

Sanction (111)19 City News Network (SMC) Pvt Ltd

Decision by Ofcom

Sanction: to be imposed on City News Network (SMC) Pvt Ltd

For material broadcast on Channel 44 on 4 and 11 December 2017 at 17:00¹

**Ofcom's Decision
of Sanction against:**

City News Network (SMC) Pvt Ltd (or the "Licensee") in respect of its service **Channel 44** (TLCS101252BA/1).

For:

Breaches of the Ofcom Broadcasting Code (the "Code")² in respect of:

Rule 2.3: "In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context Such material may include, but is not limited to, offensive language, violence, sex, sexual violence, humiliation, distress, violation of human dignity, discriminatory treatment or language (for example on the grounds of age, disability, gender, race, religion, beliefs and sexual orientation). Appropriate information should also be broadcast where it would assist in avoiding or minimising offence."

Rule 3.2: "Material which contains hate speech must not be included in television and radio programmes except where it is justified by the context"; and

Rule 3.3: "Material which contains abusive or derogatory treatment of individuals, groups, religions or communities, must not be included in television and radio services except where it is justified by the context".

Decision:

To impose a financial penalty (payable to HM paymaster General) of £75,000; and,

to direct the Licensee to broadcast a statement of Ofcom's findings on a date and in a form to be determined by Ofcom.

¹ See [Broadcast Bulletin 357](#) for the material broadcast on Channel 44 and found in breach of Ofcom's Broadcasting Code ("the Code").

² The version of the Code which was in force at the time of the broadcast took effect on 3 April 2017.

Executive Summary

1. Channel 44 is a cable and satellite channel that broadcasts Urdu language news and current affairs programmes. The Ofcom licence for Channel 44 is held by City News Network (SMC) Pvt Ltd. The Licensee does not currently hold any other broadcasting licences.
2. On 4 and 11 December 2017 at 17:00, the Licensee broadcast two episodes of *Point of View*, a current affairs discussion programme made in Pakistan and broadcast in the UK on Channel 44.
3. A guest who was featured in both episodes made repeated, serious and unsubstantiated allegations about members of the Ahmadiyya community. These included that Ahmadi people had committed acts of murder, terrorism and treason as well as undertaking political assassinations. The same guest also made remarks that attributed conspiratorial intent to the actions of the Pakistani authorities towards the Ahmadiyya community and stated they were being favoured in Pakistani society at the expense of orthodox Muslims.

The Breach Decision

4. In Ofcom's decision (the "Breach Decision") published on 2 July 2018 in issue 357 of the Broadcast and On Demand Bulletin³, Ofcom's Executive found that these programmes contained uncontextualised hate speech⁴ and breached Rules 2.3, 3.2 and 3.3 of the Code.
5. The Breach Decision set out specifically the broadcast material that was in breach, along with reasoning as to why the material had breached each rule.
6. Ofcom put the Licensee on notice in the Breach Decision that it considered these breaches to be serious, and that it would consider them for the imposition of a statutory sanction.

The Sanction Decision

7. In accordance with Ofcom's procedures for the consideration of statutory sanctions in breaches of broadcast licences (the "Sanctions Procedures")⁵, Ofcom considered whether the Code breaches were serious, deliberate, repeated or reckless so as to warrant the imposition of a sanction on the Licensee in this case.
8. This paper sets out Ofcom's Decision on the type and level of sanction to be imposed on the Licensee, taking into account all the relevant material in this case and Ofcom's Penalty Guidelines⁶ (the "Penalty Guidelines").
9. Ofcom's Decision is that the appropriate sanction should be a financial penalty of £75,000. Ofcom also considers that the Licensee should be directed to broadcast a statement of Ofcom's findings, on a date and in a form to be determined by Ofcom.

Legal Framework

Communications Act 2003

10. Ofcom's principal duty, set out in section 3(1) of the Communications Act 2003 (the "Act"), is to further the interests of citizens in relation to communications matters and the interests of consumers in relevant markets. In carrying out its functions, Ofcom is required to secure a

³ See: https://www.ofcom.org.uk/data/assets/pdf_file/0021/115509/Issue-357-Broadcast-On-Demand-Bulletin.pdf.

⁴ Section three of the Code defines "hate speech" as: "all forms of expression which spread, incite, promote or justify hatred based on intolerance on the grounds of disability, ethnicity, gender, gender reassignment, nationality, race, religion, or sexual orientation".

⁵ See: https://www.ofcom.org.uk/data/assets/pdf_file/0030/71967/Procedures_for_consideration.pdf. These procedures took effect on 3 April 2017.

⁶ See: https://www.ofcom.org.uk/data/assets/pdf_file/0022/106267/Penalty-Guidelines-September-2017.pdf

Sanction (111)19 City News Network (SMC) Pvt Ltd

number of matters. These include 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 (section 3(2)(e)).

11. Ofcom has a specific duty under section 319 of the 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 generally accepted standards are applied to the contents of television and radio services so as to provide adequate protection for members of the public from the inclusion in such services of offensive and harmful material (section 319(2)(f)). This requirement is reflected in Section Two and Section Three of the Code.
12. In performing these duties, Ofcom is required to have regard to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, and any other principles representing best regulatory practice (section 3(3)); and, where relevant, to have regard to a number of other considerations including the need to secure that the application in the case of television and radio services of standards relating to harm and offence is in the manner that best guarantees an appropriate level of freedom of expression (section 3(4)(g)).

Human Rights Act 1998

13. Under section 6 of the Human Rights Act 1998, Ofcom (as a public authority) has a duty to ensure that it does not act in a way which is incompatible with the European Convention on Human Rights (the "Convention"). In particular, in the context of this case, Ofcom has taken account of the related rights under Article 9 and Article 10 of the Convention.
14. Article 9 of the Convention provides for the right to freedom of thought, conscience and religion. This Article makes clear that freedom to "manifest one's religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interest of public safety, for the protection of public order, health or morals, or for the protection of rights and freedoms of others".
15. Article 10 of the Convention provides for the right to freedom of expression. Applied to broadcasting, this right encompasses the broadcaster's freedom to impart and the audience's freedom to receive information and ideas without interference by public authority and regardless of frontiers (Article 10(1)). The exercise of these freedoms may be subject only to conditions and restrictions which are "prescribed in law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health and morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary" (Article 10(2)).
16. Ofcom must exercise its duties in light of these rights and not interfere with the exercise of these freedoms in broadcast services unless it is satisfied that the restrictions it seeks to apply are required by law and necessary to achieve a legitimate aim.

Equality Act 2010

17. Under Section 149 of the Equality Act 2010, in the exercise of its functions, Ofcom must also have due regard to the need to eliminate unlawful discrimination, to advance equality of opportunity and to foster good relations between persons who share a relevant protected characteristic, such as (but not limited to) race or religion, and persons who do not share it.

