

Sanction Decision by Ofcom

Sanction: to be imposed on Up and Coming TV Limited

For material broadcast on Samaa TV on 5 May 2020, 16:00 and 6 May 2020, 16:00¹.

Ofcom's Sanction Decision against: Up and Coming TV Limited ("Up and Coming TV" or "the Licensee") in respect of its service **Samaa TV**² (Ofcom TLCS licence TLCS001217BA/2).

For: Breaches of the [Ofcom Broadcasting Code](#) (the "Code")³ in respect of:

Rule 3.2: "Material which contains hate speech must not be included in television...programmes...except where it is justified by the context"⁴.

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

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, ...discriminatory treatment or language (for example on the grounds of...race, religion or belief..."

Decision: To impose a financial penalty (payable to HM Paymaster General) of £40,000; and, conditional on the Licensee continuing to hold its broadcast licence and resuming broadcasting of the service:

To direct the Licensee not to repeat the programmes; and,

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

¹ As detailed in [Issue 446 of the Broadcast and On Demand Bulletin](#), 7 March 2022 ("the Decision").

² Up and Coming TV Limited changed the name of the service to Neo News on 1 August 2021.

³ The [version of the Code](#) in force at the time of broadcast took effect on 1 January 2019.

⁴ Since the programme was broadcast, this rule was updated to reflect the UK's implementation of the 2018 revision of the Audiovisual Media Services Directive (Directive (EU) 2018/1808). The substance of the rule as it relates to racial and religious hatred was, however, unchanged.

Executive Summary

1. On 5 and 6 May 2020 at 16:00, Up and Coming TV broadcast on Samaa TV consecutive episodes of *Nadim Malik Live*, a one-hour, weekday Pakistani current affairs discussion programme.
2. Samaa TV was the original name of the satellite television service broadcasting predominantly in Urdu which Up and Coming TV used to broadcast. The Licensee used this name for its service until 1 August 2021 when it changed the name to Neo News to reflect the fact it had changed content provider.
3. Both programmes discussed a controversy surrounding the potential inclusion of Ahmadi representatives in the National Commission for Minorities ("the Minorities Commission"), which had been recently established in Pakistan.
4. The 5 May 2020 programme included statements that evoked the common antisemitic stereotype of Jewish people being in positions of financial power and in control of institutions by implying that they were complicit in, or responsible for, the inclusion of Ahmadi representation in the Minorities Commission. A contributor also referred to wealthy Jewish families including the "*Goldsmiths*" and "*Rothschilds*", a name which has been used as an antisemitic slur for over 200 years. The word "*Jew*" was used as a term of abuse and in a derogatory fashion. By linking support for Ahmadi representation on the Minority Commission with an underlying "*Jewish*" conspiracy, the statements in the programme also linked Ahmadi people with that alleged conspiracy. Overall, we considered that these statements would be interpreted by viewers to be antisemitic and expressions of hatred based on intolerance of Jewish people, and also to be implicitly anti-Ahmadi and expressions of hatred based on intolerance of Ahmadi people. We considered that their broadcast had the potential to promote, encourage and incite such intolerances among viewers.
5. The 6 May 2020 programme included statements that suggested the act of supporting Ahmadi people was a form of blasphemy and treason. This promoted an intolerance of Ahmadi people on the grounds of their religion. It also included statements which we considered to be part of a tradition in Pakistan of blaming crises on Ahmadi people, alongside Israel and Jewish people. Cumulatively with the use of the word "*sedition*", it was implied that the Ahmadiyya community as a whole is potentially treacherous. The cumulative effect of all these statements promoted hatred and intolerance of Ahmadi people.
6. On 8 August 2022, the Licensee stated its intention to surrender its licence. Ofcom has the power to impose relevant sanctions, including a financial penalty, relating to breaches of the Code during the period in which any licensee held a broadcasting licence, regardless of whether that licensee still holds a licence⁵. Ofcom considers that it is important to use its powers to issue penalties in response to serious breaches of the Code where it is appropriate to do so and has therefore come to a view on a sanction to be imposed in respect of the material broadcast on Samaa TV on 5 and 6 May 2020.

The Breach Decision

7. In Ofcom's Decision published on 7 March 2022 in [Issue 446 of the Broadcast and On Demand Bulletin](#) (the "Breach Decision"), Ofcom found that this programme contained uncontextualised hate speech⁶ and breached Rules 3.2, 3.3 and 2.3 of the Code.

⁵ Section 346(3) of the Communications Act 2003.

⁶ 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".

8. The Breach Decision set out the broadcast material that was in breach, along with reasoning as to why the material had breached each rule.
9. Ofcom put the Licensee on notice that it considered these breaches to be serious, and that it would consider them for the imposition of a statutory sanction.

The Sanction Decision

10. In accordance with Ofcom's Procedures for the consideration of statutory sanctions in breaches of broadcast licences (the "[Sanctions Procedures](#)"), Ofcom considered whether the Code breaches were serious, deliberate, repeated or reckless so as to warrant the imposition of a sanction on Up and Coming TV.
11. Ofcom issued a Preliminary View on sanction (the "Sanction Preliminary View") that Ofcom was minded to impose on the Licensee a statutory sanction. Our Sanction Preliminary View took into account representations that Up and Coming TV had previously made in advance of our breach finding (see paragraphs 71 to 76 below). Ofcom sent a copy of the Sanction Preliminary View to Up and Coming TV on 4 July 2022 and gave it the opportunity to provide further written and oral representations on it.
12. The Licensee chose not to make any further written representations in response to our Sanction Preliminary View and declined the opportunity to make oral representations at a hearing. However, in emails dated 28 July and 8 August 2022 stating its decision not to make formal representations, it noted its intention to surrender its licence to broadcast and that it had ceased broadcasting as of May 2022 [§<CONFIDENTIAL].
13. Having taken into account these comments and Up and Coming TV's prior representations, Ofcom has reached the Decision that a sanction is merited for the reasons set out in paragraphs 78 to 80 below.
14. Ofcom's Decision is that the appropriate sanction is to:
 - a) impose a financial penalty of £40,000; and,conditional on the Licensee continuing to hold a broadcast licence and resuming to broadcast:
 - b) direct the Licensee not to repeat the programmes; and,
 - c) direct the Licensee to broadcast a statement of Ofcom's findings on dates and in a form to be determined by Ofcom.
15. This paper sets out the basis for Ofcom's Decision, taking into account all the relevant material in this case and Ofcom's Penalty Guidelines (the "[Penalty Guidelines](#)").

