

OFCOM BROADCAST AND ON DEMAND BULLETIN

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Introduction

Under the Communications Act 2003 ("the Act"), Ofcom has a duty to set standards for broadcast content to secure the standards objectives¹. Ofcom also has a duty to ensure that On Demand Programme Services ("ODPS") comply with certain standards requirements set out in the Act².

Ofcom reflects these requirements in its codes and rules. The Broadcast and On Demand Bulletin reports on the outcome of Ofcom's investigations into alleged breaches of its codes and rules, as well as conditions with which broadcasters licensed by Ofcom are required to comply. The codes and rules include:

- a) [Ofcom's Broadcasting Code](#) ("the Code") for content broadcast on television and radio services licensed by Ofcom, and for content on the BBC's licence fee funded television, radio and on demand services.
- b) the [Code on the Scheduling of Television Advertising](#) ("COSTA"), containing rules on how much advertising and teleshopping may be scheduled on commercial television, how many breaks are allowed and when they may be taken.
- c) certain sections of the [BCAP Code: the UK Code of Broadcast Advertising](#), for which Ofcom retains regulatory responsibility for television and radio services. These include:
 - the prohibition on 'political' advertising;
 - 'participation TV' advertising, e.g. long-form advertising predicated on premium rate telephone services – notably chat (including 'adult' chat), 'psychic' readings and dedicated quiz TV (Call TV quiz services); and
 - gambling, dating and 'message board' material where these are broadcast as advertising³.
- d) other conditions with which Ofcom licensed services must comply, such as requirements to pay fees and submit information required for Ofcom to carry out its statutory duties. Further information can be found on Ofcom's website for [television](#) and [radio](#) licences.
- e) Ofcom's [Statutory Rules and Non-Binding Guidance for Providers of On-Demand Programme Services](#) for editorial content on ODPS (apart from BBC ODPS). Ofcom considers sanctions for advertising content on ODPS referred to it by the Advertising Standards Authority ("ASA"), the co-regulator of ODPS for advertising, or may do so as a concurrent regulator.

[Other codes and requirements](#) may also apply to broadcasters, depending on their circumstances. These include the requirements in the BBC Agreement, the Code on Television Access Services (which sets out how much subtitling, signing and audio description relevant

¹ The relevant legislation is set out in detail in Annex 1 of the Code.

² The relevant legislation can be found at Part 4A of the Act.

³ BCAP and ASA continue to regulate conventional teleshopping content and spot advertising for these types of services where it is permitted. Ofcom remains responsible for statutory sanctions in all advertising cases.

licensees must provide), the Code on Electronic Programme Guides, the Code on Listed Events, and the Cross Promotion Code.

It is Ofcom's policy to describe fully television, radio and on demand content. Some of the language and descriptions used in Ofcom's Broadcast and On Demand Bulletin may therefore cause offence.

Notice of Sanction

Ariana News

Ariana International, 20 July 2016, 12:00

Introduction

Ariana International is a general entertainment channel originating from Afghanistan, and broadcast by satellite in the UK.

The licence for Ariana International is held by Ariana Television and Radio Network ("ATRN" or "the Licensee").

This sanction related to a news item which featured a video of a 17-year old individual, Muhammad Riyad, before he carried out an attack where he stabbed five people on a train in Southern Germany before being killed by security forces.

Summary of Decision

In its decision published on 19 December 2016 in issue 319 of the Broadcast and On Demand Bulletin¹, Ofcom found that the programme contained hate speech and was likely to encourage or to incite the commission of crime or to lead to disorder.

The news item included a video lasting two and a quarter minutes that Muhammad Riyad made before he carried out his attack. In the video, he: brandished a knife; boasted about his forthcoming attack; and made various statements describing in highly positive and graphic terms his and ISIL's² intentions to carry out acts of extreme violence against the German population. Ofcom was concerned that his statements had the clear potential to influence impressionable viewers by encouraging serious crime, up to and including murder, and/or leading to disorder in relation to members of the public, the police and the army. The likely effect, in Ofcom's view, would also have been exacerbated by the fact that Muhammad Riyad spoke uninterrupted for two and a quarter minutes and there were no views or statements in the programme which challenged or otherwise softened the inflammatory effect or the considerable level of potential offence caused by his statements.

¹ https://www.ofcom.org.uk/_data/assets/pdf_file/0018/96012/Issue-319-of-Ofcoms-Broadcast-and-On-Demand-Bulletin,-to-be-published-on-19-December-2016.pdf

² Daish or ISIL (Islamic State of Iraq and the Levant) is a proscribed terrorist organisation. The UK Government's list of proscribed terrorist organisations dated 15 July 2016 states the following in relation to ISIL: "Islamic State of Iraq and the Levant (ISIL) also known as Dawlat al-'Iraq al-Islamiyya, Islamic State of Iraq (ISI), Islamic State of Iraq and Syria (ISIS) and Dawlat al Islamiya fi Iraq wa al Sham (DAISH) and the Islamic State in Iraq and Sham - Proscribed June 2014. ISIL is a brutal Sunni Islamist terrorist group active in Iraq and Syria. The group adheres to a global jihadist ideology, following an extreme interpretation of Islam, which is anti-Western and promotes sectarian violence. ISIL aims to establish an Islamic State governed by Sharia law in the region and impose their rule on people using violence and extortion". See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/538297/201607_15-Proscription-website-update.pdf

Muhammad also Riyadh spoke in positive terms about jihad and about both the violent capabilities of ISIL and his own intention to kill non-Muslims and Muslims who renounce their faith. As such, his statements amounted to spreading, inciting, promoting or justifying hatred based on intolerance of those of a different religion, i.e. they were a form of hate speech. Ofcom was therefore concerned that ATRN broadcast a prolonged example of highly offensive hate speech in a news bulletin with no surrounding content that sought to challenge, rebut or otherwise contextualise Muhammad Riyadh's highly extreme views.

ATRN said that including the full length of the video on the ATRN international feed "was a serious error resulting from the breakdown of our editorial controls at the time" and that it was "gravely regretful" about the incident. It acknowledged that the material should not have been broadcast without "vehement opposition" to Muhammad Riyadh's "call to action".

Ofcom found that the programme breached Rules 2.3 and 3.1 and 3.2 of the Code:

- Rule 2.3: "In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context...".
- Rule 3.1: "Material likely to encourage or to incite the commission of crime or to lead to disorder must not be included in television or radio services".
- Rule 3.2: "Material which contains hate speech¹⁴ must not be included in television and radio programmes except where it is justified by the context".

In accordance with Ofcom's penalty guidelines, Ofcom decided that it was appropriate and proportionate in the circumstances to impose a financial penalty of £200,000 on the Licensee in respect of these serious Code breaches (payable to HM Paymaster General). In addition, ATRN are directed to broadcast a statement of Ofcom's findings in this case, on a date and time to be determined by Ofcom.

The full decision was published on 6 July 2017 and is available at:

https://www.ofcom.org.uk/_data/assets/pdf_file/0026/103949/decision-ariana-television-radio-network.pdf

Broadcast Standards cases

In Breach

Two lectures by Anwar al Awlaki *Iman FM, 14 June 2017, 08:15*

This Decision was originally published on 5 July 2017.

