is usually determined by a simple majority of the nine KOCSC commissioners at their general meeting. This majority tends to be consistent with the structure of '6 versus 3' due to the appointment system for KOCSC (discussed below in Part II, chapter 2), whereby government appointees enjoy an automatic majority. Disputes or disagreements about the decisions are mostly driven by this structural characteristic of KOCSC, whose commissioners are appointed or recommended by different political parties. In many cases, especially those related to sensitive political issues, the decisions made by commissioners in KOCSC tend to follow the affiliation of commissioners to the specific political party or person who, most of the time, has the power to appoint the commissioner. As the political tensions between the major parties have increased, the tendency to decide a major breach or sanctions on sensitive broadcasting contents by majority vote, rather than by consensus, has also become more noticeable.

In the final year of its responsibility for broadcast regulation (2007), KBC (Korea Broadcasting Commission) resorted to a majority vote among the commissioners very rarely: only 3 cases, 0.7% of the 455 decisions made in 2007.¹⁷

The contrast with KOCSC's current practice is very sharp: in 2013, very nearly half of all the Commission's decisions were put to a vote (44%).¹⁸ A unanimous decision by KOCSC indicates that there was little dispute on whether to find against the content or what kind of sanction should be imposed, whereas a decision taken by majority vote indicates that there was disagreement on the matter in question so that the outcome of the vote was taken by nine commissioners of KOCSC including the chairman: experience suggests that the votes largely followed the political affiliation of the party or individual who had appointed the commissioner.

The former regulator KBC was a sub-organisation of the presidential office in 2007 which

2015.

http://koreatimes.co.kr/www/news/nation/2011/09/113_94089.html. Last viewed on 18 June 2015.

¹⁷ Data used here was quoted from the news release published in 21 January 2014, which is available at <http://minheetalk.net/3309>. Last viewed on 15 January 2015.

¹⁸ *ibid.*

implemented the same functions and roles as KOCSC in 2013.¹⁹ In fact, reviewing broadcasting contents and taking measures of restrictions on broadcasters was originally the function of Korea Broadcasting Commission. This function and the part of the organisation which devolved from the Korea Broadcasting Commission became KOCSC (Korea Communications Standards Commission). However, there was a difference between these two organisations in their status because KOCSC was intentionally founded as civilian organisation whereas Korea Broadcasting Commission was definitely a part of government, specifically an organisation directly under the authority of the presidential office. This organisational change happened under the then new presidency of Lee, Myung-bak in early 2008, and has been kept so far as it was in 2008.

Even though the former regulator KBC was directly under the control of the presidential office, the fact that almost all the decisions were made by unanimous decision is striking.²⁰ Even though one of the reasons the KOCSC was founded as a collegiate organisation was to find a balanced and fair way to take decisions balancing various interests involved in cases, in reality it became an organisation dominated by a majority with political inclination toward the ruling party and the government.

¹⁹ Korea Broadcasting Commission was merged with the Ministry of Information and Communication in 2008, and became a new organisation renamed KCC (Korea Communications Commission) at the same time as the foundation of KOCSC in early 2008 due to the overall restructuring of government organisation by the former president Lee Myung-bak.

²⁰ The appointment of nine board members for Korea Broadcasting Commission is quite similar to that of KOCSC even though the former Broadcasting Act in 2007, which regulated the method of appointment, put more focus on professionalism and representativeness of every board member in KBC. Detailed comparison in appointment between KBC and KOCSC is discussed in Part II in page 29.

Part II : Understanding the roots of the problem

In Part I of this research paper, I investigated the decisions made by KOCSC to see if there were indicators suggestive of inappropriate or heavy handed intervention by the regulator in the journalism of the terrestrial broadcasters.

In Part II, I look at the constitution of the organisation, comparing it again to Ofcom, and looking in detail at the ways in which its members are appointed, the ways in which it arrives at decisions, and the nature of the rules that it applies. From this analysis, it is clear that there are some key areas where KOCSC could modify its practice to ensure greater protection from political influence, and to promote more objective and soundly based regulation.

1. Constitution: Disputes about the Legal Characteristics of KOCSC

The KOCSC was created in 2008 by separating the function of reviewing broadcasting content from the existing governmental regulatory organisation KBC (Korea Broadcasting Commission), as part of the Lee Myung-bak government's sweeping reshuffle of the whole governmental organisation. The specific purpose behind the foundation of KOCSC and its separation from KBC was not specified even in the draft Law of Foundation and Operation of KCC (Korea Communications Commission) because the main purpose of that law was to merge the Ministry of Information and Communication with KBC into new regulatory organisation, KCC, at that time.²¹

When it was separated from KBC, its legal status was defined as an "independent civilian organisation", whereas KCC still remains a part of the government. However, there has been dispute over KOCSC's legal characteristics and whether it is genuinely an independent civilian organisation, or just a newly configured state organisation. On 23 February 2012, the Constitutional Court put an end to this dispute by judging that KOCSC should be properly defined as a national administrative agency of government, and not as an independent civilian organisation, when it passed judgement on two individual cases involving the dispute over KOCSC's legal characteristics.²² In spite of the Constitutional Court's judgement, however, KOCSC is still insisting that it should be legally characterised as an independent civilian organisation without changing the related law.²³ KOCSC's refusal to admit the legal identity as defined by the Constitutional Court, seems designed to counter the criticism of its unfair decisions about sensitive political broadcasting contents: whenever its decisions are considered to be unfair and political, this is deemed to be because of the lack of discussion and deliberation on its founding status at the very moment of drafting the law.

The Law of Foundation and Operation of KCC and KOCSC defined the official purpose of its foundation as follows:

For guaranteeing the public concern and fairness of broadcasting contents, for developing a healthy culture of information and communication, and for

²¹ 'The Law on Foundation and Operation of KCC (Korea Communications Commission)' is only available in Korea at <http://www.law.go.kr/lsSc.do?menuId=0&p1=&subMenu=1&nwYn=1§ion=&query=%EB%B0%A9%EC%86%A1%EB%B2%95&x=0&y=0#liBgcolor0>. Last viewed on 7 May 2015.

²² The Constitutional Court decision relates to case number, 2008헌마500, 2001헌가13.

²³ See: http://news.khan.co.kr/kh_news/khan_art_view.html?artid=201406172131105&code=940705. Last viewed on 5 May 2015.

creating the right user environment for information and communication²⁴

KOCSC's basic functions are the monitoring and reviewing all of the content made available by broadcasters and internet service providers, and judging, independently, impartially and without political interference, whether that content violates the regulations. However, the vague and ambiguous identity of KOCSC as a civilian organisation makes it vulnerable to political pressure from the government, but without any check or balance through accountability to the National Congress. In general, civilian organisations are considered more independent from political influence than governmental organisations. However, political pressure has been applied to KOCSC through the political appointments of its commissioners and its Secretariat. The status of KOCSC as a civilian organisation has failed to preserve its political independence and its ability to implement fair judgements on problematic cases. In reality, its ambiguous status has been used as a disguise or an excuse for a defence against criticism and a way of avoiding democratic control by the congress.

In contrast, Ofcom's constitutional relationship with government is made absolutely clear in its governing laws – the Office of Communication Act of 2002 defines it as a public corporation, and the Communications Act of 2003 gives it a clear set of purposes, with a clearly defined funding structure that keeps it independent of government.

To find a way to make KOCSC's decisions more reliable and fair, one of the most urgent measure would be reconsidering the constitution that defines the KOCSC's legal status. KOCSC's identity as a civilian organisation should be reconsidered and it seems desirable to make its legal status more clear and apparent. In my opinion, it seems natural to consider any organisation established to deliver the government's regulatory policy and to implement administrative sanctions as a governmental organisation or public corporation, which can be monitored and balanced by the congress in accordance with a separation of powers, rather than a civilian organisation.

2. Appointment of Members

The second fundamental issue relates to the manner of appointment to the board of the regulator – a key ingredient of independence: and once appointed, the degree to which they operate as independent board members, rather than as delegates of a particular third party interest – usually the government, or another party affiliation.

KOCSC's nine commissioners are all appointed by the president according to Article 18 ② of 'the Law on Foundation and Operation of KCC'. Of the nine commissioners, three are directly appointed by the President; three are appointed by him on the recommendation of the Chairman of the National Assembly after consultation with each representative member of the negotiation party in the National Assembly; and three are appointed by the President on the recommendation of the 'Science, ICT, Future Planning, Broadcasting and Communications Committee' of the National Assembly.

²⁴ See: http://www.kocsc.or.kr/05_introduction/introduction_06.php. Last viewed on 5 May 2015.

Thus, although there is some room for the opposition party to be involved in appointing KOCSC commissioners, the majority of the nine commissioners are mostly recommended by the ruling political party. The precise size of the majority group in KOCSC may vary depending on the political situation at the time of appointment and recommendation. However, based on the rule of appointment for the nine commissioners, the proportion of the political inclination of the nine commissioners in one term usually tends to consist of six commissioners from the ruling party or the president to three commissioners from the opponent party.

The chairman of KOCSC is elected by a mutual vote among the commissioners, and always tends to be the eldest one of the three commissioners who are directly appointed by the president. The term of the chairman and commissioners is always a single term of three years.

The political appointment of KOCSC has a crucial impact on its role and its decisions about broadcasting content related to politically sensitive issues, because in such cases the majority of the commissioners tend to vote for their political appointer or recommender, even though 'the Law on Foundation and Operation of KCC' explicitly guarantees the political independence of each commissioner.²⁵

The composition of the nine commissioners' political appointment, which tends to be a structure of '6 versus 3', was criticised by commentators from the very beginning of the discussion on the foundation of KOCSC, because KBC commissioners had all been recommended and selected from among professionals in various relevant social fields.²⁶ The former Broadcasting Act in 2007 also had a recommendation process with final appointment by the president similar to the new arrangements: but it defined and emphasised the qualification of every commissioner as follows:²⁷

Article 21 (Composition of Korea Broadcasting Commission)

- ① KBC consists of nine commissioners who are all appointed by the president among candidates who have a professionalism and representativeness of diverse social areas.
- ② The president appoints three commissioners by recommendation of the Chairman of National Assembly in negotiation with the representative of negotiation body, and other three commissioners by recommendation of Culture, Sight-seeing Committee in National Assembly considering the professionalism in broadcasting and the representativeness of diverse viewers.

Moreover, the former Broadcasting Law in 2007 put a unique stipulation in terms of appointment considering a political balance as follows.

Article 21 (Composition of Korea Broadcasting Commission)

- ③ The commission should have one chairman, one deputy chairman and three executive commissioners. The chairman is elected by a mutual vote

²⁵ Article 8 ① and article 20 ① of 'the Law on Foundation and Operation of KCC' says "commissioners of KOCSC should not be ordered and intervened by anybody outside" and "commissioners of KOCSC are not dismissed against the will of each commissioner".

²⁶ See, <http://economy.hankooki.com/lpage/opinion/200801/e2008013117403548740.htm>. Last viewed on 5 May 2015.

²⁷ Article 21 of the former Broadcasting Act on the appointment of board members in Korea Broadcasting Commission is obtained officially from KOCSC with support of Korean MP, Hojun Jung's Office.

among commissioners, and is appointed by the president. However, two executive commissioners among three executive commissioners should be recommended in negotiation with a negotiation body in National Assembly which the president does not belong to.

The difference in the appointment between the former regulator Korea Broadcasting Commission and the current KOCSC may offer a clue as to why the decisions of KBC were mostly taken unanimously, as discussed above.

A further point of discussion about political appointments concerns the role of Secretary General, who is appointed by the chairman of KOCSC. In May 2011, the then Secretary General's appointment was in dispute because he was at that time working as an executive official as 'Secretary to the President for Public Relations' in the presidential office. Even though there had been criticism over the appointment of a Secretary General who was closely connected to the presidential office, he had continued in the role despite the criticism, resigning in October 2014 when the third commissioner took the office.²⁸ There has also been criticism that the appointment of KOCSC's staff is subject to the authority of the secretariat and the chairman of KOCSC, making the positions of KOCSC staff vulnerable to political intervention and interests.²⁹ Due to the chairman of KOCSC always being appointed by the majority of KOCSC's board members, and following their political affiliation, the KOCSC's chairman also has the potential to exercise political influence over the Secretariat and his/her office staff.

Again, by way of contrast, Ofcom's board members, while appointed by the government, are nevertheless recruited through a process that is designed to limit the possibility of political influence, and to ensure the greatest possible independence from government. The government commits itself to what are defined as the "Nolan Principles" – taken from the recommendations of the 2007 Nolan Report and embedded in the processes of the Committee for Standards in Public Life.³⁰ In essence, these procedures ensure that, while ministers make the final choice, they may only do so from a shortlist of candidates drawn up by a selection panel that is wholly independent of government. Once appointed, all board members must declare any potential conflict of interest, and can only be removed in circumstances clearly set out in the governing law.³¹

In practice, although the board members are appointed by politicians, the board has successfully maintained the confidence of broadcasters and the wider industry as not being politically motivated in its decision making.

3. Differences of approach between KOCSC's 'Rules on Broadcast Review' and Ofcom's 'Broadcasting Code' ³²

The next core component, after the constitution of the organisation and the appointment of its

²⁸ See, <http://www.mediaus.co.kr/news/articleView.html?idxno=17671>. Last viewed on 5 May 2015.

²⁹ See, <http://www.mediatoday.co.kr/news/articleView.html?idxno=101533>. Last viewed on 5 May 2015.

³⁰ The detailed explanation of "Nolan Principle" is attached to the research paper as an appendix C in page 89.

³¹ The detailed explanation of "Declaration of Interests" is attached to the research paper as an appendix C in page 90.

³² A detailed comparative analysis of the approach taken by KOCSC and Ofcom in setting principles and rules for the regulation of broadcast content is contained in appendix A from page 45.

board, is the nature of the principles and rules that the organisation chooses to apply. There are many similarities in the approach of KOCSC and Ofcom. Their codes both deal with issues of journalistic accuracy and fair treatment, the protection of privacy, as well as protection against potentially offensive or harmful content, particularly for vulnerable audiences such as the young. Both codes stress the importance of freedom of expression, and make clear that the constraints placed upon it must be fully justified by the need to uphold the standards set out in the codes.

But there are also some fundamental differences of approach. Ofcom separates out its treatment of Fairness and Privacy, making these issues where the complaint must be laid by the person or persons affected. KOCSC, by contrast, takes a broader interpretation of Fairness, using this as a concept that is closer to Ofcom's rules around Accuracy and Impartiality. Complaints about unwarranted intrusion into privacy may be made to KOCSC by anybody: the KOCSC code is comparatively high level in its treatment of the issue, while Ofcom is more detailed.

As privacy regulation is defined much more specifically in Ofcom's broadcasting code, regulations on the under-eighteens and religion also outlined in more detail within Ofcom's broadcasting code. However, the basic concept of regulation is similar in both KOCSC and Ofcom's regulations. Some regulations are much more specific in KOCSC's 'Rules on Broadcast Review'. For example, the regulations about privacy issues in relation to the reporting of disasters (subject to a specific section since December 2012), ethical standards, and broadcast languages are defined in detail in KOCSC's rules. Some articles under section 3 'Objectivity' such as article 15 'Source Citations', article 16 of 'Statistics and Public Opinion Polls' in KOCSC's 'Rules on Broadcast Review' are more detailed and prescriptive than Ofcom's broadcasting code.

KOCSC's 'Rules on Broadcast Review' also have separate sections on 'ethical standards' which consists of article 25 'Ethics', article 26 'Respect for Life', article 27 'Dignity Maintenance', article 28 'Soundness', article 29 'Social Integration', article 29-2 'Democratic Basic Order of Constitution, etc.', article 30 'Gender Equality', article 31 'Respect for Cultural Diversity', article 32 'Respect for Freedom of Religion', article 33 'Observation of Acts and Subordinate Statues' and article 34 'Prohibition of Plagiarism'. However, section 4 'Ethical Standards' contains so many sub-categories of wide-range and ambiguous meaning that each article can be applied to diverse cases almost arbitrarily.

This difference is suggestive of ways in which the KOCSC approach may be intrinsically more susceptible to political manipulation. There are three areas where the approach taken by the two regulators is very sharply different, and which therefore merit closer analysis here.