Legal Framework

Communications Act 2003

16. 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, amongst other things, the application to 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)).
17. 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.

18. In performing its 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

19. 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.
20. 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”.
21. 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 maintaining the authority and impartiality of the judiciary” (Article 10(2)).
22. 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

23. 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 race or religion, and persons who do not share it.

The Ofcom Broadcasting Code

24. Standards set by Ofcom in accordance with section 319 of the Act are set out in the Code.
25. 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.
26. The relevant Code rules in this case are set out in full at the beginning of this Decision.

⁷ See: Section Two and Section Three of the Code; Ofcom’s Guidance Notes on the Code; and [Guidance Notes on Section 2: Harm and Offence](#); and [Guidance Notes on Section 3: Crime, Disorder, Hatred and Abuse](#).

Remedial action and penalties

27. 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 the provisions of any Code made under section 319 are complied with. The licence in this case was a TLCS licence.
28. 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.
29. 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, on the service concerned, a programme which was in contravention of a licence condition.
30. 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 five 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.
31. Section 238 of the Act gives Ofcom a duty to revoke a TLCS licence if the licensee is in contravention of a condition of the licence or is failing to comply with a direction and Ofcom is satisfied that the contravention or failure, if not remedied, would justify the revocation of the licence. It is not relevant in this case, as the breach is not ongoing and is not susceptible to being remedied.
32. Section 239 of the Act gives Ofcom a duty to suspend and then revoke a TLCS licence if satisfied that that the holder of the licence has included in the service one or more programmes containing material likely to encourage or to incite the commission of crime, or to lead to disorder; that, in doing so, it has contravened licence conditions; and that the contravention is such as to justify the revocation of the licence. It is not relevant in this case, as the programme did not contain material likely to encourage or to incite the commission of crime.

Background – Further information on the Breach Decision

33. In the Breach Decision, Ofcom found that material broadcast on Samaa TV on both 5 and 6 May 2020 breached Rules 3.2, 3.3 and 2.3 of the Code. The Breach Decision set out the reasons for each of these findings.
34. In the representations that Up and Coming TV made in advance of our Preliminary View on the breaches, it set out what it considered to be mitigating contextual factors. However, in its representations on our Preliminary View on the breaches it accepted that it had breached the above Rules.

Rule 3.2 – 5 May 2020 programme

35. In summary, Ofcom's Breach Decision found this episode of the programme *Nadeem Malik Live* contained uncontextualized antisemitic and anti-Ahmadi hate speech which amounted to abusive or derogatory treatment of Jewish and Ahmadi people.
36. Nadeem Malik, the presenter, said attempts had been made to include representatives of the Ahmadiyya community in Pakistan's Minorities Commission "*through underhand means*". He then discussed this and one other topic with three guest contributors, each representing the main political parties in Pakistan.
37. One of the contributors, Palwasha Khan, was a representative of the opposition party called the Pakistan People's Party ("the PPP"). She said in relation to the apparent approval of Ahmadi

representation on the Minority Commission that it was under the *“agenda of the Jews...the very same agenda which Doctor Israr had pointed to...the very same Rothschild agenda”* and that it was *“the agenda of the Goldsmiths”*. She later said that the beliefs of the current Pakistan Tehreek-e-Insaf (“PTI”) Government were *“based on that of the Jews”* and that *“Rothschild, and...Goldsmiths”* funding had *“got [the PTI] to where they are”*.

38. The programme also included the following exchange between Sadaqat Ali Abbasi, a representative of the PTI Government, and Palwasha Khan:

Sadaqat Ali Abbasi: *“The People’s Party will teach us religion now. May God help us”*.
 Palwasha Khan: *“We will teach you. You are a Jew. You should be taught about it”*.
 Sadaqat Ali Abbasi: *“These comments are being made. On air, I will request Bilawal, because she called me a Jew”*.
 Palwasha Khan: *“I did”*.
 Nadeem Malik: *“No, no, you can’t call anyone a Jew”*.

39. The Breach Decision found that these remarks evoked the common antisemitic stereotype of Jewish people being in positions of financial power and in control of institutions by implying that they were complicit in, or responsible for, the inclusion of Ahmadi representation in the Minorities Commission.
40. We took into account that Palwasha Khan referred to wealthy Jewish families including the *“Goldsmiths”* and *“Rothschilds”*, a name which has commonly been used as an antisemitic slur, and to the work of Dr Israr Ahmad, a public figure who has been associated with the expression of antisemitism⁸, and who carries the authority of a prominent religious scholar.
41. We considered that *“Jew”* was used as a term of abuse in the exchange reproduced at paragraph 38 above and that this was aggravated by finger pointing and the use of an accusatory tone, and further aggravated by the clear offence taken by the guest at having this accusation aimed at him. We considered that this abuse was derogatory and antisemitic. We did not accept the Licensee’s view that the host had tried to challenge this antisemitism. In our view, the host stated that Palwasha Khan should not denigrate Sadaqat Ali Abbasi’s standing as a Muslim by calling him *“a Jew”*, and this contributed to the overall antisemitic nature of the exchange.
42. Overall, we considered that the statements above made by Palwasha Khan during the programme would be interpreted by viewers as antisemitic and expressions of hatred based on intolerance of Jewish people.
43. Further, by linking support for Ahmadi representation on the Minority Commission with an underlying Jewish conspiracy, the remarks linked Ahmadi people with that alleged *“Jewish”* conspiracy. Viewers were likely therefore, in Ofcom’s view, to have interpreted the remarks as implicitly anti-Ahmadi and expressions of hatred based on intolerance of Ahmadi people.
44. We considered that the broadcast of this antisemitic and anti-Ahmadi content was intolerant of Jewish and Ahmadi people, and its broadcast had the potential to promote, encourage and incite such intolerances among viewers.

