

Ofcom Broadcast and On Demand Bulletin

Issue 426
10 May 2021

Veep

Type of case	Broadcast Standards
Outcome	Resolved
Service	Sky Comedy
Date & time	30 November 2020, 17:30
Category	Protection of Under 18s
Summary	The programme contained the most offensive language and was broadcast before the watershed without the required Mandatory Daytime PIN (“MDP”) protection.

Introduction

Sky Comedy is a TV channel devoted to comedy content. The licence for the service is held by Sky UK Limited (“Sky” or “the Licensee”).

Ofcom received a complaint that the above episode of US political satire comedy series *Veep* contained offensive language before the watershed, and that the viewer was not prompted to enter any PIN (personal identification number) prior to accessing the content in accordance with Rule 1.24 of the Broadcasting Code (“the Code”)¹. This rule permits broadcasters to include programmes that are unsuitable for children that would usually be scheduled after the watershed between the hours of 0530 and 2100 provided that “mandatory daytime protection” (“MDP”) is in place. The Code defines MDP as follows:

“Mandatory daytime protection means there is a PIN protection system in place pre-2100 and post-0530 which cannot be removed by the user and restricts access solely to those authorised to view. This does not apply to ‘adult sex material’ which under Rule 1.18 can only be shown between 2200 and 0530 and must be behind mandatory restricted access (see Rule 1.18)”.

¹ [Ofcom’s Broadcasting Code](#).

In this case, the following warning was broadcast prior to the programme:

“Binge watch all of Black Monday on Sky Comedy—it’s a vicious circle. Anyway with very strong language and adult humour now, its Dane Cook: Vicious Circle. Oh god!”

The episode of *Veep* was then broadcast for approximately 40 seconds, without the pre-programme PIN request, and contained one use of the word “*fuck*” before the transmission was halted.

We considered this raised potential issues under the following rule of the Code:

Rule 1.24: “Provided that mandatory daytime protection is in place pre-2100 and post-0530...programmes that are unsuitable for children that would usually be scheduled after the watershed...may be broadcast on television at any time of day. Clear information must be provided with programme and film content that will assist adults to assess its suitability for children, and the mandatory daytime protection which is in place must be clearly explained to all viewers”.

Ofcom requested comments from Sky on how the programme complied with this rule.

Response

The Licensee explained that the incident in this case was due to an “extremely rare” technical fault which was a result of two system errors occurring simultaneously. Specifically, the errors consisted of: a “hardware fail leading to a loss of connection between the transmission area and subsequent systems in the chain”; and “incorrect metadata information stored in the system which prevented it from automatically reconnecting”. Sky added that this situation had “not [been] witnessed prior to this [incident] over the many years using the same daytime PIN framework on Sky Cinema”.

The Licensee accepted that the content should not have been broadcast before the watershed without the necessary PIN protection and referred to “many thousands” of mandatory PIN enabled programmes that it had transmitted without this set of circumstances occurring.

Sky confirmed that an investigation had been undertaken following the incident, and that it had introduced several additional compliance procedures in response to the investigation’s findings to ensure that the error is not repeated. Specifically, the Licensee had implemented warning systems that will “automatically assess if the necessary PIN information is present for each asset and provide an alert in the event of any absence”. Sky further stated that, had these monitoring procedures been in place in this case, it would have been alerted sooner, so giving the Licensee “ample time to act”. Sky explained that they are “extremely confident such an occurrence will not be repeated in future”.

Decision

Reflecting our duties under the Communications Act 2003, Section One of the Code requires that people under the age of 18 are sufficiently protected from unsuitable material in programmes.

Rule 1.24

This rule allows content that would usually be scheduled after the watershed to be broadcast at any time of the day, providing that mandatory daytime protection – or MDP – (i.e. a PIN protection

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system) is in place to protect younger viewers from accessing the material. When MDP is not used, broadcasters must comply with Ofcom's rules on scheduling, which prohibit the broadcast of the most offensive language before the 9pm watershed. Ofcom's [research on offensive language](#) makes clear that the word "fuck" is considered by audiences to be amongst the most offensive language.

On this occasion, content containing the most offensive language was broadcast before the watershed without the required PIN protection. This meant that it was possible for subscribers to the Sky Comedy channel, including any children in the audience, to view this service without the need of inputting a mandatory PIN. Ofcom acknowledged the programme was preceded by a warning that, while not specific to the programme in question, did refer to "very strong language and adult humour", which would have prepared the audience to an extent to the inclusion of potentially offensive language. However, it would have still been possible for any children to have watched content containing the most offensive language.

Nevertheless, taking into account the action taken by the Licensee to ensure compliance in the future, including the use of additional measures within its broadcast system which we understand should prevent this type of incident from reoccurring, Ofcom's Decision is that this matter is resolved.

Resolved