

NOTICE OF A DECISION UNDER SECTION 3(3) OF THE BROADCASTING ACT 1990 AND SECTION 3(3) OF THE BROADCASTING ACT 1996 IN RESPECT OF LICENCES TLCS 000881, TLCS 001686 AND DTPS 000072 HELD BY ANO TV-NOVOSTI

Background

1. RT is a global news and current affairs channel largely produced in Russia and funded by the Russian Federation. The provider of the service, ANO TV Novosti holds three UK broadcasting licences, two for the service called RT¹ and one for the service called RT Europe. The licences for both services cover broadcasts on satellite and cable. The RT service is also licensed to broadcast on digital terrestrial television.
2. Ofcom has an ongoing duty to be satisfied, as the independent UK broadcasting regulator, that broadcast licensees remain fit and proper to hold their licences.
3. On Thursday 24 February 2022, Russia launched an invasion of Ukraine, which has been internationally condemned. On 2 March 2022, the UN General Assembly has overwhelmingly passed a resolution demanding that Russia immediately end its military operations there.² It condemns the 24 February 2022 declaration by the Russian Federation of a “special military operation” in Ukraine. It also

“1. Reaffirms its commitment to the sovereignty, independence, unity and territorial integrity of Ukraine within its internationally recognized borders, extending to its territorial waters;

2. Deplores in the strongest terms the aggression by the Russian Federation against Ukraine in violation of Article 2 (4) of the Charter;

3. Demands that the Russian Federation immediately cease its use of force against Ukraine and to refrain from any further unlawful threat or use of force against any Member State;

4. Also demands that the Russian Federation immediately, completely and unconditionally withdraw all of its military forces from the territory of Ukraine within its internationally recognized borders.”

¹ RT is a service made for UK audiences, providing a Russian perspective on UK and global news and current affairs related programming. It broadcasts in English.

² [General Assembly resolution demands end to Russian offensive in Ukraine | | UN News](#)

4. Amongst the countries which have sanctioned Russia for its actions are: the United States, the European Union³, the United Kingdom⁴, Canada⁵, Japan⁶, Australia⁷, New Zealand⁸ and Switzerland.⁹
 5. On 4 March 2022, TASS Russian news agency reported a change to Russia's Criminal Code:

*"The Russian Criminal Code is updated with Article 207.3 'Public dissemination of deliberately false information about the use of the Armed Forces of the Russian Federation,' which provides for imprisonment for up to three years or a fine of up to 1.5 million rubles. Provided that the law is breached with the use of official position, for mercenary reasons, or on grounds of political, ideological, racial, ethnic or religious hatred or enmity, the offense will be punishable by imprisonment for up to 10 years or a fine of up to 5 million rubles. Provided that the fake information entails grave consequences, the term of imprisonment will be from ten to 15 years."*¹⁰
 6. Reports suggest that the Russian authorities regard it as fake information to call the conflict a war.¹¹ A large number of reputable international news providers announced the suspension of their coverage in Russia as a result of the new law; some have since resumed coverage.¹²
 7. Following our own monitoring of RT's coverage in the UK of the conflict in Ukraine, and in response to complaints¹³, Ofcom has opened 15 investigations into the due impartiality of news programmes on the RT news channel broadcast on Sunday 27 February 2022, a further 12 investigations into news programmes broadcast on Tuesday 1 March 2022, an investigation into a documentary broadcast on that day, and an investigation into a news programme broadcast on Wednesday 2 March 2022.¹⁴

³ https://ec.europa.eu/info/strategy/priorities-2019-2024/stronger-europe-world/eu-solidarity-ukraine/eu-sanctions-against-russia-following-invasion-ukraine_en

[4 Who is subject to financial sanctions in the UK? - GOV.UK \(www.gov.uk\)](#)

⁵ Canadian Sanctions Related to Russia (international.gc.ca)

⁶ Sanction Measures following the launch of military actions by Russia in Ukraine (Statement by Foreign Minister HAYASHI Yoshimasa) | Ministry of Foreign Affairs of Japan (mofa.go.jp)

⁷ Further sanctions on Russia | Australian Minister for Foreign Affairs Minister for Women (foreignminister.gov.au)