⁸ See:

- [Antisemitism in the Muslim Intellectual Discourse in South Asia](#), Navras J. Aafreedi, Department of History, Presidency University, Kolkata 700073, India, 19 July 2019.
- [A terror suspect’s mentor](#), National Post, 7 September 2006.

45. We considered that the risk of the material causing harm, and the corresponding need for contextual justification in the programmes, were particularly high given that statements constituting hate speech against Jewish and Ahmadi people were made by guests who hold positions of power and authority in the current Government and opposition parties in Pakistan.
46. We considered that this content would have been highly offensive to UK viewers, including Muslims who do not share the speakers' antisemitic and anti-Ahmadi beliefs. We were concerned that it would have aggravated existing religious tensions between Pakistani Muslims and Ahmadi people in the UK, and members of the Pakistani community and members of the Jewish community in the UK. We took into account that those tensions have included violence⁹ and hostility by a minority section of British Muslims against the British Ahmadiyya community.
47. We noted that each of the guests were public figures speaking for a political party. We considered that this would be likely to exacerbate rather than mitigate the material amounting to hate speech. We took into account the position of authority held by Palwasha Khan as a Pakistani politician and serving member of the PPP, and her use of the name of the influential religious figure, Dr Israr Ahmad, to support her comments. We considered that that these factors lent authority to the antisemitic statements made on the programme.
48. We acknowledged that both the host and Mr Abbasi spoke against "Captain Safdar"¹⁰ who had reportedly made a highly inflammatory anti-Ahmadi speech. The host said, "*you cannot associate yourself with anyone who is spreading hatred in the country*". However, we did not consider this was sufficient to contextualise the hate speech that was included in the programme, and we took into account that the host also contributed to the antisemitic tone of the discussion as set out in paragraph 41.
49. While we agreed with Up and Coming TV that the topic of the Minorities Commission was legitimate topic of discussion, we disagreed that the discussion in the programme focussed on political and "administrative issues" rather than being "faith based or religious" in nature. We were concerned by the extent to which the "political" discussion was used as a platform for the host and his guests to express and perpetuate hatred based on intolerance of Ahmadi people and Jewish people.
50. The Licensee argued that the references to Jewish people in the programme were "regrettable generalisations of race and religion, but were made using the expressions which have been used frequently by the PTI itself when trying to bring down past Governments". We did not accept that the use of these expressions by the PTI in the past would have contextualised the antisemitic statements made by the guest, finding instead that if anything, it would have exacerbated them.
51. We disagreed with the Licensee that the host had interjected to advise "caution and continually informing the viewer that these statements are misplaced", considering rather that the host's remarks, as set out above, contributed to the antisemitic tone.
52. We found that there was no material broadcast in the programme that provided challenge or criticism of the hate speech against the Ahmadiyya and Jewish communities. Although the Licensee argued that the host "promptly steered [the guests] away" from the comments in question, we considered that the material amounting to anti-Ahmadi and antisemitic hate speech was left entirely unchallenged within the programme and there was no invitation in the

⁹ See for example [Man who murdered Glasgow shopkeeper Asad Shah in sectarian attack jailed](#), The Guardian, 9 August 2016.

¹⁰ This is in reference to Captain Safdar's speech in Pakistan's National Assembly where he made inflammatory remarks about the Ahmadi community. See [PML-N's Capt Safdar lashes out against Ahmadis, faces backlash on social media](#), Dawn, 10 October 2017.

programme for contrary views to be put forward. We therefore considered that there were no contextual factors arising from the editorial content of the programme which justified the hate speech.

53. We therefore concluded that the programme of 5 May 2020 was in breach of Rule 3.2 of the Code, which Up and Coming TV accepted following our Preliminary View on the breaches.

Rule 3.2 – 6 May 2020 programme

54. The programme on 6 May 2020 was a continuation of the previous day's discussion, in which the Minister for Religious Affairs, Noor Ul Haq Qadri, represented the Government's position. The other guests were the Minister for Parliamentary Affairs, Ali Muhammad Khan, Talaal Chaudhary of the political party PML-N, and a na'at reciter, Mr Sadeeq Isma'il.
55. Throughout the programme, Noor Ul Haq Qadri made statements which tended to suggest that Ahmadi people – mainly referred to in the programme as "*Qadianis*"¹¹ – are separate and different. We recognised that these comments reflected the fact that the Ahmadi people are the only minority group in relation to whom the constitution of Pakistan provides that they cannot define themselves in the way they want. However, we also took into account that the same guest stated:

"[a]ny person who, manifestly or latently, harbours sympathy or a soft corner for Qadianis cannot be faithful to Islam, and to Pakistan too".

56. In our view, this suggested that the act of supporting Ahmadi people was in itself a form of blasphemy and treason, and it promoted an intolerance of Ahmadi people on the grounds of their religion.
57. In addition, Ali Muhammad Khan stated that he considered Ahmadis to be a "*sedition against Islam*" and that "*the Qadiani movement is a great sedition*". We recognised that a strand of Islamic jurist thought provides that apostasy is seditious¹² and that some Muslims consider the Ahmadi faith to be a form of apostasy¹³. However, we also considered the following warning addressed by Ali Muhammad Khan to Ahmadi people:

"I definitely want to say to those Qadiani people: ...No one should dare think that they will succeed with their nefarious actions... there is no need to do further mischiefs in these things..."

58. We considered this warning in the context of the host's preceding comment that the Pakistani Prime Minister, Imran Khan, was "*not a supporter of Jews and not a supporter of Qadianis*" and that he did not believe he was "*an agent of Jews or Qadianis*". We considered that viewers were likely to have either understood that the host's statements were a reference to: remarks made in the programme of 5 May 2020 which we consider antisemitic and implied that Jewish people were complicit in, or responsible for, the inclusion of Ahmadi representation in the Minorities Commission through underhand means; or, to have understood that they were a reference to a common stereotype in Pakistan that Jewish and Ahmadi people are together responsible for various crises¹⁴. Either way, the host's comments gave credence to this stereotyping.