Introduction

Iman FM is a community radio station broadcasting to the Muslim community in Sheffield and the surrounding areas. The licence for this service is held by Iman Media UK Limited ("Iman FM" or "the Licensee").

The station broadcast a series of lectures throughout the holy month of Ramadan¹. Ofcom received a complaint from a listener who alleged two of the lectures encouraged violence and religious hatred.

The broadcast cited by the complainant consisted of two lectures by an unidentified male speaker in English, interspersed with recitations of verses from the Qur'an and Hadith² in Arabic. Ofcom asked Iman FM to clarify the identity of the speaker in these lectures. The Licensee confirmed to Ofcom the speaker was Anwar al-Awlaki.

Freely available information on Anwar al-Awlaki indicates that he was an American radical Muslim cleric of Yemeni descent who was designated a global terrorist by the US Government in 2010. In November 2011, the United Nations Security Council placed al-Awlaki on its UN Security Council Resolution list of individuals associated with al-Qaeda³, describing him as a leader, recruiter, and trainer for al-Qaeda in the Arabian Peninsula. His overt endorsement of violence as a religious duty in his sermons and on the internet is believed to have inspired several recruits to Islamic militancy to carry out terrorist attacks including: the attack on the Charlie Hebdo office in Paris in 2015; an attempt to blow up an American airliner in 2009; the Times Square bombing in 2010; the Fort Hood shootings in 2009; and the stabbing of Stephen Timms MP in 2010. In 2011, President Obama authorised the targeted killing of Anwar al-Awlaki in a drone strike in Yemen. Following his death, Mr al-Awlaki's writings and sermons remain available online.

During the broadcast the following statements were made:

"Ka'ab⁴ was a Jew but ethnically an Arab, so that shows that our negative attitude towards Jews is not based on racism, not based on their ethnicity, so that proves we are

¹ Ramadan in 2017 started on around 26 May 2017.

² Hadith: Sayings of Prophet Muhammad.

³ <http://www.un.org/press/en/2011/sc10468.doc.html>

⁴ Ka'ab ibn Ashraf: A Jewish man of influence who opposed prophet Muhammad in eighth century Arabia.

not anti-Semitic. Our problem is not with their ethnicity but their mindset...the issue of the Muslims is not the ethnicity of the Jews but their mindset which leads such a people to become blasphemous against Allah, to speak against the prophet, and to reject his message, to plot against Muslims, cause disunity. It is against their evil actions themselves”.

“Prepare whatever strength you have for Jihad fi Sabilillah [holy war in the cause of Allah]. This is a form of worship, it is just like praying, fasting or paying the Zakaat [charity] it is Ibaada [worship]. So if Jihad is fardh [compulsory], then preparation [for Jihad] becomes fardh as well, so this Ghazu⁵ was equivalent to worshipping Allah with training, this was hands on military training”.

“Not all battles are played out on the battlefield, sometimes clandestine special operations are needed to inflict harm on the enemies of Allah”.

“This shows that that there are some special rulings for military operations. If the mission depends on the person hiding their identity [or] Islamic identity, then that is allowed”.

“[Military service/preparation] served a purpose as it was hands on military training, and this military training is a form of worship in itself... [In military service] to be a member of a group, a jamaat [community], because there is obedience, there is discipline there is sacrifice you're not just an individual but part of a group”.

“History is repeating is itself the enemies of Allah are spending billions of dollars to kill the pious disciples of the Holy Prophet, rounding them up, capturing them, and tarnishing the reputation of Islam. Lots of money is spent. The Kuffar⁶ of today are no different to the Kuffar of the Quraysh [Arab tribe]”.

We considered this raised issues under the following rules of the Code:

Rule 3.1: “Material likely to encourage or to incite the commission of crime to lead to disorder must not be included in television or radio services”.

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

⁵ Ghazu: A Bedouin raid, which early Muslims took part in and it is recorded that the Prophet Muhammad took part in such raids.

⁶ Kuffar [Arabic]/Kaafir [Urdu]: Literal translation meaning disbelievers. Ofcom understands that in modern Arabic and Urdu usage it is commonly used as a pejorative term to describe non-Muslims.

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...discriminatory treatment or language (for example on the grounds of...religion...)"

Ofcom requested comments from the Licensee to explain the context in which the material was broadcast.

Response

Iman FM provided Ofcom with both written and oral representations.

Background to the broadcast of the lectures of Anwar al-Awlaki

Iman FM said it normally broadcasts a live daily breakfast show from 08:00 to 10:00, but that the regular presenter was not available during the month of Ramadan. Therefore, it decided to broadcast a series of pre-recorded lectures.

In selecting the lectures to be played on air, Iman FM told Ofcom they searched the internet for lectures "on the life of the Prophet Muhammad" and "lectures on Seerah", adding that the lectures they selected to broadcast were "freely available".

Iman FM told Ofcom that a total of 20 hours of recordings featuring Anwar al-Awlaki had been broadcast. However, once the Licensee has submitted a breakdown of the hours broadcast, Ofcom calculated the total number of lectures broadcast to be in excess of 25 hours, of which approximately 2 hours were repeats of earlier broadcasts.

The Licensee said it was "not aware of the background of the preacher and had no knowledge of him being proscribed by the United Nations". It added that "had this fact been known" they would not have broadcast the lectures.

The Broadcast

In explaining how the material came to be broadcast Iman FM said:

- the first 20 lectures had been selected to be played in chronological order;
- 12 hours of the content was fully listened to and none of that content had raised compliance concerns;
- of the remaining 8 hours that were broadcast, only samples were assessed prior to broadcast;
- the material Ofcom had found in breach was only sample checked before broadcast;
- the lectures had been edited prior to broadcast to insert advertising breaks;
- the material was loaded into an automated schedule to be played out;
- the final decision to broadcast was made by the Station Manager and Production Manager;

- whilst Iman FM sometimes broadcasts disclaimers ahead of external content being played, no disclaimer accompanied this broadcast;
- normally lectures and sermons would be chosen to fit the station's ethos;
- the speaker was not introduced on air, as the Licensee's staff were rushing to prepare the lectures for broadcast ahead of Ramadan;
- during the broadcasts a volunteer was in the office but may not have been monitoring broadcast output from the studio;
- management did not pick up on the lectures because they thought they had been compliance checked. As they had been observing their religious practices late into the evenings, at the time of the broadcasts they were "probably catching up on sleep".

Iman FM said the material it had reviewed before broadcast was "judged to be within the parameters" of the Code. The Licensee accepted that it had not fully listened to the recordings prior to broadcast, stating this was due to time constraints, with it being a small radio station and the timing falling within the month of Ramadan. The Licensee also said "this was under the presumption that the events talked about are on the life of the prophet Mohammed, which ordinarily is a historical account, normally not controversial". However, Iman FM went on to accept that the material broadcast was in breach of the Broadcasting Code.