⁸ New Zealand passes historic Russia Sanctions Act | Beehive.govt.nz

⁹ Switzerland adopts EU sanctions against Russia (admin.ch)

¹⁰ Putin approves criminal liability for fakes about Russian Armed Forces - Society & Culture - TASS

¹¹ War in Ukraine: BBC suspends its journalists' work in Russia - BBC News

¹² See e.g. German ARD and ZDF, US CNN, American Broadcasting Company (ABC), US Bloomberg: [Bloomberg to Temporarily Halt Work of Its Journalists in Russia - Bloomberg](#), [German ARD and ZDF channels suspend broadcasting from studios in Russia - Society & Culture - TASS](#); the BBC suspended its operations temporarily but has since recommenced broadcasting. ARD and ZDF have since recommenced broadcasting but their coverage is limited to “the political, economic and social situation in Russia”, and the military situation in the Ukraine is only being covered by their journalists in other locations. [On its own behalf: ZDF resumes Moscow coverage - ZDFheute](#); [ARD and ZDF report again from their studios in Moscow | Press Portal \(presseportal.de\)](#) to which ZDF linked in its announcement on Twitter: [ARD on Twitter: "ARD und ZDF nehmen in den kommenden Tagen die Berichterstattung aus ihren Studios in Moskau wieder auf. Diese war am vergangenen Wochenende vorübergehend ausgesetzt worden, um die Folgen des neuen Mediengesetzes in Russland zu prüfen. Mehr Informationen: https://t.co/WbIIndadOL6" / Twitter](#).

¹³ Ofcom has received 960 complaints about programmes on RT since 22 February 2022.

¹⁴ The RT (Europe) service was not broadcasting during this period.

8. On 2 March 2022, following the imposition of sanctions by the EU which affected the ability of third parties to provide services to ANO TV Novosti, RT ceased to broadcast on regulated platforms in the UK.

Statutory framework

9. ANO TV-Novosti (“the Licensee”) holds TLCS 000881 and TLCS 0001686 licences to provide both the RT and RT (Europe) services via satellite/cable under the Broadcasting Act 1990 (the “1990 Act”). It also holds DTPS 000072 licence to provide the service called RT on digital terrestrial television under the Broadcasting Act 1996 (the “1996 Act”).
10. Under section 3(3) of each of the 1990 Act and 1996 Act, Ofcom:
 - shall not grant a licence to any person unless satisfied that the person is a fit and proper person to hold it; and
 - shall do all that they can to secure that, if they cease to be so satisfied in the case of any person holding a licence, that person does not remain the holder of the licence.¹⁵
11. Therefore, Ofcom has an ongoing duty to remain satisfied that the Licensee is fit and proper to hold a licence to provide the licensed service. If a broadcaster is found to be not fit and proper to hold a particular licence, then Ofcom must revoke that licence.
12. Ofcom’s principal duty, set out in section 3(1) of the Communications Act 2003 (the “2003 Act”) is to further the interests of citizens in relation to communications and the interests of consumers in relevant markets.
13. By section 3(2), Ofcom is required to secure (c) the availability throughout the United Kingdom of a wide range of television and radio services which (taken as a whole) are both of high quality and calculated to appeal to a variety of tastes and interests, (d) the maintenance of a sufficient plurality of providers of different television and radio services, (e) the application, in the case of all television and radio services, of standards that provide adequate protection to members of the public from the inclusion of offensive and harmful material in such services, and (f) the application, in the case of all television and radio services, of standards that provide adequate protection to members of the public and all other persons from (i) unfair treatment in programmes included in such services.
14. By section 3(3), Ofcom must, in performing its duties under subsection (1), have regard, in all cases, to (a) the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed; and (b) any other principles appearing to OFCOM to represent the best regulatory practice.
15. By section 3(4), Ofcom must also have regard, in performing those duties, to various matters as appear to be relevant in the circumstances, including “the need to secure that the application in the case of television and radio services of standards ... is in the manner that best guarantees an appropriate level of freedom of expression” and “the opinions of consumers in relevant markets and of members of the public generally”.

¹⁵ This is reflected in Condition 28(3)(c)(Revocation) of the TLCS Licences and Condition 27 (3)(d)(Revocation) of the DTPS Licence.