¹¹ Ofcom understands that the term "Qadiani" is used by some to refer to Ahmadi people, but is regarded as pejorative by the Ahmadiyya community. We considered its usage in the programme in the [Decision](#).

¹² See for example Ofcom's decision in [Broadcast Bulletin 383](#), Peace TV - *Media and Islam* 22 July 2019.

¹³ See [Saudi Arabia: 2 Years Behind Bars on Apostasy Accusation](#), Human Rights Watch, 15 May 2014.

¹⁴ See for example "[Against Coronavirus, Pakistan Turns to a Traditional Remedy: Blame Ahmadis and Jews](#)", Haaretz, 7 June 2020.

59. In our view, and taking into account the host's preceding comments, Ali Muhammad Khan's warning was not confined to the religious belief that the Ahmadi faith is a form of apostasy, but went beyond it, and would have been understood by viewers to be a reference to the "longstanding and repeated trope", as referenced in the Licensee's representations on our Preliminary View on the breaches, that "supposed attempts at changing faith-based laws related to blasphemy" were conspiracies connected to Ahmadi people. The warning in our view suggested that Ahmadi people had engaged in "*mischiefs*" and "*nefarious actions*" in connection with the Minorities Commission, and therefore placed responsibility on Ahmadi people as a whole for the alleged underhand actions of the cabinet ministers. We considered, therefore, that viewers were likely to have understood that this warning was part of a tradition in Pakistan of blaming crises on Ahmadi people, alongside Israel and Jewish people¹⁵. Cumulatively with the use of the word "*sedition*", it implied that the Ahmadiyya community as a whole is potentially treacherous.
60. We therefore considered that the cumulative effect of all these statements promoted hatred and intolerance of Ahmadi people. We acknowledged that given the genre and editorial content of the channel, the audience of *Nadeem Malik Live* would expect to view robust and heated discussions about political issues in Pakistan, including those that touch on religion, such as the representation of Ahmadi people at the Minorities Commission. However, while this was a legitimate topic of discussion in both programmes and not prohibited by the Code, the discussion extended beyond this, to the hate speech set out in paragraphs 55 and 57, which received no challenge or criticism in the programme. Nor was there any invitation in the programme for contrary views to be put forward. Again, as with the 5 May 2020 broadcast, we did not accept Up and Coming TV's representations on our Preliminary View on the breaches that the host had "promptly steered [the guests] away [from their] unfortunate and regrettable" comments. We therefore considered that there were no contextual factors arising from the editorial content of the programme which justified the hate speech, and we therefore concluded that the programme of 6 May 2020 was in breach of Rule 3.2 of the Code.
61. In reaching this finding, we took into account that the Licensee's representations on our Preliminary View on the breaches had set out the blasphemy laws in Pakistan and their association with conspiracy theories. We did not accept that this background served to contextualise the suggestion made in the programme that Ahmadi people need to be warned not to commit "*nefarious actions*" or to do "*further mischiefs in these things*".

Rule 3.3

62. We found that in the programme of 5 May 2020 Palwasha Khan used the word "*Jews*" as a term of abuse, and that it was accepted as such by the host and by Sadaqat Ali Abbas.
63. We also took into account that in the programme of 6 May 2020, the following opinion was expressed without challenge by the representative of the PML-N Party, Talaal Chaudhary, when talking about the governing party:

"Now they accept corrupt people, those who steal sugar and flour [i.e. hoarders to increase prices] are also sitting in the cabinet, IPP oil thieves are also sitting in the cabinet, their own minister [the Minister for Religious Affairs] has stated that the five ministers related to the blasphemy against the Prophet [the inclusion of Ahmadi representatives in the Minorities Commission] are also sitting in the cabinet... The thing is, now they accept the corrupt, at the moment Qadiani supporters too are acceptable, at this time, all thieves are acceptable because it's not the time of elections, now they aren't seeking votes, it's not the time to fool people".

¹⁵ See footnotes 10 and 14, for example.

64. We considered that, by suggesting that cabinet ministers who supported Ahmadi people were equivalent to “*corrupt*” ministers, to hoarders and to “*thieves*”, this implied that Ahmadi people were so contemptible that even supporting them was a form of corruption.
65. We therefore considered that the programme of 5 May 2020 contained abusive and derogatory treatment of the Jewish and Ahmadi communities, and the programme of 6 May contained abusive and derogatory treatment of Ahmadi communities. For the reasons already discussed in relation to Rule 3.2 above, and taking into account context in which hate speech was also included, we considered that the material was likely to have exceeded audience expectations of *Nadeem Malik Live* and that there was insufficient context or challenge provided within the programmes to justify the broadcast of this derogatory and abusive content.
66. We therefore found the programmes of 5 and 6 May 2020 in breach of Rule 3.3 of the Code.

Rule 2.3

67. Ofcom found that both programmes clearly had the potential to cause significant offence, given that they both contained material which constituted anti-Ahmadi hate speech and was abusive and derogatory towards Ahmadi people, and one contained material which constituted antisemitic hate speech, and which was abusive and derogatory towards Jewish people.
68. For the reasons set out above under Rules 3.2 and 3.3, we considered that the offensive content was broadcast without appropriate information, such as warning, explanation, or challenge, that would have assisted in avoiding or minimising the level of potential offence. We took into account the Licensee’s initial representation (before Ofcom’s Preliminary View on the breaches) that the programmes ensured that “offence was kept to a minimum” and that the broader context of the debate, being the Minorities Commission and the focus on the issue of government transparency, justified the broadcast of any material that might be potentially offensive. However, as explained above, Ofcom considered that the “political” discussion of the Minorities Commission was used as a platform to broadcast material about the Ahmadiyya and Jewish communities that had the potential to cause considerable offence, and that the political context did not justify the likely significant level of offence.
69. We also considered the Licensee’s initial representations that the host’s “level-headed control” of the debate minimised any offence caused by the statements of his guests. However, for the reasons explained above under Rules 3.2 and 3.3, we considered that the repeated offensive comments made about Ahmadi and Jewish people were broadcast without sufficient or timely challenge or critique.
70. In Ofcom’s view, the material would have therefore exceeded the expectations of the UK audience of Samaa TV and the offensive material was not justified by the context, in breach of Rule 2.3 of the Code.