(1) Abstract Announcement vs. Practical Approach to Complaints

KOCSC's 'Rules on Broadcast Review' contains many articles that are simply abstract descriptions of certain ethical or legal concepts. For example, article 25 'Ethics' consists of three sub-articles which are very difficult to apply to specific cases of broadcasting content because of the lack of concreteness and explanation:

Article 25 (1) A broadcast shall encourage people to establish a proper sense of values and norms, and enhance social ethics and public morality.

(2) A broadcast shall respect the values of family community and contribute to equal and democratic family relationships.

(3) A broadcast shall avoid undermining the pride and dignity of people.

The following article 28 ‘Soundness’ in KOCSC’s ‘Rules on Broadcast Review’ is another example of abstract description and lack of concreteness:

Article 28 (Soundness)

A broadcast shall endeavour to build a sound civic spirit and living, and shall pay close attention to covering contents related to pornography, demoralization, narcotics, drinking, smoking, superstition, speculative behaviour, ostentation and vanity, squandering and extravagance tendencies.

The expression “shall pay close attention to” seems to be a simple proclamation, but the problem of this article lies in the fact that KOCSC has full discretion to decide what “close attention” means. The abstract ambiguity and lack of specific explanation for the concept in the article may lead to arbitrary decisions being made by KOCSC commissioners on specific cases involving sensitive issues. Simon Bucks, a member of the Society of Editors, gave his evaluation of this matter as follows:³³

In my view, ethics should have no place in a regulatory code because they are open to a wide spectrum of interpretation. The word does not appear anywhere in the Ofcom code.

Regulations such as “A broadcast shall avoid undermining the pride and dignity of people” could be used to attack a broadcaster who exposes corruption or crime, especially by a government official – since it would by definition undermine the alleged perpetrator’s “pride and dignity”. Likewise Article 26 (2) insists on a “cautious attitude” to “inhuman acts” – e.g. human trafficking, abduction etc. What does that mean? That the broadcaster should not report these matters? Or that they should underplay them in case they reflect badly on the Korean state.

The principal problem here is that the code seeks to introduce subjective questions of morality and state responsibility into the code. Once again, this is oppressive to genuine journalism, and smacks of a totalitarian regime which seeks to control the media for its own ends. Ofcom makes no attempt at such judgements.

By contrast, Ofcom’s broadcasting code specifies the concept of regulation and enumerates the possible cases that may be relevant. For example, article 9 ① and 9 ② of section 1 ‘Fairness’ in KOCSC’s ‘Rules on Broadcast Review’ is specified more clearly in rules 5.1, 5.11, 5.12, 5.13 and 7.1 of Ofcom’s broadcasting code. Regulations on the protection of children relating to the watershed are also more specific in Ofcom’s broadcasting code. Article 44 ② of KOCSC’s ‘Rules on Broadcast Review’ is equivalent to rule 1.3, 1.4, 1.5, 1.6, 1.7 of Ofcom’s broadcasting code, but Ofcom’s broadcasting code explains the specific meaning of the terms to be used in the code and discusses diverse aspects of regulation.

³³ Interview with Simon Bucks, Associate Editor, Sky News, a member of the Society of Editors by e-mail on 7th June 2015.

(2) Legislative Background to the Code

This ambiguity and lack of explanation in KOCSC's 'Rules on Broadcast Review' can be traced back to a lack of clarity in its legislative background. The legislative basis for KOCSC's 'Rules on Broadcast Review' is in articles 32 and 33 of the Broadcasting Act,³⁴ but article 33 of the Broadcasting Act does not offer a specific legal framework for each article of KOCSC's 'Rules on Broadcast Review' other than defining the broad subject and range of KOCSC's regulation. In contrast, Ofcom clearly states the legislative background right at the start of its broadcasting code, and every section also starts by setting out its legislative basis. Simon Bucks also points out the lack of legislative standard in KOCSC's 'Rules on Broadcast Review':

The Korean code is seriously flawed – firstly because it introduces moral and ethical questions which should have no place in a set of laws and because its rules are so woolly and vague that they could be used in almost any circumstances to attack a broadcast which had offended the authorities. A broadcasting code should be underpinned by law and therefore it should be a strictly legal document, in which all the rules are based on specific concepts of fairness, balance etc., not vague, subjective moral aspirations.³⁵

It also seems, as another problem, that KOCSC has been given power to create, and amend at will, almost every article relating to broadcasting contents, without accountability to any kind of regulatory overview of the legal basis or limitation for amendments to its code. This massive delegation of legislative power to KOCSC may lead to excessive, and unaccountable, control on broadcasters and the freedom of expression. Since KOCSC legislated its 'Rules on Broadcasting Review' in June 2008, KOCSC has amended the 'Rules on Broadcast Review' at least five times.

(3) Strictness on Fairness, Impartiality and Privacy vs. Flexibility on Application of Those Rules

Simon Bucks identifies an important difference in the conception of Fairness, Impartiality and Privacy between KOCSC's 'Rules on Broadcast Review' and Ofcom's broadcasting code. He points out that the rules on Fairness, Impartiality and Privacy are stricter in KOCSC's 'Rules on Broadcast Review', and Ofcom's broadcasting code is more flexible because it considers journalistic justification in application of those specific rules.

The Ofcom code also is more flexible: it demands that "Broadcasters and programme makers should normally be fair in their dealings with potential contributors to programmes unless, *exceptionally, it is justified to do otherwise.*" Ofcom also does not demand total impartiality but "due impartiality", which it also defines. "Meaning of "due impartiality": "Due" is an important qualification to the concept of impartiality. Impartiality itself means not favouring one side over another. "Due" means adequate or appropriate to the subject and nature of the programme. So "due impartiality"

³⁴ The Broadcasting Act is available only in Korean at <http://www.law.go.kr/lsSc.do?menuId=0&p1=&subMenu=1&nwYn=1§ion=&query=%EB%B0%A9%EC%86%A1%EB%B2%95&x=0&y=0#liBgcolor0>. Last viewed on 7 May 2015.

³⁵ Interview with Simon Bucks, Associate Editor, Sky News, a member of the Society of Editors by e-mail on 7th June 2015.

does not mean an equal division of time has to be given to every view, or that every argument and every facet of every argument has to be represented.”³⁶

Simon Bucks also pays attention to the strictness of this rule in KOCSC’s code, suggesting it could be intentionally misused to control and restrict journalism:

The Korean code section on privacy begins with an extremely draconian prohibition on revealing “the details of a personal call or communication, etc. shall not be broadcast without the consent of the person concerned.” This, in my view, would make a lot of investigative journalism impossible.

The Ofcom code, in contrast, says “Any infringement of privacy in the making of a programme should be with the person’s and/or organisation’s consent *or be otherwise warranted.*” Ofcom makes clear that for a breach of privacy to be warranted - “that where broadcasters wish to justify an infringement of privacy as warranted, they should be able to demonstrate why in the particular circumstances of the case, it is warranted. If the reason is that it is in the public interest, then the broadcaster should be able to demonstrate that the public interest outweighs the right to privacy. Korean code does not provide many details of how it interprets privacy.”

In general I would say that the Korean code is too broad and general to be useful. It lacks sufficient detail to avoid genuine journalistic enterprise in the public interest being caught by the same net as salacious tittle-tattle, which is presumably its principal target.

In short, KOCSC’s ‘Rules on Broadcast Review’ is flexible for the regulator to misuse its wide and vague conception of code to manipulate broadcasting contents relevant to sensitive political issues, but is not flexible enough to protect sound journalism, pursuing the public interest, from the political backlash which is frequently made by the people it criticises.

4. Procedural Independence

The final issue to investigate is the way that the rules are applied, through the procedures that the regulator chooses to adopt. Again, despite some surface similarities, there are some marked differences of both approach and, more importantly, outcome.

(1) Procedure of Reviewing Broadcasting Contents by KOCSC

The review of broadcasting contents starts with a recognition of a complaint relating to the content. Any viewers can submit their complaints to KOCSC, and KOCSC itself can acknowledge the problem relating to broadcasting contents following a monitoring report from selected viewers.³⁷ Having satisfied itself that the complaint does expose a potential violation of the broadcasting code, the Broadcast Review Bureau at the Secretariat Office refers it to the relevant Special Committee for their opinion. The Special Committee then examines the case, and refers the case to the Committee

³⁶ Ibid.

³⁷ Korea Communications Standards Commission White Paper (2011.5 - 2014.4), p. 47-48

for Broadcasting Review to decide any sanction. If the case involved is not serious, then the Committee for Broadcasting Review which can impose a minor sanction, such as submission of opinion and recommendation. Both the Broadcast Review Bureau and Committee for Broadcasting Review can dismiss the case if the complaint is not considered to violate the broadcasting code. The Committee for Broadcasting Review has the power to directly any case without the need for an investigation by the Broadcast Review Bureau, or consulting the relevant Special Committee.

If the violation of the broadcasting code is sufficient to merit a more severe sanction, the Committee for Broadcasting Review refers the case to a general meeting of the nine commissioners. This general meeting can decide the level of sanction such as caution, warning, correction or suspension of the broadcasting content, disciplinary action for the staff involved, and imposition of a fine: it can also overturn the breach decision of the Committee for Broadcasting Review.

In short, for the major problematic cases involving broadcasting contents, the general meeting of nine commissioners always plays the crucial, decisive role in judging whether the broadcasting content is a breach of the broadcasting code and what kind of sanctions should be imposed.

However, should the KOCSC decide that a major sanction is necessary, the Broadcasting Act requires that the sanction itself must be implemented by the statutory Korea Communications Commission (KCC). The decision about the level of sanction and its implementation are divided between these two bodies is because it is assumed that the imposition of sanctions should carry the authority of government, not that of an independent non-state body. The third chairman of KOCSC, Park Man (May 2011 – May 2014) recognised this when he suggested that “KOCSC cannot implement any administrative sanctions by itself because its legal characteristic is that of a civilian organisation” at a press conference on 30th of November, 2012. At the same conference, he also insisted “KOCSC should be granted an independent budget, independent legislation of regulation and independent personal affairs, and to accomplish this independence, KOCSC should be changed into a governmental organisation which has the same legal characteristic as a semi-judicial authority.”³⁸

Since the KOCSC was founded in 2008, the KCC has so far considered 42 cases where KOCSC has decided to impose major sanctions, and a further 11 cases were delivered to judicial court after the official resolution made by KCC, most of which resolutions were almost the same as KOCSC’s original decision. However, the judiciary decided in five cases to nullify the original sanction or reduce it to a lower grade sanction. In only five cases are the original sanctions made by KOCSC still effective. One final case has not yet been adjudicated on.³⁹

Figure 20 below explains the basic procedure of broadcasting review and the sanctions explained above.

³⁸ <http://www.mediaus.co.kr/news/articleView.html?idxno=29895>. Last viewed on 19th of March 2015.

³⁹ The number of cases delivered to KCC for its retrial is counted from the date of foundation of KOCSC until February 2015, and the number of cases delivered to judiciary court is counted from 2011 to 2015 for recent 5 years.

The information and statistics on the cases which were delivered to KCC and judicial court by individual broadcasters is provided by KOCSC in response to the official request from Korean MP, Hojun Jung’s office in support of this research.

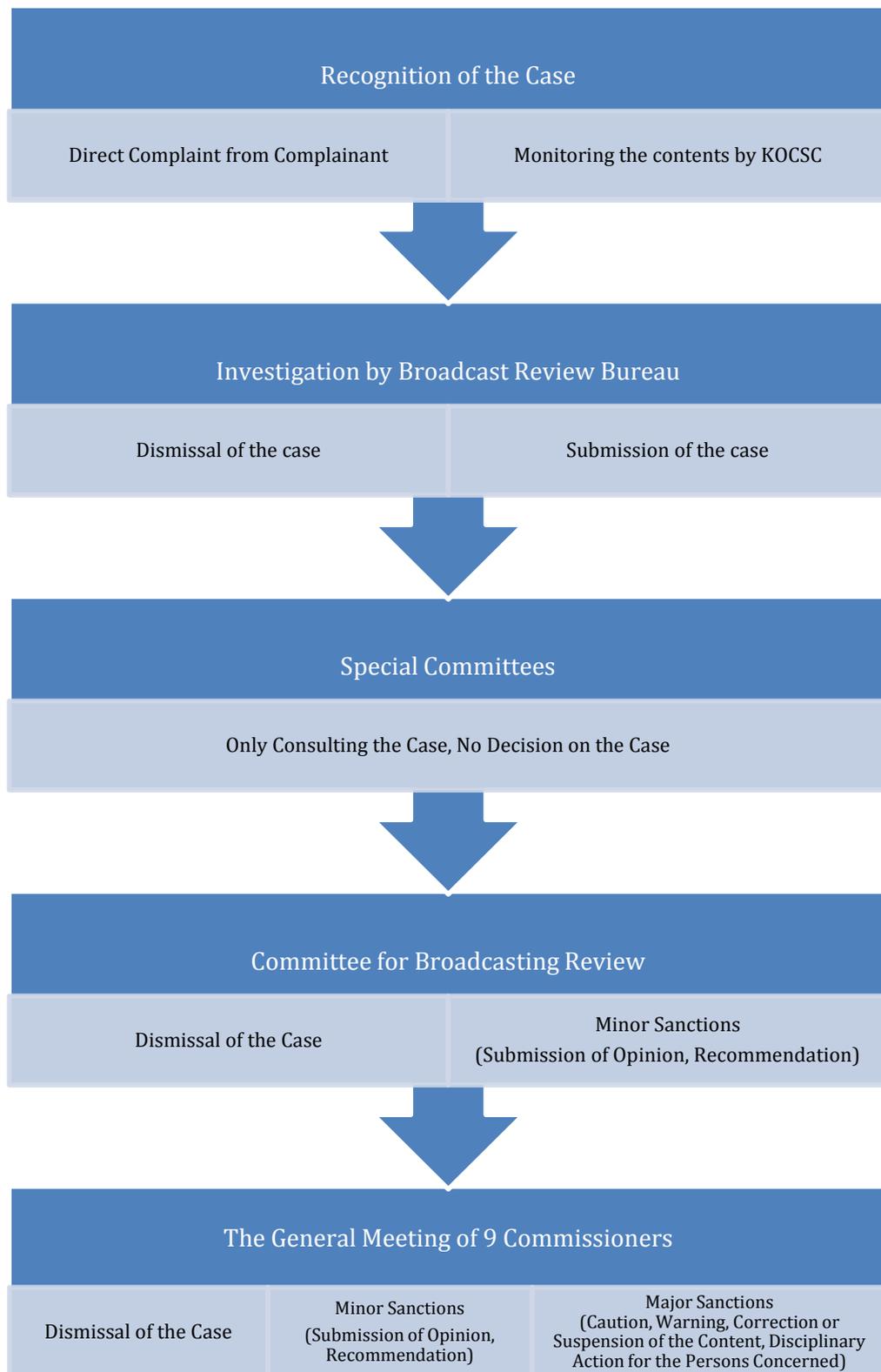


Figure 17. KOCSC's Broadcasting Review Procedures and Sanctions

(2) Ofcom Procedures for Reviewing Broadcasting Contents

Investigating breaches in broadcasting contents starts with either the submission of a complaint or Ofcom's own initiative in investigating a potential breach of its code. The first striking characteristic of Ofcom's procedure is its focus on broadcasters' self-regulation and self-resolution of the problem.⁴⁰ Complainants must use the broadcaster's own complaints procedure before making complaints to Ofcom.⁴¹ A complaint can be submitted to Ofcom only after the response to complainants from the broadcaster is not satisfactory. In contrast, in KOCSC's system, any complaint can be directly submitted to KOCSC without any obligation to go through broadcasters' self-regulation and self-resolution process first.

