

Not In Breach

***An Inconvenient Truth*, Channel 4, 4 April 2009 21:20 (6 April 2009 on S4C)**

Introduction

An Inconvenient Truth is a factual documentary film in which the American politician and climate change campaigner Al Gore discusses the subject of global warming. It takes the form of a lecture delivered by Mr Gore, interspersed with information about the effects of climate change, in which he makes a case that urgent action to prevent global warming is needed. It was produced as a feature film for worldwide cinema distribution.

It was broadcast on Channel 4 on 4 April 2009, and on S4C on 6 April 2009. The Channel 4 broadcast was immediately preceded by the ecological disaster film, *The Day After Tomorrow*. When the credits to *An Inconvenient Truth* finished, Channel 4 broadcast an end-card which stated:

"In October 2007 a High Court Judge, Mr Justice Burton, referred to nine alleged 'errors' in An Inconvenient Truth but ruled that the film could be distributed to schools if accompanied by Guidance which would allow a balanced presentation of views.

*"For more detail, please go to:
www.channel4.com/inconvenient".*

Broadcasters must comply with standards set by Ofcom to: provide adequate protection for members of the public from the inclusion of offensive and harmful material¹; and, to ensure that broadcasters preserve "due impartiality" on matters of political or industrial controversy or matters relating to current public policy.

Complaint

Ofcom received one complaint about the programme. In summary, the complainant believed that this programme, was in breach of Sections Two and Five of Ofcom's Broadcasting Code (the "Code") because it contained inaccurate and misleading content and, being, in the complainant's view, a partisan treatment of a major matter relating to public policy, it did not meet the Code's requirements for due impartiality. In arguing that the programme was partisan and contained inaccuracies the complainant relied on a High Court judgment in *Dimmock v Secretary of State for Education and Skills*² ("*Dimmock*") in which Mr Justice Burton said that *An Inconvenient Truth* contained nine errors (which were "significant planks" to the film's "argumentation"); promoted partisan views, and should be shown in schools as a teaching aid only with suitable guidance notes, in order to comply with the requirements of the Education Act 1996. Mr Justice Dimmock considered whether the film was compliant with sections 406 and 407 of the Education Act 1996. The provisions of these sections are intended to prevent political indoctrination in schools and therefore forbid "*the promotion of partisan political views in the teaching of any subject in the school*" and included a duty to "*offer a balanced presentation of opposing views*" when "*political issues are brought to the attention of pupils*". The complainant noted that a card had appeared at the end of the film, but did not consider it should be seen as a mitigating factor to any potential the film had to mislead, because the card's contents were dismissive and it was unlikely to have been seen

¹ Section 319(2) of the Act requires Ofcom to set standards in a code for the content of programmes to secure certain standards objectives. One of those objectives is to ensure that generally accepted standards are applied to programmes to ensure adequate protection for members of the public from harmful or offensive material

² *Dimmock v Secretary of State for Education and Skills* (2007) EWHC 2288

by viewers due to its very late appearance. The complainant also argued that the scheduling of the film immediately after the disaster film *The Day After Tomorrow* served to heighten alarm about the issue of climate change.

Ofcom wrote to the complainant, stating, in summary, that the programme was not in breach of the Code.

This complaint was considered in accordance with the Guidelines for the handling of standards complaints and cases (March 2004). These guidelines allowed dissatisfied parties to request a maximum of three reviews of a decision (including, an opportunity to appeal directly to the Chairman of the Content Board and request that the decision be put before the Content Board or a sub-committee of the Content Board). These guidelines were replaced on 16 December 2009 by Ofcom's Procedures for the handling of broadcasting standards or other licence-related cases.

First Review Request

The complainant asked for this decision to be reviewed, and Ofcom considered that the complaint required further consideration and conducted a review of its previous decision. Ofcom wrote to the complainant to explain that, in summary, if there were inaccuracies in the programme, they were not so grave that it risked causing harm and/or offence (as required by the Code). Ofcom also explained that the subject matter dealt with in the programme did not constitute a matter of political or industrial controversy. There was therefore no requirement to take any special measures to comply with Ofcom's due impartiality rules. Ofcom therefore again concluded that there had been no breach of the Code.