Minded to consider the imposition of a statutory sanction

71. Our Preliminary View on the breaches notified Up and Coming TV that we were minded to consider the imposition of a statutory sanction. In its representations on them, Up and Coming TV said:
 - it had been trading since 2009 and had been broadcasting Samaa TV since 2012 without causing reason for statutory sanction, and in compliance with the Code, having “always upheld values and codes of broadcasting”;
 - it had “relayed the issues and concerns of the said TV presenter to Samaa in Pakistan” (by which it meant the Pakistani content creator which broadcasts a separate satellite television

service in Pakistan called SAMAA TV¹⁶ (“the content creator”) and from whom it purchased content it broadcast in the UK), setting out its position that “the said presenter ought not to continue presenting programmes or as a minimum a sanction ought to [be] applied and a public apology should be made”;

- having not received a satisfactory response from Samaa Pakistan, Up and Coming TV had decided “not to continue the relationship and the contract was ended [prematurely] on the 30 June 2021”, even though it had held the rights to broadcast the service in the UK until 2024. It said the decision to end the contract with Samaa Pakistan had taken place when the opportunity arose through a change of control in Pakistan;
- it no longer broadcasts Samaa TV and now broadcasts a different service called Neo News “after strict due diligence and compliance training on the broadcasting codes”;
- it believed “a service which has been taken off air should not be consider[ed] for statutory sanction”, and
- [§<CONFIDENTIAL].

It asked Ofcom to take its previous compliance record and these circumstances into account, especially in view of the fact it had ceased broadcasting Samaa TV since 30 June 2021, having terminated its relationship with Samaa Pakistan for the above reasons.

72. Ofcom generally regards the broadcast of hate speech in breach of Rule 3.2 to be a serious matter. In principle, Ofcom may, and has, imposed statutory sanctions on licensees for a first breach in this area¹⁷.
73. Paragraphs 110 to 114 below summarise the Licensee’s compliance record and show that the Licensee has previously breached the Code.
74. Licensees, not their third-party content providers, are responsible under the conditions of their broadcast licence for the content they broadcast and for ensuring that this content complies with the provisions of the Code (see paragraph 27 above). Ofcom has the power to impose a sanction relating to breaches of the Code during the period which a licensee holds or held a broadcast licence. The fact that Up and Coming TV began to later source content from a different provider, and has stated its intention to surrender its broadcast licence, does not remove the need for Ofcom to consider how to deter similar breaches by Up and Coming TV in the event that it does not surrender its licence or applies for another licence at a future date, and by other licensees.
75. The factors in paragraph 71 (the Licensee’s compliance record, the remedial action it has taken and [§<CONFIDENTIAL]) are relevant to the question of whether or not Ofcom ought to impose a sanction and, if so, how much.
76. We therefore went on to consider these circumstances as part of our consideration of what, if any, sanction is proportionate in this case.

Ofcom’s Decision to Impose a Statutory Sanction

77. 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.

¹⁶ See the [SAMAA TV website](#).

¹⁷ See for example our decisions in relation to [Kanshi Radio Limited](#) (July 2017) [Radio Ikhlas](#) (December 2018); [Islam Channel Limited](#) (November 2020); and [Rinse FM](#) (March 2022).

Serious nature of the breaches

78. We considered the breaches were serious. As set out in paragraphs 33 to 70, we considered that:
- the programme of 5 May 2020 contained uncontextualized antisemitic and anti-Ahmadi hate speech which amounted to abusive or derogatory treatment of Jewish and Ahmadi people; and
 - the programme of 6 May 2020 contained uncontextualized anti-Ahmadi hate speech and abusive and derogatory treatment of Ahmadi people.
79. Ofcom considers the potential harm arising from breaches relating to hate speech is usually serious, and that in this case it was serious. As set out at paragraph 100 below, we also took into account that there has been violent hostility by a minority section of British Muslims against the British Ahmadiyya community. While we recognise that the content in this case was not an incitement to violence, we consider this context to be relevant in determining that these broadcasts posed a risk of harm to members of the public. The content was also derogatory and abusive, and so had the potential to cause serious offence.
80. We recognised that audiences would have understood that: the content had been sourced from Pakistan and reflected political discourse in Pakistan; that the abusive elements were not sustained; and that substantial parts of the programming concerned (approximately 37 minutes on 5 May 2022 and 49 minutes on 6 May 2022) were not problematic. However, more than one people group (i.e. both Jewish and Ahmadi people) were the subject of the unchallenged hate speech and abuse in the 5 May 2020 programme. The hate speech and abuse targeted at Ahmadi people continued, also unchallenged, in the following edition of the programme on 6 May 2020. Further, we took into account that *Nadim Malik Live* is a flagship current affairs programme hosted by a “credible and highly respected journalist”¹⁸. We considered this normalised and gave credence to the antisemitic and anti-Ahmadi allegations. We also took into account that the All-Party Parliamentary Group for the Ahmadiyya Muslim Community has “heard how imported hate speech was having significant effect on Ahmadi Muslims in the UK... [who have] experienced discrimination” in business, the workplace, schools and the public sphere¹⁹. We considered therefore that just as the relationship between the Pakistani state and its Ahmadi citizens was a highly polemicised issue in Pakistan at the time of the broadcasts, so too was how the UK Pakistani Muslim community should relate to Ahmadi people in the UK. In this context we considered that the breaches of Rules 3.2 and 3.3 were serious.
81. In view of the factors set out above, Ofcom considered that the breaches were serious and warranted the imposition of a statutory sanction.