The second significant difference between Ofcom's investigating procedure, and KOCSC's, is that there are two different type of procedures depending on whether the content case involves standard breaches of the broadcasting code or 'fairness and privacy' issues.⁴² In standard cases, anybody who considers that a broadcaster has failed to comply with the broadcasting code can make a complaint to Ofcom.⁴³ On the contrary, Ofcom does not normally entertain 'fairness and privacy' cases unless the complaint is made by the person affected or by a person authorized by him/her to make the complaint on their behalf.⁴⁴

The procedural difference between standard cases and 'fairness and privacy' issues is not significant. The figure 21 describes both procedures at the same time. Except for the differing terminology used to name Ofcom's decision, the basic procedure is very similar in each situation: after the broadcaster's self-regulation process finishes, the decision-making process in every step is the responsibility of Ofcom's executive office. However, a final decision is made by two senior members of the Ofcom Executive together with a Non-executive member of Ofcom.⁴⁵ If the case needs to be more considerably discussed for its complexity and importance, then all members of Ofcom board can participate in discussing the case.⁴⁶

⁴⁰ Section 325(1) of the Communication Act 2003 requires broadcasters themselves to establish their own procedures for the handling and resolution of complaints.

⁴¹ Procedures for investigating breaches of content standards for television and radio, 1 June 2011, p. 4. Available as pdf file at <http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/>.

⁴² Standard cases are related to the following Broadcasting Code of Ofcom. Protecting the Under-Eighteens, Harm and Offense, Crime, Religion, Due Impartiality and Due Accuracy and Undue Prominence of Views and Opinion, Elections and Referendum, Commercial References in Television Programming, Commercial Communications in Radio Programming. See: <http://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/broadcast-code/>.

⁴³ Procedures for investigating breaches of content standards for television and radio, 1 June 2011, p. 3. Available as pdf file at <http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/>.

⁴⁴ Procedures for the consideration and adjudication of Fairness & Privacy complaints, 1 June 2011, p. 3. Available as pdf file at <http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/fairness/>.

⁴⁵ Procedures for the Consideration of Statutory Sanctions in Breaches of Broadcast Licenses, p. 4. Available as pdf file at <http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/procedures--sanctions/>.

⁴⁶ Paragraph 1.13 in 'Procedures for the Consideration of Statutory Sanctions in Breaches of Broadcast Licenses' explains that exceptionally, in such cases, where Ofcom considers that it is necessary for reasons of fairness and/or in order for Ofcom properly to determine a sanction, a Non-Executive member of Ofcom's Content Board will make decisions together with the Ofcom Executive Officers. However, in practice, this paragraph applied to the other types of license condition breaches rather than broadcasting code breaches according to the explanation of Ofcom professional, Mark Collini.

The sanctions available to Ofcom include a decision to:

- Issue a direction not to repeat a programme or advertisement;
- Issue a direction to broadcast a correction or a statement of Ofcom's findings which may be required to be in such form, and to be included in programmes at such times, as Ofcom may determine;
- Impose a financial penalty
- Shorten or suspend a license; and/or
- Revoke a license (not applicable to the BBC, S4C or Channel 4)⁴⁷

The last characteristic of Ofcom's procedure lies in the implementation of sanctions. KOCSC cannot implement sanctions by itself, except minor sanctions such as 'submission of opinion' and 'recommendations on problematic broadcasting content', because of its legal identity as an independent civilian organization. In contrast, Ofcom can implement every sanction it decides to impose.

Figure 21 below sets out Ofcom's procedure for considering potential breaches of its code.

⁴⁷ Procedures for the Consideration of Statutory Sanctions in Breaches of Broadcast Licenses, p. 3
Available as pdf file at <http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/procedures--sanctions/>.

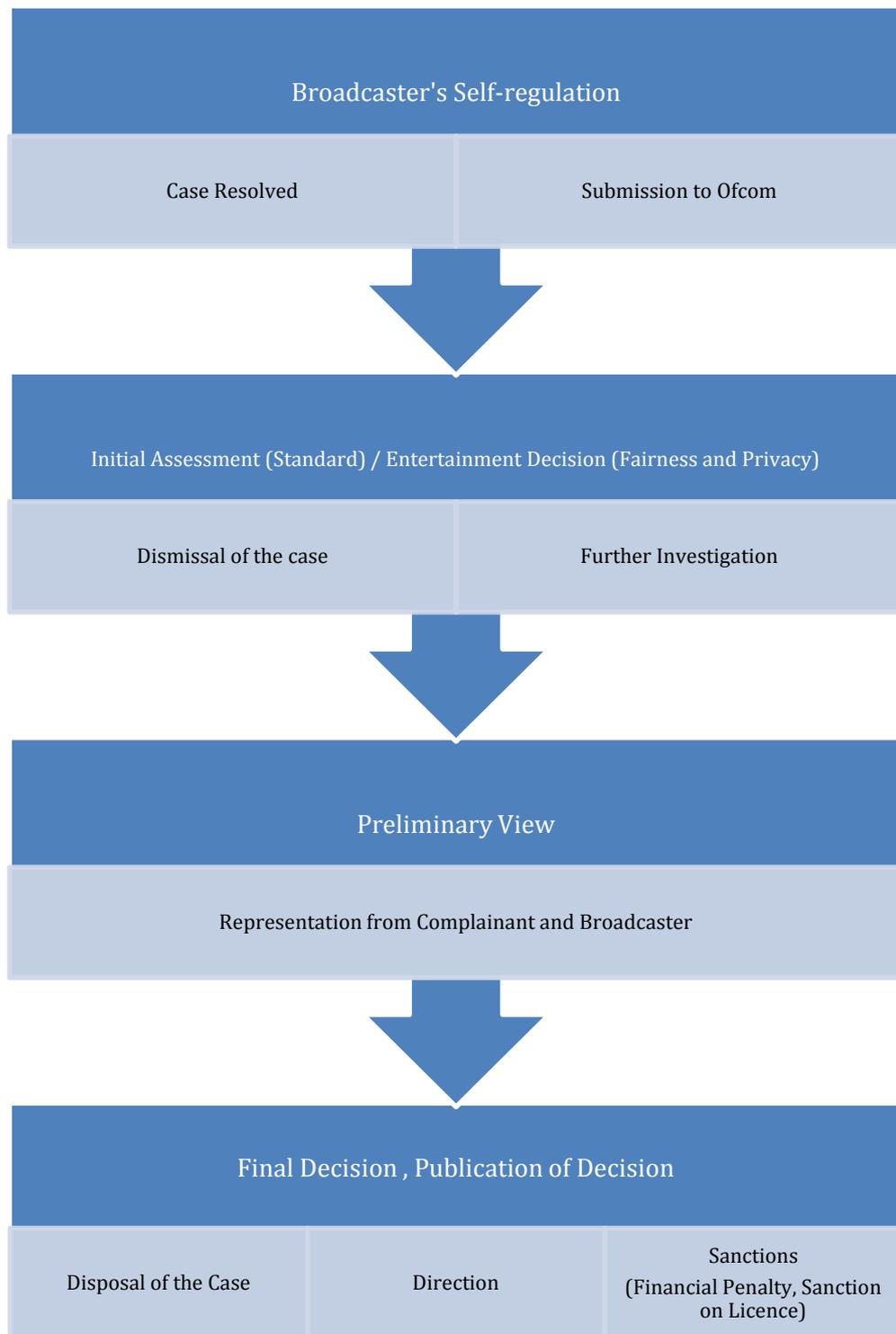


Figure 18. Ofcom's Broadcasting Code Procedure and Sanctions

(3) Differences in procedure between Ofcom and KOCSC

a. Unanimous Decisions and Closed Opinions

When Ofcom writes to the broadcaster regarding breaches of its code, it identifies who has been involved in the decision making process.⁴⁸ However, the decisions made by Ofcom about breaches and sanctions are all treated as unanimous: the individual opinions of participants on specific cases is not revealed to the public. The former Ofcom Partner responsible for Content and Standards, Tim Suter, explains as follows:

It is an important principle that the decisions made by Ofcom are considered unanimous. While there may be vigorous discussion on occasion, the organisation speaks with only one voice. Ofcom's decision makers are not "delegates", representing a specific point of view or section of community, but individuals required to treat each case on its merits and motivated only by the public interest. It is therefore important for the reasons given above, that all decisions - however hard fought in the board room, are nevertheless considered to be a decision of Ofcom.⁴⁹

Treating every resolution made by Ofcom as unanimous can prevent further disputes on Ofcom's decisions and leads to a decision with which, through their collective responsibility, every participant in the decision is deemed to agree. In contrast, KOCSC's main decision-making body on sanctions, the nine commissioners of KOCSC, have many internal disputes because of their different political backgrounds and interests. Even though every decision seems to be determined according to the democratic method, the majority rule, balanced and fair judgement is at risk of collapse owing to the political conflicts originating from the different political background of the commissioners.

b. Resolved Cases and Focus on Self-regulation

Ofcom accepts complaints about broadcast programmes only after a complainant has followed the broadcaster's self-regulation process, giving as its reason the fact that:

The majority of complaints made by the public about broadcast content are not related to any actual breach of the code, but refer to material that individual audience members may have found offensive or distasteful. Ofcom's experience is that in such cases an explanation from the broadcaster - and where appropriate, an appropriate expression of regret for the offence caused - is all that is necessary, or possible: and it is therefore better for the complainant to go direct to the broadcaster and only approach the regulator if they are dissatisfied with the response.⁵⁰

⁴⁸ Procedures for the Consideration of Statutory Sanctions in Breaches of Broadcast licenses, Ofcom, 19 July 2013, p. 4.

Available as pdf file at <http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/procedures--sanctions/>.

⁴⁹ Interview with Tim Suter, the former Partner for Content and Standards at Ofcom by e-mail on 7 May 2015.

⁵⁰ Interview with Tim Suter, the former Partner for Content and Standards at Ofcom by e-mail on 7 May 2015.

Just as Ofcom guides a complainant through the broadcaster's self-regulation process before Ofcom's investigation, Ofcom further suggests that both broadcasters and complainants can reach a mutually satisfactory outcome without pursuing a complaint through to a finding of a breach of the code. In some cases, Ofcom chooses to "resolve" a case without recording it as a breach of the broadcasting code. A 'resolved' outcome would be considered in cases, for instance, where a broadcaster has taken immediate and appropriate steps to remedy a breach.⁵¹ The reason why Ofcom takes 'resolved' cases can be explained as follows.

The "resolved" finding is designed to recognise that there may be cases where a breach has occurred but not through any deliberate action or unacceptable oversight on the part of the broadcaster: there may be occasions when despite the broadcaster's best efforts there has nevertheless been a breach of the code. In these cases, it may be inappropriate to "punish" the broadcaster with a breach finding: instead, it may be more appropriate to recognise that, even if a breach technically occurred, no further action is necessary.

It also maintains the "gold standard" of a breach finding: it should refer to something serious, avoidable and indicative of managerial or editorial failings that the broadcaster needs to attend to.⁵²

Sanctions can be imposed on a broadcaster when the broadcaster has seriously, deliberately, repeatedly, or recklessly breached a relevant requirement.⁵³ By making the conditions for imposing sanctions more rigorous, Ofcom fosters the atmosphere of self-regulation and self-resolution. However, Ofcom's Decision on Sanctions is final whereas KOCSC's decisions on sanctions tend to lead to another dispute by permitting a request for retrial at Korea Communications Commission (as discussed above).⁵⁴

⁵¹ See: <http://stakeholders.ofcom.org.uk/binaries/foi/2012/november/1-221111133.pdf>. Last viewed on 15 April 2015.

⁵² Interview with Tim Suter, the former Partner for Content and Standards at Ofcom by e-mail on 7 May 2015.

⁵³ Procedures for the Consideration of Statutory Sanctions in Breaches of Broadcast licenses, Ofcom, 19 July 2013, p. 4.

Available as pdf file at <http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/procedures--sanctions/>.

⁵⁴ Ibid. p. 7.

Article 65 of KOCSC's 'Rules on Broadcast Review' stipulates that a business operator in receipt of a sanctions order issued by the KCC (Korea Communications Commission) may file a request for re-review of such order with KCC within 30 days from his/her receipt of the sanctions order.

Conclusion: Implications for KOCSC and Korean Journalism

Sound and objective broadcast news programmes are an essential factor in the development and promotion of democratic society. This is because, even in the internet era, broadcast news is still the most influential and effective medium for provoking democratic discussion and for informing a public agenda. However, since KOCSC was founded as a new regulatory organisation in 2008, political influence in Korea has been an obstacle to broadcasters achieving such a significant public role. Comparisons between KOCSC and Ofcom can provide some important insights into those aspects of regulatory bodies that can promote, or hinder, a healthy broadcasting environment.

This research has established that there are several key components and lessons that KOCSC should consider adopting from Ofcom's system for its renovation and improvement in the future.

The first component of a well-functioning regulatory body is protection from political influence - from government or political parties - so that it can work effectively and independently according to its own processes and regulation without any political interference. First of all, therefore, KOCSC needs to ensure that its political appointments are nevertheless not used to promote political goals, in the way that Ofcom always abides by its rule for appointments, known as the Nolan Principle. The Nolan Committee said '*Independence cannot be precisely defined but should normally mean that such a person has no operational role within the bodies or the government departments concerned*'.⁵⁵ This definition means that no one who is directly related to government departments or government bodies can be appointed as a member of Ofcom's board. Ofcom always selects its member through an independent process following an independent assessors' judgement. There have been some discussions as to whether KOCSC needs to change the ratio of '6 vs 3' in its recommendation process, but the discussion about independent assessors to select the candidates has not been discussed yet. In my opinion, even if the change in ratio might alter the one-sided nature of the decision-making process, nevertheless simply changing the ratio of '6 vs 3' into a more equal ratio - for example '4 vs 4' - would not guarantee the exclusion of political influence.

Secondly, the decision-making process of KOCSC, which is based on a majority vote among nine commissioners, should be reconsidered to promote fair and impartial judgements on news programmes. When taken in conjunction with political appointment of commissioners, the majority rules, which were the typical method of decision-making in 2013, are neither democratic nor fair. Even if it is difficult to find a consensus on a problematic matter among the commissioners, KOCSC needs to sustain its reputation and function as a regulatory organisation by finding resolutions that can be justified not only to broadcasters but also to viewers and the wider public. One option which might be adopted is the method of 'special majority rule', which would always require more than a simple majority to decide whether a certain news programme is in violation or breach of its broadcasting code: assuming the continuation of a '6 vs 3' ratio on the board of KOCSC, a special majority could require seven votes to decide a breach finding.

However, even more important than the change of decision-making process is the openness and objectivity of KOCSC's resolutions. KOCSC's resolution is far from open and objective; whereas Ofcom's findings can always be found on its internet site, which details the full grounds for their decision and which specific regulations are applied to each individual case. Ofcom uses its findings,

⁵⁵ The Commissioner for Public Appointments Code of Practice for Ministerial Appointments to Public Bodies, August 2005, Page 12.

set out in its fortnightly bulletin, along with its Code Guidance, to explain the legal background to its decisions and to show how exactly the Ofcom broadcasting code can be applied to the individual cases. By providing information on how and why specific regulations are applied to individual cases, Ofcom can not only maintain its legitimacy but also implement its policy effectively by building a case law of examples which diverse broadcasters and journalists can use to understand the outcome of decisions made concerning their contents.

The third element of fair and impartial regulatory bodies, which has been made apparent through the comparison of KOCSC and Ofcom, is the specificity and clarity of the regulations themselves. As discussed briefly above, and explored in greater depth in the following appendix, the KOCSC's 'Rules on Broadcast Review' is so vague and wide in its conception of each broadcasting code that its application can be arbitrary and anomalous, and is open to being applied in accordance with decision makers' political intentions and the political situation. 'Rules on Broadcast Review' should be modified and revised entirely giving the legal background and relevant definitions for each regulation, so that they can be interpreted clearly and consistently when they are applied to problematic cases of broadcast contents.

The last measure which is necessary to change KOCSC into a better organisation would be to consolidate its legal status as an independent civilian organisation. Whether it is better to make KOCSC operate as an independent civilian organisation or as a part of government, or as a public corporation, is not discussed in depth in this research. However, it is important that KOCSC's legal status should be clear and unambiguous, so that its legal and administrative policies and sanctions can be carried out with dignity and balance. In my opinion, it is better for KOCSC to keep its political balance through parliamentary overview on its operation by making KOCSC monitored and balanced by the congress.