Ofcom Broadcasting Code

18. Standards set by Ofcom in accordance with section 319 of the Act are set out in the Code.

Sanction (111)19 City News Network (SMC) Pvt Ltd

19. Accompanying Guidance Notes to each section of the Code are published, and from time to time updated, on the Ofcom website. The Guidance Notes are non-binding but assist broadcasters to interpret and apply the Code⁷.
20. The relevant Code rules in this case are set out in full at the beginning of this Decision.

Remedial action and penalties

21. Under section 325 of the Act, a licence for a programme service issued by Ofcom under the Broadcasting Act 1990 or 1996 must include conditions for securing that the standards set under section 319 are observed by the licensee. In the case of a television licensable content service (“TLCS”) licence, Condition 6 of the licence requires the Licensee to ensure that provisions of any Code made under section 319 are complied with. The Licensee holds a TLCS licence.
22. Where Ofcom has identified that a condition of a TLCS licence has been contravened, its powers to take action are set out in sections 236 to 239 of the Act insofar as relevant to the case.
23. Section 236 of the Act provides Ofcom with the power to direct the holder of a TLCS licence to broadcast a correction or a statement of Ofcom’s findings (or both), or not to repeat a programme which was in contravention of a licence condition.
24. Section 237 of the Act provides Ofcom with the power to impose a financial penalty on the holder of a TLCS licence. The maximum penalty which may be imposed in respect of each contravention of a licence condition is whichever is the greater of £250,000 and 5 per cent of the qualifying revenue from the licensed service for the licensee’s last complete accounting period falling within the period for which its licence has been in force.
25. Section 238 of the Act provides Ofcom with the power to revoke a TLCS licence where a licensee is in contravention of a condition of a TLCS licence or direction thereunder.

Background – The Breach Decision

26. In the Breach Decision, the Executive found that material broadcast by the Licensee on Channel 44 breached Rules 2.3, 3.2 and 3.3 of the Code. The Breach Decision set out the reasons for each of these breach findings.
27. The Breach Decision noted that both episodes of the programme *Point of View* discussed the resurfacing of a 2010 video in which Rana Sanaullah, the Provincial Law Minister in the Punjab Government, was interviewed on the Ahmadiyya community television channel MTA. Clips of the interview were included in the 4 December 2017 edition of the programme in which Mr Sanaullah made a number of remarks that appeared conciliatory towards the Ahmadiyya community.
28. During the discussions about Mr Sanaullah, a guest who featured in both episodes, Umar Riaz Abbasi⁸, made a series of unfounded accusations about alleged acts committed by members of the Ahmadiyya community. These included that:
 - Ahmadi people wearing police officer uniforms had killed 14 people at Model Town⁹;

⁷ See Section Two and Section Three of the Code and Ofcom’s Guidance Notes on the Code.

⁸ A columnist, media analyst and formerly an officeholder of the Pakistan Awami Tehreek, a political party founded and led by prominent religious scholar, Muhammad Tahir-ul-Qadri.

⁹ In 2014 a violent clash occurred in the district of Model Town between the Punjab Police and activists of the Pakistan Awami Tehreek (a political party in which Umar Riaz Abbasi served at the time). It resulted in the killing of 14 activists from police gunfire.

- the policemen who “*snatched banners away*” from protestors at the Faizabad sit-in¹⁰ and verbally threatened them could “*only be*” Ahmadi people;
- an Ahmadi person assassinated Liaquat Ali Khan, the first Prime Minister of Pakistan;
- there are 600 Pakistani Ahmadi people in the Israeli army;
- Ahmadi people gave away military secrets during the Kargil war between Pakistan and India;
- Ahmadi people attacked processions celebrating the birthday of the Prophet Mohammed;
- members of the Ahmadiyya community had murdered members of Pakistani law enforcement agencies; and,
- Ahmadi people had provided reconnaissance, support, funding and logistics for the 2014 terrorist attack by gunmen affiliated with the Taliban in which 149 people (including 132 children) were killed.

29. Mr Abbasi also made remarks in both programmes that attributed conspiratorial intent to the actions of some members of the Pakistani authorities towards the Ahmadiyya community and implied that Ahmadi people were being favoured in Pakistani society at the expense of orthodox Muslims. Mr Abbasi said:

- Pakistani officials had “*inducted*” Ahmadi people “*into the police, the education department has been handed over to them, health has been handed over to them*” and called for Pakistani people to “*rise up*” against this;
- The school syllabus and the Pakistani leadership had been “*handed over*” to members of the Ahmadiyya community;
- The former Prime Minister of Pakistan, Nawaz Sharif, was a “*stooge*” of the Ahmadi people; and
- Until the Ahmadiyya community suffers “*a bad ending matters will not improve*”.

30. In relation to Rule 3.2, Ofcom first considered whether the content constituted “hate speech” as defined by the Code¹¹. The accusations made about the actions of members of the Ahmadiyya community were highly inflammatory. Ofcom is not aware of, and the Licensee did not seek to provide, any basis for them. In each case, the emphasis of these allegations was on the Ahmadi identity of the stated perpetrators. Further, members of the Ahmadiyya community were referred to on numerous occasions as “*Qadianis*” and once as “*Mirzais*”. Both these terms are potentially highly derogatory towards members of the Ahmadiyya community¹². We therefore considered that the programme was used as a platform to spread, promote and justify hatred based on intolerance of the Ahmadiyya community and the religious beliefs of its

¹⁰ The Faizabad sit-in was an organised religious protest outside of the capital city of Islamabad in November 2017. It was organised by the Islamist political party Tehreek-e-Labaik who were demanding that the Pakistani Government reverse an amendment to a rule in which electoral candidates must state on oath that they believe in the finality of the Holy Prophet, and that the Federal Justice Minister should resign. It was alleged that the amendment favoured the Ahmadiyya community.

¹¹ The Code defines “hate speech” as: “all forms of expression which spread, incite, promote or justify hatred based on intolerance on the grounds of disability, ethnicity, gender, gender reassignment, nationality, race, religion, or sexual orientation.

¹² See: <https://www.dawn.com/news/1017550>; https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/717821/CPIN-Pakistan-Ahmadis-v3.0-June_2018.pdf; and, <https://uk.reuters.com/article/uk-pakistan-election-ahmadis/pakistans-long-persecuted-ahmadi-minority-fear-becoming-election-scapegoat-idUKKBN1DG04N>

members. Given the very strong nature of the material in this case, we considered that there was insufficient context to justify the inclusion of hate speech in this broadcast and Rule 3.2 was breached.