Imposition of sanctions other than a financial penalty**Direction to licensee to take remedial action**

82. 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 on the licensed service a programme which was in contravention of a licence condition.
83. Ofcom considered that although the Licensee had indicated an intention to surrender its licence, it could change its mind at any time until the surrender is made. It would therefore be

¹⁸ See quote of PML-N Information Secretary Marriyum Aurangzeb in [Politicians, journalists condemn FIA notice to Nadeem Malik over claims on Arshad Malik case](#), Dawn, 4 July 2021.

¹⁹ See [Suffocation of the Faithful](#), Report of the APPG Inquiry into the Persecution of Ahmadi Muslims and other Religious Communities in Pakistan, July 2020, pages 102-103.

appropriate to consider Ofcom's direction making powers, conditionally on the Licensee holding its licence and recommencing broadcast of the licensed service.

84. Ofcom considers the burden on licensees of being subject to a direction not to repeat a programme is not great, while the benefit in terms of audience protection is clear.
85. It is Ofcom's view that a direction not to repeat the programme alone would not, by itself, be an appropriate sanction in all the circumstances. The Licensee, as set out in the Breach Decision, broadcast one programme which contained both antisemitic and anti-Ahmadi hate speech, followed by another the next day which contained further anti-Ahmadi hate speech.
86. Ofcom took into account that Up and Coming TV changed the name of the service it broadcasts from Samaa TV to Neo News on 1 August 2021, having ended its commercial relationship with its content creator. We did not consider that viewers would have seen this as a response to the breaches which had occurred over a year earlier.
87. We considered that directing the Licensee to broadcast a statement of Ofcom's findings is necessary to bring the breaches by Up and Coming TV, and Ofcom's action in response to them, to the attention of viewers of the service now named Neo News. We considered that the broadcast of this statement would, if the service were broadcasting, reach a similar audience to that at the time of the breaches, when the service was name Samaa TV, given that the content of Neo News and Samaa TV is, according to the Licensee, "identical", being "general entertainment and editorial programming including some religious content".
88. Ofcom considered that, on its own, a direction to broadcast a statement of Ofcom's findings would be an insufficient statutory sanction to reflect the seriousness of the breaches in this case. Such a statement by itself would not act as an effective disincentive to discourage the Licensee from repeating similar breaches of the Code or other licensees from contravening the Code in a similar manner. Therefore, Ofcom considered that a direction to broadcast a statement of Ofcom's findings should be combined with another category of sanction, to act as an effective deterrent.
89. The Licensee had stated its intention to surrender its broadcast licence and had ceased to broadcast the service. Our Decision was to give a direction not to repeat the programmes and a direction to broadcast a statement of our findings, each conditional on the Licensee continuing to hold its broadcast licence and resuming broadcast of the service.
90. Ofcom next considered whether it would be appropriate to determine that a financial penalty should be applied in this case.

Imposition of a financial penalty

91. Under section 237 of the Act, Ofcom has the power to impose a financial penalty on the holder of a TLCS licence where it is satisfied the licensee has contravened a condition of its licence. 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.
92. Ofcom requested financial data from Up and Coming TV setting out its qualifying revenue for the last accounting period. The Licensee provided its qualifying revenue for the preceding accounting period. In the light of the information provided and all the other information available in the case, we considered that there was no prospect that the Licensee's qualifying revenue for the last accounting period would lead to a different maximum penalty. The maximum penalty that Ofcom could impose was £250,000 in respect of the contravention in this case.

93. Ofcom's Penalty Guidelines state at 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, including to other broadcasters, which may include other potential licensees who may wish to use the same content provider as previously used by Up and Coming TV.
94. Ofcom has also taken account of the specific factors set out in the Penalty Guidelines.
95. 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 for other licensees to comply with the Code. Although the Licensee has stated its intention to surrender its broadcast licence, if it does do so, either it or persons associated with it could apply for a broadcast licence at any time.

Factors taken into account in determining the amount of a penalty

96. 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

97. Ofcom regarded the breaches to be serious for the reasons set out in paragraphs 78 to 80 above. In considering the appropriate amount of a financial penalty, we recognised: that audiences would have understood that the content had been sourced from Pakistan and reflected political discourse in Pakistan; that the abusive elements were not sustained; and that substantial parts of the approximately one and a half hours of programming were not problematic. However, we were concerned by the fact that the Licensee had broadcast this content, which, in Ofcom's view: constituted hate speech and abuse or derogatory treatment of people with a protected characteristic without challenge or context, targeted two people groups; and that the breaches occurred in two programmes one day after the other. We considered this content had the clear potential to cause both harm (see also paragraph 100) and offence.
98. The Breach Decision related to material broadcast on 5 and 6 May 2020. We were not aware of the material having been broadcast again.

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

99. In this case, we considered that the risk of the material causing harm was particularly high given that statements constituting hate speech against Jewish and Ahmadi people were made by guests who hold positions of power and authority in the current Pakistani Government and opposition parties. In addition, one of these guests used the name of the influential religious figure, Dr Israr Ahmad, to support her comments. Further, the programmes contained no material that provided challenge or criticism of the hate speech against the Ahmadiyya and Jewish communities, nor any invitation for contrary views to be put forward.
100. Notwithstanding that the content reflected political discourse in Pakistan, and would have been understood by audiences as such, we considered that this content would have been highly offensive to UK viewers including Muslims who do not share the speakers' antisemitic and anti-Ahmadi beliefs, and we were concerned that it would have aggravated existing religious

tensions between both: Pakistani Muslims and Ahmadi people; and also members of the Pakistani community and members of the Jewish community in the UK. We took into account that the tensions between the former groups have included violence²⁰ and hostility by a minority section of British Muslims against the British Ahmadiyya community. We recognised that this content did not incite violence, but we nevertheless considered this context to be relevant in determining that this broadcast posed a risk of harm to members of the public.

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

101. We had 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.

102. Content in breach of Rules 3.2, 3.3 and 2.3 was broadcast in two consecutive editions of the programme, one day after the other, without apology or any indication at the time from the Licensee that it recognised that this content was potentially harmful and in breach of the Code. We therefore considered this was evidence of inadequate compliance processes for identifying potentially harmful material and ensuring that, once identified, such material was not broadcast.