Even though the era of new media began years ago, and cutting-edge digital technologies are currently prevalent in Korean society, the lack of political independence of journalism is delaying the development of democratic society. In short, political influence should be always considered as a potential threat to freedom of speech and public-interest journalism which aims to promote democratic liberty. There should be lively and robust discussion to find a better way to preserve the core values of journalism, not only between politicians and journalists, but also by all mature citizens who are care for the future of our democratic freedom - because good journalism is the core element of good democracy.

Appendix A: Standards of Judgement in KOCSC and Ofcom

1. Rules on Broadcasting Review of KOCSC

The standards of judgment that KOCSC applies to individual complaints and problematic cases of broadcasting contents is 'Rules on Broadcasting Review'. 'Rules on Broadcasting Review' consists of three chapters which are general provisions, general standards and procedures for review. Among three chapters, the specifically applicable regulations to individual cases are defined under the second chapter, General Standards. The second chapter consists of 10 sections and 53 articles. Each section explains the broader concept of the broadcasting code and each article specifies the code within. Each category of sections and articles is as per the following table in figure 22.

SECTION 1. Fairness	Article 9 (Fairness)
	Article 11 (Cases on Trial)
	Article 12 (Appearance of Politicians and Election Broadcasting)
	Article 13 (Conversation or Debate Programs, etc.)
SECTION 2. Objectivity	Article 14 (Objectivity)
	Article 15 (Source Citations)
	Article 16 (Statistics and Public Opinion Polls)
	Article 17 (Correction of False Reports)
SECTION 3. Prohibition of Infringement of Rights	Article 19 (Privacy Protection)
	Article 20 (Prohibition of Defamation)
	Article 21 (Protection of Human Rights)
	Article 22 (Prohibition of Disclosure)
SECTION 3-2. Disaster Broadcast	Article 23 (Reporting, etc. of Criminal Case)
	Article 24-2 (Providing Accurate Information about Disasters, etc.)
	Article 24-3 (Contents of Disaster Broadcast)
	Article 24-4 (Stabilization and Protection of Human Rights of Victims, etc.)
SECTION 4. SECTION 4. Ethical Standards	Article 25 (Ethics)
	Article 26 (Respect for Life)
	Article 27 (Dignity Maintenance)
	Article 28 (Soundness)
	Article 29 (Social Integration)
	Article 29-2 (Democratic Basic Order of Constitution, etc.)
	Article 30 (Gender Equality)
	Article 31 (Respect for Cultural Diversity)
Article 32 (Respect for Freedom of Religion)	

	Article 33 (Observance of Acts and Subordinate Statutes)
	Article 34 (Prohibition of Plagiarism)
SECTION 5. Subject Matters and Expressive Techniques	Article 35 (Expression of Sex)
	Article 36 (Depiction of Violence)
	Article 36-2 (Sadistic or Masochistic Depiction)
	Article 37 (Shock and Sense of Disgust)
	Article 38 (Depiction of Crimes and Drugs)
	Article 38-2 (Depiction of Suicide)
	Article 39 (Use of Reenacting Techniques)
	Article 40 (Expression of Sexual Organs, Venereal Diseases, etc.)
	Article 41 (Unscientific Contents)
	Article 42 (Medical Practices, etc.)
	Article 42-2 (Investment Advisory Services on Finance, Real Estate, etc.)
SECTION 6. Protection of Children and Juveniles	Article 43 (Emotional Cultivation of Children and Juveniles)
	Article 44 (Accepted Standards)
	Article 45 (Appearing on Television)
	Article 45-2 (Broadcast of Media Contents Harmful to Juveniles)
SECTION 7. Restrictions on Advertising Effects, etc.	Article 46 (Advertising Effects)
	Article 47 (Delivery of Information)
	Article 48 (Relay Broadcasts)
	Article 49 (Prizes)
	Article 50 (Sales of Products)
SECTION 8. Broadcasting Language	Article 51 (Broadcasting Language)
	Article 52 (Foreign Languages, etc.)
SECTION 9. Others	Article 53 (Regulation of Collecting Donations)
	Article 54 (Paid Information Services)
	Article 55 (Distinction between Live and Pre-Recorded Broadcasts)
	Article 55-2 (Broadcast Accident)

Figure 19. Lists of KOCSA's 'Rules on Broadcasting Review'

KOCSA can apply one or multiple articles to each case according to the judgement of KOCSA's general meeting of nine commissioners. In 2013, KOCSA decided to apply these articles to a total of 647 problematic content cases (246 cases are related to the contents of terrestrial TV & Radio,

and the other 401 cases are relevant to paywall TV).⁵⁶

KOCSC's 'Rules on Broadcasting Review' is equivalent to the Ofcom Broadcasting Code in that Ofcom applies its broadcasting code to individual complaints and problematic cases of broadcasting.

2. Ofcom Broadcasting Code

The Ofcom broadcasting code consists of ten sections and 173 rules which is equivalent to sections and articles in 'Rules on Broadcasting Review' of KOCSC. Each section explains the broader concept of the broadcasting code and each rule specifies the code within. Each category of sections and articles is as per the following table (figure 23).

SECTION 1. Protecting the Under-Eighteens	Scheduling and content information (1.1~1.7)
	Drugs, smoking, solvents and alcohol (1.10)
	Violence and dangerous behavior (1.11~1.13)
	Offensive language (1.14~1.16)
	Sexual material (1.17~1.20)
	Nudity (1.21)
	Films, premium subscription film services, pay per view services (1.22~1.26)
	Exorcism, the occult and the paranormal (1.27)
	The involvement of people under eighteen in programmes (1.28~1.30)
SECTION 2. Harm and Offence	Generally Accepted Standards (2.1~2.3)
	Violence, dangerous behavior and suicide (2.4~2.5)
	Exorcism, the occult and the paranormal (2.6~2.8)
	Hypnotic and other techniques, simulated news and photosensitive epilepsy (2.9~2.12)
	Broadcast competitions and voting (2.13~2.16)
SECTION 3. Crime	Rules (3.1~3.6)
SECTION 4. Religion	Rules (4.1~4.7)
SECTION 5. Due Impartiality and Due Accuracy and Undue Prominence of	Due Impartiality and due accuracy in news (5.1~5.3)
	Special impartiality requirement: news and other programmes (5.4~5.13)

⁵⁶ The Deliberations of 2013 Broadcasting Contents, KOCSC (2014), P. 7, 16.

Available as pdf file at

http://www.kocsc.or.kr/02_infoCenter/info_Casebook_View.php?ko_board=info_Casebook&ba_id=7216&page=1.

Views and Opinions	
SECTION 6. Elections and Referendum	Programmes at the time of elections and referendums (6.1)
	Programmes at the time of elections and referendums in the UK (6.2~6.7)
	Constituency coverage and electoral area coverage in elections (6.8~6.13)
SECTION 7. Fairness	Rule (7.1)
	Practices to be followed: Dealing fairly with contributors and obtaining informed consent (7.2~7.8)
	Practices to be followed: Opportunity to contribute and proper consideration of facts (7.9~7.14)
	Deception, set-ups and 'wind-up' calls (7.14)
SECTION 8. Privacy	Rule (8.1)
	Practices to be followed: Private lives, public places and legitimate expectation of privacy (8.2~8.4)
	Practices to be followed: Consent (8.5~8.8)
	Practices to be followed: Gathering information, sound or images and the re-use of material (8.9~8.15)
	Practices to be followed: Suffering and distress (8.16~8.19)
	Practices to be followed: People under sixteen and vulnerable people (8.20~8.22)
SECTION 9. Commercial References in Television Programming	General rules (9.1~9.5)
	Product Placement (and prop placement) (9.6~9.14)
	Sponsorship (9.15~9.25)
	Premium rate telephony services (PRS) (9.26~9.30)
	Programme-related material (PRM) (9.31~9.32)
	Cross-promotions (Appendix)
	Charity appeals (9.33~9.39)
SECTION 10. Commercial Communications in Radio Programming	General rules (10.1~10.8)
	Premium rate and similar services (10.9~10.10)
	Charity appeals (10.11)
	Appeals for funds for programming or services (10.12)
	Financial promotions and investment recommendations (10.13)

Figure 20. Lists of Rules in Ofcom's Broadcasting Code

As KOCSC can apply one or multiple articles to problematic cases related to broadcasting content,

Ofcom also can apply one or multiple rules to the case. During the period between April 2013 to March 2014, Ofcom applied these broadcasting codes to a total of 132 problematic content cases (109 cases are related were the contents of TV, and the other 23 cases were related to radio contents).⁵⁷

3. Comparison between KOCSC's 'Rules on Broadcasting Review' and Ofcom's 'Broadcasting Code'

There are common regulations between KOCSC's 'Rules on Broadcasting Review' and the 'Ofcom Broadcasting Code'. Articles and rules such as impartiality, accuracy, objectivity, privacy, protection of children and juveniles, depictions of violence and crime, are essentially very similar in that both articles and rules are designed to protect viewers and contributors from excessive broadcasting contents which can make viewers and contributors feel unpleasant beyond the expression of freedom and public interest. However, there are apparent differences in regulations, and some concepts in one broadcasting code are omitted or substantially disregarded in the other code.

(1) Difference in Concept of Fairness and Impartiality

Fairness in Ofcom's broadcasting code, along with privacy in Ofcom's broadcasting code, is different from Ofcom's other standards codes (especially that of impartiality), as they apply to how broadcasters treat the individuals or organisations directly affected by programmes, rather than to what the general public sees and/or hears as viewers and listeners.⁵⁸ However, the concept of fairness rule in KOCSC's 'Rules on Broadcast Review' is considered a general right of both viewers and persons/organisations directly related to the programmes. With respect to conditions for applying the fairness and privacy rule in Ofcom's broadcasting code, section 1 of 'Fairness' in KOCSC's 'Rules on Broadcast Review' is more similar to Ofcom's due impartiality and due accuracy code (section 5) than Ofcom's fairness code (section 7) because any individual or organization can raise an issue of fairness no matter how much they are related to or influenced by broadcasting contents. The following diagram (figure 24) describes overlapped regulations between KOCSC's section 1 of fairness in 'Rules on Broadcast Review' and section 5 of due impartiality and due accuracy in Ofcom's broadcasting code.⁵⁹

⁵⁷ Ofcom Annual Report and Account, London: Ofcom Consumer Panel, (2013-2014), p. 116, 117.

Available as pdf file at <http://www.ofcom.org.uk/about/annual-reports-and-plans/annual-reports/annual-report-2013-14/>.

⁵⁸ Ofcom Broadcasting Code, 21 March 2013, p. 33.

⁵⁹ Specific articles and rules between KOCSC's 'Rules on Broadcast Review' and Ofcom broadcasting code can be read in Appendix A (KOCSC's Rules on Broadcasting Review) and at the website, <http://stakeholders.ofcom.org.uk/broadcasting/broadcast-codes/broadcast-code/>.

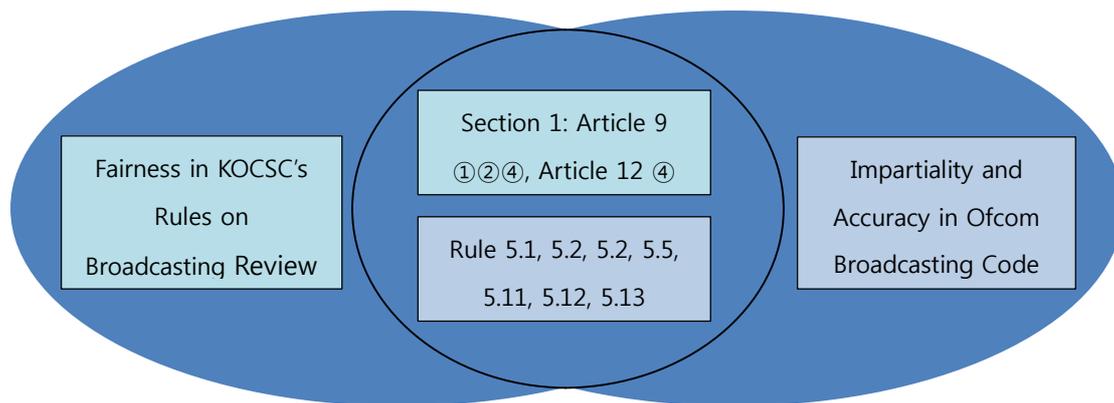


Figure 21. Comparison between Section 1 'Fairness' in KOCSC's 'Rules on Broadcast Review' and Impartiality in Ofcom Broadcasting Code

KOCSC's 'Rules on Broadcast Review' stipulates the concept of due accuracy in Ofcom's broadcasting code as a separate section of objectivity. For example, rule 5.2 of Ofcom's broadcasting code corresponds to article 17 of KOCSC's 'Rules on Broadcast Review' which is under section 2 'Objectivity'. However, among the impartiality rules of Ofcom's broadcasting code, rules 5.6 to 5.10 which specify the preservation of impartiality do not have any corresponding rule in KOCSC's 'Rules on Broadcast Review'. For example, rule 5.7 which states "Views and facts must not be misrepresented. Views must also be presented with due weight over appropriate timeframes" is not defined in KOCSC's 'Rules on Broadcast Review'.

In relation to the fairness rule of Ofcom broadcasting code, more rules have no corresponding regulation in KOCSC's 'Rules on Broadcast Review'. The following diagram (figure 25) describes the common area between KOCSC's section 1 'Fairness' in 'Rules on Broadcast Review' and section 7 'Fairness' in Ofcom's broadcasting code.

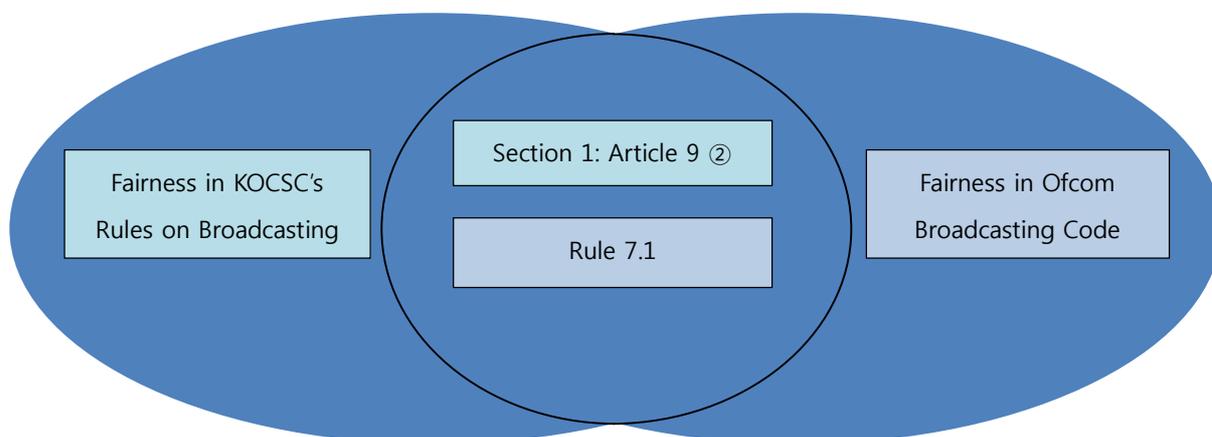


Figure 22. Comparison between Section 1 'Fairness' in KOCSC's 'Rules on Broadcast Review' and 'Fairness' in Ofcom's Broadcasting Code

Article 9 ② in section 1 of KOCSC's 'Rules on Broadcast Review' is categorized as a similar regulation to rule 7.1 of Ofcom's broadcasting code. However, Ofcom's concept of fairness is more focused on protecting individuals or organizations in programmes whereas KOCSC's rules do not

distinguish the relevant individuals and organizations from general viewers or the public. KOCSC tends to take the concept of fairness as a general issue for viewers and the public, whereas Ofcom tends to take fairness as a specific issue for individuals and organisations directly influenced by the programmes. This difference leads to the specification of Ofcom’s broadcasting code on fairness. The rules from 7.2 to 7.13 of Ofcom’s broadcasting code do not correspond with KOCSC’s ‘Rules on Broadcast Review’ at all. In short, KOCSC’s ‘Rules on Broadcast Review’ does not specify the regulations on individuals or organisations directly related to programmes because the concept of fairness in KOCSC is equivalent to that of impartiality in Ofcom, not that of fairness in Ofcom.