Further submissions

In response to this incident, Iman FM said it had taken the following actions:

- the lectures were taken off air;
- it had decided not to broadcast the material again;
- Iman FM accepted their compliance procedures in this instance had not been adequate. Following this breach the Licensee said it had reviewed and enhanced its guidelines for presenters and content policy regarding compliance of lectures and speeches prior to broadcast. Iman FM said it would keep this policy under review;
- It would run due diligence checks in future on the background of speakers before broadcasting their speeches and lectures.
- During the Licensee's "Feedback Show" broadcast on Friday 23 June the lectures by Anwar al-Awlaki were "strongly condemned". An apology was broadcast to listeners for any offence caused. Iman FM told listeners the content "fell below the high standards that Iman FM holds in promoting good programming" and "Iman FM always advances the causes of a united community, regardless of background and such individuals and what they stand for are condemned in the strongest terms". Listeners were told no lectures by Anwar al-Awlaki would be played on Iman FM in future. Iman FM sent Ofcom a recording of this broadcast shortly after transmission.

- A further broadcast was being prepared by the management of Iman FM for Saturday 24 June where the lectures of Anwar al-Awlaki broadcast by Iman FM would be condemned and the “detail of the content that was broadcast” would be discussed in “much more detail”.

However, when Ofcom requested a recording of this programme on the morning of Thursday 29 June, Iman FM said it had decided not to broadcast it because of the Eid celebrations. Iman FM said Eid was celebrated at different times in Rotherham and Sheffield and they needed to update the community they served on how and when to observe Eid with guests. Ofcom was advised that a programme with guests about the Anwar al-Awlaki lectures was scheduled for 15:00 on Thursday 29 June. A recording of this programme was provided to Ofcom after transmission.

Iman FM told Ofcom whilst the 12 hours of lectures they listened to prior to broadcast had not initially raised compliance concerns, having listened to them “in hindsight” with knowledge of the background of Anwar al-Awlaki, some of the content may be problematic. However, the Licensee said the “vast majority” of the content was “not controversial”.

Whilst accepting this content had been a breach of the Code, Iman FM said the breach had not been an intentional breach and it had never happened before. We took this into consideration, along with Iman FM’s submission that management and volunteers were as “not aware of the background of the preacher and had no knowledge of him being proscribed by the United Nations” and that “had this fact been known” they would not have broadcast the recordings. The Licensee also argued that it went “against the grain” of the service and the inclusive nature of the work they did in the local community to promote cohesion. Iman FM said the broadcast of these lectures were an “isolated mistake” which was an “unwitting” oversight. The Licensee asked Ofcom to consider that its Station Manager had run several RSL licences to observe Ramadan and had a good compliance record over 17 years.

The Licensee stated that whilst it appreciated that on this occasion “there was a clear breach of our internal procedures” the lectures were broadcast “unwittingly” and they “felt strongly the track record of the management and Iman FM” had not been given “sufficient weight” by Ofcom in reaching its preliminary view.

Decision

Ofcom has a general duty under the Communications Act 2003 to secure the application, in the case of 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, and a duty to set standards to secure that material likely to encourage or to incite the commission of crime or to lead to disorder is not included in television or radio services⁷. These duties are reflected in Sections Two and Three of the Code.

Ofcom has taken account of the audience’s and broadcaster’s right to freedom of expression set out in Article 10 of the European Convention on Human Rights (“ECHR”). We have also had regard to Article 9 of the ECHR, which states that everyone “has the right to freedom of thought, conscience and religion”. Ofcom must seek an appropriate balance between ensuring members of the public are adequately protected from harmful or offensive material

⁷ <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

and the right to freedom of expression and the right to freedom of thought, conscience and religion.

We acknowledge that, at times, offence can be caused not just by the actual content of a programme but by the very fact that people with extreme and very controversial views are given airtime. The Code does not prohibit people from appearing on television and radio services because their views or actions have the potential to cause offence. To do so would, in our view, be a disproportionate restriction of the broadcaster's right to freedom of expression and the audience's right to receive information.

Further, broadcasters should be able to, and can, report on terrorist groups, and individuals linked to such groups, that pose potential terror threats internationally and domestically. This is clearly in the public interest. However, if people or organisations are given the chance to articulate their views on television or radio, broadcasters must ensure they comply with the Code by challenging and placing those views in context, as appropriate.

In this case, Ofcom had serious concerns about the decision by the Licensee to give a platform to a widely-known terrorist leader and al-Qaeda recruiter, Anwar al-Awlaki, by broadcasting in excess of 25 hours of his lectures in the holy month of Ramadan (of which approximately 2 hours were repeats).

When broadcasting material of this nature, broadcasters must comply with: Rule 3.1 (prohibition on material likely to incite crime); Rule 3.2 (hate speech must be justified by the context); and Rule 2.3 (offence must be justified by the context).

Rule 3.1

Rule 3.1 of the Code requires that:

"Material likely to encourage or incite the commission of crime or lead to disorder must not be included in television or radio services".

When considering whether material is in breach of Rule 3.1, Ofcom is required to assess the *likelihood* of it encouraging or inciting the commission of crime or leading to disorder. Ofcom is not required to identify any causal link between the content broadcast and any specific acts of disorder or criminal behaviour. Ofcom takes account of all the relevant circumstances, the nature of the content, its editorial context and its likely effects.

Content may contain a *direct* call to action – for example, an unambiguous, imperative statement calling viewers to take some form of potentially criminal or violent action. Material may also contain an *indirect* call to action if it includes statements that cumulatively amount to an implicit call to act. In this case, Anwar al-Awlaki made the following statement:

"Prepare whatever strength you have for Jihad fi Sabilillah [holy war in the cause of Allah]. This is a form of worship, it is just like praying, fasting or paying the Zakaat [charity] it is Ibaada [worship]. So if Jihad is fardh [compulsory], then preparation [for Jihad] becomes fardh as well, so this Ghazu⁸ was equivalent to worshipping Allah with training, this was hands on military training".

⁸ Ghazu: A Bedouin raid, which early Muslims took part in and it is recorded that the Prophet Muhammad took part in such raids.

We considered the above statement amounted to a direct call to action to members of the Muslim community to prepare for and carry out violent action against non-Muslim people. Anwar al-Awlaki cited Jihad or holy war in the cause of Allah as a compulsory form of worship equivalent to other fundamental aspects of the Islamic faith such as praying and fasting.

We considered that the potential effect of this statement would have been exacerbated by other more indirect statements made by Anwar al-Awlaki which, in our view, served to condone violent acts and directly tell members of the Muslim community that it is acceptable to conceal their faith to perpetrate these acts:

“Not all battles are played out on the battlefield, sometimes clandestine special operations are needed to inflict harm on the enemies of Allah”.

“[Military service/preparation] served a purpose as it was hands on military training, and this military training is a form of worship in itself...[In military service] to be a member of a group, a jamaat [community], because there is obedience, there is discipline there is sacrifice you're not just an individual but part of a group”.

“History is repeating is itself the enemies of Allah are spending billions of dollars to kill the pious disciples of the Holy Prophet, rounding them up, capturing them, and tarnishing the reputation of Islam. Lots of money is spent. The Kuffar⁹ of today are no different to the Kuffar of the Quraysh [Arab tribe]”.

