

# Ofcom Broadcast and On Demand Bulletin

Issue 424  
12 April 2021

## Breakfast Show

<b>Type of case</b>	Broadcast Standards
<b>Outcome</b>	In Breach
<b>Service</b>	Caroline Community Radio
<b>Date &amp; time</b>	17 December 2020, 08:00
<b>Category</b>	Scheduling
<b>Summary</b>	A song containing prolonged sounds of sexual moaning was broadcast during the station's morning programming. In breach of Rule 1.3 of the Broadcasting Code.

### Introduction

Caroline Community Radio broadcasts a range of music and speech to the Maldon District in Essex. The licence for Caroline Community Radio is held by St. Peter's Studio and Community Radio Limited ("SPSCRL" or "the Licensee").

The station broadcasts a weekday breakfast programme, *The Breakfast Show* between 06:00 and 10:00.

Ofcom received a complaint about the broadcast of the song *French Kiss* by Lil Louis at approximately 08:20. The song contained no lyrics but included prolonged sounds of sexual moaning lasting two minutes and 20 seconds.

Ofcom considered that the material raised issues warranting an investigation under Rule 1.3 of the Code.

Rule 1.3: "Children must... be protected by appropriate scheduling from material that is unsuitable for them..."

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

## Response

The Licensee explained that the station's music targets a wide age range, particularly from young adults upwards and therefore the possibility of children being exposed to inappropriate content was, in its view, remote. However, it acknowledged that children may have been listening at the time the track was broadcast in this case.

SPSCRL said that the station had been in the process of transferring its music library from one computer system to another and that some scheduling restrictions that it had applied to songs had not been carried across to the new system. It added that the material broadcast featured breathing in a similar vein to songs such as *Big Love* by Fleetwood Mac and *Love to Love You Baby* by Donna Summer. It also argued that as there are no vocals in the song, children would not have linked the breathing noises to sexual behaviour. However, the Licensee accepted that a child listener may have asked an adult for an explanation of the noises. As a result, it said it had removed the track from the station's daytime schedules.

In conclusion, SPSCRL reassured Ofcom that it did not wish to offend its listeners and confirmed that it was undertaking a review of its database to ensure all song information is correct. It added that its presenters have been reminded of the importance of checking all music tracks before broadcast.

## Decision

Reflecting our duties under the Communications Act 2003, Section One of the Code requires that people under eighteen are protected from unsuitable material in programmes.

Under Rule 1.3, broadcasters must ensure that children are protected from unsuitable content through appropriate scheduling. Appropriate scheduling is judged according to factors such as: the nature of the content; the likely number and age range of children in the audience; transmission time; the nature of the channel; and the likely expectations of the audience.

First, we considered whether the content in the track was unsuitable for children. The material in question featured a sustained period of sexual moaning sounds. We did not agree that this was comparable to the other songs referenced by the Licensee, nor did we accept that the absence of lyrics meant that particularly older children would fail to recognise the song's sexual nature. In Ofcom's view, this track clearly conveyed a sexualised theme which was not appropriate for children.

We then considered whether this content had been appropriately scheduled. Ofcom's [published guidance](#) on offensive language on radio states that:

“Radio broadcasters should take care when broadcasting songs which include clearly adult-oriented material...[and] avoid broadcasting lyrics that clearly focus on...sexual acts or behaviour, or convey a clearly sexualised theme, when children are particularly likely to be listening”.

The guidance also states that the times when children are particularly likely to be listening are:

- “between 06:00 and 09:00 and 15:00 and 19:00 Monday to Friday during term-time; and

- between 06:00 and 19:00 at weekends all year around, and in addition, during the same times from Monday to Fridays during school holidays”.

We took into account the Licensee’s representations that given the radio station’s target audience, the likelihood of children listening was low. However, as this material was broadcast at approximately 08:20 on a weekday during the school term<sup>1</sup>, it was a time when children were particularly likely to be listening to the radio. The Code particularly refers to the school run and breakfast time as times when children are likely to be listening.

We acknowledged the steps taken by SPSCRL to remove the track from its daytime schedules and remind its staff to check music tracks before broadcast. Nevertheless, Ofcom’s Decision is that the broadcast of this song was not appropriately scheduled, in breach of Rule 1.3.

### **Breach of Rule 1.3**

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<sup>1</sup> Ofcom recognises that owing to the Coronavirus pandemic, the number of children attending school would have been lower than normal at the time of broadcast. We considered that this would have increased the likelihood of children listening to the radio at this time.