Second Review Request

The complainant also challenged this decision and asked for a further review. On this second occasion, Ofcom considered that the complainant had again raised arguments requiring further consideration and wrote to Channel 4 to seek its representations.

In response, Channel 4 stated, in summary, that, if judged to be in breach of the Code, the programme could or should not be broadcast in the UK, which would clearly, have a bearing both on Channel 4's right to freedom of expression and the viewers' right to receive information and ideas.

Channel 4 added that Mr Justice Burton's judgment in *Dimmock* was relevant but not determinative of the issues Ofcom was required to decide in this particular case because the judgment related to compliance with the Education Act 1996 and not to Rule 2.2 (materially misleading) or Section Five (due impartiality) of the Code. Moreover, Channel 4 had drawn viewers' attention to the judgment with a card broadcast at the end of the programme, which summarised the result of the court case. Channel 4 also argued that the complainant did not properly reflect the determination in respect of the nine "errors" identified in the film by Mr Justice Burton, who in reality said that these "*might be errors or where differing views should be presented for balance*". Moreover, these were not findings of fact and the "errors" themselves had been the subject of critical examination. It was denied that viewers were misled, and their attention had in any case been drawn to the judgment.

Channel 4 argued that Section Five of the Code does not apply to the subject of anthropogenic climate change. Mr Justice Burton had accepted in his decision that there was scientific consensus that climate change was anthropogenic and about its effects. Finally, Channel 4 commented on the scheduling of the feature film *The Day After Tomorrow* prior to *An Inconvenient Truth*, saying that it was irrelevant to Ofcom's decision: the two were

thematically similar and one was clearly a work of fiction (shown three times previously on Channel 4).

Ofcom then once again concluded that the film was not in breach of Sections Two and Five of the Code. In summary, Ofcom considered that the presence in the programme of nine “errors” did not render it materially misleading, because these errors occurred in the context of a film which was judged by Mr Justice Burton to provide a broadly correct presentation of the scientific consensus. Therefore, even if the film had in any sense misled viewers, it was not material and not to the extent that harm was caused, as the film was presented as the personal view of a leading and concerned US politician and long-time climate change campaigner; it was a feature film with an American focus; there was no evidence that the “errors” undermined in any material way the scientific evidence for man’s activities being a major cause of global warming or that the effect of their inclusion was to cause harm; and the end card reduced further still the possibility of viewers being materially misled. Additionally, Mr Justice Burton’s decision had been made in the context of the Education Act, and was therefore not determinative of Ofcom’s decision. Ofcom reiterated its view that the film did not attract the requirements of due impartiality, because it did not deal with matters of political or industrial controversy, nor those relating to current public policy. Ofcom concluded that the scheduling of *The Day After Tomorrow* was not relevant to Ofcom’s consideration as it did not make *An Inconvenient Truth* more or less potentially misleading, nor was it relevant to the decision as to whether the programme contained material requiring due impartiality within the ambit of the Code.

Final review request

The complainant challenged Ofcom’s decision for a third time, as permitted under the guidelines in place at the time the original complaint was made, on the grounds that he had not been able to see Channel 4’s full response to his second review request; that Ofcom had not given due consideration to *Dimmock* and had only considered it to be “relevant” rather than “material” to its determination; that Ofcom was wrong in saying that the errors as identified in the judgment were not material or harmful so as to put the programme in breach of Rule 2.2, and that the scheduling of the disaster film prior to *An Inconvenient Truth* did not contribute to potential harm; that Ofcom did not consider Rule 5.7³; that the complainant had never stipulated which rules in Section Five were applicable to his complaint; that for the purposes of rules 5.5, 5.11 and 5.12 Ofcom had not considered whether climate change was a (major) matter of current public policy; that Ofcom had not considered whether the film was impartial; that freedom of expression rights were not relevant; and that Ofcom had wrongly used the *Great Global Warming Swindle* as a precedent for its decision.