In Ofcom's view the cumulative effect of the above statements was to condone, promote and encourage violent behaviour towards non-Muslim people. Further, the lectures appeared to link violent acts of the past with actions that might potentially be taken today. Ofcom took the view that the content therefore amounted to a call to action which was likely to encourage or incite the commission of crime or lead to disorder.

Ofcom has published Guidance¹⁰ which accompanies Section Three of the Code. This makes clear that, under Rule 3.1, we take into account a range of contextual factors which could increase or decrease the likelihood of content inciting or encouraging crime or disorder. For example, the likelihood could be reduced if sufficient challenge or context is provided. However, in this case, no content was broadcast before or after these lectures that provided any challenge to, or criticism or explanation of, the violent behaviour that Anwar al-Awlaki's statements served to condone. Further, the broadcasts did not appear to provide any other context to mitigate the more potentially harmful messages contained within these lectures.

We considered the Licensee's representations that it had decided to broadcast pre-recorded lectures “on the life of the Prophet Muhammad”, adding that the lectures were “freely available” on the internet. We were concerned that the Licensee appeared to consider that the availability of content on the internet meant it was suitable for broadcast. We were

⁹ Kuffar [Arabic]/Kaafir [Urdu]: Literal translation meaning disbelievers. Ofcom understands that in modern Arabic and Urdu usage it is commonly used as a pejorative term to describe non-Muslims.

¹⁰ https://www.ofcom.org.uk/data/assets/pdf_file/0021/24258/section_3_2016.pdf

particularly concerned that Iman FM told us that it had listened to approximately half of the content featuring Anwar al-Awlaki prior to broadcast, and appeared to have based its decision to broadcast Anwar al-Awlaki's lectures on the "presumption that the events talked about on the life of the prophet Mohammed, which ordinarily is a historical account, are normally not controversial". We also considered Iman FM's submission that volunteers and management working there were unaware of the background of the speaker Anwar al-Awlaki. The Licensee provided Ofcom with the link they used to access the material on YouTube and information accompanying these lectures on the source site refers to Anwar al-Awlaki's arrest and detention in Yemen in 2006. It also refers to his death in a US drone strike in 2011. In Ofcom's view, given the notoriety of the Anwar al-Awlaki and the information provided at the YouTube source, it does not appear credible that the Licensee did not know any of the background information about the preacher before broadcasting his series of lectures.

For all the reasons above, we considered this content broadcast was likely to encourage or incite the commission of crime or lead to disorder.

Our Decision therefore is that Rule 3.1 was breached.

Rule 3.2

Rule 3.2 of the Code states:

"Material which contains hate speech must not be included in television and radio programmes except where it is justified by the context".

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".

In this case, Anwar al-Awlaki referred to a highly controversial event in Islamic history relating to the Prophet Muhammad's alleged order to kill a Jewish opponent. Anwar al-Awlaki stated:

"Ka'ab¹¹ was a Jew but ethnically an Arab, so that shows that our negative attitude towards Jews is not based on racism, not based on their ethnicity, so that proves we are not anti-Semitic. Our problem is not with their ethnicity but their mindset...the issue of the Muslims is not the ethnicity of the Jews but their mindset which leads such a people to become blasphemous against Allah, to speak against the prophet, and to reject his message, to plot against Muslims, cause disunity. It is against their evil actions themselves".

In our view this statement would have been interpreted justifying a "negative attitude" and critical view towards Jewish people, based on what it termed that community's "mindset" and their "evil actions". We considered this statement would have been perceived by listeners as justifying hatred or violence towards Jewish people, and therefore is a clear example of hate speech as defined by the Code.

¹¹ Ka'ab ibn Ashraf: A Jewish man of influence who opposed prophet Muhammad in 8th century Arabia.

We were also concerned by Anwar al-Awlaki referring to non-Muslim people with the Arabic term “*kuffaar*”¹² in the following statement:

“History is repeating itself the enemies of Allah are spending billions of dollars to kill the pious disciples of the Holy Prophet, rounding them up, capturing them, and tarnishing the reputation of Islam. Lots of money is spent. The Kuffar of today are no different to the Kuffar of the Quraysh [Arab tribe]”.

Ofcom understands that in some contexts (such as in the Qur’an) this term is used as a plain descriptor for non-Muslim people, but that in other contexts it is considered highly derogatory. Considering the tone of these lectures and the contemporary use of this word in Arabic, we considered that it was likely the use of these terms in this context would have been perceived by the audience as being highly pejorative towards non-Muslim people.

Therefore, it was Ofcom’s view that some listeners were likely to have interpreted the use of the term “*kuffaar*” in this context as glorifying a violent and extreme perspective towards those who do not share the Muslim faith. We therefore considered that the lectures promoted hatred against non Muslim people and was therefore hate speech, as defined by the Code.

Rule 3.2 permits the inclusion of hate speech in programming only when there is sufficient context. Our published Guidance to Rule 3.2 makes clear that there are certain genres of programming such as drama, comedy or satire where there is likely to be editorial justification for including challenging or extreme views in keeping with audience expectations, provided there is sufficient context. However, the greater the risk the material may cause harm or offence, the greater the need for contextual justification.

Ofcom must also take proper account of the broadcaster’s and the audience’s right to freedom of expression and related right to freedom of thought, conscience and religion. We recognised theological sermons and lectures are an important form of religious expression for some Muslim people. As Iman FM is a community radio station with a strong Islamic ethos broadcasting to a primarily Muslim audience, we accepted that its listeners may well expect and enjoy religious content such as lectures from Imams.

In this case, we did not consider there was editorial justification for including these views given the strength of the cumulative message of these lectures. Further, there was no material broadcast immediately before or after these lectures that provided any challenge to, criticism or explanation of, the extreme interpretation of Islam that it condoned. In our view, the community radio’s audience was unlikely to expect to hear content of this strength broadcast without sufficient context. The contextual factors in this case were not sufficient to justify the broadcast of this example of hate speech, and we therefore considered that it exceeded generally accepted standards.

As in the case of Rule 3.1, we took account of the Licensee’s various representations as to why it had broadcast this content. However, for all the reasons above we considered that Imam FM had broadcast hate speech without appropriate context.

Our Decision is therefore that Rule 3.2 was breached.

¹² See footnote 6.

Rule 2.3

Rule 2.3 of the Code states that:

“In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context. Such material may include...discriminatory treatment or language (for example on the grounds of...religion...)”.

Context is assessed by reference to a range of factors including the editorial content of the programme, the service in which the material is broadcast, the time of broadcast and the likely expectation of the audience.

We first considered whether this content was potentially offensive. As already discussed above, we considered these lectures a direct call to action to members of the Muslim community to prepare for and carry out violent action against non-Muslim people. It is also our view the material amounted to hate speech, as it was both abusive and derogatory towards non-Muslim people, and in particular, Jewish people. In our view, this content had clear potential to be highly offensive.

Ofcom then considered whether the broadcast of these comments was justified by the context. Taking into account the factors set out above under Rules 3.1 and 3.2, we considered this potentially highly offensive material was broadcast without immediate challenge or criticism. In our view, the community radio's audience was unlikely to expect to hear content of this type broadcast without sufficient context.

