

Ofcom Broadcast and On Demand Bulletin

Issue 478
17 July 2023

Music Mix

Type of case Broadcast Standards

Outcome In Breach

Service Nova Radio North East

Date & time 25 January 2023, 12:50

Category Offensive language

Summary The broadcast of offensive language was not justified by the context. In breach of Rule 2.3 of the Broadcasting Code.

Introduction

Nova Radio North East is a community radio station based in Newcastle upon Tyne. It broadcasts a wide variety of content, including music, interviews and sports. The licence for Nova Radio North East is held by Community Broadcast Initiative Tyneside Ltd (“CBIT Ltd” or “the Licensee”).

The Midweek Mayhem Show is a radio programme broadcast on Nova Radio North East on Wednesdays between 12:00 and 14:00.

Ofcom received a complaint about the use of offensive language in the above programme during the music track “Break Stuff” by Limp Bizkit, broadcast at around 12:50. The track contained six uses of the word “fucked” or “fucking”, four uses of the word “motherfucker” or “motherfucking”, and 15 uses of the word “shit” or “bullshit”.

We considered this raised potential issues under the following rule of the Ofcom Broadcasting Code (“the Code”):

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... Appropriate information should also be broadcast where it would assist in avoiding or minimising offence”.

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

Response

CBIT Ltd said that “the content does not comply with Rule 2.3” and that it is “deeply sorry for any offence the playing of this track may have caused”. The Licensee explained that it has a “strict procedure” on any tracks that need to be added to its database but that “sadly this was bypassed on this occasion”. It went on to say that, since this incident, its database has been “scrutinised” with any other offensive tracks removed, and that the volunteer responsible for the additions to the database was dismissed from the station. Ofcom sent the Licensee a copy of our Preliminary View, and it made no further comments.

Decision

Reflecting our duties under the Communications Act 2003, Section Two of the Code requires that generally accepted standards are applied to content so as to provide adequate protection for members of the public from the inclusion of harmful or offensive material in programmes.

Ofcom takes account of the audience’s and the broadcaster’s right to freedom of expression as set out in Article 10 of the European Convention on Human Rights when considering a broadcaster’s compliance with the Code.

Rule 2.3 requires that broadcasters must ensure that the broadcast of potentially offensive content is justified by the context. Context includes, for example: the editorial content of the programme; the service on which it is broadcast; the time of broadcast; and the likely expectations of the audience.

Ofcom first considered whether the material broadcast had the potential to cause offence.

When considering this case, Ofcom took into account our research into [Public attitudes towards offensive language on TV and radio](#), which was published in September 2021. This research found that the words “fuck” and “motherfucker” were considered by audiences to be among the most offensive language and required clear and strong contextual justification. This research also classified the word “shit” as ‘moderate’ language, considered by audiences to have a greater potential for offence than mild words and requiring a higher level of context.

In Ofcom’s view, the broadcast of multiple instances of highly offensive language at 12:50 on a weekday afternoon was clearly capable of causing offence to listeners. Ofcom then considered whether the broadcast of this offensive language was justified by the context.

Ofcom’s [guidance on offensive language on radio](#) states that “in reaching any decision about compliance with the Code, Ofcom will take into account the likely audience expectations of a particular radio station at the time of broadcast”.

We took into account that the offensive language was included in a song which the Licensee had the opportunity to check prior to broadcast. We also considered that, although the offensive language was not broadcast at a time of day when children were particularly likely to be listening, the majority of listeners to this station would not have expected to hear this offensive language on a community station at this time of day. We also took into account the fact that there were no additional contextual factors which would have alerted the audience to the potentially offensive nature of the content, such as a warning prior to the broadcast of the song, or an apology following the broadcast of the offensive

language. Ofcom therefore considered that there was insufficient contextual justification for the use of potentially highly offensive language during this programme.

We took into account the Licensee's explanation of the steps it said it had taken after being made aware of the complaint and the circumstances of the broadcast of this track in this instance. However, Ofcom's Decision is that the broadcast of offensive language in this programme was not justified by the context and was in breach of Rule 2.3.

Breach of Rule 2.3