In accordance with the guidelines, the Chairman of Ofcom’s Content Board considered this third request for review. He granted this request on the ground that there may have been a procedural flaw in Ofcom’s previous decision (that the complainant did not have the opportunity to see Channel 4’s full response to his second review request) and referred the case in its entirety to the Broadcasting Review Committee (“the Committee”)⁴.

The Chairman of the Content Board gave the complainant the opportunity to see and comment on Channel 4’s representations, and then gave Channel 4 a final opportunity to

³ Rule 5.7 states: “Views and facts must not be misrepresented. Views must also be presented with due weight over appropriate timeframes”.

⁴The Broadcasting Review Committee is a sub-committee of the Ofcom Board consisting of members of the Ofcom Content Board. It reviews the decisions of the Ofcom Executive in fairness and privacy investigations, broadcasting standards investigations and other licence-related cases where either the complainant or the licensee is able to demonstrate that the decision is materially flawed.

comment on the complainant's representations to cure any procedural flaw that might have taken place.

Both parties took up the opportunity to comment. In summary, the complainant added to his third review request by arguing that Channel 4 dismissed the findings in *Dimmock* that the film was "political and campaigning", partisan and alarmist without explaining why those findings were flawed; it did not address the findings in the judgment that the film contained significant errors; and presented no argument as to why the subject of the film could not be said to relate to current public policy. In particular, the complainant argued that it was unreasonable to state that global warming was not a matter relating to current public policy, as there was clearly current public policy that related to global warming. The complainant also argued that, by finding the film in breach of the Code, Ofcom would not impinge upon Channel 4's or viewers' right to freedom of expression because the film could still be shown provided other content was included in Channel 4's schedule to balance its message.

Channel 4's response added to its original comments, arguing in summary that it was neither necessary nor possible to meet the due impartiality requirements of Section Five (including Rule 5.5) of the Code by including the broadcast of the film in a series of programmes: the film was an acquired documentary feature and Channel 4 could not have included it in a series, nor did it have any influence on its editorial content. Channel 4 also added that the "errors" identified by the Judge in *Dimmock* did not relate to an analysis of the scientific questions, and the Judge was not making findings of fact or necessarily saying that there were errors in the film, merely analysing how alleged errors would affect the film's compliance with the Education Act 1996.

Channel 4 also stated its belief that anthropogenic climate change was not in itself a public policy, although it might impact on policy.

In respect of the scheduling of the film immediately before the disaster film *The Day After Tomorrow*, it would have been clear to viewers that *An Inconvenient Truth* was a documentary feature film and *The Day After Tomorrow* a fictional film, as would the difference between the two.

Decision

The first decision for the Committee was whether or not the Complainant in this case had demonstrated that there were sufficient grounds to review the decision of the Executive of 28 January 2010. The Committee believed that he had and went on to reconsider the case, having regard to all of the submissions made by the parties throughout the process and with specific regard to each of the grounds for review laid out by the complainant in the final review request (see above).

General

Ofcom has a duty to ensure that generally accepted standards are applied to the content of radio and television services so as to provide adequate protection from the inclusion of harmful or offensive material. When applying these standards, Ofcom must do so in manner that best guarantees an appropriate level of freedom of expression (section 3(4)(g) of the Communications Act 2003 ("the 2003 Act")). This encompasses the broadcasters' right to transmit and the audience's right to receive creative material, information and ideas without interference but subject to restrictions proscribed by law and necessary in a democratic society. This right is enshrined in the European Convention on Human Rights.

Furthermore, viewers expect to be adequately informed about matters in the public interest, including minority views and opinions. Protection is provided to viewers by the requirement

for broadcasters to preserve “due impartiality” on matters relating to political or industrial controversy or matters relating to current public policy.

Section Two and Factual Accuracy

The Committee first considered whether the programme was in breach of Rule 2.2 of the Code.