As in the case of Rules 3.1 and 3.2, we took account of the Licensee's various representations as to why it had broadcast this content. However, we considered that the contextual factors in this case were not sufficient to justify any potential offence.

We considered that the two apology broadcasts provided some but not sufficient context to the speaker or his background.

Our Decision is therefore that Rule 2.3 was breached.

Conclusion

Overall Ofcom considered the breaches in this case to be extremely serious and has issued a Notice under section 111B Broadcasting Act 1990 suspending the Licence

Breaches of Rules 3.1, 3.2, and 2.3

In Breach

Brunch with Hughie Parr ***Ribble FM, 22 May 2017, 13:00***

Introduction

Ribble FM is a community radio station providing a service for people in the Ribble Valley, Lancashire. The licence for the service is held by Ribble FM Community Interest Company ("Ribble FM" or "the Licensee").

Brunch with Hughie Parr is a show which broadcasts "a mix of music and chat" on weekdays between 10:00 and 13:00.

We received a complaint about offensive language broadcast at approximately 13:00, as *Brunch with Hughie Parr* was ending. The song, 'Nuthin But A 'G' Thang' by Dr Dre featuring Snoop Doggy Dogg was broadcast at this time. Its lyrics contained the words: "fuck"; "motherfucking"; and "motherfucker".

We considered the language raised potential issues under Rule 2.3 of the Code, which states:

Rule 2.3: "In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context..."

We therefore sought comments from the Licensee on how the programme complied with this rule.

Response

Ribble FM said: "We apologise profusely for this shocking error", adding that the track was played accidentally and "as soon as this was noticed we stopped the track". It further added that *Brunch with Hughie Parr* "never includes rap type music, indeed the whole station doesn't include rap".

The Licensee said that a member of staff had subsequently "admitted to uploading tracks that he had not checked as radio edits or checked in other ways" and "is no longer at the station".

Following this incident, Ribble FM said that it removed "all rap type tracks" from the system and is currently checking other content to ensure that any unsuitable material is removed. The Licensee also said that it has now improved its protocol for checking and uploading tracks to its system "to ensure nothing like this happens again".

Decision

Reflecting our duties under the Communications Act 2003¹, Section Two of the Code requires that “generally accepted standards” are applied so as to provide adequate protection for members of the public from the inclusion of harmful or offensive material.

Under Rule 2.3, broadcasters must ensure that potentially offensive material is justified by context. Context is assessed by reference to a range of factors including the editorial content of the programme, the service in which the material is broadcast, the time of broadcast and the likely expectation of the audience.

Ofcom has taken account of the audience's and the broadcaster's right to freedom of expression set out in Article 10 of the European Convention on Human Rights. Ofcom must seek an appropriate balance between ensuring members of the public are adequately protected from material which may be considered offensive on one hand and the right to freedom of expression on the other.

We first considered whether the language had the potential to cause offence. Ofcom research² on offensive language clearly states that the words “fuck”, “motherfucker” and variations of them are considered by audiences to be among the most offensive language.

Ofcom then considered whether the broadcast of these words was justified by the context.

We acknowledged that the audience for *Brunch With Hughie Parr* was likely to comprise adults only, as it was broadcast at 13:00 on a weekday during school term time, and Ribble FM's target audience at all times is adults aged 35+. However, we considered that listeners would still not have expected to hear the most offensive language at this time, and that the track containing this language was out of keeping with the music usually played on this show.

We took into account that: the track was broadcast in error; the Licensee took the track off air as soon as the error was noticed; the Licensee has apologised for the transmission; and Ribble FM has taken a series of steps to ensure that the transmission of the most offensive language does not occur again.

However, in Ofcom's view the broadcast of the most offensive language exceeded generally accepted standards and, therefore, the programme was in breach of Rule 2.3 of the Code.

Breach of Rule 2.3

¹ <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

² Attitudes to potentially offensive language and gestures on TV and radio, September 2016. See page 6 of the Quick Reference Guide:

https://www.ofcom.org.uk/_data/assets/pdf_file/0023/91625/OfcomQRG-AOC.pdf

See also the main report:

https://www.ofcom.org.uk/_data/assets/pdf_file/0022/91624/OfcomOffensiveLanguage.pdf

In Breach

Takbeer Special

Takbeer Channel, 1 March 2016, 21:00

Introduction

Takbeer Channel broadcasts religious and general entertainment content mainly in Urdu from an Islamic perspective to audiences in the UK and across Europe. The licence for Takbeer Channel is held by Takbeer TV Limited ("Takbeer" or "the Licensee").

Ofcom received three complaints about the live broadcast, *Takbeer Special*, which was about three hours in duration. The complainants considered the programme glorified and condoned the actions of Mumtaz Qadri (see Background below), the police guard who was convicted of murdering Salman Taseer, the Governor of the Punjab, in Pakistan in 2011. In summary, the complainants objected to:

- the two programme presenters "eulogising and glorifying the infamous killer" Mumtaz Qadri;
- the programme stating that Mumtaz Qadri's day of execution was "a sacred day as he was a true hero";
- various Muslim scholars and imams contacting the programme to praise what they described as the "heroic act" of Mumtaz Qadri; and
- one Muslim scholar contacting the programme to suggest that others should emulate Mumtaz Qadri and "get rid of the blasphemers in similar fashion".

Takbeer Special was a programme produced and broadcast in the UK on the same day as, and immediately following, Mumtaz Qadri's judicial execution by hanging in Pakistan. The programme included, amongst other things, video footage of Mumtaz Qadri singing hymns before his execution and scenes from his funeral procession in Pakistan.

Background

In 2009 Asia Bibi, a Christian mother of five children, was accused of blasphemy under Pakistan's controversial blasphemy laws¹. Following a trial, she was sentenced to death. A number of people in Pakistan and around the world have criticised Pakistan's blasphemy law, and the case of Asia Bibi divided opinion in Pakistan. The Governor of the Punjab, Salman Taseer, made a widely publicised visit to the prison where Asia Bibi was held, and pledged that he would campaign for her release, and at the same time criticised the application of the blasphemy law.

On 4 January 2011 Mumtaz Qadri, Salman Taseer's police bodyguard, shot and killed him, citing what Qadri regarded as Salman Taseer's strong criticism of the application of

¹ Several sections of Pakistan's Penal Code comprise its blasphemy laws. Section 295C in particular prohibits any derogatory remarks which directly or indirectly defile the name of the Prophet Muhammad. The mandatory punishment for a breach of Section 295C is death and a fine.

Pakistan's blasphemy law for the attack, which he later said he regarded as a form of blasphemy against Islam. The case of Mumtaz Qadri was controversial and divided opinion in Pakistan. In some sections of Pakistan's religious and legal fraternity Mumtaz Qadri was adopted as a hero and viewed as a martyr and many of these people saw his execution as extrajudicial and political.

Following a trial, Mumtaz Qadri was sentenced to death and executed on 29 February 2016. The funeral procession and burial attracted large numbers of mourners. While mainstream Pakistani television channels were banned from showing scenes from the funeral procession, the images were widely circulated across social media platforms.