16. Article 10 of the European Convention on Human Rights protects a broadcaster's and its audience's right to freedom of expression, including the freedom to "hold opinions and to receive and impart information and ideas without interference by public authority and regardless of frontiers". It does not prevent States from requiring the licensing of broadcasting. Article 10(2) allows such an interference if it is "prescribed by law" and, amongst other things, it is "necessary in a democratic society, ... for the protection of the reputation or rights of others".
17. As set out above, if a broadcaster is found to be not fit and proper to hold a particular licence, then Ofcom must revoke that licence. The broadcaster cannot broadcast again unless the reasons making it unfit have been fixed. This is a major interference with freedom of expression, as it prevents the broadcaster from broadcasting and restricts the number of voices being heard and the range of programming available to audiences. Ofcom considers that the threshold for finding a broadcaster not fit and proper to hold a broadcast licence is, therefore, high.
18. The main reason for broadcasting to be regulated is to protect audiences from harm. In judging whether someone is fit and proper to hold a broadcast licence, the central consideration is whether they can be expected to be a responsible broadcaster.¹⁶ When Ofcom is assessing whether an existing licensee remains fit and proper, a key consideration will be that person's compliance with regulatory standards and the conditions of its licence.¹⁷ We may also look at non-broadcasting related conduct where we consider that it is relevant to the likely future conduct of the broadcaster licensee and/or to public confidence in the broadcasting regime as a whole.¹⁸

Ofcom's procedures in this case

19. Ofcom's Procedures for the consideration of statutory sanctions in breaches of broadcast licences¹⁹ outlines the procedures that Ofcom will normally follow when considering the fitness and properness of broadcast licensees. These Procedures state that: "*where a person is no longer considered to be "fit and proper" to hold a licence, Ofcom will follow a...procedure in which the licensee will be given an opportunity to make representations on Ofcom's proposal to revoke the licence. Depending upon the urgency of the situation, the period for representations may be very short, possibly a matter of hours.*" (paragraph 1.30.)
20. Ofcom sent the Licensee a Notice on 8 March 2022 (the "8 March Notice"), informing it that Ofcom was minded to decide that it could no longer be satisfied that the Licensee was a "fit and proper person" for the purposes of the 1990 Act and the 1996 Act, and as a consequence of this decision Ofcom was minded to revoke the above licences. The 8 March Notice set out the reasons for the proposed decision. At the same time, we invited the Licensee to make written representations on this matter by 5.00pm on 10 March 2022, and offered it the opportunity to attend an Oral Hearing either online, or in person at Ofcom's offices in London on 11 March 2022.

¹⁶ https://www.ofcom.org.uk/_data/assets/pdf_file/0012/113043/rt-investigations.pdf

¹⁷ For example, serious, repeated or ongoing breaches of standards may suggest a lack of fitness and properness.

¹⁸ *Harris v Registrar of Approved Driving Instructors* [2010] EWCA Civ 808.

¹⁹ [Procedures_for_consideration.pdf \(ofcom.org.uk\)](#)

21. On 9 March 2022, the Licensee requested an extension of time to respond and requested that we take into consideration “*RT’s completely clean record of 4 consecutive years*”. On the same day, Ofcom extended the deadline for representations to 5.00pm on 15 March 2022 and moved the Oral Hearing to 16 March 2022. The Licensee declined to provide further representations in response to this, or to attend the Oral Hearing, stating that this deadline was “*insufficient for the preparation of a response to such a serious matter. Furthermore, we insist that it would be far more appropriate to conduct the review of our broadcast licence when RT has access to legal representation in the UK. Only then can this matter be decided fairly.*”, and “*Due to the reasons explained earlier we were put in a position where we cannot properly respond to the Ofcom’s request for comments*”²⁰.
22. The Licensee has made representations in correspondence relating to the 29 investigations currently open in relation to its coverage of the war in Ukraine, all of which we have taken into account.
23. The Licensee sent representations to Ofcom on 4, 10 and 14 March 2022, in response to the specifics of those investigations. We note that on 4 March 2022 the Licensee made a general comment as to its efforts to maintain due impartiality on the service during the current crisis: “*all people working in the RT newsroom were constantly reminded of the necessity to pay special attention to maintaining proper balance in the coverage. Director of Compliance was always on the line giving advice and guidance*”.

