



The BBC: under (political) pressure?

Was the BBC's handling of the Gary Lineker case about the perception of impartiality or of independence? **John Gould** puts the broadcaster's guidelines under the microscope

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IN BRIEF

► The BBC's error in its handling of the controversy surrounding Gary Lineker's tweet criticising government rhetoric appears to have been that it abandoned rules and procedure, and instead became involved in a quasi-disciplinary process to try to produce an acceptable result for its stakeholders.

Every now and again, professional rules and guidelines become relevant to something which an ordinary person might care about. Fortunately this does not happen that often, but when it does, the plucky attempts of journalists to explain it all in less than 90 seconds or in a few column inches are rarely very successful. It is hard to simplify sub-clauses or gloss guidance. Clauses have no feelings to report; when they conflict, it isn't at all the sort of conflict that makes good television.

What, I ask rhetorically, would someone care about if not *Match of the Day* and its long-term presenter (and winner of the Golden Boot in 1986) Gary Lineker? Lineker is an open supporter of Leicester City FC (the 'Foxes') and Walkers Crisps. He has a Twitter account with almost 9m followers. Lineker sometimes tweets about political issues or current affairs from a broadly liberal left-leaning ethical outlook, and from time to time is criticised as a result.

Recently, Lineker took objection to the language used by the home secretary, Suella Braverman, in support of new measures intended to reduce the flow of migrants crossing the English Channel in small boats. The tweet said that Braverman's words were

'beyond awful' and called the government's approach 'an immeasurably cruel policy directed at the most vulnerable people in language that is not dissimilar to that used by Germany in the 30s'.

The language of political debate does matter, whether one speaks of 'invasions' or makes a comparison with the language of the Nazis. In an ideal world, government ministers would never risk any harm to vulnerable people to obtain a political advantage, but that has never been the rule. For present purposes, we are concerned only with Lineker and the BBC. Lineker is likely to have contractual obligations and rights to express himself, but for the moment the issue, as we have been told, is all a question of 'impartiality'.

Statutory framework & guidance

Impartiality is embedded in the statutory framework under which television broadcasts are licensed by the Office of Communications (Ofcom). By s 319(1) of the Communications Act 2003 (CA 2003), Ofcom must set 'such standards for the content of programmes to be included in television and radio services as appear to them best calculated to secure the standards objectives'. The 'standards objectives' are specified at s 319(2), CA 2003, and include (at para (c)) 'that news included in television and radio services is presented with due impartiality and that the impartiality requirements of section 320 are complied with'. Section 320 requires 'the preservation, in the case of every television service... of due impartiality, on the part of

the person providing the service, as respects... matters of political or industrial controversy' (see s 320 (1)(b) and (2)(a), CA 2003). The effect of s 325, CA 2003 is that compliance with the Broadcasting Code is a required licence condition.

There are a number of relevant provisions in the Broadcasting Code:

'Rule 5.1: News, in whatever form, must be reported with due accuracy and presented with due impartiality

...

Rule 5.11: In addition to the rules above, due impartiality must be preserved on matters of major political and industrial controversy and major matters relating to current public policy by the person providing a service... in each programme or in clearly linked and timely programmes.

Rule 5.12: In dealing in matters of major political or industrial controversy and major matters relating to current public policy an appropriately wide range of significant views must be included and given due weight in each programme or in clearly linked and timely programmes...'

These requirements relate, of course, to the output of the broadcaster itself. The BBC takes these requirements into account in its editorial guidelines, but aims to have even more demanding requirements to reflect 'audience and stakeholder expectations of the BBC'. The BBC also produces 'impartiality guidance' which provides that:

'Both codes require due impartiality, which means that the demands of impartiality can vary: The term "due" means that the impartiality must be adequate and appropriate to the output, taking account of the subject and nature of the content, the likely audience expectation and any signposting that may influence that expectation' (Editorial Guidelines 2019: 4.1).

The guidance looks to explain the extent of this:

'The BBC Guidelines demand the highest level of impartiality in News and Current Affairs and factual journalism (including sport) and reflect the Ofcom Code's requirements in relation to controversial subjects and major matters. But the impartiality due will vary in other forms of output: it is not expected, for example, that the same requirement will apply to comedy or drama or a range of other output'.

'Due' impartiality

So impartiality is clearly regarded as important, but given the wide range of outputs to which it applies, what does it actually mean? The BBC

guidance says with sunny confidence: 'In one sense defining impartiality is easy. It means reflecting all sides of arguments and not favouring any side.'

'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.

The identification of two 'sides' is not a values-free zone. It might be expected that a broadcaster would favour the ethical over the unethical or the moral over the immoral. It might also be expected that sometimes an opposing view was so immoral, stupid, cynical or misconceived that it was wrong to represent it. That leads to the need to identify some core values in relation to which it is alright to be partial and supportive. The BBC describes this idea in its guidance:

'Fundamental democratic principles include the right to vote, freedom of expression and the rule of law and encompass the assumption that societal discrimination based on race, colour or creed or gender will undermine these essential elements of democracy. So the approach BBC reporters and presenters take will always reflect an assumption that the democratic path will be better than repression, corruption, discrimination and the restriction of these rights. But the factual reporting of events should remain accurate and objective.'