The programme

The programme was in Urdu. Ofcom translated the broadcast into English, provided a copy to the Licensee, and asked it to comment on the accuracy of the translation. In its response the Licensee stated "we appreciate the effort taken to prepare the transcript...but truly no translation can really capture the real tone, nuances, and cultural worldview underpinning the statement from another language or mindset". However, Takbeer did not challenge the accuracy of the translation and so Ofcom used it for the purposes of this investigation.

The programme was broadcast live from a studio in the UK. It was presented by Allama² Syed Zafrullah Shah ("ASZ"), a Takbeer TV religious programme presenter. He was joined throughout the programme by Masud Alim Al Azhari³ ("AAA") another religious scholar.

During the programme three additional guests joined the discussion in the studio:

- Pir Sultan Fiyaz ul Hasan Qadri, who is regarded as a person of exceptional holiness by a number of Sufi Muslims and who has thousands of disciples across the UK and around the world;
- Allama Raza ud Din Siddiqui, a leading Sufi scholar and Chairman and founder of the Zavia Foundation; and
- Allama Hafiz Ghulam Rasool, the Imam of a mosque in Tipton in the West Midlands.

Both guests took part in discussions about the Mumtaz Qadri case with ASZ and AAA, and spoke directly to camera. They commented on the execution of Mumtaz Qadri and related events. In addition, a number of people— including Muslim scholars, members of the public and one elected local councillor⁴ – contacted the programme by telephone to give their views.

Illustrative of the content in the programme, we noted the following statements. (In addition to the four programme contributors in the studio, the names of particular Muslim scholars and a local councillor who contacted the programme by telephone are indicated below):

² Allama: The honorific Allama generally denotes a person of considerable religious Islamic knowledge.

³ Al Azhari: The honorific Al Azhari indicates that a person has studied at the well-known Islamic university of Al Azhar based in Cairo, Egypt.

⁴ See footnote 20.

ASZ: *“One person who carries out a very public murder and yet he is not punished, and another [Mumtaz Qadri] who is consumed by his beliefs and his emotions, and kills a person who is a traitor to the constitution [Salman Taseer], and against whom no [criminal] complaint can be lodged. There is no question that I am saying this from a responsible platform, because we are against murder. We abide by the law and that is our message, but in Pakistan injustice takes place...and [if] justice is murdered, humanity is murdered. That person [Mumtaz Qadri] that we referred to as Ghazi⁵, is now referred to as Shaheed⁶. He has now become the heartbeat of not hundreds of thousands of people but millions. The examination of the journey from Ghazi to Shaheed of that individual is the purpose of today's programme on Takbeer TV. We will consider both the positive and the negative, solely to ensure that we spread the peace”.*

AAA: *“Viewers, today has become a blessed day, because today a lover of the prophet, a true lover of the Prophet has arrived in the court of the Holy Prophet...We used to think that this was said about ordinary mortals [that death is the name of the bridge that connects one lover with another] but that is not true. This was specifically for those blessed individuals such as this great one today [Mumtaz Qadri] who has arrived in the court of the Holy Prophet”.*

AAA: *“It's important to stress that this matter [Mumtaz Qadri's murder of Salman Taseer] for all of us was a matter of our honour and prestige. One person [Mumtaz Qadri] sacrificed his life, and he did it in a display of love and affection. His action was another chapter in the history of blasphemy”.*

Maulana Muhammad Bostan Qadri⁷:

“We would like to salute Ghazi Mumtaz Qadri who has embarked on this illustrious journey [to the afterlife]. This was a message to the whole Muslim world from the Ahle Sunnat⁸ and I would ask you to share with us as scholars of Islam what you yourselves feel is the lesson to be learnt today”.

⁵ Ghazi: Islamic warrior.

⁶ Shaheed: An Islamic martyr, often used for those who die on Jihad, or fulfilling a religious Commandment.

⁷ Founder and Secretary-General of the Confederation of Sunni Mosques, Midlands, which represents over 100 mosques and Islamic centres in the region.

⁸ Ahle Sunnat Wal Jamaat: here referring to the wider Sunni South Asian Muslim community.

Caller: *"I would like to pay my tribute to Takbeer Channel for hosting this programme about Ghazi Mumtaz Qadri Shaheed... As far as the historic act carried out by Mumtaz Hussain Qadri, we can look back to the lives of the Sahaba⁹, and acknowledge that this is an act on par with the actions of the Sahaba upholding the honour of the Holy Prophet. Mumtaz Hussain Qadri has handed down justice for blasphemy against the Holy Prophet".*

ASZ: *"Viewers, there are very few of us who are so blessed that they have an opportunity to give their lives in the service of the Prophet, and thus sup from the cup of martyrdom. In addition, with what innocence that person is placed on the gallows...But Ghazi Mumtaz Husain Shaheed – today we have proved that Pakistan is our nation and although we live here in the UK, Pakistan is in our blood...".*

[Caller] Allama Qari Muhammad Tayyab Naqshbandi Sahib¹⁰:

"I too wish to offer my Hadiya I Tabriq¹¹ in this matter before the scholars of... Ahle Sunnat wal Jamaat and I would like to offer a few bouquets of love for Ghazi Malik Mumtaz Qadri Rahmatullah i Alimeen¹²...They have recognised that the scenes that were on display¹³ could only have been divinely ordained, and as a result their hearts are filled with love [for Mumtaz Qadri]. I wrote a few verses in this regard which I recite:

*'I congratulate you Oh Qadri on becoming a Ghazi.
For the sake of Allah, a glorious Shahadat¹⁴.
You gave your life, but did not bow down before the material world.
I salute you for laying down your life for the sake of justice.
You gave your life out of love for the Prophet, for which I congratulate you.
For the sake of the millat¹⁵ you have become Mumtaz¹⁶.
Out of love of the prophet you have displayed such bravery.*

⁹ Sahaba: Companions of the Prophet Muhammad.

¹⁰ Allama Qari Muhammad Tayyib Naqshbandi Sahib is the Nazim (leader) of the Jamia Rasoolia Mosque, Corlton, Manchester and, Ofcom understands, a significant leader of the Sufi Naqshbandi Order of Sunni Islam.

¹¹ Hadiya i Tabriq: Gift of a tribute.

¹² Rahmatul Alimeen: An honorific reserved only for notable historic Islamic figures.

¹³ Scenes of vast crowds attending Mumtaz Qadri's funeral procession.

¹⁴ Islamic martyrdom.

¹⁵ Millat: Wider Islamic community.

¹⁶ Mumtaz: A play on Qadri's name which means excellent or sublime.

*You have joined Ghazi IIm ud Din¹⁷ in heaven.
You had drunk from Zam Zam¹⁸ and were fasting at the time.*

[AAA was sobbing at this point]

*Blessings upon you for attaining this exemplary status.
Singing the praises of the Prophet you achieved this status.
To die for the love of the Prophet is such a pure and blessed act.
And to you, Ghazi, we pass on the salaams of all the Ahle Sunnat¹⁹.*

ASZ: "Wonderful, wonderful...".