31. In relation to Rule 3.3, we considered that the content of both programmes constituted abusive and derogatory treatment of Ahmadi people. This included frequent unsubstantiated and serious accusations about the actions of members of the Ahmadiyya community that included assisting in a terrorist incident and carrying out various acts of murder. In addition, the programmes repeatedly referred to Ahmadi people using the discriminatory and derogatory term “*Qadiani*” and, on one occasion, referred to them as “*Mirzai*”. Further, Mr Abbasi also remarked that should Mirza Masroor Ahmed, the elected leader and Caliph of the Ahmadiyya community, attempt to travel to Pakistan he would be “*ripped limb from limb*”. As with Rule 3.2, there was insufficient context to justify this abusive and derogatory treatment.
32. In relation to Rule 2.3, we considered, for the reasons highlighted above, that the programmes contained material which we identified as hate speech and as derogatory towards Ahmadi people. As such, we considered that the content had the potential to be extremely offensive. We did not consider this high level of offence was justified by the context, and therefore the content was in breach of Rule 2.3 of the Code.
33. Ofcom stated in the Breach Decision that the contraventions of Rules 2.3, 3.2 and 3.3 of the Code were serious and were therefore being considered for statutory sanction.

Ofcom’s Decision to impose a Statutory Sanction

34. As set out in paragraph 1.13 of the Sanctions Procedures, the imposition of a sanction against a broadcaster is a serious matter. Ofcom may, following due process, impose a sanction if it considers that a broadcaster has seriously, deliberately, repeatedly or recklessly breached a relevant requirement.
35. In this case, Ofcom issued a preliminary view that Ofcom was minded to impose a statutory sanction in the form of a financial penalty and to direct the Licensee to broadcast a statement of Ofcom’s findings, on a date and in a form to be determined by Ofcom. Ofcom sent a copy to the Licensee on 14 January 2019. The oral and written representations of the Licensee (“the Representations”) are summarised in paragraphs 38 to 44 below.
36. In reaching its decision on whether to impose a statutory sanction and, if so, what type and level of sanction, Ofcom took account of all the evidence and Representations made by the Licensee. In addition, we had regard to the Sanctions Procedures and Ofcom’s Penalty Guidelines in reaching our Decision.
37. This Decision therefore considers the seriousness of the breaches for two reasons: (i) to set out why Ofcom considers that the breaches are so serious as to warrant the imposition of a statutory sanction; and (ii) to determine the appropriate and proportionate sanction(s) and the level of financial penalty.

Licensee’s Representations

38. In its Representations, the Licensee expressed its “regret and sincere apologies for the failings in the compliance for these two programmes”. It described these failings as “unintentional” and said it was never its intention to “cause offence to the Ahmadi community”.
39. The Licensee said it had reviewed the precedents set out in the Preliminary View and highlighted a further precedent that it considered was of particular relevance. This was Ofcom’s

Sanction (111)19 City News Network (SMC) Pvt Ltd

findings of breaches of Rule 4.2¹³ against Takbeer TV Limited for five programmes broadcast between October 2010 and March 2011¹⁴. We discuss the relevance of this precedent in paragraph 100.

40. The Licensee set out the actions it had taken subsequent to the breaches taking place. These included: implementing a 15 second delay for live programming; increased liaison between staff; increased monitoring of live output; discontinuing the contract with the programme presenter; taking disciplinary action against a staff member; and providing company-wide compliance training.
41. The Licensee recognised that it had “hurt” the Ahmadi community. As a result, it said it had given consideration to producing a “bespoke Ahmadiyya community programme” and was in discussions with a community leader.
42. The Licensee also made representations regarding the level of financial penalty that Ofcom had proposed in the Preliminary View, which it said would result in the closure of the channel. In support of this, the Licensee provided financial information relating to the UK-based company City News Network Ltd. However, as the Licence for the service Channel 44 is held by the Pakistani-based company City News Network (SMC) Pvt Ltd Ofcom explained that it required financial information for this company.
43. In response, the Licensee said that “the licence for Channel 44 should have been transferred (in terms of control) to the London registered company but this could not be executed until [X]”. It also said that the UK-based City News Network Ltd “operates independently of City News Network (SMC) Pvt Ltd using the Pakistan base as a production facility”. The Licensee provided a Memorandum of Understanding between it and City News Network Ltd. This stated that “City News Network Limited will operate independently under the Licence of City News Network (SMC) Pvt Ltd”.
44. It is a requirement of each holder of a TLCS licence that it has editorial control of its broadcast service. Ofcom’s Guidance regarding the licensing position on the ‘provider of a service’ and the ‘sub-letting’ of capacity¹⁵ makes it clear that a broadcasting licence cannot be ‘sub-let’.

Serious nature of the breaches

45. First, and principally, we considered the breaches were serious because, as set out in paragraph 30, the programmes spread, promoted and justified hatred towards Ahmadi people. The content therefore constituted hate speech. Ofcom considers the potential harm arising from such uncontextualised hate speech to be particularly serious. These statements were also broadcast without challenge and no clarification or context was provided to help justify the prolonged hate speech that was broadcast.
46. Secondly, and having regard to our public sector equality duty, we considered that the content would have the potential to damage relations between Ahmadi people and orthodox Muslims.
47. Thirdly, we found that the hate speech was targeted at members of the Ahmadiyya community. It included unsubstantiated accusations that Ahmadi people had been responsible for incidents of mass murder and terrorism. This content was broadcast against a background of reported threats and violence against Ahmadi people in the UK and around the world¹⁶. In this context,

¹³ Section Four of the Code only applies to religious programmes. Rule 4.2 states: “The religious beliefs of those belonging to a particular religion or religious denomination must not be subject to abusive treatment”.

¹⁴ See: https://www.ofcom.org.uk/data/assets/pdf_file/0017/45161/obb184.pdf

¹⁵ https://www.ofcom.org.uk/data/assets/pdf_file/0019/8326/service-provider.pdf

¹⁶ See Footnote 12

Sanction (111)19 City News Network (SMC) Pvt Ltd

we considered these broadcasts were likely to have made Ahmadi people fearful, as well as causing them distress and humiliation.

Breaches were committed recklessly

48. Taking into account the following sequence of events, we also considered that the breaches that occurred in the programme broadcast on 11 December 2017 were committed recklessly.
- a. On 4 December 2017 at 17:00, the first episode of *Point of View* was broadcast. It included statements made by Mr Abbasi that resulted in breaches of Rules 3.2, 3.3 and 2.3.
 - b. At 20:00, the programme was repeated. However the comments made by Mr Abbasi (including those that constituted hate speech) had been removed.
 - c. On 11 December 2017, Mr Abbasi was again a guest on another episode of *Point of View*. He made statements very similar in content and tone to those he had made during the 4 December 2017 programme. These resulted in further serious breaches of the Code.
49. Ofcom considered that the Licensee was reckless in failing to prevent these further breaches of the Code. The Licensee should have taken into account the events of 4 December 2017 in its preparations for the programme broadcast on 11 December 2017. In particular, we considered the Licensee should have been aware of the potential for Mr Abbasi to make statements amounting to hate speech and either taken steps to prevent this or provide appropriate context. We considered this represented significant failings in the Licensee's compliance processes given the clear similarities between Mr Abbasi's comments in both programmes and the breaches that ensued.

