

# Ofcom Broadcast and On Demand Bulletin

Issue 395  
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## Babecall

**Type of case** Broadcast Standards

**Outcome** In Breach

**Service** Meet the Babes

**Date & time** 18 July 2019 00:30

**Category** PTV BCAP Code (Rule 4.2)

**Summary** Meet The Babes promotes adult chat services and is subject to the BCAP advertising rules. The content broadcast included physical interaction of a sexual nature between the producer and presenter. In breach of Rule 4.2 of the BCAP Code.

## Introduction

*Babecall* is interactive ‘adult chat’ advertising broadcast on the service Meet the Babes, which is available as part of a standard satellite subscription package. The content consists of presenters inviting viewers to contact them via premium rate telephony services (“PRS”). Meet the Babes is available without mandatory restricted access and is situated in the ‘adult’ section of electronic programme guides (‘EPGs’). The licence for the service is held by Escape Channel Limited (“the Licensee” or “Escape”).

Ofcom received a complaint about physical interaction between a presenter and a member of the production team.

The presenter – who was nude apart from ankle boots and red bra-style lingerie which provided no cover over her breasts – was positioned on all fours side-on to the camera and appeared to touch her genital area on several occasions during the broadcast. At 00:12:40 the presenter removed the red lingerie.

At 00:23:58 the presenter said:

*“...now then, now is the time you’ve been waiting for, Mr P time, I hope he’s ready. He’s an Alice virgin. He’ll probably never come back after*

*tonight [laughs]. He's going to walk out that door and he's never going to return. So, we're going, we're starting, we're kicking off. I'm going to pop two minutes on that timer and then it's listen in time. Me and my producer. Honestly boys I am so excited for this. He's an Alex virgin, an Alice virgin, I'm breaking him in tonight in the worst way possible. So, if you want to listen in to me and him, some boy girl fun on that phone right now, get involved boys. This doesn't happen very often, in fact it's been a hell of a long time since I've been doing this. I've been off for like a whole four weeks, so tonight's the night. I have another angle possible for you to see tonight on this camera right here. But I have to tell you about that on that phone I can't tell you about it on the mic. So, if you want to see a different angle of how naughty we are going to be getting together behind the scenes tonight then you need to get on my phone, and I'll tell you all about it. But in the meantime, get your calls in, that timer is on its way down and when it hits zero that's when my listening line is going to begin. Me, my producer getting naughty on that phone for you, don't miss out boys".*

For two minutes and 30 seconds another presenter was shown, before the camera returned to the original presenter.

At 00:27:00 the presenter said:

*"...No roaming cam, just naughty cam and I'm going to tell you all about it now on that phone. If you want to listen in to my producer and watch me and my producer getting naughty now is your opportunity to do just that. He's an Alice virgin I'm breaking him in but not in a nice way, you know how savage I am and he is ready, well he says he's ready. So, come and get involved right now, me my producer getting horny on that phone and my extra camera is showing you an even naughtier angle. He's getting involved, were getting naughty together. Dial in option 1. Let me tell you about how much I want him. Come and get involved".*

This was followed by several shots of a partially obscured man (the "producer"), positioned behind the presenter. Only the man's clothed arm and chest were visible intermittently. Over a period of eight minutes the man stroked and lightly slapped the presenter's buttocks. During this eight-minute period the presenter appeared to simulate that she was engaging in sexual acts with the producer who was positioned behind her and, briefly, in front of her, as she knelt in front of him.

Ofcom considered that this material raised potential issues under the following rule of the BCAP Code: the UK Code of Broadcast Advertising ("the BCAP Code")<sup>1</sup>.

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<sup>1</sup> 'Daytime chat' and 'adult chat' interactive premium rate telephony services are regulated as participation tv services. Participation TV is defined as "long form television advertising for direct response, remote entertainment services that typically include the possibility of interacting with the broadcast content". See paragraph (n) of the introduction to the BCAP Code. Examples of Participation TV also includes on-screen

Rule 4.2: “Advertisements must not cause serious or widespread offence against generally accepted moral, social or cultural standards”.

Ofcom requested comments from the Licensee on how the content complied with this rule.

## Response

Escape disputed Ofcom’s view that the presenter had touched her genital area and added that “[h]er genital area was at no point visible, her position being side-on to the camera”. It accepted that the positioning of the presenter’s hand could suggest that she was touching her genital area but that this “was for the viewer to infer...”. The Licensee submitted that the statement made by the presenter was “in the nature of ‘titillation’ having as its dual-purpose encouraging viewers to interact with this teleshopping programme (throughout the presenter had the microphone to her mouth) combined with a fine sense of humour (the presenter displayed a wry smile when stating her words)”. It added that the language used was “neither crude nor did it contain swear words which could give rise to offence”.

Escape acknowledged that there had been physical contact between the presenter and a member of the production crew during the broadcast but disputed that the man had stroked or slapped the presenter’s buttocks, arguing that the “use of these terms suggests a level of content strength, consistency and eroticism/sexuality that was much stronger than that which actually happened”. The Licensee added that at “all material times, the producer/cameraman/presenter worked carefully in concert to provide broadcast content that was entertaining, yet in compliance with the BCAP Code”.

The Licensee said that the material was broadcast after midnight and therefore the “scope for causing serious or widespread offence would be much reduced”. It added that the service is located in the adult section of the Sky EPG, which is obscured by default on newer Sky boxes, and therefore required the viewer to make a conscious decision to “opt-in” to view adult services. It argued that a viewer was therefore unlikely to “chance across” the Adult section of the EPG and was more likely “to actively seek it out”. Escape argued viewers “will readily note that the content strength viewable on Channel 909 is significantly milder than that being promoted free to air on other channels within the Adult section, or indeed freely available on the Internet”.

