

Ofcom Broadcast and On Demand Bulletin

Issue 424
12 April 2021

DJ Tiiny

Type of case	Broadcast Standards
Outcome	Resolved
Service	Capital XTRA
Date & time	Various dates, 19:00
Category	Commercial communications on radio
Summary	The presenter played music tracks in return for payment. The Broadcasting Code prohibits any payment that may influence the selection or rotation of music for broadcast. In view of the action taken by the Licensee when it became aware of the presenter's actions, we considered the matter resolved.

Introduction

Capital XTRA is a local radio station providing an urban contemporary black music service for African and Afro-Caribbean communities in North London. It is simulcast nationally on DAB, satellite and cable services. Capital XTRA's licence is held by Capital Xtra Limited, which is owned by Global Media & Entertainment Limited ("Global").

DJ Tiiny was a show broadcast weekly on Friday evenings. A complainant alleged that the presenter played some artists' music tracks in return for payment. Global contacted Ofcom and confirmed the allegation, saying that it had been alerted to the matter on 27 January 2021 and that the presenter's contract of employment had been terminated the following day.

Ofcom considered the matter raised potential issues under the following Code rule:

Rule 10.5: "No commercial arrangement that involves payment, or the provision of some other valuable consideration, to the broadcaster may influence the selection or rotation of music for broadcast".

We therefore requested comments from Global on how programmes in which the presenter had played music tracks in return for payment complied with this rule. We also asked Global to obtain any comments the presenter wished to make on the matter.

Response

Global said the presenter had been engaged in a freelance capacity and that, on the evening of 27 January 2021, “it came to [its] attention that he had allegedly solicited payment in exchange for radio plays”. It added that the presenter had been confronted about the issue the following day, when: he admitted wrongdoing; his employment contract was terminated; his show was removed from the broadcast schedule; and all references to him were removed from Capital XTRA’s online material.

Global said the matter had then been investigated further by its legal team, which had established that “no producers or presenters at Capital XTRA, nor any other Global staff or freelancers, [had been] involved in, or aware of, the presenter’s activity”. It added that the presenter had released the following statement on 1 February 2021:

“Over the last couple of days I have very quickly learnt a much needed lesson. I was given an incredible opportunity within radio and carelessly and irresponsibly took advantage of my position. I take full responsibility of my actions and fully accept the consequences as a result. I am very sorry to everyone this has affected and to those I have let down...”.

Global said it had “invited [the presenter] to make separate representations for submission to Ofcom”, but “he [had] declined to engage with [it] on this matter further”. It reiterated that, “to the best of [its] knowledge following [its] investigation, the presenter [had] acted independently and without the knowledge of Global or his colleagues, exploiting his position as a freelance presenter for personal financial gain”. It said the presenter was dismissed from Capital XTRA because his conduct had been in direct breach of both industry ethics and his freelance presenter contract, relevant extracts of which were supplied to Ofcom and which confirmed that the presenter had been prohibited from engaging in conduct that would breach the Code. In addition, Global confirmed that the presenter had “received compliance training during his time at Capital XTRA which reinforced the importance of a presenter’s obligations under the Code”.

Global said that “seeking payments to influence music selection is culturally understood by those working at Global to be completely unacceptable, and this incident [had] shocked its staff”. It added that “Global [had] never encountered this type of behaviour from a presenter in its history, and this departure from this most basic standard [was] deeply disappointing...”. Global said it had “acted immediately and responsibly in terminating the freelance presenter, and by doing so made it very clear that [it did] not tolerate such behaviour from any employee or freelancer”.

In conclusion, Global asked Ofcom to take into account its “immediate and unequivocal response [to the allegation it received] alongside the fact that [the presenter had] operated independently and in direct contravention of his freelance presenter contract and compliance training, without Global’s knowledge...”. Global therefore “respectfully ask[ed] Ofcom to consider treating this matter as resolved”, especially as neither Capital XTRA nor any other Global station or employee had known the

presenter received payment to broadcast specific music tracks or had themselves benefitted in any way for so influencing the station's selection or rotation of music for broadcast.

Decision

Reflecting our duties under the Communications Act 2003, Rule 10.5 of the Code requires that “no commercial arrangement involving payment, or the provision of some other valuable consideration, to the broadcaster may influence the selection or rotation of music for broadcast”. The Code also clarifies that a commercial arrangement is “a contract, or any other formal understanding, between a broadcaster (or any agent or employee of the broadcaster) and a third party (or third parties)”.

In prohibiting the broadcast of music in return for payment, Rule 10.5 avoids the risk of commercial arrangements impacting adversely on the range and diversity of music played on radio. Further, it prevents the erection of a financial barrier to music businesses' and individual artists' access to radio, which could not only increase the risk of commercial arrangements having such an impact but also damage, in particular, the economic interests of aspiring talent.

In this instance, the presenter had gained financially from soliciting payment for playing specific music tracks on Capital XTRA. However, Ofcom recognises that broadcasters can only minimise the risk of an employee or agent forming with a third party a commercial arrangement that may influence the selection or rotation of music for broadcast, contrary to Rule 10.5.

We therefore took into account Global's prompt response to the allegation it had received and the actions it took to prevent recurrence, recognising in particular:

- the seriousness with which it treated the allegation;
- the immediacy with which it challenged the presenter;
- the thorough investigation it initiated;
- the clarity of its position, as reflected in the presenter's employment contract;
- the relevant compliance training it had given the presenter; and
- its apparent determination to prevent recurrence, as reflected in the actions it took.

Ofcom therefore considered the matter resolved.

Resolved