Breaches were repeated

50. Further, these breaches were repeated because the material was not contained in a single or isolated programme but broadcast in two programmes shown a week apart. Breaches of the same three code rules (2.3, 3.2 and 3.3) occurred in both programmes.

Imposition of sanction

51. In view of the factors set out above, Ofcom provisionally considered that the breaches were serious, reckless and repeated and so warranted the imposition of a statutory sanction. The following paragraphs set out the enforcement action we have considered and the sanctions we have provisionally decided to impose.

Imposition of sanctions other than a financial penalty

Consideration of the revocation of the licence

52. Section 239 of the Act provides Ofcom with the power to revoke a TLCS licence. In our consideration of whether it was appropriate to revoke City News Network (SMC) Pvt Ltd's licence, we noted that the breaches are not ongoing and the Licensee explained the steps it has taken to improve its compliance procedures and prevent similar breaches occurring in the future. These included introducing a delay on its live programming and running a compliance workshop for station staff.
53. We also took account of the nature of the content that was broadcast. In particular, we did not consider that the programme was in breach of Rule 3.1 and we therefore did not consider it likely that the broadcast of this content was likely to encourage or incite the commission of crime or to lead to disorder.

Sanction (111)19 City News Network (SMC) Pvt Ltd

54. As a result of these factors, and taking into account the broadcaster's and audience's right to freedom of expression, we considered that it would not be appropriate to revoke City News Network (SMC) Pvt Ltd's licence as a result of these breaches of the Code.

Consideration of a Direction

55. We went on to consider whether another form of sanction was appropriate in this case. Section 236 of the Act provides Ofcom with the power to direct the holder of a TLCS licence to broadcast a correction or a statement of Ofcom's findings (or both), or not to repeat a programme which was in contravention of a licence condition.
56. It is Ofcom's view that a direction not to repeat the Programme found in breach would not be an appropriate sanction in all the circumstances. This is because, as set out in the Breach decision, the Licensee appeared to acknowledge the problematic nature of the content and had taken steps to remove the comments that were of concern to Ofcom from repeat broadcasts of these programme.
57. Ofcom considers that directing the Licensee to broadcast a statement of Ofcom's findings is necessary to bring the breaches, and Ofcom's action in response to the breaches, to the attention of Channel 44's viewers.
58. However, Ofcom considers that, on its own, a direction to broadcast a statement of Ofcom's findings in this sanctions case is not a sufficient statutory sanction, given the serious, repeated and reckless nature of the breaches in this case. We therefore consider that a direction to broadcast a statement of Ofcom's findings in combination with a financial penalty would act as a more effective deterrent to discourage the Licensee (and other licensees) from contravening the Code in a similar manner in future.

Imposition of a financial penalty

59. Under section 237 of the Act, the maximum level of a financial penalty that can be imposed on the holder of a TLCS licence in respect of each contravention of a TLCS licence condition is £250,000 or five per cent of the licensee's qualifying revenue relating to its last complete accounting period for which its licence has been in force, whichever is greater.
60. In light of the Licensee's qualifying revenue for this period for the Channel 44 licensed service, the maximum penalty that Ofcom could impose is £250,000 in respect of the contravention of its licence conditions committed by the Licensee in this case.
61. Ofcom's Penalty Guidelines¹⁷ state (in paragraph 11) that: "Ofcom will consider all the circumstances of the case in the round in order to determine the appropriate and proportionate amount of any penalty. The central objective of imposing a penalty is deterrence. The amount of any penalty must be sufficient to ensure that it will act as an effective incentive to compliance, having regard to the seriousness of the infringement. Ofcom will have regard to the size and turnover of the regulated body when considering the deterrent effect of any penalty". In reaching its Decision on the imposition of a sanction in this case, Ofcom has taken full account of the need to ensure that any penalty acts as a deterrent and has also taken account of the specific factors set out in the Penalty Guidelines.
62. In this case Ofcom believed that a financial penalty was necessary to reflect the serious nature of the Code breaches recorded against the Licensee, and to act as an effective incentive to comply with the Code, both for the Licensee and other licensees.

¹⁷ See: https://www.ofcom.org.uk/data/assets/pdf_file/0022/106267/Penalty-Guidelines-September-2017.pdf

Factors taken into account in determining the amount of a penalty

63. In considering the appropriate amount of a financial penalty for the Code breaches in this case, Ofcom took account of the specific relevant factors set out at paragraph 12 of the Penalty Guidelines as set out below:

The seriousness and duration of the contravention

64. Ofcom provisionally regarded the breaches to be serious, reckless and repeated for the reasons set out in paragraphs 34 to 40. We were particularly concerned by the fact that the Licensee broadcast two episodes of a programme that included frequent statements that amounted to prolonged hate speech. These statements were broadcast without challenge and without sufficient context to justify their broadcast. In Ofcom's view, the material had clear potential to cause harm and serious offence.

65. The Breach Decision related to material broadcast on 4 and 11 December 2017. We are unaware of the material having been broadcast again and the Licensee confirmed that it had taken steps to ensure that such incidents would not happen again.

The degree of harm, whether actual or potential, caused by the contravention, including any increased cost incurred by consumers or other market participants

66. Ofcom regarded the breaches of Rules 3.2 and 3.3 to be particularly serious. The potential harm in this case was significant because the Licensee broadcast highly offensive and pejorative comments, which we have found to be a form of hate speech directed at Ahmadi people. The potential harm arising from such hate speech is particularly serious. In particular, we considered the broadcast of these programmes would have been likely to harm relations between Ahmadi and orthodox Muslim people. We considered it was likely to be deeply offensive and harmful to the Ahmadiyya community and to any person who understood and did not share the sentiments being expressed.

Any gain (financial or otherwise) made by the regulated body in breach (or any connected body) as a result of the contravention

67. We have no evidence to suggest that the Licensee made any financial or other gain from these breaches of the Code.

Whether in all the circumstances appropriate steps had been taken by the regulated body to prevent the contravention.

68. The Licensee did not take steps to secure that the content broadcast under its licence was compliant with the Code. In its representations during Ofcom's investigation, and as set out in the Breach Decision, the Licensee said, in relation to the programme broadcast on 4 December 2017 that the presenter of this programme "did not challenge [the expressions of hate speech] as he is briefed to do so". Regarding the programme broadcast on 11 December 2017, the Licensee said that the presenter should "not have allowed" threats to be made towards Ahmadi people". Further, as set out in paragraphs 38 and 39 above the Licensee did not put adequate compliance processes in place when inviting the guest to appear live again on the 11 December 2017 programme, having already identified the highly problematic statements (including hate speech) he had made the previous week.

69. Ofcom was concerned that the circumstances of this case demonstrated that the Licensee had an ineffective approach to compliance with the Code and, in particular did not have sufficient established procedures to prevent breaches of the Code in its live output.

