

The British Council's
Independent Complaint Review Service
provided by Verita

A stage-three review into a complaint made by an education agency

Executive summary

A report for the British Council

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1. Executive summary

1.1 This complaint was made by a private education marketing agency specialising in providing services to UK education institutions. The complainant, the managing director of the education agency, has raised concerns about the way in which the British Council interacts with private sector organisations such as his agency. Verita has investigated these concerns and this report sets out our conclusions with regards to them.

Education Event - Baku

1.2 The education agency started running UK-focussed events to promote universities in 2010/11. When considering whether to run further events in the region the complainant contacted the British Council to ask them if they had any plans to run UK university exhibitions. In May 2012, the British Council's director education Wider Europe told the complainant that the British Council had "*no plans*" to hold education exhibitions "*at the moment*". The education agency subsequently organised an event in Baku in November 2012.

1.3 We were told by a number of interviewees within the British Council that 2012 - 2013 was a period when there were widespread concerns about the impact of UK public finances on the future of the organisation. The British Council's grant from the government was being reduced, and staff were worried that this could have a detrimental impact on them - if they were not able to generate sufficient income locally, their employment may be under threat. This period also coincided with the introduction by the British Council of the Services for International Education Marketing (SIEM) programme, which began in April 2012.

1.4 The British Council in Azerbaijan began to consider joining SIEM and, therefore, holding public events in Baku, in August or September 2012. The issue was under consideration in November 2012 when the education agency's event was held. The decision to go ahead with the 'British Council Baku Fair' was taken in December 2012.

1.5 When the director education Wider Europe told the complainant in May 2012 that the British Council had no plans to hold public facing events in Turkey or Azerbaijan, that

was accurate. The change of approach was in part driven by requests from education providers and by the launching of the SIEM scheme.

1.6 British Council staff in Baku told us that when they took the decision to join SIEM and undertake public exhibitions they did not specifically consider the implications for the education agency as it was only one of many providers of education exhibitions in Azerbaijan.

Attendance of British Council at the education agency's event

1.7 The complainant told us that, after his event in November 2012, he spoke to a number of representatives from attending universities who told him that they had been approached by a member of British Council staff who 'sounded out' their interest in attending a future event in Baku run by the British Council. This account is supported by other evidence that we have seen.

1.8 British Council staff in Baku confirmed that they attended the education agency's event. However, they said that the person who attended was from the exams department, and therefore had no involvement in deciding whether to hold future British Council education exhibitions or fairs.

1.9 The accounts about what happened at the education agency's event conflict. However, it is clear that in November 2012, the British Council was considering holding its own event in Baku. The assertion that such questions could not have been asked as a British Council event was not then in contemplation is not supportable.

1.10 It was wrong for the British Council to use an invite to an event run by a commercial supplier to help plan an event of their own.

Evaluation of events in Baku

1.11 Irrespective of what precisely was said at which meeting, the British Council knew that the education agency ran events in Baku. We accept that the director education Wider Europe was not giving a commitment that the British Council would never hold such

events and we do not believe that it would have been appropriate to do so if she had. Nevertheless, this statement created an entirely understandable expectation on behalf of the education agency.

1.12 It should have been obvious to the British Council that holding their own events would have a significant impact on the education agency. In these circumstances, it would have been good practice to at least inform the education agency of the British Council's plans before they were finalised. The option of working with the education agency in some way should also have been considered.

1.13 At the time of the education agency's event in Baku, British Council offices were encouraged to behave 'commercially' and maximise revenue. Since then, it has been recognised that this emphasis was not appropriate and the guidance given to local offices has changed to stress that all actions should be compatible with the British Council's charitable objectives. The interviews that we have carried out with British Council staff suggest that, if similar events occurred today, the local office would take a more collaborative approach.

1.14 There is clearly nothing wrong with the Azerbaijan office (or any other British Council office) joining the SIEM programme or in holding events to promote British education, particularly as the format and aims were not identical to the education agency's events. Had there been a dialogue with the education agency, the British Council may well have concluded that it would be appropriate to run their own event anyway. Issues for the British Council to consider could have included the impact the event would have on the private provider, how different the British Council's offer would have been and whether there would have been any difference in quality if the British Council were to run its own event.

1.15 Due to its reach and reputation, an event organised by the British Council would inevitably have a different profile to one run by a smaller private company. The event that the British Council ran in Baku in November 2013 was different to that organised by the education agency in that it was bigger, more widely advertised and aimed at a broader market. The British Council was, therefore, within its rights to hold its own event. In our view, a British Council event and the education agency event are by no means mutually exclusive - indeed, smaller organisations such as the education agency could benefit from a presence at a British Council-run exhibition. The complainant has continued to run

events in Baku twice yearly, so demonstrably believes that there is ongoing demand for his smaller, more focussed services.

1.16 Although British Council staff did not treat the complainant as he could have expected in 2012/13 when the event in Azerbaijan was under consideration, we believe that the decision to hold the British Council Baku fair in November 2013 was likely to have been taken even if communication with the complainant had been more effective. This was simply a ‘standard’ event for SIEM member countries.

1.17 Considering all the circumstances set out above, we believe that an apology from the British Council is the appropriate and proportionate remedy to offer the complainant.

1.18 Although we believe that the complainant has cause to be unhappy with events in the region in 2012, we also believe the response of the education agency toward the British Council (as evidenced by their website) to be unhelpful. A genuinely ‘commercial competitor’ would be very unlikely to accept the unauthorised use of their logo in the context of critical comment without challenge in the way that the British Council has.

Systematic issues relating to British Council competition

1.19 The complainant has raised a number of issues relating to the British Council having an unfair competitive advantage over private providers.

1.20 The British Council’s history and status puts it in a unique position. Without legislative or structural changes (which are outside the scope of this investigation), this position will remain. This gives the British Council a competitive advantage over firms that do not have direct access to embassies and consular staff and close contacts with the various arms of government. While the British Council’s advantages are inherent, the key issue is whether they are used unfairly.

1.21 There are a number of approaches that the British Council could take when interacting with firms operating in similar market areas - essentially, compete, partner, or exit the market. The British Council’s decision on how to operate is not an ‘either/or’ one. The market for British education is large and there will often be scope to partner with British firms or work along-side them (perhaps taking a slightly different approach or

providing a slightly different service to another provider). The appropriate way to test whether the British Council is acting ‘correctly’ is, ultimately, to measure outcomes.

1.22 The goal of this investigation is not to question the existence of the British Council or its advantageous position, but rather to determine if it has adhered to the obligations imposed on it under its Royal Charter. While we have criticised the communication to a particular operator over a specific issue, we generally found a clarity and uniformity of purpose in the individuals we interviewed as part of our process. This uniformity of purpose was in line with our understanding of the role and ultimate goals of the organisation. We do not find that the British Council’s actions within the scope of this complaint to be anti-competitive.

1.23 There is recognition within the British Council that it had an overly commercial stance in the period around 2012, but that this has been effectively ‘reined-in’ and concrete steps designed to ensure proper oversight of commercial decision-making (such as the gateway process).

1.24 The British Council faces difficult choices about when to partner with private organisations and when to compete. It must also decide whether individual companies offer services of a sufficiently high standard in order to work with them. Ultimately the British Council must take a view of the national interest and what approach will deliver most to its Charter objectives. If the organisation follows a good, transparent process and is open about the evaluations that it has made, it should have the confidence to stand behind the conclusions that it has reached.