Rule 2.2 states that:

“Factual programmes or items or portrayals of factual matters must not materially mislead the audience”.

The accompanying Ofcom guidance to the Code explains that *“Ofcom is required to guard against harmful or offensive material, and it is possible that actual or potential harm and/or offence may be the result of misleading material in relation to the representation of factual issues. This rule is therefore designed to deal with content which **materially misleads the audience so as to cause harm or offence.**”* (Emphasis in original).

Ofcom must therefore regulate misleading material only where that material is likely to cause harm or offence. As a consequence, the requirement that content must not materially mislead the audience is necessarily a high test. Whilst Ofcom is required by the 2003 Act to set standards to ensure that *news* programmes are reported with “due accuracy” there is no such requirement for other types of programming, including factual programmes of this type.

In dealing with this issue Ofcom had to ascertain – not whether the programme was accurate - but whether it was likely to have materially misled the audience in a way that was likely to have caused harm.

In reaching its decision on whether the film breached Rule 2.2 of the Code, the Committee first considered whether the programme contained factual inaccuracies that were capable of materially misleading the audience. The Committee noted that the complainant’s view that the programme contained material factual inaccuracies was based, by his own admission, on the judgment of Mr Justice Burton in *Dimmock*.

It was not the Committee’s role to agree or disagree with the findings of the Court. On its face the judgment of the Court appeared to suggest that there were specific elements of the programme that were not accurate. The Committee, therefore, considered that it was reasonable, in reaching a decision as to whether or not the film had the potential to mislead to have regard to the fact that a judge in the High Court had identified what he called errors in the film, which diverged from the IPCC⁵’s Fourth Assessment Report (deemed the “consensus” on climate change).

However, the Committee was mindful that these errors had been identified by Mr Justice Burton in the context of the use of the film as an educational aid and its compliance with sections 406 and 407 of the Education Act 1996. Indeed, Mr Justice Burton introduced his discussion of the “errors” in *An Inconvenient Truth* by pointing out that *“the hearing before me did not relate to an analysis of the scientific questions, but to an assessment of whether the ‘errors’ in question, set out in the context of a political film, informed the argument on*

⁵ The Intergovernmental Panel on Climate Change is the leading body for the assessment of climate change, established by the **United Nations Environment Programme** and the **World Meteorological Organization** to provide the world with a clear scientific view on the current state of climate change and its potential environmental and socio-economic consequences.

ss406 and ss407.” In particular, the Committee noted that the provisions of these sections were intended to prevent political indoctrination in schools and therefore forbade “*the promotion of partisan political views in the teaching of any subject in the school*” and included a duty to “*offer a balanced presentation of opposing views*” when “*political issues are brought to the attention of pupils*”. Furthermore, the judgment accepted that “*Al Gore’s presentation of the causes and likely effects of climate change in the film was broadly accurate*”.

In the Committee’s view this was a very different context to the film’s compliance with the Code and any potential harm it might have caused television viewers (the majority of which would have been adults). Moreover, the Committee noted that Ofcom was not bound by the conclusions of the High Court because its role was to apply the Code and not, as was the case in *Dimmock*, the Education Act 1996. In particular, the Committee was mindful of the fact that Ofcom is required to apply “generally accepted standards” (including those set out in Rule 2.2 of the Code) in the light of the right to freedom of expression – which the Court in *Dimmock* was not required to do.

Finally, the Committee noted that Mr Justice Burton appeared satisfied for the film to be distributed to schools with a guidance note, thus suggesting that he did not consider the work to be so significantly misleading or partisan that it could not be seen at all in schools. The Committee therefore concluded that the findings of the Court were not in and of themselves demonstrative that the programme was materially misleading so as to cause harm to viewers.

In the Committee’s view the programme was therefore unlikely to have materially altered viewers’ understanding of Anthropogenic Global Warming in a way that would have adversely affected them or society.