The extent to which the contravention occurred deliberately or recklessly, including the extent to which senior management knew, or ought to have known, that a contravention was occurring or would occur

70. In its representations, the Licensee stressed that the breaches were not intentional. We have no evidence that suggests the breaches occurred deliberately but for the reasons set out in paragraphs 48 and 49 above we did consider that they were reckless. As such, we consider the Licensee ought to have had adequate compliance process in place to prevent the broadcast of uncontextualised hate speech in both the 4 and 11 December 2017 editions. In particular, it should have considered very seriously the compliance arrangements it intended to put in place when inviting Mr Abbasi to appear in a further live edition of the programme on 11 December 2017.

Whether the contravention in question continued, or timely and effective steps were taken to end it, once the regulated body became aware of it.

71. The breaches consisted of broadcasts which by their nature were not ongoing. However, for the reasons set out in paragraphs 48 and 49 we do not consider that timely and effective steps were taken in relation to the contravention as the same guest was invited on to the show on 11 December 2017 and further breaches of Rules 3.2, 3.3 and 2.3 occurred. It appears that the Licensee only put in place many of the additional compliance processes (outlined in paragraphs 63 below) after it had been alerted to the complaints by Ofcom.

72. The Licensee has given Ofcom assurances about steps it has taken to improve its compliance processes following these broadcasts and the measures it has taken to prevent a recurrence of these breaches. In particular, the Licensee has introduced a delay for all its live programming.

73. The Licensee outlined the actions it had taken to improve its compliance procedures, including that it had: stopped the presenter from presenting live programmes until “he can demonstrate that he can follow [the Licensee’s] content guidelines”. Subsequently, the Licensee said that the presenter was no longer hosting programmes on Channel 44. The Licensee also said it had introduced a delay for all of its live programming. The Licensee also said that the Producer of the programme had been “given an official warning” and that compliance training had been given to 37 channel staff by an “independent compliance professional”.

74. Ofcom noted that the Licensee said it was “relatively young licensee” and was “committed to raising [its] production standards by...undertaking regular training”. We also acknowledge that the Licensee assured Ofcom that it takes “incidents such as these very seriously”.

Any steps taken for remedying the consequences of the contravention

75. Subsequent to the publication of the Breach Decision on 2 July 2018, the Licensee broadcast a number of apologies on Channel 44. On 19 July 2018, an apology was broadcast as scrolling text in English at the bottom of the screen. This was shown on a continuous basis between 18:00 and 19:00. The wording of this apology was as follows:

“On the 4 and 11 December 2017, in our Point of View programme at 17.00hrs, we featured a guest speaker who, made allegations about the Ahmadi people which may have offended viewers. We wish to formally apologise for the comments made in the programme and any unintended offence caused to any religious denomination or nationality”.

76. In addition, two further apologies were broadcast on 23 July 2018 at 19:34 and 8 August 2018 14:36. These apologies were again in English but took the form of a full-screen slate with an accompanying voiceover. The wording of these apologies was the same as the scrolling text apology described above.

77. Although we noted the broadcast of these apologies, we considered that they:

Sanction (111)19 City News Network (SMC) Pvt Ltd

- did not reflect the seriousness of the breaches (as set out in the Breach Decision we considered the original broadcast content was potentially very harmful and highly offensive and amounted to hate speech). In particular, the apologies failed to recognise that the allegations made about Ahmadi people had no reliable evidential basis;
- were not timely as they were broadcast more than six months after the two episodes of *Point of View* that resulted in the breaches; and,
- were only broadcast in English whereas the vast majority of programmes on Channel 44 (including *Point of View*) are in Urdu. This limited the extent to which the apologies may have been understood by the audience.

For these reasons, we placed very little weight on the broadcast of these apologies in our consideration of the appropriate level of sanction in this case.

78. The Licensee also indicated that it was willing to provide air time to the Ahmadi community. However, at the time of this Decision, it had not done so, and we therefore placed no weight on this willingness in determining the appropriate level of sanction.

Whether the regulated body in breach has a history of contraventions (repeated contraventions may lead to significantly increased penalties).

79. Ofcom has made the following breach findings in relation to Channel 44. These findings were published in Broadcast Bulletins 329 and 342 respectively:
- In our decision **News** (Channel 44, 20 and 21 November 2016, various times: Broadcast Bulletin 329¹⁸), Ofcom found that the focus of a news report on the opening of a local business was unduly prominent and promotional. Consequently, the report (which was broadcast three times across two days) was in breach of Rules 9.4 and 9.5¹⁹.
 - In our decisions **UK Election** and **News from Westminster** (Channel 44, 8 June 2017, 15:00 and 18:00: Broadcast Bulletin 342²⁰), Ofcom found that the programmes contained discussion and analysis of election issues and were broadcast when polls were open for the 8 June 2017 election. Consequently, both programmes were in breach of Rule 6.4²¹.
80. The Licensee has committed two breaches of the Code in recent years. However, neither breach was serious, and neither was of the same nature and type as the breaches committed in this case.

The extent to which the regulated body in breach has cooperated with our investigation.

81. In Ofcom's view, the Licensee has been cooperative to some extent. For example, it provided full and timely representations in response to Ofcom's formal requests for information relating to the material broadcast and the service in general; and expressed a willingness to take, and has given assurances that it has taken, some steps to remedy its failures to comply with the Code.
82. However, we were concerned about the inconsistent information provided by the Licensee in relation to the provision of the Channel 44 service. For example, in its representations provided at the oral hearing, the Licensee described City News Network (SMC) Pvt Ltd as owning City

¹⁸ See [Broadcast Bulletin 329](#)

¹⁹ Rule 9.4 states: "Products, services and trademarks must not be promoted in programming". Rule 9.5 states: "No undue prominence may be given in programming to a product, service or trade mark...".

²⁰ See [Broadcast Bulletin 342](#)

²¹ Rule 6.4 states: "Discussion and analysis of election and referendum issues must finish when the poll opens...".

Sanction (111)19 City News Network (SMC) Pvt Ltd

News Network Ltd. However, the Licensee subsequently informed Ofcom that there was no formal relationship between the companies other than ✕. We understand that in fact the Licensee holds a material shareholding in City News Network Ltd.