However, objectivity in KOCSC’s ‘Rules on Broadcast Review’ is very close to due accuracy in Ofcom’s broadcasting code in concept. While KOCSC categorizes the articles on objectivity as a separate section from fairness (which is more similar to impartiality in Ofcom broadcasting code) in ‘Rules on Broadcast Review’, Ofcom does not clearly distinguish between the rules on due accuracy and those on due impartiality. The following diagram (figure 26) depicts the overlapping area between objectivity in KOCSC’s ‘Rules on Broadcast Review’ and due accuracy in Ofcom’s broadcasting code.

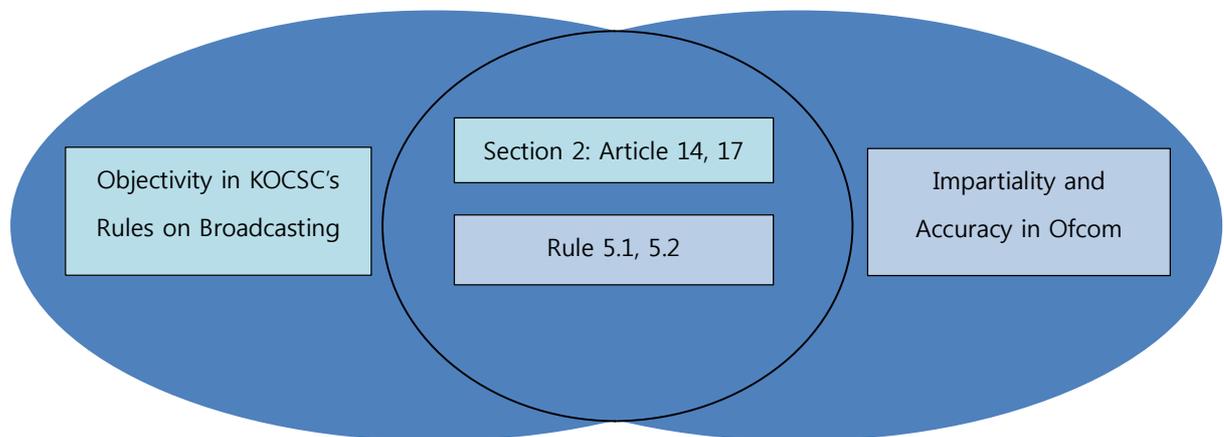


Figure 23. Comparison between Section 2 'Objectivity' in KOCSC's 'Rules on Broadcast Review' and 'Impartiality' in Ofcom's Broadcasting Code

(2) Different Focus on the Specific Concept of Regulations

Ofcom puts more focus on regulations on privacy, protecting the under-eighteens, and religion whereas KOCSC emphasizes regulations on privacy issues of disaster broadcasts, ethical standards, and broadcasting languages. The privacy section of Ofcom’s broadcasting code along with the fairness section, is also applied to how broadcasters treat the individuals or organisations directly affected by programmes, rather than to what the general public sees and/or hears as viewers and listeners.⁶⁰ Similar to the difference between regulations on fairness of Ofcom’s broadcasting code and those of KOCSC’s ‘Rules on Broadcast Review’, Ofcom outlines privacy rules much more specifically than KOCSC as it considers the privacy as a right of individuals or organisations in programmes rather than that of viewers or listeners in general. On the contrary, KOCSC defines

⁶⁰ The Ofcom broadcasting code, 21 March 2013, p. 37.

privacy only in one article which has three sub-articles within it, and article 19 'Privacy' is included in just section 3 of 'Prohibition of Infringement of Rights'. KOCSC outlines regulations on defamation, protection of human rights and disclosure of identity related to crime under the same section as the privacy article. The following diagram (figure 27) shows the overlapping and non-corresponding regulations between KOCSC and Ofcom's privacy regulations.

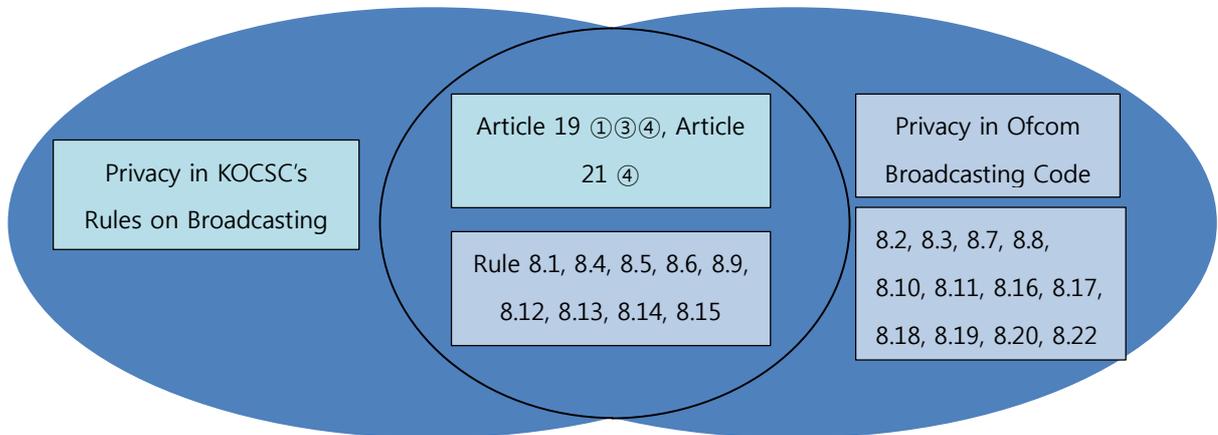


Figure 24. Comparison between 'Privacy' in KOCSC's 'Rules on Broadcast Review' and 'Privacy' in Ofcom's Broadcasting Code

As privacy regulation is defined much more specifically in Ofcom's broadcasting code, regulations on the under-eighteens and religion also outlined in more detail within Ofcom's broadcasting code. However, the basic concept of regulation is similar in both KOCSC and Ofcom's regulations. Some regulations are much more specific in KOCSC's 'Rules on Broadcast Review'. For example, regulations on privacy issues of disaster broadcast, ethical standards, and broadcasting languages are defined in detail in KOCSC's rules. KOCSC made a separate section (3-2) for disaster broadcast in December 2012. This separate section was specially designed to protect the privacy of victims at disaster situations. KOCSC's 'Rules on Broadcast Review' also emphasize language used in broadcasting contents by keeping separate section 8 'Broadcasting Language' unlike Ofcom's broadcasting code. Some articles under section 3 'Objectivity' such as article 15 'Source Citations', article 16 of 'Statistics and Public Opinion Polls' in KOCSC's 'Rules on Broadcast Review' are not specific in Ofcom's broadcasting code.

KOCSC's 'Rules on Broadcast Review' also have separate sections of 'ethical standard' which consists of article 25 'Ethics', article 26 'Respect for Life', article 27 'Dignity Maintenance', article 28 'Soundness', article 29 'Social Integration', article 29-2 'Democratic Basic Order of Constitution, etc.', article 30 'Gender Equality', article 31 'Respect for Cultural Diversity', article 32 'Respect for Freedom of Religion', article 33 'Observation of Acts and Subordinate Statues' and article 34 'Prohibition of Plagiarism'. However, section 4 'Ethical Standards' contains so many sub-categories of wide-range and ambiguous meaning that each article can be applied to diverse cases arbitrarily.

RULES ON BROADCAST REVIEW

Rules No. 19 of Korea Communications Standards Commission, Jun. 24, 2008

Amended by Rules No. 30 of Korea Communications Standards Commission, Sep. 2, 2008

Rules No. 55 of Korea Communications Standards Commission, Feb. 18, 2010

Rules No. 80 of Korea Communications Standards Commission, Aug. 17, 2010

Rules No. 81 of Korea Communications Standards Commission, Nov. 16, 2010

Rules No. 90 of Korea Communications Standards Commission, Dec. 06, 2012

Rules No. 100 of Korea Communications Standards Commission, Jan. 9, 2014

⁶¹ The following English edition of ‘Rules on Broadcast Review’ is officially provided by KOCSC with support of Korean MP, Hojun Jung’s office. The English edition is currently not provided at KOCSC’s official internet site, which is as per the following; <http://www.kocsc.or.kr>.

CHAPTER I GENERAL PROVISIONS

Article 1 (Purpose)

The purpose of these Rules is to prescribe matters necessary to review matters referred to in Article 32 of the Broadcasting Act (hereinafter referred to as the "Act") pursuant to Article 33 of the same Act.

Article 2 (Definitions)

The definitions of terms used in these Rules shall be as follows: <Amended by Rules No. 81, Nov. 16, 2010; Rules No. 100, Jan. 9, 2014>

1. The term "business operator" means the following business operators:
 - (a) A broadcasting business operator under subparagraph 3 of Article 2 of the Act;
 - (b) A CATV relay broadcasting business operator under subparagraph 6 of Article 2 of the Act;
 - (c) An electric sign board broadcasting business operator under subparagraph 12 of Article 2 of the Act;
 - (d) An Internet multimedia broadcasting content business operator under subparagraph 4 (b) of Article 2 of the Internet Multimedia Broadcast Services Act, who provides the real-time broadcast programs under subparagraph 3 of Article 2 of the said Act.
2. The term "pay television" means subscription-based television services provided by a business operator so that recipients may select such channels by unit of one channel;
3. The term "children" means persons under 13 years of age;
4. The term "juveniles" means persons under 19 years of age;
5. The term "family viewing hour" means the 19:00-to-22:00 time slot, and the 18:00-to-22:00 time slot on Saturdays, Sundays, and holidays;
6. The term "juvenile viewing hour" means the 07:00-to-09:00 time slot and the 13:00-to-22:00 time slot, and the 07:00-to-22:00 time slot on Saturdays, Sundays, and holidays, and during vacation periods for elementary, middle, and high schools publicly notified by the Minister of Gender, Equality and Family: Provided, That in cases of pay television, it means the 18:00-to-

22:00 time slot;

7. The term "media materials harmful to juveniles" means media materials harmful to juveniles under the Juvenile Protection Act.

Article 3 (Scope of Application, etc.)

- (1) These Rules shall apply to cases of review on whether the contents of a broadcast, a CATV relay broadcast and an electric sign board broadcast under Article 2 of the Act, the contents of information under Article 21 (1) of the Enforcement Decree of the Act that is similar to a broadcast, and other contents subject to review by the Commission under other Acts and subordinate statutes maintain fairness and publicness and observe public responsibility.
- (2) Notwithstanding paragraph (1), the Commission shall not review a broadcast program, the period for preservation of the original or copy of which under Article 83 (2) of the Act has expired: Provided, That this shall not apply to cases where the Commission deems it necessary to review the broadcast program because a business operator has broadcast a false fact or has apparently distorted the fact, and may secure the relevant broadcast program.

[This Article Wholly Amended by Rules No. 100, Jan. 9, 2014]

Article 4 (Methods of Review)

- (1) The Korea Communications Standards Commission (hereinafter referred to as the "Commission") shall deliberate on and pass a resolution with regard to matters referred to in Article 32 of the Act after they are broadcast or distributed. <Amended by Rules No. 55, Feb. 18, 2010>
- (2) Deleted. <by Rules No. 30, Sep. 2, 2008>
- (3) Other than those provided for in these Rules, matters necessary to review broadcast advertising shall be prescribed by separate rules.

Article 5 (Basic Principles of Review)

- (1) The Commission shall respect the creativity, autonomy and independence of each broadcasting medium and broadcasting channel.
- (2) When the Commission conducts the review in accordance with these Rules, it shall consider differences in specialty and diversity of each broadcasting medium and broadcasting channel.

(3) When the Commission construes or applies these Rules, it shall respect social conventions.

Article 6 (In-house Review)

A broadcasting business operator under Article 2 of the Act shall establish an in-house review organization to review the matters provided for in Article 3 before a program (excluding those regarding news coverage) is broadcast.

Article 7 (Public Responsibility of Broadcasting)

(1) A broadcast shall fulfil its broadcasting role as public media by covering the contents that the public needs to know and has interest in.

(2) A broadcast shall not undermine the ethics and sound mind of the people.

(3) A broadcast shall respect the dignity and value of human beings and contribute to keeping the fundamental order of democracy in the Constitution. <Amended by Rules No. 100, Jan. 9, 2014>

(4) A broadcast shall contribute to enhancing the unity of the people and building the public opinion.

(5) A broadcast shall contribute to cultivating the national identity and fostering the creation, succession and development of the national culture.

(6) A broadcast shall respect the universal values of human beings and a reasonable diversity of human culture, and contribute to enhancing international relations and understanding.

(7) A broadcast shall contribute to harmonious national development and balanced development of local communities.

(8) A broadcast shall faithfully reflect the interests of a group or class that is relatively minor or is in a disadvantageous position in pursuing its own interest.

(9) A broadcast shall contribute to providing the public with socially useful information and improving the quality of cultural life for the people.

(10) A broadcast shall actively cover diverse opinions and ideologies and contribute to the diversification of society.

- (11) A broadcast shall respect the people's right to be informed and the freedom of expression.
- (12) A broadcast shall endeavor to protect the environment and raise awareness of conservation of nature.
- (13) A broadcast shall respect the value of labor and the dignity of all occupations.
- (14) A broadcast shall cover news and information related to accidents and disasters in an expeditious, accurate and objective manner, and contribute to providing security to the lives and properties of the people.
- (15) A broadcast shall contribute to fostering inter-Korean reunification and expanding cultural exchanges.

Article 8 (Responsibilities of Terrestrial Broadcasting)

- (1) The terrestrial broadcasting shall contribute to realizing the social integration.
- (2) The terrestrial broadcasting shall allow people to have the right to universal access and provide them with universal broadcasting services.
- (3) The terrestrial broadcasting shall broadcast contents suitable for the minds and ethical standards of all family members in the family viewing hour.

CHAPTER II GENERAL STANDARDS

SECTION 1. Fairness

Article 9 (Fairness)

- (1) A broadcast shall not distort the truth. <Amended by Rules No. 100, Jan. 9, 2014>
- (2) A broadcast shall maintain fairness and impartiality in covering social issues that are controversial

or in which an apparent conflicting interest exists, and shall reflect the opinions of the relevant parties in a balanced manner.

(3) A broadcast shall neither side with a specific person or organization on a controversial issue by using techniques of production or editing, nor shall it cause a misunderstanding.

(4) A broadcast shall not mislead viewers (including listeners of a radio broadcast; hereinafter the same shall apply) by delivering the unilateral assertion of either of the parties on an issue in which the relevant business operator or his/her employee is a directly interested party. <Amended by Rules No. 100, Jan. 9, 2014>

(5) A broadcast is forbidden to discriminate broadcast programming on the grounds of sex, age, occupation, religion, belief, class, region, race, etc.: Provided that the foregoing shall not apply to cases where a broadcasting business operator that conducts programming specialized in the evangelistic missionary work within the limit of such broadcasting field.

Article 10 (Distinction between Factual News and Commentaries, etc.)

A broadcast shall make a distinction between factual news and commentaries or comments, etc., and clearly differentiate factual explanations and personal opinions even in producing commentaries or comments, etc., and disclose the name of a commentator or a commenter.

Article 11 (Cases on Trial)

When a broadcast covers a case on trial, it shall not broadcast contents that may affect the result of the trial, and in-depth news coverage related thereto shall not harm the public interest.

Article 12 (Appearance of Politicians and Election Broadcasting)

(1) When a broadcast covers an issue pertaining to politics and election for public office, it shall pay careful attention to fairness and equity.

(2) When a broadcast covers political issues, it shall not be slanted to a particular political party's or faction's interests or position.

- (3) When a broadcast has a person elected pursuant to the Public Official Election Act and a party executive under the Political Parties Act appear in the broadcast, it shall keep its balance based on the principle of fairness.
- (4) A broadcast shall not have a person elected pursuant to the Public Official Election Act, a cabinet member, or a party executive under the Political Parties Act serve as a presenter during a news program or a debate program, or as a regular presenter of a serial program.
- (5) Election-related matters in broadcasts and programs under the Public Official Election Act shall be governed by the Rules on the Composition and Operation of the Election Broadcasting Review Committee and the Special Rules on Election Broadcasting Review.