Expedited process

24. We consider that an expedited procedure is necessary in this case. While we recognise that the RT service is not currently broadcasting in the UK, this is a consequence of the application of sanctions by the EU, which are temporary, and of the commercial decisions of platform providers. As the Licensee does currently hold Ofcom broadcasting licences, it is possible for its services to recommence broadcasting at any time (e.g. by coming to an arrangement with a broadcasting platform specific to the UK).
25. As set out above, Ofcom is required by each of the 1990 and 1996 Acts to “do all that [we] can” to secure that, if we cease to consider that a person is fit and proper to hold a licence, that person does not remain a licence holder, which in this case would mean the licence is revoked. In this case we consider that Ofcom was required, pursuant to this duty, to carry out an expedited process in order to determine whether or not the Licensee remains fit and proper. We consider that expedition was required due to the high public interest in the case and the exceptional circumstances of the case.

ANO TV Novosti’s relationship with the Russian Federation

26. ANO TV-Novosti has told us that it is incorporated under law #7-FZ of 12 January 1996 of the Russian Federation. It does not have any shareholders, but the law provides that it has a “Founder”, an entity called the Association for the Development of International Journalism. The ten members of this entity control ANO TV Novosti.
27. In an email to Ofcom of 11 October 2021, ANO TV-Novosti stated:

²⁰ Emails from the Licensee to Ofcom, 8 March 2022

"ANO TV-Novosti receives annual subsidies from the Russian Federation's state budget every year, under a procedure established by federal law which prohibits any state interference in its editorial policy or any role of its 'founder' in the editorial process. These subsidies partly cover the ANO's expense of running the RT television channel, the rest being covered by advertising and other similar activities as is normal for a media organisation. Nothing in the arrangements for these subsidies gives the state any right of control over the editorial decisions or content of the RT channel; indeed to permit such control would be illegal."

28. As we set out in our update on ANO TV Novosti in 2018²¹, states have a unique range of activities, both domestically and internationally, that are undertaken within a legal and conventional framework that is intrinsically different from that which applies to individual and corporate licensees.
29. States whose services Ofcom has licensed vary greatly in the extent to which they accept and conduct themselves according to UK and generally accepted international values. States sometimes commit, or will have committed, acts which are contrary to these values. In our judgment, it would be inappropriate for Ofcom always to place decisive weight on such matters in determining whether state-funded broadcasters were fit and proper to hold broadcast licences, independently of their broadcasting record. If we did, many state-funded broadcasters (mostly those from states which may not share UK values) would be potentially not fit and proper. This would be a poorer outcome for UK audiences in light of our duties on plurality, diversity and freedom of expression.
30. However, the Russian Federation's current conduct in Ukraine is, in our view, exceptional. No other Ofcom broadcast licensee is financially dependent on a state whose head of state, President Putin, has been personally sanctioned by the UK²² for launching a war of aggression against a neighbouring state. The Editor in Chief of the service, Margarita Simonyan, is also personally subject to UK sanctions.²³
31. In addition, ANO TV Novosti is the state broadcaster of, and funded by, a state which has, in connection with that war of aggression, prohibited the "Public dissemination of falsehoods about the use of Russia's armed forces"²⁴, and the Russian authorities have reportedly made it clear that calling it a "war" is considered fake news.²⁵ Penalties of up to 15 years in jail are associated with breach of the law.
32. The Russian state news agency has quoted the Russian presidential spokesman Dmitry Peskov as saying "*The law was necessary in the light of an absolutely unprecedented campaign... not even a campaign, but an information war that has been unleashed against our country. In the context of this information war a proportionately harsh law was needed. And it was passed.*"²⁶ The same agency has published without challenge, that, for example, the Russian Defence Ministry asserts: "*Russian troops are not targeting Ukrainian cities, but are limited to*

²¹ https://www.ofcom.org.uk/_data/assets/pdf_file/0012/113043/rt-investigations.pdf

²² [Russia: What has changed and what do I need to do? - OFSI \(blog.gov.uk\)](#)

²³ [CONSOLIDATED LIST OF FINANCIAL SANCTIONS TARGETS IN THE UK \(windows.net\)](#), Group ID 14653. [OFSI Consolidated List Search \(hmtreasury.gov.uk\)](#)

²⁴ [Law on punishment for fakes passed amid information war on Russia — Kremlin - Society & Culture - TASS](#). TASS is a Russian news agency.