Precedent

83. Rules 3.2 and 3.3 were introduced by Ofcom in May 2016, following a review of Section Three of the Code²². These rules are designed to deal with content such as hate speech, and abusive and derogatory treatment which may not in itself amount to material likely to encourage or incite the commission of crime or to lead to disorder and therefore may not be captured by Rule 3.1. Prior to the review, such material would normally have been considered under the harm and offence rules in Section Two of the Code. However, Ofcom believed that there was merit in drawing attention to some of these more serious types of harm in Section Three.
84. In accordance with the Penalty Guidelines, in coming to this Decision, Ofcom has had regard to relevant precedents set by previous cases. Given that Rules 3.2 and 3.3 were introduced in May 2016 we have had regard to precedent which relates both to breaches of Rule 3.1 involving hate speech, and comparable breaches of Section 2 and Section 4 of the Code in determining the level of financial penalty.
 85. **23 November 2012, Radio Asian Fever Community Interest Company**²³ – Ofcom imposed a penalty of £4,000 on the licensee and directed it to broadcast a statement of Ofcom's findings for breaches of Rules 2.3, 2.4, 3.1 and 4.1. This case concerned two editions of the Sister Ruby Ramadan Special 2011. In the first programme the presenter was highly critical of homosexuality in the context of discussing aspects of the Qur'an. In the second programme the presenter made critical remarks about marriages between Muslims and those of other faiths, in the context of discussing elements of the Qur'an. Ofcom concluded that the material in the first programme was likely to encourage violent behaviour towards homosexual people and was therefore in breach of Rule 3.1. Ofcom also considered the material to breach Rule 2.4 as it could reasonably be considered likely to encourage others to copy such violent behaviour. Ofcom concluded that the material in both programmes had the potential to cause offence, which was not justified by the context, in breach of Rule 2.3. Ofcom held that both programmes failed to exercise the proper degree of responsibility required in religious programmes, in breach of Rule 4.1.
 86. **5 July 2013, DM Digital Television Limited**²⁴ – Ofcom imposed a penalty of £85,000, directed the licensee to broadcast a statement of Ofcom's findings, and not to repeat the programme, for breaching Rule 3.1. In the programme an Islamic scholar delivered a live televised lecture about points of Islamic theology with reference to the fatal shooting in 2011 of the Punjab Governor Salmaan Taseer, who had been a vocal critic of Pakistan's blasphemy law. Ofcom concluded that the material was likely to encourage or incite the commission of crime or to lead to disorder. We did so on the basis that, on a reasonable interpretation of the scholar's remarks, we considered he was personally advocating that all Muslims had a duty to attack or kill apostates or those perceived to have insulted the Prophet Mohammed. Ofcom considered the breach to be particularly serious because the material was delivered to a predominantly Muslim audience by a religious scholar as a

²² See: https://www.ofcom.org.uk/data/assets/pdf_file/0036/68787/statement.pdf

²³ See:

<http://webarchive.nationalarchives.gov.uk/20160704225532/http://stakeholders.ofcom.org.uk/enforcement/content-sanctions-adjudications/?pageNum=2#in-this-section>

²⁴ See: <http://stakeholders.ofcom.org.uk/binaries/enforcement/content-sanctions-adjudications/Rehmatul-DM-Digital.pdf>.

part of a religious programme. The breach was compounded by the fact the programme made no condemnation of the acts of killing or violent action referred to.

87. **21 August 2013, Al Ehya Digital Television Limited**²⁵ – Ofcom imposed a penalty of £85,000 on the licensee, directed the licensee to broadcast a statement of Ofcom's findings and directed it not to repeat the programme for breaching Rule 3.1. This case concerned the broadcast of a live programme in which a presenter answered questions put to him by telephone by viewers about a wide range of issues and personal conduct relating to Islam and Islamic teachings. The presenter made various statements which appeared to make clear that it was acceptable, or even the duty of a Muslim, to murder any person thought to have shown disrespect to the Prophet Mohammed where the relevant government had failed to take any action. In particular, the presenter made honorific references to individuals who had killed people in the name of Islam, including statements condoning the murder of the Punjab Governor Salmaan Taseer in 2011 by Mumtaz Hussein. Ofcom considered that on a reasonable interpretation of the presenter's remarks, he was personally advocating that all Muslims had a duty to carry out the actions he suggested. Ofcom considered the seriousness of the breaches was further compounded by the fact the statements were delivered to a Muslim audience, in a religious programme, spoken directly to the camera by a person held out to be an expert on Islamic teachings (i.e. a person holding a position of respect and authority in the Muslim community). The seriousness was compounded because the programme made no condemnation of the killings or violent action referred to.
88. **23 August 2013, Takbeer TV Limited**²⁶ – Ofcom imposed a penalty of £25,000 on the licensee and directed it to broadcast a statement of Ofcom's findings for breaching Rules 4.1 and 4.2. This case related to the broadcast of two programmes that subjected members of the Ahmadi community and their beliefs to abusive treatment. In the first programme, which was a two and a quarter hour phone-in programme, members of the Ahmadiyya community were described as having "monstrous" intentions and being both "*lying monsters*" and worthy of elimination by Allah, "*by using worms and vermin*". Two callers also made sustained, repeated and derogatory references to Mirza Ghulam Ahmad Qadiani, founder of the Ahmadiyya religion, stating, for example, that "*the whole world knows...Mirza died in a shit cubicle.*" The second programme showed the proceedings of a religious symposium in Luton, during which the presenter said that: the Ahmadi holy books were "*replete with filth*"; "*the word 'Qadiani' is...detestable*"; and, the Ahmadi religion is "*filth*".
89. **14 August 2014, Regis 1 Limited (Sangat TV)**²⁷ – Ofcom imposed a penalty of £30,000, and a direction to broadcast a statement of findings for breaching Rule 3.1 of the Code. This case concerned a programme about an attack on the retired Indian army general Kuldip Singh Brar, who led the controversial military operation against the Golden Temple at Amritsar in 1984. The programme contained statements from various contributors that Ofcom considered likely to encourage members of the Sikh community to take violent action against Lieutenant General Brar, other members of the Indian armed forces who had taken part in Operation Blue Star in June 1984, or those who supported the military operation.

²⁵ See: <http://stakeholders.ofcom.org.uk/binaries/enforcement/content-sanctions-adjudications/noor-tv.pdf>.

²⁶ See: https://www.ofcom.org.uk/data/assets/pdf_file/0017/53414/takbeer.pdf

²⁷ See:

<http://webarchive.nationalarchives.gov.uk/20160702162827/http://stakeholders.ofcom.org.uk/binaries/enforcement/content-sanctions-adjudications/regis1limited.pdf>