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

103. We had no evidence that suggested the breaches occurred deliberately or recklessly.

104. Up and Coming TV's company secretary and sole director is also its compliance officer. We therefore considered that the Licensee's senior management knew, or ought to have known, that a contravention was occurring.

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

105. As set out above, the breaches occurred in two consecutive episodes of the same programme, broadcast one day after the other on 5 and 6 May 2020. It appears the Licensee only became aware of the potentially serious issue raised by the broadcast of this content on being alerted to the material by Ofcom on 19 May 2020 (in relation to the 6 May edition) and 2 June 2020 (in relation to the 5 May edition).

106. As set out in paragraph 71 above, Up and Coming TV ceased broadcasting content provided by the content creator on 30 June 2021, before relaunching its service under the name Neo News, for which it obtained content from a different provider. The Licensee stated that its move to using Neo News as its content provider followed "strict due diligence and compliance training on the broadcasting codes".

Any steps taken for remedying the consequences of the contravention

107. In its representations before our Preliminary View on the breaches, Up and Coming TV said that it would broadcast an apology if Ofcom found it in breach of the Code. However, it has not done so.

108. As set out in paragraph 71, in its representations on our Preliminary View on the breaches the Licensee stated that it had "relayed the issues and concerns" about the host of the programme

²⁰ See for example [Man who murdered Glasgow shopkeeper Asad Shah in sectarian attack jailed](#), The Guardian, 9 August 2016.

to the content creator, setting out its position that the host “ought not to continue presenting programmes or as a minimum a sanction ought to [be] applied and a public apology should be made”. It added that, as it had not received a satisfactory response, it had decided to cease the contract under which it purchased content from the content creator with effect from 30 June 2021. It said this was despite the fact it had the rights to broadcast the content in the UK until 2024, and took place when the opportunity arose through a change of control at the content provider.

109. We considered that the absence of a public statement on why Up and Coming TV had ceased broadcasting the content provider’s material from 30 June 2021, and the time that had passed since the offending content had been broadcast in May 2020, undermined the extent to which this could be considered a remedying action.

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

110. As set out in paragraph 71, Up and Coming TV asked Ofcom to take its previous compliance record into account, stating that it had been in compliance with the Code since it began trading in 2009 and broadcasting Samaa TV in 2012.

111. Ofcom has made five Code breach findings against the Up and Coming TV for three broadcasts in 2013, 2015²¹ and 2018. The 2013 finding was for breaches of Rules 1.3, 1.11 and 2.3 in relation to the broadcast in a news programme²² of images showing the moment of someone’s death. The 2018 finding was for a breach of Rule 2.3 for the broadcast of violence in a current affairs programme²³, which repeatedly showed images of a fatal shooting. Ofcom put the Licensee on notice on 17 December 2018 that, in the event of a further similar breach, we may consider taking further regulatory action, including the imposition of a statutory sanction. Ofcom also upheld a Fairness complaint about the Licensee in 2018.

112. In addition, Ofcom has recorded three breaches of Rule 4 of the Code on scheduling of TV advertising relating to broadcasts of excessive advertising minutage in the period December 2013 to January 2014 (recorded as ‘resolved’ on basis of action the Licensee had said would prevent a recurrence), April 2014 and December 2014. Also, in January 2018, we found the Licensee in breach of Condition 4(2) of its licence for late payment of its annual licence fee.

113. We considered that these contraventions, especially that of Rule 2.3 in 2018 for which the Licensee was warned about the possibility of sanction, should have alerted it to the need to improve compliance procedures.

114. We took into account that this was the Licensee’s first breach of the Code involving hate speech. However, reflecting the view that breaches in relation to hate speech are usually serious, Ofcom has previously imposed statutory sanctions on licensees for a first breach in this area²⁴.

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

115. In Ofcom’s view, the Licensee has been cooperative. For example, it provided full representations in response to Ofcom’s formal requests for information relating to the material

²¹ The 2015 finding related to a news programme broadcast during a UK General Election (*News*, Samaa, 7 May 2015, 14:30) and which included the discussion and analysis of election issues while polls were open, in breach of Rule 6.4.

²² *News*, Samaa, 14 September 2013, 17:00

²³ *Qutab Online*, 21 June 2018, 15:05

²⁴ See footnote 18.

broadcast and the service in general, and, in response to our Preliminary View on the breaches, it in effect admitted the breaches of the Code in this case.

116. However, we noted that the Licensee failed to respond in a timely manner to a formal request for financial information by Ofcom's specified deadline. It responded three days late, having already been given a 10-day extension it had requested, and its response then was incomplete and required further clarification, which it provided fairly promptly.

Precedent

117. Rules 3.2 and 3.3 were introduced by Ofcom in May 2016, following a review of Section Three of the Code. 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. In addition, such material when broadcast in religious programmes, has also been considered under the requirements in Rules 4.1 and 4.2 of the Code (that broadcasters exercise the proper degree of responsibility with respect to religious programmes and that they do not subject the views and beliefs of members of particular religions to abusive treatment).
118. In accordance with the Penalty Guidelines, in coming to this Decision, Ofcom has had regard to relevant precedents set by previous cases.
119. We note that we amended our Penalty Guidelines on 3 December 2015 and on 14 September 2017. Both times, this was to secure that penalties had an appropriate deterrent effect. On 14 September 2017 we noted that the update was, in particular, to ensure that we could impose penalties at the appropriate level effectively to deter contraventions of regulatory requirements. Precedents pre-dating these revisions are of less value. We also took into account that the breaches in the present case related to attacks on particular groups which were discursive, made by authority figures and appealed to religious beliefs, but which did not extend to inciting crime or disorder (Rule 3.1). We have therefore had particular regard to the precedent cases specified in paragraphs 120 to 124 below, which postdate September 2017 and which involved attacks on particular groups which were either discursive, made by authority figures or appealed to religious beliefs, but did not breach Rule 3.1. We have chosen those cases which appear to us most similar on their facts to the current case. A full list of Ofcom's previous recent sanctions decisions is published on Ofcom's website²⁵.
120. **19 December 2018, Radio Ikhlas Limited**²⁶ – Ofcom imposed a penalty of £10,000 and directed the licensee to broadcast a statement of Ofcom's findings for breaching Rules 2.3, 3.2 and 3.3. The presenter of a phone-in programme had discussed the beliefs of the Ahmadiyya community in offensive and pejorative terms. Ofcom found that the licensee had failed to identify that the presenter lacked understanding of the Broadcasting Code. Ofcom found that the material constituted hate speech which was intended to spread, incite, promote or justify hatred against Ahmadi people on religious grounds. We considered that the contraventions were at least reckless, as the licensee did not have adequate systems in place to prevent the breaches occurring or to take swift action to mitigate their adverse effects. It failed to monitor its live output on the day of the contravention, and it did not broadcast an apology for over a month after Ofcom had contacted it about the programme. This was the first breach of our rules for hate speech by the licensee.

