

# Adjudication

## Complaint by Mr Muhunnud Al-Mungoush

*Correspondent: Holidays in the Axis of Evil* BBC2, 1 April 2003

### Summary

Mr Al-Mungoush, a Libyan tour guide, complained that it was unfair to broadcast footage of him, when he had not been told he was being filmed for a BBC programme. Appearing to be co-operating with the BBC had put him at risk. He complained the BBC had also infringed his privacy in both making and broadcasting the programme.

Ofcom found that it was unfair to feature Mr Al-Mungoush in the programme in the knowledge that doing so might put him at risk. In the circumstances, collecting and broadcasting the footage of him also infringed his privacy. There was no public interest in the footage that justified misleading him and infringing his privacy.

### 1. Issue

This edition of *Correspondent*, entitled *Holidays in the Axis of Evil*, concerned trips to countries which have been labelled as part of the 'Axis of Evil'. During the section on Libya, Mr Al-Mungoush, a local guide, was shown chatting to journalists as he took them around. The journalists were posing as tourists.

Mr Al-Mungoush complained that he had been treated unfairly in the programme and that his privacy had been unwarrantably infringed in both the broadcast and the making of the programme.

### 2. Unfairness and Privacy

#### Mr Al-Mungoush's case

Mr Al-Mungoush worked for a tourism agency in Libya and was assigned to accompany two 'tourists'. They did not tell him they were BBC journalists. For ten days, he was more than a tour guide, he was a friend and family to them. They said they were website designers and he thought he was being filmed for a holiday video. This was why he was willing to be filmed. He would never have agreed if he had known they were journalists, as co-operating in any way with the global media was forbidden in Libya.

It was not enough for the BBC to take out comments they thought could be damaging. It was the mere fact of being shown co-operating with journalists that endangered him. It was true that, as the BBC said, Mr Al-Mungoush had not wanted the film they took of his father shown, but this was not because his father had said critical things about the Gaddafi regime or because of any awareness of the consequences of being

filmed. It was out of respect for his father and his home. Mr Al-Mungoush may, as the BBC said, have made derogatory comments which the BBC then attributed to a stranger in the programme, but he did not know he was speaking to a journalist. In any event, the BBC kept in the programme things that were very damaging to him. When the tourist agency became aware of his involvement in the programme, he was detained for a week by External Affairs Security, interrogated and beaten up for hours each day. He lost his job as a tourist guide and his other jobs as a freelance translator and English teacher. When he was detained by the Libyan authorities, he was questioned only about the BBC programme, so there was no doubt about the link between the programme and the beatings he suffered. Although he had been pleased at first when he heard he was on the BBC, he did not know the context or content at that point. He became concerned when a friend who had seen the programme warned him about the extent of his role in it.

He was not responsible for the political environment in Libya and he should not have been left behind with no knowledge of, or protection from, the consequences of the BBC's actions. The BBC could at least have stated that the participants had been filmed without knowing it was for a programme. The BBC's risk assessment seemed to have concerned only the safety of the journalists, not himself.

The BBC infringed his privacy by filming him for the programme when he thought he was being filmed by holidaymakers and by broadcasting the film of him without his consent.

### **The BBC's case**

The BBC responded that the countries visited did not allow journalists in, or made it very difficult, so the programme-makers posed as tourists and filmed with small tourist cameras, in an attempt to show the reality of life in countries that had been named as the world's most 'evil'. The programme-makers had been advised by the BBC, before embarking on the series of which the programme formed part, that there should be no connection before, during or after filming between anyone who appeared in the series. This was in order to help make it clear that those who appeared in the programmes were not complicit with the BBC in the making of the series. The dangers to the programme-makers and to others would have been increased if they had revealed at any point while filming that they were doing so for broadcast on the BBC.

Mr Al-Mungoush was aware that he was being filmed at all times. He was also aware that there could be consequences as a result of what he said. He had asked the programme-makers not to show anyone film of his father saying critical things about the Gaddafi regime and the programme-makers had complied. Where they felt he had been indiscreet, they cut out those sections that they thought might not show him in a good light. They attributed to a stranger a derogatory comment he had made. Great care was taken in the use of Mr Al-Mungoush's contribution. At first, he was pleased to discover that he was on a BBC documentary and had not provided any evidence of a link between the programme and what subsequently happened to him. However, the BBC did not seek to deny his version of what happened to him and when they heard he had got into trouble they tried to help in any way they could.

## **Decision**

### **Unfairness**

Mr Al-Mungoush was misled by the programme-makers. They posed as tourists and concealed the fact that they were journalists collecting material for a programme to

be broadcast by the BBC. In these circumstances, although Mr Al-Mungoush was aware he was being filmed, he could not have been expected to anticipate that the footage of him would be broadcast on television, rather than viewed by the small private audience that would normally see a holiday video. Any caution he showed as regards the consequences of his remarks was likely to have been in anticipation of that limited audience. He was given no opportunity to consider whether his actions and comments would be appropriate for a programme to be broadcast on the BBC and to tailor them accordingly.

The BBC acknowledged that the mere fact of those who featured in the programmes appearing to be complicit with the BBC could have been enough to put them at risk. We took the view that the programme might well have given the impression that Mr Al-Mungoush was co-operating with the BBC and Mr Al-Mungoush had therefore been put at risk by its broadcast. In these circumstances, simply excluding from the programme derogatory comments he had made during filming was not enough to protect him.

The programme was an attempt, according to the BBC, to portray the reality of life in Libya under Colonel Gaddafi. However, Ofcom did not consider that the programme-makers were justified in using deceit to secure Mr Al-Mungoush's participation in the programme. The conversations with Mr Al-Mungoush and the other footage in which he appeared did not contribute anything of such significance to the programme that it justified putting him at risk.

In all these circumstances, it was unfair to Mr Al-Mungoush to include the footage in which he featured in the programme.

### **Privacy**

Mr Al-Mungoush had a reasonable expectation that the film of him would be seen only by the small audience that could be anticipated for a holiday video. In these circumstances, his words and actions, whether in public or private places, were not sufficiently public for the BBC to broadcast them without his consent. The programme therefore infringed his privacy. Moreover, when Mr Al-Mungoush invited the programme-makers into his home, he did so in ignorance that they were journalists collecting material for a programme. In the circumstances of this particular case, we took the view that this resulted in a degree of intrusion into his family life that would not have been there if he had known he was being filmed for a television programme. Accordingly, the programme-makers also infringed his privacy in making the programme.

There was no overriding public interest in the footage featuring Mr Al-Mungoush. The conversations with Mr Al-Mungoush and the other footage in which he appeared did not contribute anything of such significance to the programme that it justified infringing his privacy. The infringement of his privacy in both the making and the broadcast of the programme was unwarranted.

12 July 2004

**Fairness Committee**  
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