²⁵ [BBC, CNN and other global news outlets suspend reporting in Russia | BBC | The Guardian](#).

²⁶ [Law on punishment for fakes passed amid information war on Russia — Kremlin - Society & Culture - TASS](#)

*surgically striking and incapacitating Ukrainian military infrastructure. There are no threats whatsoever to the civilian population*²⁷.

33. For so long as ANO TV Novosti holds a broadcast licence there is a clear implication that Ofcom considers it to be a “fit and proper” person to hold a licence²⁸. We consider that the circumstances set out above, bring the integrity of the broadcast licensing regime in the UK as a whole into question.
34. In particular, it is difficult to see how any news provider based in Russia could cover the events in Ukraine responsibly in circumstances where a law appears to prohibit with a potential criminal penalty of 15 years imprisonment, for example, the dissemination of information that civilians are being killed by Russian forces or that a war is going on. It is also difficult to see how a Russian state-funded news broadcaster could credibly avoid covering the events in Ukraine, or could expect to remain funded if it failed to convey the narrative that the Russian Federation seeks to impose on its own people and the rest of the world. We therefore are concerned that it is not possible to be satisfied that a news broadcaster based in Russia and which is currently subject to such a law, is fit and proper to hold an Ofcom licence, a condition of which requires its news to be duly accurate and duly impartial²⁹.

Due impartiality

35. Ofcom has a specific duty under section 319 of the 2003 Act to set such standards for the content of programmes in television and radio services as appears to it best calculated to secure the standards objectives set out in section 319(2). These objectives include that news included in television and radio services must be reported with due accuracy and presented with “due impartiality” and that the special impartiality requirements of section 320 of the 2003 Act are complied with (section 319(2)(c) and (d)).
36. In 2020 the Divisional Court considered the provenance and importance of the due impartiality provisions in the 2003 Act. It noted that the White Paper preceding the Act stated that “accuracy and impartiality will remain at the heart of licensed broadcast services... [and] guarantee the availability of accurate and impartial news services and political impartiality in programme making. [And such obligations]...ensure that the broadcast media provide a counter-weight to other, often partial sources of news. They therefore contribute significantly to properly informed democratic debate”. The Court found that “Ofcom has consistently found that audiences say that impartiality and accuracy in broadcast news is important to them (para 1.13 [of the Code]). Further, industry responses to a 2007 Discussion Paper

²⁷ [Unprecedented information was unleashed against Russia by West — senior MP - Russian Politics & Diplomacy - TASS](#) (4 March 2022).

²⁸ There is a possibility that ANO TV Novosti may find another technical means of using its Ofcom licences to become available to UK audiences.

²⁹ On 7 March 2022 the UN reported “Between 04:00 on 24 February 2022, when the Russian Federation’s armed attack against Ukraine started, and 24:00 on 6 March 2022 (local time), the Office of the UN High Commissioner for Human Rights (OHCHR) recorded 1,207 civilian casualties in the country: 406 killed and 801 injured.... Most of the civilian casualties recorded were caused by the use of explosive weapons with a wide impact area, including shelling from heavy artillery and multi-launch rocket systems, and missile and air strikes. OHCHR believes that the real figures are considerably higher, especially in Government- controlled territory and especially in recent days, as the receipt of information from some locations where intense hostilities have been going on has been delayed and many reports are still pending corroboration. This concerns, for example, the town of Volnovakha where there are allegations of hundreds of civilian casualties. These figures are being further corroborated and are not included in the above statistics.” [OHCHR | Ukraine civilian casualty update](#)

published by Ofcom were overwhelmingly in favour of retaining the due impartiality requirements, for the reason, amongst others, that they secure the credibility of broadcast media in the United Kingdom".³⁰