[Caller] Allama Niaz Muhammad Siddiqi¹⁹:

"I would like to congratulate Takbeer Channel and the whole team, because you are offering your salutations to an extreme lover of the Holy Prophet, and however much love and devotion we offer to Ghazi Sahib that would not be enough. The decision to execute him, and the people who ordered the execution should be condemned. The one who gave his life in the way of Namooos I Risaalat²⁰ i.e. blasphemy, should be lauded. The whole world if not the whole universe has seen the glory that can be found in the service of the Prophet. Such service is far more blessed than any worldly kingship and should be lauded".

[Caller] Councillor Mohamed Javed²¹:

"I want to congratulate Takbeer channel and both of you in the studio and Pir Sahib for honouring Ghazi Mumtaz Qadri in this way. Despite just having had a bypass operation, I am sitting here watching this programme and felt compelled to ring and offer my salutations to Ghazi Mumtaz Husain Qadri who killed the Holy Prophet's blasphemer. It is shameful of Pakistan particularly being an Islamic state that they should execute such a lover of the Holy Prophet. When Ghazi IIm Ud Din²² was executed we were under

¹⁷ Ghazi IIm ud Din: In 1929 IIm ud Din murdered a Hindu writer who had published a controversial book mocking the Prophet Muhammad. He was tried and executed but has been adopted as a role model and attained a legendary status for some Pakistanis.

¹⁸ Zam: a well in Mecca containing holy water.

¹⁹ Imam of one of Birmingham's largest mosques, and Joint Secretary of Ahle Sunnat Wal Jamaat UK.

²⁰ Namooos I Risaalat: Blasphemy against the Prophet Muhammad.

²¹ Mohamed Javed is a Labour Party councillor in Stockton on Tees.

²² See footnote 16 above.

British rule. I am ashamed that an Islamic country has hanged such a devotee of the Holy Prophet, and I send my salaams to him...".

Caller: *"The world needs to understand that such respectable people, such law abiding people, if someone out of them, out of the love of the Holy Prophet takes some step there must have been a reason behind it. If the establishment had carried out its responsibility, he [Mumtaz Qadri] would not have needed to have taken such a step. They never carried out their responsibilities, and if he had indeed carried out this act, it was the fault of this government's Governor [meaning Mumtaz Qadri's victim, Governor Salman Taseer] for the situation arising in the first place anyway. He created this incendiary situation in the first place, but thankfully the nation has replied and told us who is the hero of the nation, and who is the true representative of Islam, and the true face of Islam. This was true Islam displayed in Pakistan, this was the Ahle Sunnat wal Jamaat, these are the disciples of saints. These are servants of the Holy Prophet. We wish to tell the world that we can bear any loss, any injustice but we cannot countenance or allow any form of insolence or blasphemy of any sort of the Holy Prophet".*

ASZ: [In answer to a caller who asked whether the death sentence imposed on Mumtaz Qadri was correct, and whether *"if someone commits blasphemy of the Prophet does any person have the right to kill that person"* i.e. the blasphemer]

"The answer to your question sister is that, and it is not just me saying this about the trial process, but leading lawyers like Justice Nazir Akhtar Sahib who was a former Judge of the High Court who complained that they never allowed the defence to speak, and proceeded with great haste...As far as an individual committing murder, obviously we are against that, and we want judgements to be made according to the law. But when a situation arises when you don't allow the law to take its course, and obviously in this case if the law had been upheld [i.e. if Salman Taseer had been prosecuted for blasphemy in Pakistan, the prescribed penalty for which is the death sentence] this situation would never have arisen.... What both Allama sahib and myself want to say is that wherever we live, whether it is here in Britain or Pakistan we should abide by the law, both the rulers should abide by the law, and the ruled should remain within those constraints. So when the Governor [Salman Taseer] doesn't abide by the law then equally ordinary citizens don't abide by the law. Therefore, if both parties uphold the law then this sort of situation would never arise".

Allama Abdul Bari²³ [speaking in verse]:

"When you offer a sacrifice for the sake of the Prophet

²³ Allama Abdul Bari Chishti: A noted Sufi scholar based in Milton Keynes.

*You will receive reward from the Prophet for your allegiance.
Everything can be found in the obedience and service of the Holy Prophet
Everything is dedicated and subsumed in the love of the Prophet.*

[The caller's voice broke at this point]
*Today the universe has borne witness to the supreme sacrifice of that lover
[i.e. Mumtaz Qadri] of the Holy Prophet.
And ensured that that funeral of the Ghazi has been conducted with great
pomp and prestige.
Even as he kissed the noose he silently recited the shahada²⁴.
He sent a message to every Muslim of the importance of allegiance to the
Holy Prophet.
Every drop of your blood will be reincarnated within 100 other souls".*

[AAA was sobbing in the studio while these verses were recited].

*"Today it is incumbent on every person to send their salutations to Ghazi
Malik Mumtaz Qadri who upheld the honour of the Holy Prophet. We pray
that from today and until the end of time we are able to follow in his
footsteps and are protected from the mischief and treason of troublemakers.
Amen. Takbeer TV has taken this bold step and I pray that you are showered
with blessings".*

Allama Hafiz Ghulam Rasool²⁵:

*"This was a funeral of a man whom will be remembered in history, Ghazi
Mumtaz Qadri Shaheed Rahmatul Alimeen. A man whose state of heart was
filled with extraordinary conviction, principle regarding upholding the tenets
of his Deen²⁶".*

Allama Hafiz Ghulam Rasool:

*"But when this person [Mumtaz Qadri], with his extraordinary state of his
heart, his perfect love for the Prophet Muhammad...when he concluded, and
took this extraordinary step [of killing Salman Taseer], a step that me, and
you and others would not have taken, but his state of faith, his perfect state
of faith made him take that extra step, that extra leap which not many
others would have taken. What did it result in? He took a life, and in that
taking of life, he paid the ultimate price in this world, and that price he knew.*

²⁴ Shahada: the fundamental statement of faith in Islam i.e. "There is no God but Allah and Muhammad is his Messenger."

²⁵ The imam of a mosque in Tipton in the West Midlands.

²⁶ Deen: (Arabic) Faith.

He knew the consequences of his actions. The consequences will be that his life will also be taken. But he gave that sacrifice to uphold a principle. But you must remember...even though he did this...there are no copycats. Nobody has followed this thing. There is no vigilantism in Islam, and the people who have shown solidarity with him, have no vigilantism within them, but because he took that extraordinary step, which is shocking and amazing at the same time which not many others would have taken".

Allama Raza ud Din Siddiqui:

"I wanted to say that this love of the Prophet [demonstrated by Mumtaz Qadri] was in a different league altogether, and the love of the Holy Prophet has resulted in the unanimous opinion of the nation that Mumtaz Sahib was neither a terrorist nor an extremist"...

ASZ: *"In fact his funeral has become a symbol of peace".*

Allama Raza ud Din Siddiqui:

"...Those amongst us who claim to be secular, expert commentators, when the sentence was carried out expressed happiness, but these scenes [of the funeral] are to open their eyes".

[Caller] Allama Umar Yar Qadri Sahib²⁷:

"...I offer my condolences and express my sadness to the entire Islamic community and its scholars at the death of Ghazi Mumtaz Hussain Qadri. May Allah grant him a lofty status. Without doubt the sacrifice that Ghazi Mumtaz Hussain Qadri has performed for the love of the Holy Prophet is without parallel..."