Yet, many of the issues likely to attract controversy relate to these very concepts. The BBC does not advocate that all members of the legislature should be elected, that freedom of expression is unqualified, or that individuals may never have their access to legal redress denied. Even whether people are being repressed or merely being made subject to the law can be a question of opinion and degree. The comfort of an irreducible core of universal values to guide a broadcaster is probably an illusion. It is certainly not an objective foundation to distinguish between what is partial and what is not.

It may be that 'impartiality' is the wrong concept anyway. It is part of a judge's role to be impartial so that decisions are made on the basis of the relevant facts and the law. A partial judge would have extraneous reasons or prejudices leading them to favour one party over another. Although journalists must use professional judgment to interpret and explain, they are not judges. Professional standards should require output to be accurate and complete. If reporting misses material points, it distorts the information and explanation being provided. If that is done deliberately, it is a failure not only of competence but also integrity.

What crosses the line?

The misconception is, however, that any of this is relevant to Gary Lineker's Twitter account. His tweets are not part of the BBC's output at all. The problem, if there is one, comes from a different direction. The BBC wants not only to maintain high journalistic standards; it also wants the public and its 'stakeholders' to have confidence that it is doing so. If the BBC's political editor were busy privately tweeting that one of our numerous ex-prime ministers was worthy of the Nobel Prize for economics, or that you couldn't trust an opposition politician because his eyes were too close together, confidence in their broadcast output would be undermined. Lineker's views on the characterisation of small boat migrants do not affect the reliability or otherwise of his comments on the efficacy of the video assistant referee. If Lineker has crossed a line, it is not one designed to protect the impartiality of the BBC's sports output.

But if the problem is not a risk to the perceived impartiality of actual BBC output, perhaps an infringement arises from the BBC's 'Guidance on individual use of Social Media'. It covers employees, contractors and freelancers. Although the guidance is largely addressed to posts on behalf of the BBC, it does in some respects go wider. The three key rules are:

- (1) Always behave professionally, treating others with respect and courtesy at all times: follow the BBC's Values.
- (2) Don't bring the BBC into disrepute.
- (3) If your work requires you to maintain your impartiality, don't express a personal opinion on matters of public policy, politics, or "controversial subjects".

As far as I know, Lineker has not yet been asked to anchor *Newsnight*, and it seems to follow that Lineker's work only requires him to maintain impartiality in relation to football. There seems to be no problem with current affairs journalists being partial about sport. I believe that former political editor and *Today* presenter Nick Robinson takes every opportunity to express on air his enthusiastic support for Manchester United FC, quite properly without rebuke. Who would have guessed that the fortunes of MUFC were in some way related to reporting on the handling of the economy?

The nub of the issue appears to be not a rule but a comment by way of guidance:

'There are also others who are not journalists or involved in factual programming who nevertheless have an additional responsibility to the BBC because of their profile on the BBC. We expect these individuals to avoid taking

sides on party political issues or political controversies and to take care when addressing public policy matters.'

It is not clear what concern this is seeking to address. Given that it only applies to individuals who are not journalists or involved in factual programming, it seems unlikely to be about the impartiality of broadcast output. It is not clear precisely what the connection is between having a high profile on the BBC and the need to avoid taking sides in 'political controversies'. There are sides and controversies which are not political but engage strong beliefs. Why, one may ask, are political controversies of particular concern to the BBC? The answer, probably, goes not to the impartiality of the BBC but its independence. Politicians are obviously sensitive to public opinion and to the expression of views by those who might form it. Governments have a number of powerful instruments in relation to the BBC, including appointments and ultimately its funding. This is the reverse of the power relationship between politicians and newspapers. The logical explanation of the social media policy is to protect the BBC from the fallout that might follow if a prominent BBC person criticises politicians who the BBC has to regard as 'stakeholders'. To use a footballing analogy, the more that politicians cry 'foul', the greater the need for the BBC to be seen to respond. It has little or nothing to do with impartiality; the key issue which the BBC appears to have overlooked is another key regulatory concept—independence. One might suggest that the greatest risk for the BBC was not the professionalism of its journalists to provide balanced reporting, but the perception that the BBC might itself not be properly independent of government. The Lineker case seems to be much more about how the BBC responds to political pressure.

The BBC's error appears to have been that it abandoned the rigour of proper rules and procedure and became involved in a muddled quasi-disciplinary process to try to produce an acceptable result all around.

If I were a politician, the last thing I would want would be someone with 9m Twitter followers, who appears most weeks as a calm and sensible person on a popular show, expressing moral outrage at my words. Perhaps rather than suspension, a simple letter would have done the job:

'Dear Gary, please stop upsetting the stakeholders or we will have a price to pay'.

NLJ

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