37. The Court found that due impartiality regulation is a legitimate means of protecting the rights of audiences. In its judgment: "all viewers, and not just average consumers of news, are entitled to be presented with the relevant viewpoints". It noted that "The requirement of 'due impartiality' applies to the broadcast media because of its immediacy and impact" and that "this was a scheme established by Parliament to ensure a plural democracy and the rights of others to participate in the democracy on an informed basis."
38. Due impartiality in UK broadcast news is particularly important because other sources of news media, such as social media and the internet, are often partial. The broadcasting sector as a whole benefits from UK due impartiality regulation in terms of building trust, and both audiences and society as a whole benefit from the fact that broadcast news in the UK must meet Ofcom's standards of due impartiality and due accuracy.
39. Ofcom has a specific duty under section 319 of the 2003 Act to set such standards for the content of programmes in television and radio services as appears to it best calculated to secure the standards objectives set out in section 319(2). These objectives include that news included in television and radio services must be reported with "due accuracy" and presented with "due impartiality" and that the special impartiality requirements of section 320 of the 2003 Act are complied with (section 319(2)(c) and (d)).
40. Ofcom sets due impartiality standards in the Broadcasting Code (the "Code"). It is a condition of each of ANO TV Novosti's broadcast licences that the service broadcast complies with the Code.³¹
41. Reflecting Ofcom's duties under sections 319 and 320, Section Five of the Code sets out principles "to ensure that news, in whatever form, is reported with due accuracy and presented with due impartiality", and "to ensure that the special impartiality requirements of the [2003 Act] are complied with". The special impartiality requirements apply to broadcast content covering "matters of political and industrial controversy and matters relating to current public policy"; and "matters of major political and industrial controversy and major matters relating to current public policy".
42. The Code sets out that the statutory requirement for "due impartiality" means that the impartiality must be adequate or appropriate to the subject and nature of the programme. "Due impartiality" is a context dependent concept and the approach to preserving it may vary according to the nature of the subject, the type of programme and channel, the likely expectation of the audience as to content, and the extent to which the content and approach is signalled to the audience. In considering our approach to due impartiality, we have regard to matters such as the topic being covered – a matter of "major" political or industrial controversy, and "major" matters relating to current public policy, will engage the due impartiality rules to a greater degree than a more minor matter. We consider the conflict in Ukraine to be a matter of major political controversy triggering the application of the special

³⁰ R (on the application of Autonomous Non-Profit Organisation TV-Novosti) v Ofcom [2020] EWHC 689 (Admin) paragraphs 22 and 24.

³¹ Condition 6 of each of the DTPS licence and the TLCS licences.

impartiality requirements which require a higher standard of due impartiality; ANO TV Novosti has accepted this.³² The nature of the content is important: the requirements of due impartiality are highest for news. Other factual and current affairs programming is also likely to engage the impartiality requirements at a relatively higher level. The nature of the service on which it is broadcast is very important. Ofcom research shows that audiences expect more impartiality from news channels that are perceived to be aimed at a UK audience, like RT, than for channels with a global audience, and we regulate RT accordingly. “Due accuracy” and “material misleadingness” are also considered taking context into account.

ANO TV Novosti’s compliance history

43. Between 2012, when ANO TV Novosti acquired its first licence³³, and 2017, Ofcom recorded 15 breaches of the Code against ANO TV Novosti services.
 - Eight of the cases involved breaches of the rules on due accuracy and/or due impartiality and one was for materially misleading content.
 - Two related to advertising minutage, a type of breach under the Code on the scheduling of television advertising which Ofcom generally regards as less serious than Broadcasting Code breaches.
 - One further case related to coverage of elections. Rule 6.4 of the Code provides that “Discussion and analysis of election and referendum issues must finish when the poll opens.” ANO TV Novosti had broadcast a news item dealing with election issues, focusing on the success of UKIP, just after polling stations had opened in the UK for the 2014 European Parliamentary elections.
44. Following a number of cases in which we found breaches of due impartiality requirements, the Licensee had considerable engagement with Ofcom regarding the requirements of, and compliance with, Section Five of the Code. This took the form of several meetings between senior RT editorial and/or compliance staff and senior members of Ofcom’s Standards and Audience Protection team.³⁴ Specific guidance was also provided to the Licensee in these previous decisions as to what Ofcom considered necessary to comply with the requirements of Section Five.
45. In addition, Ofcom imposed on the Licensee a direction to broadcast a statement of Ofcom’s findings in relation to the breach Ofcom found in respect of The Truthseeker: Genocide of Eastern Ukraine, 13 and 14 July 2014.
46. Notwithstanding this, in 2018, Ofcom recorded a further 7 breaches of the Code, all relating to due impartiality. The programmes were concerned with the following issues: the poisoning of Sergei and Yulia Skripal in Salisbury on 4 March 2018 (Sputnik, 17 March and 7 April 2018); the armed conflict in Syria (Crosstalk, 13, 16 and 20 April 2018; News, 18 March 2018); and the