Escape Channel added that it carefully monitors published information (such as research, reports, case decisions and news articles) in order to inform and guide its content, training and procedures with the specific intention of fully complying with applicable BCAP Code rules. The Licensee cited three publications<sup>2</sup> which it used to “keep abreast of the public’s attitude and concerns towards such matters”. The Licensee added that it considered the material in question was considerably milder than content that is readily accessible via the Internet or under encryption, as required by Ofcom’s Guidance.

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quizzes, chats and message boards. See paragraphs 3.19 to 3.24 of Ofcom’s June 2010 Statement “[Participation TV: Regulatory Statement](#)”.

<sup>2</sup> These publications related to: access by children of online pornographic material; the public’s tolerance of internet pornography and a 2018 Ofcom report regarding adults’ opinions on the location of and timing restrictions on sexually explicit programmes.

The Licensee referred to an Ofcom breach Decision recorded against Escape Channel Limited in 2014. It said that, following this Decision, Escape Channel committed to and implemented new training and procedures. It informed Ofcom that all relevant members of staff (producers, presenters, support staff), regularly receive training and updates regarding compliance matters. Broadcast content is frequently monitored “live” and the Ofcom Broadcast and On Demand Bulletin reports are carefully studied. It added that any compliance related issues which might arise are, through this continuous process of monitoring, addressed promptly.

Although the Licensee did not believe the content breached Rule 4.2 of the BCAP Code, it acknowledged that the material in question “fell short of the high standards which Escape Channel sets of itself, its producers and presenters” and it had therefore provided refresher training to all members of the production and presenter team.

## Decision

Reflecting our duties under the Communications Act 2003, Rule 4.2 of the BCAP Code requires broadcasters to ensure that advertisements do not cause serious or widespread offence against generally accepted moral, social or cultural standards. The BCAP Code permits ‘adult chat’ services to be advertised within prescribed times and on unencrypted channels (i.e. without mandatory restricted access) that are specifically licensed by Ofcom for that purpose but restrict their content to exclude inappropriate material.

Ofcom’s [published guidance](#) on the advertising of PRS ‘adult chat’ services (“the Chat Service Guidance”) sets out what Ofcom considers to be acceptable to broadcast on these services post-watershed. The Guidance states that licensees should: “at no time broadcast images of any real or simulated sex acts”; “take particular care if two or more presenters appear together on-screen. If there is any contact between the presenters of an erotic or sexual nature (for example kissing, stroking or contact between thighs, breasts or genital areas) or any miming or simulation of a sexual act performed by one presenter on another, in Ofcom’s view there is a high risk of causing serious or widespread offence against generally accepted standards”; and “at no time broadcast anal, labial or genital areas or broadcast images of presenters touching their genital or anal areas either with their hand or an object”.

In this case, while the producer was not a “presenter”, in Ofcom’s view the female presenter clearly intended viewers to think that she was taking part in sexual acts with a partner. This was reinforced by the presenter’s statement before the physical interaction occurred. Further, the presenter was nude and positioned on all fours, side-on to the camera with the producer behind her. The Licensee disputed the strength of the physical contact between the presenter and producer and considered that it considered the material complied with requirements of BCAP Rule 4.2. In our view the contact was clearly intended to be sexual in nature given the other relevant factors, in particular: the presenter’s preceding statements to camera, the position of the producer behind the nude presenter and the reaction of the presenter once the producer joined her on set (i.e. thrusting and rocking) to imply interaction of a sexual nature.

We agreed with Escape that no explicit images of the presenter’s genital area were broadcast. However, she was at times positioned in such a manner that viewers would be left in no doubt that she was touching her genital area to imply masturbation. In Ofcom’s opinion, the actions of the

producer and the presenter during this broadcast created the impression that the presenter was engaging in sexual acts, which was clearly at odds with the Guidance.

Ofcom also considered whether appropriate scheduling restrictions were applied to this material. The content was broadcast well after the 21:00, and viewers generally expect that stronger material will be shown after the 21:00 watershed. Ofcom had regard to the arguments the Licensee highlighted, such as the fact that this channel is positioned in the 'adult' section of the Sky EPG and that viewers tend to expect the broadcast of stronger sexual material on channels in this section of the Sky EPG compared to channels in other sections. However, we did not consider that the location of the channel in the 'adult' section of the Sky EPG and the time of the broadcast at 00:30 were sufficient to ensure serious or widespread offence against generally accepted standards was not caused.

The Licensee also argued that the broadcast material was "considerably milder than that which is readily accessible via the internet...[or] under encryption", as required by Ofcom's Guidance. Nonetheless, as highlighted above, the broadcast material was clearly at odds with what Ofcom considers to be acceptable during 'adult chat' advertising content, as set out in the Guidance.

We acknowledged the steps taken by the Licensee once Ofcom had alerted it to the broadcast, such as the refresher training for its staff. However, taking into account all the factors above, Ofcom concluded that relevant restrictions were not applied so as to ensure that the material broadcast did not cause serious or widespread offence against generally accepted moral, social or cultural standards. Specifically, this content should not have been broadcast within the context of 'adult chat' advertising content that was freely available without mandatory restricted access. Our Decision is that this material was in breach of BCAP Code Rule 4.2.

#### **Breach of BCAP Rule 4.2**