90. **21 December 2015, Lancaster LLC**²⁸ – Ofcom recorded a breach of Rule 2.3 but did not consider that the breach warranted the imposition of a statutory sanction. The case related to the broadcast of a religious sermon, recorded in 1985, by evangelical Christian minister Jimmy Swaggart. During one section of the sermon, Mr Swaggart referred to gay people as “*sex perverts*”; included homosexuality in a list of practices he described as “*filth*” (the list also included “*incest*” and “*paedophilia*”); and, referred to a Gay Pride Event as “*degenerate*” and “*obscene*”. Although we did not find that this case warranted the imposition of a statutory sanction, there are material differences between this case and the case currently being considered against City News Network (SMC) Pvt Ltd. In particular, we recognised that it would have been clear to viewers that the Jimmy Swaggart sermon dated from the 1980s and therefore the audience were more likely to perceive the remarks as reflecting outdated views on homosexuality. The homophobic comments were also much briefer than the frequent, sustained and vitriolic anti-Ahmadi remarks made in the two episodes of *Point of View*. Finally, as set out above, the breaches relating to *Point of View* were serious and repeated, and were also committed recklessly.
91. **9 May 2016, Lancaster LLC**²⁹ – Ofcom recorded breaches of Rules 2.2 and 2.3 and directed the Licensee to broadcast a summary of its findings. The programme in question, *Frances and Friends*, is a daily discussion programme that provides analysis of religious doctrine and world events. During a live discussion about immigration in Europe, one of the presenters said that all rapes in Sweden were being carried out “*not by Swedes, not by Germans, not by Polish people, by Muslims*”. We considered this statement was offensive and materially misleading. The programme also contained a number of other remarks which suggested that: the attitudes and actions of ISIL and its followers were typical of Islam; Islam and all practitioners of the Islamic faith were associated with or sympathetic to terrorism, and by implication, acts of violence; Islam and Muslims hate Christians and Jews; “*moderate*” Muslims sympathise with radical Muslims; “*moderate Islam*” was a “*western American media creation*”; and, true followers of Islam sympathise with terrorists. Some limited context for these negative remarks was provided by comments by one of the presenters who said: “*Look. Not every Muslim is a terrorist not every imam in America is speaking and endorsing terrorism. Not every mosque is fermenting rebellion. There are some that are not. And I’ll be the first one to say it*”. The Licensee also took a range of steps to improve its compliance and prevent a recurrence of similar breaches. There are some broad similarities between this case and the case being considered against City News Network (SMC) Pvt Ltd (in particular the content in both cases was broadcast live and included highly offensive comments about members of another religion). In the *Frances and Friends* case we considered the appropriate regulatory remedy was to direct the licensee to broadcast a summary of the breach decision, in recognition of the seriousness of the breaches³⁰, rather than to impose a financial penalty. Unlike the breaches being considered for sanction in this case, we did not consider in the *Frances and Friends* case that the breaches were committed repeated or recklessly.
92. **11 November 2016, Club TV Limited**³¹ – Ofcom imposed a penalty of £65,000 on the licensee and directed it to broadcast a statement of Ofcom's findings for breaches of Rules 2.1 and 2.3. The case concerned two programmes consisting of public lectures given by the Islamic scholar, Dr Israr Ahmed. Dr Ahmed made a number of discriminatory remarks

²⁸ See: https://www.ofcom.org.uk/data/assets/pdf_file/0016/50290/issue_295.pdf

²⁹ See: https://www.ofcom.org.uk/data/assets/pdf_file/0035/49796/issue_304.pdf

³⁰ As set out in paragraph 1.14 of the Sanctions Procedures, Ofcom has a range of sanctions available to it including “issue a direction to broadcast a correction or a statement of Ofcom’s findings which may be required to be in such form, and to be included in programmes at such times, as Ofcom may determine”.

³¹ See: https://www.ofcom.org.uk/data/assets/pdf_file/0032/93866/Peace-TV-Urdu-Sanctions-Decision.pdf

about Jewish people repeatedly portraying them as a homogenous group and in overwhelmingly negative and stereotypical terms. Ofcom considered that Dr Ahmed's comments had the potential to be interpreted as spreading anti-Semitism i.e. his comments could be seen as a form of hate speech and had the potential to cause harm and offence to viewers. We considered the breaches to be serious so as to warrant the imposition of sanctions. This was because the statements consisted of hate speech and were delivered to a predominantly Muslim audience by an Islamic religious scholar. Dr Ahmed also spoke uninterrupted and there were no views in the programmes which challenged or otherwise softened the considerable level of offence caused. However, unlike the current case, they were delivered by a religious scholar, a person who holds a position of respect and authority in the Muslim community.

93. **20 December 2016, Mohuiddin Digital Television Limited**³² – Ofcom imposed a penalty of £75,000 on the licensee and directed it to broadcast a statement of Ofcom's findings for breaches of Rules 2.1 and 2.3. The programme included recordings of a religious festival commemorating the death anniversary of two Sufi saints. It featured a number of religious scholars and preachers addressing an assembled congregation with short sermons, homilies and poetic verses. One of the speakers recounted a parable that lauded the killing of a Jewish trader as an example of the devotion and obedience of a disciple of the Prophet Mohammed. Ofcom considered that the speaker's comments had the potential to be interpreted as spreading anti-Semitism i.e. his comments could be seen as a form of hate speech which had the potential to cause harm and offence to viewers. In particular, we considered the content had the potential to cause harm by portraying the murder of Jewish people in highly positive terms and promoting a highly negative anti-Semitic attitude towards Jewish people. Ofcom considered the breaches to be serious so as to warrant the imposition of sanctions. Again, this was because the material contained hate speech, which was delivered to a predominantly Muslim audience by a religious scholar, who spoke uninterrupted without his views being challenged or otherwise softened.
94. **6 July 2017, Ariana Television and Radio Network**³³ – Ofcom imposed a penalty of £200,000, and a direction to broadcast a statement of findings for breaching Rules 2.3, 3.1 and 3.2 of the Code. The case concerned the broadcast of a two and a quarter minute clip of Muhammad Riyad, before he carried out an attack where he stabbed five people on a train in southern Germany before being killed by security forces. In the video, he brandished a knife; boasted about his forthcoming his attack; and made various statements describing in highly positive terms his and ISIL's intentions to carry out acts of extreme violence against the German population. Ofcom considered that the content had clear potential to influence impressionable viewers by encouraging serious crime. We also considered that the content was a clear example of highly offensive hate speech.
95. **25 July 2017, Kanshi Radio Limited**³⁴ – Ofcom imposed a penalty of £17,500, and a direction to broadcast a statement of findings for breaching rules 2.1, 2.3, 3.2 and 3.3 of the Code. The case concerned two broadcasts of a song *Pinky Pinky* in Punjabi. The lyrics contained a number of aggressively pejorative references to the Muslim community, and Muslim women in particular. The song also included well known sacred Islamic phrases that were interspersed with very offensive terms while the sounds of gunshots were heard. We also considered that the lyrics of the song, such as "*Pakistani* [i.e. a reference to Islam], *you sister fucker!*" and the repeated sounds of gunshots throughout the song, were an expression of an extreme Sikh perspective in opposition to the Muslim

³² See: https://www.ofcom.org.uk/data/assets/pdf_file/0022/96124/Noor-TV.pdf

³³ See: https://www.ofcom.org.uk/data/assets/pdf_file/0026/103949/decision-ariana-television-radio-network.pdf

³⁴ See: https://www.ofcom.org.uk/data/assets/pdf_file/0020/105167/kanshi-radio-sanction-decision.pdf

community. Ofcom considered the content was a clear example of hate speech and abusive and derogatory towards women. We also considered that the content had the potential to cause harm by increasing tensions between the Sikh and Muslim communities and to promote the objectification and abuse of women.