³² Letter from Alexey Nikolov to Ofcom dated 4 March 2022.

³³ TV Novosti has held the licences from the following dates: TLCS 881 from 4 May 2012; TLCS 1686 from 16 August 2012 and DTPS 072 from 14 January 2013. 4 May 2012 was the date upon which that licence for RT was formally transferred to TV Novosti. Prior to this the licence was held by Information TV. The first of the 15 breach findings related to content broadcast prior to the transfer (in 2011 and 2012) but was recorded against TV Novosti in our Broadcast Bulletin issued in 2015.

³⁴ News, RT, 12 July 2012; Syrian Diary, RT, 7 March 2013 and Crosstalk, RT, 11 July 2016.

Ukrainian Government's position on Nazism and its treatment of Roma Gypsies (News, 26 April 2018). Noting that these occurred after Ofcom had made a number of previous breach findings against the Licensee and had engaged with it substantively to help it understand its obligations under the due impartiality rules, Ofcom regarded these as a serious and repeated failure of compliance and imposed a financial sanction of £200,000.³⁵

47. In light of all the above, we consider that ANO TV Novosti should be particularly well-informed about how to preserve due impartiality on its service, and well aware of the importance we attach to the relevant rules of the Code.

Ofcom's duty to be satisfied

48. Ofcom has not found any breaches of the Code by ANO TV Novosti since the 7 breaches recorded in 2018 noted above. We recognise that since those cases, and at least until the outbreak of the war in Ukraine, we have not had reason to investigate any of its programming, and have not found it in breach of the Code – a period of almost four years.
49. However, RT is a news and current affairs service. We consider that ANO TV Novosti's position as a state broadcaster, financed by a state which has recently invaded a sovereign state and effectively criminalised independent journalism, and in a context where a journalist can be imprisoned for up to 15 years for failure to adopt the state's view of the news, means that we cannot be confident that it will be able to abide by the due impartiality rules of the Code.
50. Ofcom considers that ANO TV Novosti's compliance history to date demonstrates that it has particular difficulty in complying with the due impartiality rules of the Code where they relate to matters of Russian foreign policy, and that this difficulty is particularly acute where the matters concerned trigger the special impartiality requirements of the Code. We are concerned that, in these circumstances, to continue to consider ANO TV Novosti as a fit and proper person to hold a UK broadcast licence risks undermining public confidence in the UK broadcasting regulatory regime as a whole, and undermining audiences' trust in regulated broadcast news.
51. Nothing in ANO TV Novosti's conduct since Russia's invasion of Ukraine allays our concerns in this regard. On 28 February 2022, following monitoring and complaints about RT's coverage of the conflict in Ukraine, Ofcom opened 15 investigations into the due impartiality of news programmes broadcast on the RT news channel the previous day. On 2 March 2022, a further 12 investigations were opened into programmes broadcast on 1 March 2022, and on 8 March 2022 a further 2 investigations were opened.³⁶ This means there are currently 29 investigations open into programmes broadcast on RT between 27 February 2022 and 2 March 2022, all relating to the conflict in Ukraine. Ofcom has not concluded on any of these investigations, but the volume and potentially serious nature of the concerns raised within such a short period is deeply concerning.

³⁵ https://www.ofcom.org.uk/_data/assets/pdf_file/0027/158571/sanction-decision-rt.pdf. These decisions were upheld by the Court of Appeal in *R (on the application of Autonomous Non-Profit Organisation TV-Novosti) v Ofcom* [2021] EWCA Civ 1534. ANO TV Novosti has asked the Supreme Court for permission to appeal and we are awaiting the Supreme Court's decision.