Article 13 (Conversation or Debate Programs, etc.)

- (1) A conversation or debate program and a program for current affairs that uses the format similar to that of the former program shall be hosted in a manner that maintains equity, balance and fairness.
<Amended by Rules No. 100, Jan. 9, 2014>
- (2) In the selection of panelists, a debate program shall ensure the reasonable participation of individuals and groups that have conflicting opinions.
- (3) A debate program shall not predetermine and suggest the conclusion of a debate, or induce the result of a debate intentionally.
- (4) Where a preannounced panelist fails to join a debate program, a presenter of the debate program shall state the reasons for his/her absence.
- (5) A presenter or a guest shall not ridicule or caricature other persons (including a natural person and a legal person, other organizations; hereinafter the same shall apply) in a conversation or debate program and a current affairs program that uses the format similar to that of the former program.
<Newly Inserted by Rules No. 100, Jan. 9, 2014>

SECTION 2. Objectivity

Article 14 (Objectivity)

A broadcast shall cover facts in an accurate and objective manner, and shall not confuse viewers by airing vague contents as if the broadcast is true.

Article 15 (Source Citations)

(1) When a broadcast quotes a fact that it has not directly covered or a report of another medium, or uses data of another medium, it shall indicate the sources thereof.

(2) When a broadcast uses archival materials to explain the contents of a report, it shall clearly state that they are archival materials: Provided, that the foregoing shall not apply to cases where viewers can generally recognize that they are archival materials.

Article 16 (Statistics and Public Opinion Polls)

(1) When a broadcast provides coverage by quoting the outcomes of any statistical survey or public opinion poll, it shall disclose an institution that requested such survey or public opinion poll, a survey institution, survey methods, polling periods, error ranges, etc. with subtitles or voice so that viewers may clearly recognize them: Provided, That the foregoing shall not apply to cases where such statistical research or public opinion poll has no direct relation with building the public opinion. <Amended by Rules No. 100, Jan. 9, 2014>

(2) Notwithstanding paragraph (1), where a broadcast mentions the progress of overall public opinion by quoting the outcomes of plural opinion polls already published by other mass media, it may broadcast by disclosing an institution that has requested the opinion polls and the polling period only. <Newly Inserted by Rules No. 100, Jan. 9, 2014>

(3) Where the outcomes of an opinion poll remains within the margin of error, a broadcast shall

apparently disclose such outcome in advance and shall not make viewers misconceive by describing ranking or superiority without disclosing the relevant outcome. <Newly Inserted by Rules No. 100, Jan. 9, 2014>

- (4) Even when a broadcast conducts an opinion poll among viewers concerning a social issue or issue in which a conflict of interest arises, it shall comply with paragraphs (1) through (3). <Amended by Rules No. 100, Jan. 9, 2014>

Article 17 (Correction of False Reports)

A broadcast shall provide a correction report as soon as the reported contents prove false or upon realizing that it is a false report.

Article 18 (Expression in Form of News)

When a broadcast takes the form of making a presentation of news, announcements, weather forecasts, etc. in order to create a dramatic effect, it shall be cautious lest such expression should be misunderstood as news broadcasting or mistaken for real situations.

SECTION 3. Prohibition of Infringement of Rights

Article 19 (Privacy Protection)

- (1) No broadcast shall infringe on confidential information and the freedom of personal privacy, and the details of a personal call or communication, etc. shall not be broadcast without the consent of the person concerned.
- (2) No broadcast shall infringe on personal portrait rights unlawfully.
- (3) No broadcast shall infringe on personal rights unlawfully by means of recording or videotaping a specific person without his/her knowledge, and of broadcasting such person without his/her

consent to titillate viewers.

- (4) Even though a broadcast produces a program using all or some of programs already broadcast, it shall comply with paragraphs (1) through (3). <Newly Inserted by Rules No. 100, Jan. 9, 2014>

Article 20 (Prohibition of Defamation)

- (1) No broadcast shall adversely affect the reputation of another person (including a natural, a corporation and other organizations).
- (2) A broadcast shall also value the honor of a deceased person.
- (3) Cases falling under paragraphs (1) and (2), where the contents thereof is the true facts and only pertains to the public interests, shall be excluded herefrom.

Article 21 (Protection of Human Rights) <Amended by Rules No. 100, Jan. 9, 2014>

- (1) In covering contents that expose the contradictions in society, a broadcast shall avoid infringing on the human rights, etc. of others unlawfully.
- (2) In covering mentally or physically handicapped people or socially marginalized people, a broadcast shall make an earnest endeavor to ensure the utmost protection of their human rights.
- (3) No broadcast shall treat people with mental or physical differences, or academic background, financial ability, etc. as the target of derision nor assume them to be negative or inferior. <Amended by Rules No. 100, Jan. 9, 2014>
- (4) Except in the public interest, a broadcast shall make it a rule to cover a case in an open manner, and shall not compulsorily cover a case, compel any person to answer, ask a leading question, etc.

Article 22 (Prohibition of Disclosure)

- (1) A broadcast shall assume a cautious attitude in disclosing the name, address, face, or voice of a person related to a criminal case or other contents that may reveal him/her (hereinafter referred to as "personal information"), and shall not disclose matters falling under any of the followings:

Provided, That this shall not apply to cases where the person concerned (in the case of a juvenile,

referring to his/her legal guardian) consents to the disclosure of such matters for public interest only:

1. Where a defendant, suspect, person under suspicion or person that was given a decision of guilty in a criminal trial is a juvenile, his/her personal information;
 2. Personal information of a victim of sexual assault;
 3. Personal information of a legal guardian, relative or relative by marriage of a defendant, suspect, person under suspicion or person that was given a decision of guilty in a criminal trial.
- (2) No broadcast shall deal with personal information of an informant, reporter, accuser, relator, witness, testifier, etc. of a criminal case, and of an individual and the name and address of an organization who is not directly related to the criminal case without his/her or its consent.
- (3) Even though personal information falls under paragraph (2), this shall not apply to cases where the disclosure of personal information is deemed necessary solely for public interest.

[This Article Wholly Amended by Rules No. 100, Jan. 9, 2014]

Article 23 (Reporting, etc. of Criminal Case)

- (1) Until the court makes a final judgment on an accused or suspect, no broadcast shall make a conclusive statement that he/she is a criminal.
- (2) In covering a criminal case on which the execution of a sentence has been completed or the prescription of punishment has expired, a broadcast shall make an earnest endeavor to avoid adversely affecting the social life of such defendant or suspect.
- (3) When a broadcast reports on an accused or suspect, it shall make an earnest endeavor to avoid the infringements on personality of the defendant or suspect through a close-up shot in full face in a state that he/she is handcuffed or wears his/her prison uniform.
- (4) When a broadcast reports on a defendant, suspect or person allegedly involved in a criminal case, it shall make an earnest endeavor to avoid exaggeration or justification of a criminal offense

committed by him/her.

Article 24 Deleted. <by Rules No. 90, Dec. 06, 2012>

SECTION 3-2. Disaster Broadcast <Newly Inserted by Rules No. 90, Dec. 6,
2012>

Article 24-2 (Providing Accurate Information about Disasters, etc.)

(1) A disaster broadcast and civil defense warning broadcast (hereinafter referred to as "disaster broadcast" in this Section) under Article 40 (1) and (2) of the Framework Act on Broadcasting Communications Development shall provide accurate information concerning the followings in order to prevent the occurrence of a disaster under Article 2 of the Countermeasures against Natural Disasters Act, a disaster under Article 3 of the Framework Act on the Management of Disasters and Safety and a civil defense situation (hereinafter referred to as "disaster, etc." in this Section) under Article 2 of the Framework Act on Civil Defense, or to reduce damage therefrom:

1. Disaster situations;
2. Details of weather conditions and special weather reports announced (limited to a disaster, etc. resulting from a natural phenomenon);
3. Guidelines for public safety by type of disaster, etc.;
4. Other matters necessary to prevent or reduce damage from a disaster, etc.

(2) A disaster broadcast shall reflect the details of a statement issued by the head of an administrative agency in charge of disaster-related affairs in information about disaster damage statistics, the list of casualties or missing persons, or recovery situations, etc.; where a business operator directly covers and broadcasts a disaster, etc., he/she shall not broadcast unconfirmed information that will

likely leave viewers confused.

Article 24-3 (Contents of Disaster Broadcast)

No disaster broadcast shall emphasize damaged sites, recovery situations, the conditions of victims or their families with deliberately provocative images, sound or language, etc., thereby leaving viewers, victims or their families unnecessarily scared or anxious.

Article 24-4 (Stabilization and Protection of Human Rights of Victims, etc.)

A disaster broadcast shall take the following measures in order to ensure the stabilization of victims of a disaster, etc. and their families and the protection of their human rights to the utmost: Provided that the foregoing shall not apply to cases where it is unable to take such measures or it is for the public interest:

1. Consent in advance to a plan for videotaping victims and their families that will be videotaped;
2. Reflection of opinions of victims and their families on a broadcast of the contents of videotaping under paragraph (1);
3. Non-disclosure of the real name of victims until their families becomes aware that they are wounded, dead or missing;
4. Correction or deletion of the contents of the following broadcast:
 - (a) Contents that are likely to cause victims and their families to feel shame or distressed;
 - (b) Contents by which the privacy of victims and their families is likely to be infringed upon by disclosing their personal information or violating their portrait rights, etc.;
 - (c) Other contents that are deemed likely to violate serene life of victims or their families and their human rights.

SECTION 4. Ethical Standards

Article 25 (Ethics)

- (1) A broadcast shall encourage people to establish a proper sense of values and norms, and enhance social ethics and public morality.
- (2) A broadcast shall respect the values of family community and contribute to equal and democratic family relationships.
- (3) A broadcast shall avoid undermining the pride and dignity of people.

Article 26 (Respect for Life)

- (1) No broadcast shall positively cover any act that disregards the value of human life, such as homicide, torture, lynching and suicide.
- (2) A broadcast shall assume a cautious attitude when it inevitably describes inhumane acts, such as human trafficking, abduction, prostitution, sexual violence, elder abuse and child abuse.
<Amended by Rules No. 100, Jan. 9, 2014>
- (3) A broadcast shall pay close attention to covering a scene of mistreating, killing or injuring animals even if it is necessary to develop a plot.

Article 27 (Dignity Maintenance)

- (1) A broadcast shall maintain its dignity in order to respect ethical and emotional feelings of viewers and practice good manners to viewers. <Amended by Rules No. 100, Jan. 9, 2014>
- (2) No broadcast shall use a vulgar expression, etc. that may be repulsive to viewers.

Article 28 (Soundness) <Amended by Rules No. 100, Jan. 9, 2014>

A broadcast shall endeavor to build a sound civic spirit and living, and shall pay close attention to covering contents related to pornography, demoralization, narcotics, drinking, smoking, superstition, speculative behaviour, ostentation and vanity, squandering and extravagance tendencies. <Amended by Rules No. 100, Jan. 9, 2014>

Article 29 (Social Integration)

No broadcast shall encourage discrimination and conflict based on matters of region, generation, class, race and religion. <Amended by Rules No. 100, Jan. 9, 2014>

Article 29-2 (Democratic Basic Order of Constitution, etc.)

- (1) Contents that undermine fundamental order of democracy of the Constitution shall not be broadcast.
- (2) Contents that interfere with the peaceful unification and legitimate exchanges between South and North Korea shall be not broadcast.

[This Article Newly Inserted by Rules No. 100, Jan. 9, 2014]

Article 30 (Gender Equality)

- (1) A broadcast shall describe both genders in a balanced and equal manner, and shall not make a sexist expression. <Amended by Rules No. 100, Jan. 9, 2014>

- (2) No broadcast shall offer negative or ridiculous descriptions or distortions of any specific gender.

- (3) No broadcast shall spur sex-role stereotyping. <Amended by Rules No. 100, Jan. 9, 2014>

Article 31 (Respect for Cultural Diversity)

A broadcast shall respect the universal values of humankind and the diversity of human culture, and shall not arouse prejudice against a specific racial and ethnic group, state, etc., and, in particular, shall not cover contents that insults or derides other ethnic groups or cultures, etc.

Article 32 (Respect for Freedom of Religion)

A broadcast shall respect the freedom of religion, and shall not defame a particular religion and sect, nor deride or blaspheme a religious ceremony.

Article 33 (Observance of Acts and Subordinate Statutes)

- (1) A broadcast shall observe related Acts and subordinate statutes in its planning, programming and production.

- (2) No broadcast shall stir up or assist any illegal act.

[This Article Wholly Amended by Rules No. 100, Jan. 9, 2014]

Article 34 (Prohibition of Plagiarism)

No broadcast shall plagiarize another piece of work both at home and overseas.

[This Article Wholly Amended by Rules No. 90, Dec. 6, 2012]

SECTION 5. Subject Matters and Expressive Techniques

Article 35 (Expression of Sex)

- (1) No broadcast shall cover the immoral or unsound relations between the sexes as the main contents, and even under extenuating circumstances for developing plot, it shall pay careful consideration in making such expressions.
- (2) No broadcast shall depict sex-related contents excessively in sexually arousing ways nor make an expression that commercializes sex.
- (3) The following contents related to sex shall not be broadcast: Provided, that under extenuating circumstances for developing plot, broadcasting such contents may be allowed in a highly restrictive manner:
 1. A bedroom scene depicted in crude and direct ways including excessive lewd sound and sexual movements, etc. accompanied by a weird voice or eerie shriek;
 2. A scene of sexual perversion, sexual promiscuity, incest, dead body rape, sexual act in front of a dead body or excessive sex in abnormal forms;
 3. A scene of exposing the sexual organs of a male or a female including an infant and pubic hair, or of caressing sexual organs;
 4. A scene that depicts rape, gang rape, sexual violence, etc. accompanied by a violent act and language;
 5. A scene that depicts a child or juvenile as an object of sexual violence or sex play;
 6. A detailed description of matters corresponding to the above subparagraphs.

Article 36 (Depiction of Violence)

- (1) No broadcast shall cover excessive violence (including non-physical violence, such as language; hereinafter the same shall apply), and even under inevitable circumstances for portraying violence in order to develop plot, it shall give careful consideration in making such expression. <Amended by Rules No. 100, Jan. 9, 2014>
- (2) No broadcast shall include excessively violent contents in a sports or game program.
- (3) Deleted. <by Rules No. 100, Jan. 9, 2014>
- (4) No broadcast shall include any content that encourages, beautifies or justifies violence. <Newly Inserted by Rules No. 100, Jan. 9, 2014>

Article 36-2 (Sadistic or Masochistic Depiction)

No broadcast shall organize a program in an excessively sadistic or masochistic manner.
[This Article Newly Inserted by Rules No. 100, Jan. 9, 2014]

Article 37 (Shock and Sense of Disgust)

The following contents that are likely to give viewers an excessive shock, a sense of uneasiness or a sense of disgust shall not be broadcast: Provided, That under extenuating circumstances for plot development, broadcasting such contents may be allowed in extremely restricted ways, however, even under such circumstances, a broadcast shall pay careful consideration in making such expression:

1. A cruel depiction of decapitation, strangulation, mutilation, etc.;
2. Deleted. <by Rules No. 100, Jan. 9, 2014>
3. A cruel scene of killing and injuring or direct depiction of body mutilation using a gun, sword, mortal weapon, etc.;
4. A scene of a mutilated corpse or body;
5. A scene of killing animal, which is cruel and miserable;
6. A detailed depiction of matters corresponding to the above subparagraphs.

Article 38 (Depiction of Crimes and Drugs)

- (1) In covering crime-related contents, no broadcast shall use stock footage in which violence, homicide, etc. are directly depicted except under extenuating circumstances, and no broadcast shall offer an extremely detailed depiction of the contents of a related crime. <Amended by Rules No. 100, Jan. 9, 2014>
- (2) A broadcast shall pay careful consideration in depicting a means of committing a crime, a method of using a deadly weapon or drug use, and shall strive to prevent such method from being copied or motivated.
- (3) No broadcast shall offer a detailed depiction of the use of narcotics and a hallucinatory state resulting therefrom.