Although it did not believe it was a necessary step to ensure compliance with the Code (as it did not believe that the programme was likely to materially mislead), the Committee also considered that Channel 4 had taken care to limit any potential for the film to mislead viewers by broadcasting the end-card explaining that the High Court judgement had highlighted errors in the film. This card appeared after the credits and remained on screen for about 30 seconds; it also pointed viewers to a website where they could read the judgment in full.

The Committee therefore considered that Channel 4 had taken reasonable steps in broadcasting the card after the end of the film to ensure that viewers were adequately informed about the High Court judgement and that the content of that card and its placement were editorial matters for Channel 4, as was its decision to refer viewers to a website rather than conveying the findings of the High Court in detail.

In the circumstances, the Committee concluded that the film (notwithstanding the Court’s findings) presented an argument that was consistent with the current orthodoxy and was unlikely to have materially misled viewers in a way that would result in harm. It was not, therefore, in breach of Rule 2.2.

Section Five and Due Impartiality

The Committee then considered whether the programme was in breach of Section Five of the Code.

Rule 5.1 of the Code states:

“News, in whatever form, must be reported with due accuracy and presented with due impartiality.”

Rule 5.5 of the Code states:

“Due impartiality on matters of political or industrial controversy and matters relating to current public policy must be preserved on the part of any person providing a service (listed above). This may be achieved within a programme or over a series of programmes taken as a whole.”

The Code states that:

“Matters of political or industrial controversy are political or industrial issues on which politicians, industry and/or the media are in debate. Matters relating to current public policy need not be the subject of debate but relate to a policy under discussion or already decided by a local, regional or national government or by bodies mandated by those public bodies to make policy on their behalf, for example non-governmental organisations, relevant European institutions, etc.”

In relation to matters of major political or industrial and major matters relating to current public policy, the Code contains the following rules:

Rule 5.11 states:

“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 states:

“In dealing with matters of major political and 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. View and facts must not be misrepresented.”

The Code also gives the meaning of “matters of major political or industrial controversy and major matters relating to current public policy”:

“These will vary according to events but are generally matters of political or industrial controversy or matters of current public policy which are of national, and often international, importance, or are of similar significance within a smaller broadcast area”

When interpreting due impartiality, Ofcom must take into account the broadcaster’s and viewers’ right to freedom of expression, which includes the right to hold opinions and to receive and impart information and ideas without interference by public authority.

The Committee first considered whether *An Inconvenient Truth* dealt with matters requiring the preservation of due impartiality.

It noted that *An Inconvenient Truth* was not a news programme, and that Rule 5.1 requiring the preservation of due impartiality for all news, in whatever form, did not apply to its broadcast.

The Committee then went on to establish whether or not the matters dealt with in this programme were either: matters of political or industrial controversy; or, matters relating to current public policy; or, matters of major political or industrial controversy and major matters relating to current public policy.

Matters of political or industrial controversy

It appeared to the Committee that the subject matter of the film was Anthropogenic Global Warming, but that it was also a call to action by its presenter, Al Gore. The Committee felt that it was a work that evidently centred on Anthropogenic Global Warming and the scientific basis that underpins it but at its core was the proposition of the need for Anthropogenic Global Warming to be addressed, at some point, by actions on the part of individuals, corporations and governments. The Committee noted that the film did not debate to any significant degree whether or not Anthropogenic Global Warming was or was not an established fact, but rather assumed that it had already been established and attempted to persuade viewers that prompt action was required. In this, the Committee once again had regard to *Dimmock*, which noted that the film was “*political*” and “*campaigning*”. Having reviewed the film, the Committee noted that Mr Gore described his work as travelling around the world and “*trying to identify all those things in people’s minds that serve as obstacles to them understanding this*” and to “*demolish*” those obstacles. He described himself as doing this “*city by city, person by person, family by family – and I have faith that pretty soon enough minds were changed that we cross a threshold*” (sic). It therefore seemed apparent to the Committee that the film had a clear proselytizing function as part of that very work.