³⁶ Not every concern raised by complaints or from internal monitoring leads to an investigation. Once a concern has been raised, Ofcom goes through an internal process of considering whether or not it warrants an investigation.

52. Freedom of expression is a fundamental human right and freedom. It constitutes one of the essential foundations of a democratic society and is one of the basic conditions for its progress and for the development of every person.
53. Ofcom recognises the importance, in our democratic society, of the broadcaster's right to freedom of expression and the audience's right to receive information and ideas without undue interference. We acknowledge that the right to freedom of expression encompasses the right of broadcasters to make programmes providing audiences with the Russian viewpoint on news and current affairs, including programmes which feature viewpoints that are supportive of certain nation-states, or which are critical of the policies of particular governments, including Ukraine. We recognise that this may include programmes challenging accusations made against Russia.
54. Any limitation on the right to freedom of expression, particularly political freedom of expression, must be strictly considered. Any limitation must be prescribed by law, pursue a legitimate aim and be necessary in a democratic society. In order to establish that a limitation is "necessary", relevant and sufficient reasons must be provided to justify the restriction, the restriction must correspond to a pressing social need, and it must be proportionate to the legitimate aim pursued.
55. We have considered the pressures to which all media providers in Russia are currently subject by the Russian state and ANO TV Novosti's particular relationship with the Russian Federation. That state is engaged in a war to which the United Nations has overwhelmingly voted to demand an end. In the circumstances, Ofcom considers that overall, it is not possible to be satisfied, on the facts today, that ANO TV Novosti can be a responsible broadcaster. Therefore, Ofcom cannot be satisfied that the Licensee remains a fit and proper person for the purposes of each of s3(3) of the 1990 Act and 1996 Act and we have decided to revoke the above licences.
56. While we note that this constitutes a significant interference with the Licensee's Article 10 rights, we consider that this meets the requirements of Article 10(2) as being prescribed by law, in the pursuit of a legitimate aim and necessary in a democratic society.
57. The 2003 Act and the Code as set out above are the applicable law for the purposes of Article 10(2). All Ofcom's licensees must comply with the 2003 Act and the Code, and are aware of these obligations. The legitimate aim pursued by the Act and the Code is to protect audiences from harmful partial broadcast news by ensuring the availability of accurate and impartial news services, and that a range of viewpoints are received by viewers who may then participate on an informed basis in the democratic processes. As noted in the White Paper and by the Court, the requirements of due impartiality seek to 'ensure that the broadcast media provide a counter-weight to other, often partial sources of news. They therefore contribute significantly to properly informed democratic debate'.
58. In considering the proportionality of our decision, we note that the impact on ANO TV Novosti's freedom of expression is somewhat mitigated by the fact that it is not, in any event, currently broadcasting on any regulated broadcast platforms in the UK³⁷. Ofcom's duty to

³⁷ At the time of writing the live streams of most RT channels appeared only intermittently available online, although the documentary stream remains live. It may also be available on some social media platforms.

uphold standards protecting audiences from harm is central to our role as a broadcast regulator, and we consider our duty to be satisfied on an ongoing basis that broadcast licensees are fit and proper to hold licences is important in ensuring confidence in the broadcasting regime. Ofcom is not relieved of this duty merely because the broadcaster concerned is not broadcasting.

59. We consider that in the current circumstances, where we have immediate and significant repeated concerns about large quantities of material recently broadcast about the actions of its state funder in Ukraine, the Licensee's compliance history, and the fact it appears impossible for the Licensee to comply with the Code in respect of a matter of major political importance given the constraints imposed on it by Russian law, and despite clear guidance from Ofcom, this interference is proportionate and necessary in our democratic society in pursuance of a legitimate aim, ie to protect audiences from harmful partial broadcast news services in the UK and in order to maintain audiences' trust and public confidence in the UK broadcast licensing regime as a whole.

NOW THEREFORE OFCOM HEREBY REVOKES, WITH IMMEDIATE EFFECT, THE FOLLOWING LICENCES HELD BY ANO TV-NOVOSTI:

TLCS 000881

TLCS 001686

AND

DTPS 000072

DATE: 18 March 2022