Article 38-2 (Depiction of Suicide)

- (1) No broadcast shall directly depict the scene of suicide or specifically a means or method of suicide, and even though it is inevitable for the development of contents, it shall assume a cautious attitude in the expression thereof.
- (2) No broadcast shall beautify or justify suicide, or let suicide be misunderstood as a method for cessation of suffering of life.
- (3) No broadcast shall make an expression that judges or concludes the motive of suicide without objective grounds.
- (4) No broadcast shall disclose personal information of a suicide (including a person presumed to be a suicide and a would-be suicide) and his/her bereaved family, and ensure privacy and freedom.
- (5) Even though the depiction of suicide falls under paragraphs (1) through (4), this shall not apply to cases where it is deemed necessary solely for public interest.

[This Article Newly Inserted by Rules No. 100, Jan. 9, 2014]

Article 39 (Use of Reenacting Techniques)

- (1) When a broadcast inevitably reenacts a crime, suicide or sexually arousing contents, it shall not offer an extremely detailed or provocative depiction of such contents, and shall not present a child for a role of a perpetrator, victim, the person concerned, etc. <Amended by Rules No. 100, Jan. 9, 2014>
- (2) When a broadcast uses a reenacting technique, it shall prevent a reenacting situation from being mistaken for a real situation.

Article 40 (Expression of Sexual Organs, Venereal Diseases, etc.)

When a broadcast covers contents pertaining to sexual organs, venereal diseases, contraception or sex counseling, etc., it shall not give viewers a sense of disgust with a vulgar expression, etc.

Article 41 (Unscientific Contents)

No broadcast shall provoke a superstitious or unscientific attitude toward life, and when a broadcast covers *saju* (fate), divination, physiognomy, palmistry, etc., it shall prevent such from being recognized as a universal method for life prediction.

Article 42 (Medical Practices, etc.)

- (1) A broadcast shall cover a medical practice or medicine on a scientific basis.
- (2) Even in cases where a broadcast covers the use of hallucinogens, stimulants, narcotics, etc. for medical purposes, it shall pay careful consideration in making such expression.
- (3) When a broadcast gives medical counseling by methods such as letters, postcards, phone calls, etc., it shall prevent viewers from misunderstanding symptoms.
- (4) When a broadcast covers matters related to a medical practice, medicine, etc., it shall not make a conclusive expression that likely discompose viewers or make viewers overly trust such matters.
- (5) When a broadcast deals with food or functional health food, it shall assume a cautious attitude in the expression of the efficacy and effect thereof lest such food or functional health food should be mistaken for medicinal products, and when it deals with a case of experience of a specific person

that is not scientifically verified, it shall assume a cautious attitude lest it should make generalizations about such case. <Amended by Rules No. 100, Jan. 9, 2014>

Article 42-2 (Investment Advisory Services on Finance, Real Estate, etc.)

- (1) When a broadcast provides investment advisory services (hereinafter referred to as "investment advisory services" in this Article) on finance, real estate, etc., it shall have justifiable grounds for providing the contents of advice, and shall not include the contents that may be mistaken for compensation for loss or the assurance of a profit except cases based on Acts and subordinate statutes.
- (2) A person that provides investment advisory services in a broadcast shall have expert knowledge of the contents of such services, and the contents of investment advisory services shall comply with the contents of his/her judgment.
- (3) When there is a financial interest between a person that provides investment advisory services; when the contents of investment advisory services he/she provides in a broadcast and such financial interest may have an effect on the contents of such investment advisory services or the degree of reliability, it shall apparently disclose such effect during the broadcast.
- (4) When investment advisory services are broadcast, matters to be considered when making investments with subtitles immediately before and after the commencement of the broadcast shall be announced in a broadcast, and such matters shall be announced with voice during the broadcast lest viewers should misconceive the contents of investment advisory services.
- (5) No broadcast shall mislead viewers in a way other than matters provided for in paragraphs (1) through (4) when providing investment advisory services, and a broadcast shall observe related Acts and subordinate statutes.

[This Article Newly Inserted by Rules No. 100, Jan. 9, 2014]

SECTION 6. Protection of Children and Juveniles

Article 43 (Emotional Cultivation of Children and Juveniles)

- (1) A broadcast shall endeavor to help children and juveniles develop a good personality and a sound character. <Amended by Rules No. 100, Jan. 9, 2014>
- (2) A broadcast shall protect children and juveniles from environments that harm their balanced growth, and shall endeavor to create a wholesome environment for children and juveniles.
- (3) A broadcast shall contribute to broadening social interest in and understanding on children and juveniles, and, in particular, shall strive to keep a continuing interest in children and juveniles that are suffering from financial, social, cultural, mental and physical difficulties.

Article 44 (Accepted Standards)

- (1) A broadcast shall pay careful consideration in covering contents that children and juveniles are likely to imitate, such as a superhuman act, psychics, and dangerous act, and it shall take appropriate measures to call their attention in advance.
- (2) A broadcast shall consider the stages of emotional development of potential viewers during the juvenile viewing hour. <Amended by Rules No. 100, Jan. 9, 2014>
- (3) A broadcast aimed for children's educational effects shall consider the professionalism of a presenter.
- (4) When a broadcast offers premiums or awards prizes to children and juveniles, it shall strive to avoid provoking a speculative mind.

Article 45 (Appearing on Television)

- (1) No broadcast shall cast a child or juvenile in a role that is likely to harm his/her personality and character, and even though it is inevitable for the development of its contents, it shall assume a

cautious attitude in the expression thereof. <Amended by Rules No. 100, Jan. 9, 2014>

- (2) No broadcast shall mobilize children and juveniles as the audience of a program intended primarily for adults.
- (3) No broadcast shall offer the positive portrayal of children and juveniles going to a place unsuitable for them.
- (4) No broadcast shall depict a scene of children and juveniles smoking or drinking, and even under extenuating circumstances for developing plot, it shall pay careful consideration in making such expression.
- (5) A broadcast shall make sure that an interview with a child or juvenile harmed by a criminal act on the extent of harm is conducted with the consents or presence of a guardian, legal representative or person with parental rights.
- (6) No broadcast shall have children and juveniles appear in excessively revealing clothing or have them display erotic scenes. <Newly Inserted by Rules No. 90, Dec. 6, 2012>

Article 45-2 (Broadcast of Media Contents Harmful to Juveniles)

- (1) No media contents harmful to juveniles shall be broadcast during the juvenile viewing hour.
- (2) No pre-broadcast of media contents harmful to juveniles, which is broadcast during the juvenile viewing hour, shall include contents falling under standards for review of media contents harmful to juveniles under Article 9 of the Juvenile Protection Act.
- (3) When media contents harmful to juveniles is broadcast, a broadcast shall indicate such media contents as "harmful to juveniles" pursuant to the Rules on Rating and Indication of Programs Broadcast.

[This Article Newly Inserted by Rules No. 100, Jan. 9, 2014]

SECTION 7. Restrictions on Advertising Effects, etc. <Amended by Rules No.

55, Feb. 18, 2010>

Article 46 (Advertising Effects)

(1) No broadcast shall have an advertising effect by specifically introducing or intentionally highlighting goods, services, an enterprise, a place of business, etc. (hereinafter referred to as "goods, etc.") or the name, trademark, logo, slogan, design, etc. related thereto, and shall deliver the following contents:

1. Method of specifically mentioning the trade name, effect, function, etc. of goods, etc. through subtitles, voice, etc.;
2. Method of specifically presenting functions, etc. of goods, etc.: Provided, that this shall not apply to functions, etc. universally used by generally applying to the same kind of or similar goods, etc.;
3. Method of directly recommending or encouraging the use of goods, etc.;
4. Method of highlighting the name, trademark, logo, slogan, design, etc. related to goods, etc. by partly changing them;
5. Method of interfering with the viewing flow by excessively highlighting goods, etc. or the name, trademark, logo, slogan, design, etc. related thereto beyond the level of simple exposure not on purpose necessary for the composition of a screen or the development of contents;
6. Method of having an advertising effect on goods, etc., in violation of Acts and subordinate statutes.

(2) No broadcast shall produce or compose a program so that it may have an advertising effect on a person that provides cooperation (referring to a person that provides expenses, goods, services, manpower, a place, etc. directly or indirectly necessary for the production of the program; hereinafter the same shall apply).

(3) With respect to a scene in a broadcast with indirect advertising under Article 73 (2) 7 of the Act, paragraph (1) shall apply to cases where such indirect advertising violates Article 59-3 (1) 2 and 3 of the Enforcement Decree of the Broadcasting Act.

[This Article Wholly Amended by Rules No. 100, Jan. 9, 2014]

Article 46-2 (Distinction from Broadcast Advertising)

Other than cases permitted by Acts and subordinate statutes, a broadcast shall make distinction between a program and a broadcast advertising.

[This Article Newly Inserted by Rules No. 100, Jan. 9, 2014]

Article 46-3 (Subtitles for Guidance and Announcement)

No broadcast shall have an advertising effect by guiding or announcing goods, etc. with subtitles: Provided that this shall not apply to cases where information falls under any of the followings, and an announcement of cooperation under Article 74 of the Act:

1. Information given to the people in relation to the Government policies, such as a disaster, disease, tax affairs or elections;
2. An event prescribed in subparagraph 7 of Article 2 of the Rules on Announcement of Cooperation, which is an event for public interest, such as culture and art or sports, sponsored, supervised or supported by a business operator;
3. Information about a business operator that is not for profit-making purposes, such as the employment of its employees and information guidance;
4. Information related to the people's livelihood, such as the suspension of water, power or gas supply, the guidance of local construction, the collection of contributions or emergency blood transfusion;
5. Other information about the public interest that viewers must know, for purposes other than making profits for a business operator or other specific person and for the purpose of public interest announced pursuant to the Broadcasting Act and subordinate statutes.

[This Article Newly Inserted by Rules No. 100, Jan. 9, 2014]

Article 47 (Delivery of Information)

(1) When a broadcast introduces a particular enterprise or a particular product for the purpose of providing information service, it shall not give any disadvantage to competing enterprises or competing products.

(2) When a broadcast introduces information about a new type of business or goods, it shall deliver only general information and shall not excessively highlight related goods, etc. <Amended by Rules No. 100, Jan. 9, 2014>

- (3) When a broadcast introduces information about business startup, it shall not mislead viewers by exaggerating the expected profit or business prospect without objective grounds. <Newly Inserted by Rules No. 100, Jan. 9, 2014>

Article 48 (Relay Broadcasts)

- (1) When a business operator broadcasts contents by relay, it shall not intentionally and repeatedly broadcast contents that have an advertising effect, such as the logo or placard of specific goods, services or company, even though it is an existing facility.
- (2) A business operator shall not highlight a new advertisement by posting or installing it in partnership with sponsors for relay broadcast.
- (3) No business operator shall interfere with the viewing flow by repeatedly highlighting the name, trademark, slogan or design related to a person that provides cooperation and a sponsor (hereinafter referred to as "sponsor") of an organization supervising a game or event broadcast by relay.
- (4) Where goods, etc. on which a broadcast advertising is forbidden or on which the time of a broadcast advertising is limited are included such as on the name of sponsors, etc. pursuant to Acts and subordinate statutes, a business operator shall assume a cautious attitude in the exposure thereof.
- (5) Where a business operator reports the result of or deliver the summarized principal contents of a broadcast by relay, he/she shall observe paragraphs (1) and (2).

[This Article Wholly Amended by Rules No. 100, Jan. 9, 2014]

Article 49 (Prizes)

- (1) No broadcast shall spur speculative spirit or a sense of incompatibility by level or method of providing prizes or rewards to performers, audiences or viewers.
- (2) When a broadcast introduces prizes, etc., it shall not have an advertising effect on goods, etc., related to the relevant prizes.

[This Article Wholly Amended by Rules No. 100, Jan. 9, 2014]

Article 50 (Sales of Products)

- (1) A broadcast, other than a broadcast programming specialized in the introduction and sales of products, shall not cover contents for the purpose of advertising or selling products or service in the program.
- (2) Articles 46 and 47 (2) shall not apply to a broadcast programming specialized in introducing and selling products.
- (3) Other than those prescribed in these Rules, matters necessary to review a broadcast introducing and selling products shall be prescribed by separate rules.

SECTION 8. Broadcasting Language

Article 51 (Broadcasting Language)

- (1) A broadcast shall use a proper language, thereby contributing to enhancing people's proper language life.
- (2) In principle, the standard language shall be used in a broadcast, and a regular presenter shall use the standard language during the broadcast: Provided, that where it is inevitable to use a dialect, no specific region or person shall be caricatured or depicted negatively. <Amended by Rules No. 100, Jan. 9, 2014>
- (3) No broadcast shall use intonations, accents, vulgarisms, slang, popular words, coined words, impolite words, etc. that are likely to undermine people's proper language life: Provided, that this shall not apply to cases where it is inevitable to use any of the foregoing due to characteristics, the development of contents or the composition of a program. <Amended by Rules No. 100, Jan. 9, 2014>

Article 52 (Foreign Languages, etc.)

A broadcast shall give careful consideration in using foreign languages for the purpose of the refinement of the Korean language. <Amended by Rules No. 100, Jan. 9, 2014>

SECTION 9. Others

Article 53 (Regulation of Collecting Donations)

- (1) No business operator shall collect donations for his/her own sake or in the interest of his/her employees under any pretext whatsoever, nor shall any business operator broadcast matters that are not registered pursuant to the Act on Collection and Use of Donations.
- (2) A broadcast concerning the collection of donations shall clarify a donation collecting agent, the purpose of such collection, collection period, and the intended use of the collected money.
- (3) No broadcast that collects donations shall present false information, nor shall it, by unlawful means, solicit tenaciously anyone for donations.
- (4) A broadcast that has collected donations shall disclose the results on how donations have been used, which include the amount of donations collected, a main agent that uses donations, the intended use of donations, the period of use, etc.

Article 54 (Paid Information Services)

- (1) Where a broadcast provides paid information services (hereinafter referred to as "paid information services") including dial-up service, it shall do so in a manner consistent with viewers' interest. In such cases, it shall give viewers in advance notice of the fact that they are to bear expenses and specific amounts to be borne when it introduces paid information services (in the case of a serial program, in each program). <Amended by Rules No. 100, Jan. 9, 2014>
- (2) Notwithstanding paragraph (1), a broadcast program mainly intended for children shall not use paid information services, and a broadcast program intended for juveniles shall not promote a

speculative spirit by using paid information services.

(3) Where paid information services used during a broadcast are terminated, it shall apparently announce the termination thereof with subtitles and voice. <Newly Inserted by Rules No. 100, Jan. 9, 2014>

(4) No subtitles related to the use of paid information services shall be announced in a rebroadcast of a program in which paid information services were used for a live broadcast only: Provided, That this shall not apply to cases where a business operator has taken measures lest expenses should occur in the rebroadcast, etc. <Newly Inserted by Rules No. 100, Jan. 9, 2014>

Article 55 (Distinction between Live and Pre-Recorded Broadcasts)

When a current affairs, news, debate or sports relay program or a part of the contents thereof is a pre-recorded broadcast, a broadcast shall prevent such program from being mistaken for a live broadcast.

Article 55-2 (Broadcast Accident)

Where an accident, such as an error in transmission or temporary interruption in a broadcast, occurs, a broadcast shall notify viewers of such fact without delay and take necessary measures.

[This Article Newly Inserted by Rules No. 100, Jan. 9, 2014]

Article 56 Deleted. <by Rules No. 100, Jan. 9, 2014>

Article 57 Deleted. <by Rules No. 100, Jan. 9, 2014>

Article 58 Deleted. <by Rules No. 30, Sep. 2, 2008>

CHAPTER III PROCEDURES FOR REVIEW

SECTION 1. General Procedures

Article 59 (Request for Imposing Sanctions, etc.)

(1) Where the Commission determines that contents of a broadcast violate these Rules, it shall

immediately request the Korea Communications Commission to impose a sanction in addition to the followings pursuant to Article 25 (3) of the Act on the Establishment and Operation of Korea Communications Commission (hereinafter referred to as the "Organization Establishment Act"):

1. Date and time of violation;
2. Fact of violation;
3. Kinds of sanctions;
4. Deleted; and <by Rules No. 30, Sep. 2, 2008>
5. Other necessary matters.