However, the Committee concluded that, despite arguably being a “political film”, the subject matter could not be described as being one of “political or industrial controversy”, on the grounds that – despite being the subject of debate in the media – Anthropogenic Global Warming could reasonably be considered a subject that was already scientifically established and did not appear to be challenged by any of the established political parties or other significant domestic or international scientific institutions.

Similarly, the need to address the problem by lowering emissions also appears established and can no longer be described as a subject of controversy (as envisaged by the terms of the Code).

The Committee therefore concluded that the film’s subject was not a matter of political or industrial controversy.

Matters relating to current public policy

The Committee then turned to the question of whether the due impartiality rules might apply to the broadcast of the film because its subject matter was current public policy or because it related to current public policy.

The Committee considered that the film’s principal subject was Anthropogenic Global Warming and that this in itself was not public policy and would not therefore trigger the Code’s requirements for due impartiality for that reason.

However, the Committee noted that the film included calls to action, for example:

“That’s what I’d like to finish with. The fact that we already know everything we need to know to effectively address this problem. We’ve got to do a lot of things, not just one. If we use more efficient electricity appliances we can save this much [Mr Gore indicates a graph showing CO2 emissions] off the global warming/pollution that would otherwise

be put into the atmosphere. If we use other end-use efficiency: this much. If we have higher mileage cars: this much. And all these begin to add up – other transport efficiency, renewables technology, carbon capture and sequestration ... – they all add up and pretty soon we are below our 1970 emissions, We have everything we need – save perhaps political will”.

Mr Gore listed the efforts and successes of the human race throughout history (for example, landing on the moon, ending apartheid, eradicating polio and small pox) and stated: “so now we have to use our political processes in our democracy and then decide to act together to solve those problems.”

Mr Gore then further underlined his argument:

“We have the ability to do this. Each one of us is a cause of global warming but each of us can make choices to change that with the things we buy, the electricity we use, the cars we drive, we can make choices to bring our individual carbon emissions to zero. The solutions are in our hands, we just have to have the determination to make it happen.”

He concluded his lecture and the film by saying: “I believe this is a moral issue. It is your time to seize this issue. It is our time to rise up again and secure our future.”

The film ended with a montage of actions that followed the words: “The climate crisis can be solved. Here’s how to start:

“You can reduce your carbon emissions to zero buy energy efficient appliances and lightbulbs; change your thermostat; weatherise your house; increase insulation; get an energy audit; recycle; if you can buy a hybrid car; walk or ride a bicycle; when you can use light rail + mass transit; tell your parents not to ruin the world that you will live in; if you are a parent join with your children to save the world they will live in; switch to renewable sources of energy; call your power company to see if they offer green energy; if they don’t ask them why not; vote for leaders who pledge to solve this crisis; write to congress; if they don’t listen run for congress; plant trees; lots of trees; speak up in your community; call radio shows and write newspapers; insist that America freeze CO2 emissions and join international efforts to stop global warming; reduce our dependence on foreign oil, help farmers grow alcohol fuels; raise fuel economy standards: require lower emissions from automobiles; ... pray that people will find the strength to change ;... encourage everyone you know to see this movie; learn as much as you can about the climate crisis; then put your knowledge into action.”

In the Committee’s view, the “solutions” outlined by Mr Gore were essentially ones requiring individual action. For example, advocating that individuals were more thoughtful about the source of the electricity they used in their homes appeared to the Committee to fall outside what could be described as “public policy”. The Committee acknowledged that not all of the advocated action points would have been achievable on an individual basis (for example, “require lower emissions from automobiles,” or “raise fuel economy standards”) but, in the context of Mr Gore’s earlier encouragement for everyone to “use our political processes in our democracy and then decide to act together to solve those problems”, it seemed to the Committee that the film was also intended to encourage individual action as a means of eventually changing public attitudes, behaviours and opinions among the residents, organisations and institutions of the US in the first instance and in democratic countries across the world in the longer term. In that sense, one of the underlying tenets of the film appeared to be, as Mr Gore was arguing, that public attitudes needed to evolve significantly to address the problems created by Anthropogenic Global Warming.