96. **26 July 2017, Iman Media UK Limited**³⁵ – Ofcom exercised its powers under section 111B of the Broadcasting Act 1990 to suspend and then revoke Iman FM’s licence. This followed extremely serious breaches of Rule 3.1 of the Code, after it aired a series of lectures by Anwar al-Awlaki entitled “The Life of Muhammad (Seerat-un-Nabi)” throughout the month of Ramadan which incited and condoned serious violence.
97. **27 February 2018, Karimia Limited**³⁶ – Ofcom imposed a penalty of £2,000 and a direction to broadcast a statement of findings for breaching Rules 2.3, 3.1, 3.2 and 3.3 of the Code. The case concerned the broadcast a series of three Nasheeds in Urdu. Two of these Nasheeds raised no issues under the Code. The third Nasheed lasted approximately 17 minutes and was recited by a young boy. It began by glorifying the victories on the battlefield of figures from Islamic history. It then went on to suggest that similar violent acts committed against non-Muslim people would bring honour to Islam. The Nasheed further included a number of pejorative references to non-Muslim people. In particular, non-Muslim people were repeatedly referred to as “*Kufaar*” (the Arabic word for disbeliever) and on one occasion, “*Kaafir I Murdaar*” (meaning filthy disbeliever in Urdu). Ofcom considered that the content amounted to an indirect call to action which could be likely to encourage or incite the commission of crime or lead to disorder. Ofcom also found that it constituted hate speech and abusive and derogatory treatment of non-Muslim people.
98. **19 March 2018, Radio Ikhlas**³⁷ – Ofcom imposed a penalty of £10,000 and a direction to broadcast a statement of findings for breaching Rules 3.2, 3.3 and 2.3. These breaches related to the broadcast of a phone-in programme on a community radio station. A 21-minute segment of the programme began with the presenter, a local Imam, referring to the date of broadcast being the anniversary of 7 September 1974, the day on which the Pakistani National Assembly voted on a Bill and Constitutional Amendment declaring Ahmadi people to be non-Muslim. The presenter went on to make a number of derogatory and discriminatory remarks about Ahmadi people including that they are: “*dangerous*”; “*liars*”; “*enemies of Islam, enemies of Pakistan, and enemies of our religion*”; “*hypocrites who frequently engage in propaganda to defame Muslims*”; and, people who have “*inflicted the greatest damage to Islam and to the believers of Islam*”. The presenter referred to the founder of the Ahmadi faith as being “*a liar*” and described the religious beliefs of Ahmadi people as “*very dangerous beliefs*” and “*filthy beliefs which shatter the true faith and promote untruths*”. The case raised particular concerns as the presenter was in a position of religious authority and the Licensee did not appear to have sufficient and appropriate systems in place to ensure that its live output was being monitored.
99. The following precedent was not included in Ofcom’s Preliminary View. However, in its representations, the Licensee noted this case as being of particular relevance. Ofcom has therefore considered this precedent, as appropriate, in coming to its final Decision.

³⁵ See: https://www.ofcom.org.uk/data/assets/pdf_file/0023/105269/Iman-FM-Revocation-Notice.pdf

³⁶ See: https://www.ofcom.org.uk/data/assets/pdf_file/0022/111568/Decision-Karimia-Limited.pdf

³⁷ See: https://www.ofcom.org.uk/data/assets/pdf_file/0020/112187/Broadcast-and-On-Demand-Bulletin-350.pdf

100. **20 June 2011, Takbeer TV**³⁸ - Ofcom recorded breaches of Rule 4.2 but decided “on balance” not to impose a statutory sanction³⁹. These breaches related to the broadcast of five editions of *Tafheem Al Masyal*, a religious discussion programme during which viewers were invited to call in and put forward their questions on Islamic religious matters. The programmes included a number of references to Ahmadi people; their beliefs and the founder of the Ahmadiyya faith that Ofcom considered amounted to abusive treatment. City News Network (SMC) Pvt Ltd considered this case had “many parallels” with the one being considered in this sanctions decision. These included the nature of the content and the actions taken by both Licensees as a result of the breaches. However, Ofcom considered there were material differences between the two cases. In particular, we considered that the repeated and inflammatory allegations broadcast during *Point of View* were more serious and potentially more harmful than the generally abusive and derogatory references contained in *Tafheem Al Masyal*. Further, *Point of View* was broadcast in the context of increasing animosity towards Ahmadi people both in the UK and abroad, including the 2016 sectarian murder of Ahmadi shopkeeper Asad Shah in Glasgow.

101. While Ofcom considers the nature of the content in the cases listed in paragraphs 73 to 86 to be relevant to the current case, we note that, as set out in the Penalty Guidelines, Ofcom may depart from these cases depending on the facts and context of the current case.

The size and turnover of the regulated body when considering the deterrent effect of any penalty

102. As set out in our penalty guidelines, the central objective of imposing a penalty is deterrence. The amount of any penalty must be sufficient to ensure that it will act as an effective incentive to compliance, having regard to the seriousness of the infringement. Ofcom obtained financial data setting out the Licensee’s qualifying revenue for the last accounting period to decide upon a proportionate penalty. This showed that the Licensee’s qualifying revenue for this period was ~~£~~. Ofcom took this information fully into account when coming to its Decision as to the appropriate level of financial penalty in this case.

103. We acknowledged the representations made by the Licensee about the potential impact of a financial penalty on its ability to operate. However, as set out in paragraphs 42 to 43 the financial information that the Licensee had sought to rely on did not relate to the Licensee but rather City News Network Ltd. We therefore did not consider that this information was relevant to our consideration. Rather, we took account of the financial information that the Licensee subsequently provided for City News Network (SMC) Pvt Ltd – a large media organisation that operates four television services in Pakistan.

104. Ofcom recognised that any proposed penalty must be proportionate taking into account the Licensee’s rights under Articles 9 and 10 of the Convention and the fact that deterrence is the central objective of imposing a penalty.

Decision

105. Having regard to all the circumstances referred to above, including the need to achieve an appropriate level of deterrence and the particularly serious nature of the Code breaches in this case, and all the representations to date from the Licensee, Ofcom’s Decision is that an appropriate and proportionate sanction would be a financial penalty of £75,000. In addition, Ofcom considers that the Licensee should broadcast a statement of Ofcom’s findings in this case, on a date and in a form to be determined by Ofcom.

³⁸ https://www.ofcom.org.uk/_data/assets/pdf_file/0017/45161/obb184.pdf

³⁹ Following a further similar breach of the Code, Ofcom imposed a statutory sanction on the Licensee (see paragraph 88).

Sanction (111)19 City News Network (SMC) Pvt Ltd

Ofcom

15 April 2019