(2) Where the Commission determines that information similar to broadcasting under Article 21 (1) of the Enforcement Decree of the Broadcasting Act violates these Rules as a result of the review thereof, it may recommend a correction thereof to the provider of the information. In such cases, the provider of information in receipt of a recommendation to correct such violation may submit his/her opinion to the Commission.

Article 60 (Execution of Order to Impose Sanction)

- (1) When a business operator receives a sanction order issued pursuant to Article 100 (1) of the Act, he/she shall immediately broadcast the full text of a decision made by the Korea Communications Commission pertaining to the details of such order pursuant to Article 100 (4) of the Act.
- (2) A business operator in receipt of an order on sanctions issued by the Korea Communications Commission pursuant to Article 100 (1) of the Act shall execute such order within seven days from the receipt of the order issued pursuant to Article 100 (4) of the Act and shall report the results thereof to the Korea Communications Commission.
- (3) The Commission may request the Korea Communications Commission to notify it of the results of the execution of an order on sanctions reported by a business operator pursuant to paragraph (2).

Article 61 (Statement of Opinions of Persons Concerned)

- (1) When the Commission determines the sanctions to be imposed pursuant to Article 100 (1) of the Act, it shall give in advance the person concerned or his/her agent (hereinafter referred to as "person concerned, etc.") an opportunity to state his/her opinion pursuant to Article 25 (2) of the Organization Establishment Act.
- (2) Where the Commission provides an opportunity for the person concerned, etc. to state his/her opinion under paragraph (1), it shall give the person concerned, etc. written notice of the fact of violation (including an electronic document), the date, time and venue for stating his/her opinion, etc. seven days prior to the date for stating his/her opinion.
- (3) Where the person concerned, etc. in receipt of a notice given pursuant to paragraph (2) is unable to attend during the designated date for stating his/her opinion due to extenuating circumstances acknowledged by the Commission, he/she may request the Commission to change the designated date in writing only once before such designated date arrives.
- (4) Where the Commission receives a request by the person concerned, etc. to change a designated date for stating his/her opinion under paragraph (3), it shall re-designate a date for stating his/her opinion and give the person concerned, etc. written notice thereof seven days before the initial date for stating his/her opinion arrives.
- (5) The Commission shall clarify in the notice under paragraph (2) that when the person concerned, etc. fails to comply with such notice without justifiable reasons, he/she shall be deemed to relinquish the opportunity to state his/her opinion.
- (6) The person concerned, etc. in receipt of the notice under paragraph (2) may attend during the designated date and time and state his/her opinion, or submit his/her statement, and when he/she has stated opinion in attendance, the Commission shall prepare the gist of his/her statement and have him/her confirm it and sign the document and attach a seal thereto.
- (7) An agent that is to state his/her opinion on behalf of the person concerned, etc. shall submit a

document proving that he/she is the agent of the person concerned, etc.

(8) Where the person concerned, etc. fails to state his/her opinion under paragraph (1) without justifiable reasons, the Commission may determine and impose the sanctions referred to in Article 100 (1) 1 through 3 of the Act without hearing the opinion of the person concerned, etc. Where the Commission is unable to provide a business operator with an opportunity to state his/her opinion due to his/her unknown whereabouts, etc., the same shall also apply to cases where the Commission has given notice under paragraph (2) to the address of his/her last main office.

(9) The provisions of the Administrative Procedures Act shall apply mutatis mutandis to matters other than those prescribed in paragraphs (2) through (8) in relation to the statement of opinions.

Article 62 (Series Programs, etc.)

The Commission may review series programs or broadcast programs consisting of numerous episodes that are recognized to have the same theme.

Article 63 (Respect for Results of Review)

A business operator on whom sanctions have been imposed shall comply with an order on sanction issued by the Korea Communications Commission following the review and decision by the Commission, and he/she shall broadcast the details of the order on sanctions after taking an appropriate measure in respect of a violation. The same shall also apply to cases where another business operator other than the business operator on whom sanctions have been imposed broadcasts the same contents.

Article 64 (Submission of Materials, etc.)

Where necessary to perform the duties under subparagraphs 1 and 2 of Article 21 of the Organization Establishment Act, the Commission may request a business operator to submit related materials pursuant to Article 25 (4) of the same Act.

Article 65 (Request for Re-Review)

A business operator in receipt of a sanctions order issued by the Korea Communications Commission

pursuant to Article 25 (5) of the Organization Establishment Act may file a request for re-review of such order with the Korea Communications Commission within 30 days from his/her receipt of the sanctions order pursuant to Article 100 (6) of the Act.

SECTION 2. Procedures for Determination of Media Materials Harmful to
Juveniles

Article 66 (Determination of Media Materials Harmful to Juveniles)

- (1) In making a review under Article 4, the Commission shall determine broadcast programs that undermine the emotional well-being of juveniles and interfere with their sound character development to be media materials harmful to juveniles according to the criteria for review under these Rules and Article 10 of the Juvenile Protection Act.
- (2) Deleted. <by Rules No. 100, Jan. 9, 2014>
- (3) Deleted. <by Rules No. 100, Jan. 9, 2014>
- (4) A business operator may autonomously make a broadcast program carry indications of being harmful to juveniles, and where the Commission discovers a broadcast program autonomously carrying indications of being harmful to juveniles, it shall decide on whether or not such program is media materials harmful to juveniles.
- (5) A broadcast program autonomously carrying indications of being harmful to juveniles pursuant to paragraph (4) shall be regarded as media materials harmful to juveniles until it is determined as to whether or not such program is harmful to juveniles.
- (6) Deleted. <by Rules No. 100, Jan. 9, 2014>
- (7) The provisions of the Juvenile Protection Act shall apply mutatis mutandis to other necessary matters in relation to the review and determine whether certain media materials are harmful to juveniles.
- (8) The Commission shall determine whether certain media materials are harmful to juveniles in writing clarifying the main text of such determination and the reasons therefor, and the Commission

shall give immediate notice of the statement of determination to a business operator and request the Minister of Gender, Equality and Family to make an announcement thereof as prescribed by Article 22 of the Juvenile Protection Act. <Amended by Rules No. 100, Jan. 9, 2014>

(9) The determination as to whether certain media materials are harmful to juveniles shall take effect in accordance with the announcement by the Minister of Gender Equality and Family on the determination of the Commission. <Amended by Rules No. 100, Jan. 9, 2014>

Article 67 (Cancellation of Determination of Media Materials Harmful to Juveniles)

Where the Commission deems that certain media materials harmful to juveniles are no longer harmful to juveniles due to a change in circumstances or the enactment or amendment of the related Acts and subordinate statutes, it may cancel the determination on the fact that such media materials are harmful to juveniles upon the request of an interested party or ex officio. In such cases, Article 66 (8) and (9) shall apply mutatis mutandis to notification and effect of the cancellation of determination.

Article 68 (Raising Objection)

(1) A business operator that is dissatisfied with the Commission's determination that his/her media materials are harmful to juveniles may file an objection with the Commission in writing, indicating the followings within 60 days from his/her receipt of the notification of such determination:

1. Date of determination of media materials harmful to juveniles;
2. Title of a broadcast program determined to carry indications of being harmful to juveniles, year of production, country of production, and production company;
3. Grounds for determination of media materials harmful to juveniles;
4. Grounds for filing an objection;
5. Signing and sealing of a document;
6. Other necessary matters.

(2) The Commission shall reject an objection raised pursuant to paragraph (1) when it fails to meet the

requirements thereof, and dismiss it when deemed groundless, and shall cancel its determination on media materials harmful to juveniles when deemed well-grounded.

CHAPTER IV SUPPLEMENTARY PROVISIONS

Article 69 (Special Cases on Information Similar to Broadcast)

Where the Commission deems that it is unreasonable to apply the provisions provided by these Rules to information similar to a broadcast in terms of characteristics of information under Article 21 (1) of the Enforcement Decree of the Broadcasting Act, it may choose not to apply some of the provisions thereto and shall separately determine and announce the scope, standards, etc. thereof.

Article 70 (Detailed Matters Necessary for Enforcement)

The Commission shall separately determine detailed matters necessary to enforce these Rules or other necessary matters.

ADDENDUM

These Rules shall enter into force on the date of their promulgation.

ADDENDUM <Rules No. 55, Feb. 18, 2010>

These Rules shall enter into force on the date of their promulgation.

ADDENDUM <Rules No. 80, Aug. 17, 2010>

These Rules shall enter into force on the date of their promulgation.

ADDENDUM <Rules No. 81, Nov. 16, 2010>

These Rules shall enter into force on the date of their promulgation.

ADDENDUM <Rules No. 90, Dec. 6, 2012>

These Rules shall enter into force on the date of their promulgation.

ADDENDUM <Rules No. 100, Jan. 9, 2014>

These Rules shall enter into force on the date of their promulgation.

APPENDIX C: Nolan Principle and Declaration of Interest

1. Nolan Principles

Nolan Principles are the basic ethical standards applied to behavior in public life including a public corporation such as Ofcom. Nolan Principles were produced by Michael Patrick Nolan (10 September 1928- 22 January 2007) who chaired the Committee on Standards in Public Life from 1994 to 1997.⁶² The committee was set up in late 1994 by John Major's government after the cash-for-questions affair, and defined the ethical standards for public services, which became eponymously Nolan Principles.⁶³ The committee also recommended that the government should establish the Office of the Commissioner for Public Appointments (OCPA). The Commissioner for Public Appointment is appointed by the Queen, and the commissioner's role is to regulate, monitor and report on ministerial appointment to health bodies, non-departmental public bodies, public corporations, nationalised industries and appointments to Utility Regulators.⁶⁴ Nolan Principles became a standard and guideline for anyone who works for public services, and it became a standard for public appointment procedures, also referred to as the OCPA Code of Practice for Public Appointments, or Nolan in Practice. OCPA also has the so-called 'OCPA Principles' which consist of seven principles that underpin the Code of Practice.⁶⁵

The seven OCPA Principles are ministerial responsibility, merit, independent scrutiny, equal opportunity, probity, openness and transparency, and proportionality.⁶⁶ Among these seven principles, independent scrutiny defines that no appointment may be made unless an independent assessor has been involved in the process.⁶⁷ Any department which has the authority to appoint for public services should select independent assessors from the OCPA Central List. In case in which department recruits its own assessors, the department should follow the OCPA procedures which ensure open, competitive and politically unbiased processes. For example, a department cannot select a person as an independent assessor if that individual already holds a post in one of the public bodies it sponsors or has left such a post within the last 12 months.⁶⁸ Candidates for public sector roles should also maintain their political balance by providing information about their career history as it relates to the political activity. In their application, every candidate for public positions should describe their past activities, and the information will be published when the candidate succeeds in obtaining the position.⁶⁹ By recording the information of the candidates not only for the public sector jobs but also for independent assessors, OCPA ensures that the auditing processes can confirm that the recruiting process has been carried out appropriately. According to the OCPA principles and procedures, a Secretary of State, or a minister, can make a final decision on public sector appointments within the submission of candidates where at least two names should be put forward for each vacancy.⁷⁰

⁶² See: <http://www.oxforddnb.com/view/article/98554>. Last viewed on 5 May 2015.

⁶³ Detailed Information on Nolan Principles is available at the following site: <https://www.gov.uk/government/publications/the-7-principles-of-public-life/the-7-principles-of-public-life--2>. Last viewed on 5 May 2015.

⁶⁴ The Commissioner for Public Appointments Code of Practice for Ministerial Appointments to Public Bodies, August 2005, p. 5.

Available as pdf file at <http://publicappointmentscommissioner.independent.gov.uk/wp-content/uploads/2012/02/Code-of-Practice-for-Ministerial-Appointments-to-Public-Bodies.pdf>.

⁶⁵ The OCPA Principles also come directly from recommendations by the Committee on Standards in Public Life (*Nolan: First Report*, May 1995).

The Commissioner for Public Appointments Code of Practice for Ministerial Appointments to Public Bodies, August 2005, p. 10.

⁶⁶ *Ibid.* p. 9.

⁶⁷ *Ibid.* p. 11

⁶⁸ *Ibid.* p. 12.

⁶⁹ *Ibid.* p. 65.

⁷⁰ *Ibid.* p. 38.

If the minister fails to follow the provisions of the code, the department can contact the Commissioner, and the Commissioner can make public comment on the minister's disregard for the OCPA principles and codes.⁷¹ In particular, at the stage of publicising appointments for upper tier bodies, the following statement should be included:⁷²

All appointments are made on merit and political activity plays no part in the selection process. However, in accordance with the original Nolan recommendations, there is a requirement for appointees' political activity to be made public⁷³

2. Declaration of Interest

According to Nolan Principles, Ofcom members are also expected to act independently and to serve solely for the public interest. Members' duties and responsibilities are set out in a Members' Code of Conduct, and a Register of Members' Interests is maintained.⁷⁴ Among OCPA principles, the probity principle specifically puts emphasis on conflicts of interests. All candidates for a vacancy, as early as possible in the recruitment process, must be asked to disclose information or personal connections which, if they were to be appointed, could be misconstrued or cause embarrassment to the appointing authority.⁷⁵ If it appears that a possible conflict might exist or arise in the future, this must be fully explored with the candidate to establish whether it is sufficiently significant to prevent the individual from carrying out the duties of the post.⁷⁶ At the same time, a representative of the public body or interest group cannot be designated as the independent assessor.⁷⁷ According to the OCPA principles, the Ofcom board considers all of the Non-Executive Members to be independent of management and free of any business or other relationship which could materially interfere with the exercising of their judgement. Above all, the OCPA principles and procedures are strictly obtained by maintaining the transparency of the appointment. All decisions made during the appointment procedures such as selecting a shortlist, an interview or conversations with candidates, must be fully documented.⁷⁸ The most recent list on the declaration of interest can be seen at Ofcom's official internet site.⁷⁹

The Register of Members' Interests or Declaration of Interest is also applied to the Content Board of Ofcom. Communication Act 2003 regulate in section 12 (10) that the chairman or another member of the Content Board will not have any financial or other interest which would be likely prejudicially to affect the carrying out by him of any of his functions as chairman or member of the Content Board.⁸⁰ At the same time, every person whom Ofcom propose to appoint to be the

⁷¹ Ibid. p. 39.

⁷² Relating to the appointment process, OCPA allocates all public bodies into two categories of upper tier and lower tier according to the level of remuneration paid to their members and/or the level of government funding they receive. Details about upper tier can be found at: The Commissioner for Public Appointments Code of Practice for Ministerial Appointments to Public Bodies, August 2005, p. 17.

⁷³ The Commissioner for Public Appointments Code of Practice for Ministerial Appointments to Public Bodies, August 2005, pp. 39-40.

⁷⁴ Ofcom Annual Report and Account, London: Ofcom Consumer Panel, (2013-2014), p. 50.

⁷⁵ The Commissioner for Public Appointments Code of Practice for Ministerial Appointments to Public Bodies, August 2005, p. 13.

⁷⁶ Ibid.

⁷⁷ Ibid. p. 34.

⁷⁸ Ibid. pp. 34-36.

⁷⁹ See: <http://www.ofcom.org.uk/about/how-ofcom-is-run/ofcom-board/members/register-of-disclosable-interests/>. Last viewed 12 April 2015.

⁸⁰ Communication Act 2003 Section 12 (10).

See: <http://www.legislation.gov.uk/ukpga/2003/21/part/1/crossheading/ofcoms-content->

chairman or another member of the Content Board, shall furnish Ofcom with any information they consider necessary for the performance of their duty under subsection (10).⁸¹

Appendix D: The Table of Analysis on Ofcom's Findings from Ofcom Bulletin is provided in the form of Excel File only in the Official Site of Reuters Institute for the Study of Journalism.⁸²

[board?view=plain](#). Last viewed 12 April 2015.

⁸¹ Communication Act 2003 Section 12 (13).

⁸²See: <http://reutersinstitute.politics.ox.ac.uk/people/chan-jung-park-editor-and-senior-reporter-abc>.

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