In the Committee's view parts of the film addressed not only climate change, and whether it was happening, but also – crucially – that something needed urgently to change if the problem was to be addressed. The film outlined an argument for the need for a fundamental shift in behaviour on an individual level and a corresponding shift in public attitudes on a collective level. It appeared to the Committee that the film squarely placed the responsibility for this change at the door of all consumers of energy, whether on an individual or a collective basis.

The Committee then asked itself if it was therefore possible to define these calls to action as matters relating to current public policy in such a way as to require the preservation of due impartiality. As noted above, the application of the rules on due impartiality has to take into account broadcasters' rights to freedom of expression and viewers' rights to receive information freely, and these rules have to be applied in the context of Ofcom's wider standards objectives.

It seemed to the Committee that public policy may be formed on almost any conceivable subject and that therefore the test of whether a programme's subject matter was one that "related to current public policy" had necessarily to be a high one in order for Ofcom to be able to regulate in such a way that protects freedom of expression. The Committee felt strongly that a very wide application of Section Five to cover not only discussions of a specific policy but also all issues that might in some way have a relationship to public policy (i.e. effectively any subject on which a factual documentary programme could be made) would have a chilling effect on broadcaster's ability to explore important subject matter. Therefore, in order for a programme's subject matter to fall into this category the Committee considered that it would normally need to relate to specific public policies.

In the Committee's view, *An Inconvenient Truth* did not contain any such discussion. The Committee found that the film was not focused on specific public policies that Mr Gore considered were essential to tackle climate change, but rather on persuading viewers to take individual action and alter their own behaviour so that society as a whole could come to the understanding that *something* needed to be done.

The Committee concluded that the subject matter of the film *An Inconvenient Truth* - namely, that Anthropogenic Global Warming is taking place and that public attitudes needed to be changed in order for preventative action to be possible – was not a matter relating to current public policy.

Matters of major political or industrial controversy and major matters relating to current public policy

Having reached this view, it was not necessary for the Committee to consider whether or not the subject matter of this programme related to **major** matters of public policy. Because it had already concluded that the programme's subject was not a matter of political or industrial controversy, it did not breach Rules 5.11 and 5.12.

Finally, the Committee considered that, even if it could be argued that some of the calls to action mentioned at the end of the film could be described as "relating to public policy" (for example, "*require lower emissions from automobiles*"), there were several other factors to take into account in reaching a decision on whether these had been presented with due impartiality.

The Committee considered that the preservation of due impartiality does not require a broadcaster to include every argument on a particular subject or to provide, in each case, a directly opposing argument to the one presented in the programme. For instance, it would not always be necessary or even desirable to have to present an opposing view which is at

odds with the established view of the majority or inconsistent with established fact in order to preserve due impartiality. Further, whether or not due impartiality has been preserved will also be dependent on a range of other factors such as the nature of the programme; the programme's presentation of its argument; the transparency of its agenda; the audience it is aimed at and what the audience's expectations are.

In this case, the existence of anthropogenic global warming and proposed measures to limit or reduce it (for example, by reducing vehicle emissions) is consistent with the current orthodoxy. As noted above there is scientific consensus on this point. In the Committee's view, the preservation of due impartiality did not require the programme to put the opposing argument.

Additionally, the programme's perspective had been clearly established (and would have been understood by viewers) by the time these measures were advocated.

Finally, it seemed to the Committee that the calls to action in the final section of the film were addressed specifically to citizens of the United States while, in this instance, the film was not broadcast to a US audience.

Taking all of these factors into account, it appeared to the Committee that even if the final section of the film were judged to have dealt with matters relating to public policy, due impartiality was preserved.

In conclusion, the Committee found that the programme was not in breach of Section Five of the Code.

Not in breach of Rule 2.2

Not in breach of rules 5.1, 5.5, 5.11 and 5.12