²⁵ See [Broadcasting and on demand sanction decisions](#). Archived older decisions are linked from that page.

²⁶ See: [Sanction 110 \(18\) Radio Ikhlas](#).

121. **15 April 2019, City News Network (SMC) Pvt Ltd²⁷ (Channel 44)** – Ofcom imposed a penalty of £75,000 and a direction to broadcast a statement of findings for breaching Rules 2.3, 3.2 and 3.3. Channel 44 is an Urdu language news and current affairs channel. A guest featured in two current affairs discussion programmes made a series of unfounded accusations about members of the Ahmadiyya community, including that Ahmadi people had committed acts of murder, terrorism and treason as well as undertaking political assassinations. The same guest 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. Ofcom considered the licensee had been reckless in inviting the same guest who had made statements constituting hate speech and abusive and derogatory treatment of Ahmadi people to appear in a further live edition of the programme in which they made similar remarks in breach of the Code.
122. **5 May 2020, Lord Production Inc Limited (Peace TV – Valley of the Homosexuals)²⁸** – Ofcom imposed a statutory sanction of £100,000 for breaches of Rules 2.3, 3.2 and 3.3 of the Code. The programme discussed Islamic family values and homosexuality. The presenter, an Imam, made a sustained attack on homosexuality that was not presented with any reference to religious scripture and was expressed in a way which was gratuitously and repeatedly abusive. The licensee had breached the Code in relation to harm and offence a number of times in the past and had also breached Rules 3.2 and 3.3 of the Code.
123. **3 November 2020, Islam Channel Ltd²⁹** – Ofcom imposed a penalty of £20,000, a direction to broadcast a statement of findings for breaching Rules 2.3, 3.2 and 3.3 and a direction not to repeat the programme. A segment of an episode of *The Rightly Guided Khalifas*, a religious education series on the history of the Qur'an, ascribed a perpetually negative characteristic to Jewish people; namely corrupting Holy Books and seeking the destruction of Islam in both ancient and more recent times. It conflated Israel and Jewish people, characterising Jewish people as “*tyrannical*” and having an “*evil mind*”. The programme also used further negative and stereotypical terms to describe Jewish people. We considered this programme promoted and justified hatred towards Jewish people and therefore constituted hate speech. Ofcom considered that the antisemitic hate speech and other material broadcast in the programme that was abusive or derogatory about Jewish people would have been both harmful and highly offensive to some viewers of the programme and potentially damaging to relationships between Jewish and Muslim communities.
124. **22 December 2020, Worldview Media Network Limited (Republic Bharat)³⁰** – Ofcom imposed a financial penalty of £20,000 and a direction to broadcast a statement of findings for breaches of Rules 2.3, 3.2 and 3.3. Ofcom found that an episode of the programme *Poochta Hai Bharat*, a daily current affairs discussion programme in Hindi contained uncontextualised hate speech which was also potentially highly offensive. In the programme, the presenter and some of the guests conveyed the view that all Pakistani people are terrorists and featured further derogatory statements regarding Pakistani people. We considered these statements to be expressions of hatred based on intolerance of Pakistani people due to their nationality alone, and that the broadcast of these statements spread, incited, promoted and justified such intolerance towards Pakistani people among viewers. Ofcom considered these breaches to be extremely serious.
125. 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. We considered that the current case

²⁷ See: [Sanction \(111\)19 City News Network \(SMC\) Pvt Ltd.](#)

²⁸ See: [Sanction \(127\)19 Lord Production Inc Ltd.](#)

²⁹ See: [Sanction 130 \(19\) Islam Channel Ltd.](#)

³⁰ See: [Sanction 137\(20\) Worldview Media Network Limited.](#)

involved hate speech which was of lesser severity and less sustained than most of cases above, but noted that as in the case of City News Network (SMC) Pvt Ltd it took place across two programmes. Further, the hate speech in the current case targeted two vulnerable communities, each of which individually has been the target of hate speech in a number of previous cases, including recent ones³¹. We considered that the case of City News Network (SMC) Pvt Ltd (paragraph 121), which also broadcasts Urdu content created in Pakistan, should have put Up and Coming TV on notice that the broadcast of hate speech, including anti-Ahmadi hate speech, is a matter of serious concern to Ofcom and carries the risk of the imposition of a significant financial penalty. Further, the breach decision in the case of Worldview Media Network Limited (paragraph 124) was published just a few months prior to Up and Coming TV's breaches. This case should also have reminded licensees, including Up and Coming TV, of their duties in relation to the broadcast of hate speech and abusive and derogatory content.

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

126. 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. In considering what financial penalty is proportionate and will have a deterrent effect, we have taken into account:

- a) Up and Coming TV's accounts for the previous accounting period;
- b) to g) [§< CONFIDENTIAL].

Decision

127. 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 £40,000. In addition, Ofcom considers that the Licensee should be directed not to repeat the programmes, and to broadcast a statement of Ofcom's findings in this case, on dates and in a form to be determined by Ofcom, should it continue to hold its broadcast licence and resume broadcasting of the service.

Ofcom

23 August 2022

³¹ See, for example, Islam Channel Ltd (paragraph 123); City News Network (SMC) Pvt Ltd (paragraph 121) and Radio Ikhlas Ltd (paragraph 120).