AAA: *"...Whatever my God decides it is always for the best. All the individuals who have committed such indignities against the honour of the Holy Prophet have received their just rewards in this life. Those who committed injustices on the plains of Karbala²⁸were punished in this world".*

²⁷ Ofcom understands that Allama Umar Yar Qadri is a leading Sufi Barelvi scholar and lecturer associated with Tahir ul Qadri's Minhaj ul Qur'an organisation, who is based in Pakistan but who regularly visits the UK.

²⁸ Karbala: On the plains of Karbala (Iraq) the army of the Caliph Yazid fought and massacred most of the army and most of the family of Imam Hussain (Grandson of Prophet Muhammad). The survivors, including grandchildren of the Prophet Muhammad, were paraded before the Caliph Yazid in Damascus.

Caller: *"This person [Mumtaz Qadri] from amongst us, who was a supreme lover of the Holy Prophet has now departed this life. There is so much that I could say but I am overcome with grief and cannot express it in words, but I do want to ask a question from all of you. Who are they [the Pakistan government] trying to please by carrying out this act? Who were they trying to please by carrying out this sentence on Ghazi Mumtaz Qadri Shaheed?"*

The presenter, ASZ, concluded with the following remarks:

"We have taken callers from everyone, and it is the duty of the media to reflect the views of the public, and to reflect public sentiment. Please remember that we are those who uphold the law. For the avoidance of doubt we are not encouraging anyone to take the law into their own hands. That is my message that no person can do that, but similarly I would add that rulers should not meddle with the law, because with such rifts leads to a reaction. Which is why I say to the rulers of Pakistan that they should not meddle with the law simply on a whim. Had they done so then such incidents would not have happened in Pakistan".

Immediately after the programme finished, a caption in English was broadcast which stated:

"Disclaimer: The professional and personal views, opinions, wishes and traditions of the host(s), guest(s) and caller(s) expressed herein do not necessarily reflect the views of Takbeer TV".

Ofcom considered the material raised issues warranting investigation under the following rule²⁹ of 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...discriminatory treatment or language (for example on the grounds of... race, religion...Appropriate information should also be broadcast where it would assist in avoiding or minimising offence".*

We therefore asked the Licensee how the broadcast material complied with this rule. Ofcom pointed to the statements made in the programme and quoted above as illustrative of our concerns, having considered the programme as a whole.

Response

Takbeer stated that it was "against any promotion of violence, abuse, encouraging or inciting hatred, discriminatory treatment or any such behaviour of the sort". It added that "this programme was not designed to cause...offence" It also said "we allowed this programme to be aired due to overwhelming demand as a public interest issue as well as requests from our viewership". The Licensee added that: "Many of [its] viewers held the view that Pakistan's judicial system...[was] in breach of the written law" in the Mumtaz Qadri case.

²⁹ Ofcom also assessed this programme under Rule 2.1 and Rule 3.1 of the Code. However, having taken into account the programme as a whole, we did not consider taking further action under these two rules.

The Licensee explained that Pakistan has strict blasphemy laws and there was "mass grievance" in Pakistan that Salman Taseer (the Governor of the Punjab whom Mumtaz Qadri shot and killed) was constitutionally immune to prosecution for the comments he made about the country's blasphemy laws. These comments, according to Takbeer, were widely regarded as blasphemous and this "alleged blasphemous treason" was against the constitution of Pakistan. Takbeer explained that this caused "frustration" which "eventually led to transpiring of these tragic incidents" and that these incidents "confounded the public confusion because there was no redress to the grievances of these masses". It went on to say that the funeral attendance demonstrated a "mass public referendum against judicial inequality".

The Licensee stated that Takbeer TV "does not favour or influence opinion for any individual or party taking part in political or religious campaigns [in Pakistan]" and that the programme "was aired to discuss this unfolding current affair and a key public interest issue". The programme sought to "genuinely invite views on the mass outpouring of public opinion against the decision of Pakistan's judicial system in this specific case" as well as to address "the underlying highly nuanced spiritual and theological philosophy... regarding the status or virtues of this newly crowned martyr in the court of public opinion". The Licensee explained that Mumtaz Qadri "is seen as a tragic religious hero by some sections of the community... [and that] ...some believe that he sacrificed his life both as a patriotic citizen in upholding the true constitution and as a principled believer who uniquely took the law into his own hand very well knowing the consequences". The Licensee said that Mumtaz Qadri paid "the ultimate price" for "breaking the law in this world".

Specifically, in relation to Rule 2.3, Takbeer argued that "this programme was not designed to cause harm or offence". It stated that the execution of Mumtaz Qadri and reaction to it were sensitive issues and therefore this programme had been broadcast at a late hour to reflect the "depth of feeling" within the Pakistani Muslim community, who it said represents the majority of Takbeer's viewers. The Licensee acknowledged that there were "passionate culturally nuanced views expressed by some callers and members of the panel" and said that the panellists regretted that their opinion led to complaints. It contended that Ofcom had "not identified any particular group that would be offended" by the broadcast and said "There was no use of foul language, indecent images or offensive views against any particular part of the British community".

The Licensee suggested that "the material was justified in relation to the content and debate" on the basis that the opinions expressed were "held for legal, political and religious reasons". Takbeer also considered that "the material and opinions were not offensive in their own right but rather a different opinion to that some may hold". It added that the views were "justified in the context of the debate as to whether the execution was contrary to the law, that due legal procedure had not been followed and that this was a politically motivated extra judicial killing". In this regard, the Licensee said that "this channel is primarily, if not solely, watched by Muslims of Pakistani origin who were familiar with the debate since 2011". The Licensee therefore considered that this audience would have "understood the legal political and religious background [of the discussion]" and "the views expressed by callers would not have been new to them or offensive". The Licensee made clear for the record that its position was that: "we do not advocate vigilantism anywhere in the world. We do not advocate the right of any civilian to take the law into his own hands and execute a judicial or juristic determination or anarchy. We do not propagate the notion that any human should be persecuted for his or her ideological or theological beliefs, no matter how perverse

we may consider them to be. We condemn all forms of terrorism in the name of religion or otherwise, whether it is mounted by an individual, organisation or even a state”.

Takbeer also made a number of points in support of its view that the programme had complied with Rule 2.3: For example, Takbeer:

- said that “differing political, religious or legal views regardless of their nature cannot be considered” offensive and the coverage of the funeral reflected a “peaceful procession” and “there were no clips which could possibly be construed as offensive”. The Licensee added that the views expressed “were either based on people’s perception of a miscarriage of justice under Pakistani law due to legal opinion, hypocrisy on the part of political leaders, opinion regarding the Blasphemy laws or religious beliefs”;
- underlined the importance, in its view, of freedom of expression in this case,
- said that this was a current affairs programme dealing with a topical, newsworthy issue of interest to the general public, both in Pakistan and Pakistani communities around the world. It said that a “distinction” needed to be made between “programmes which cover controversial issues and those that cause offence”. It added that: “In a democratic society, we cannot take offence to any views anyone else holds, so long as we understand...freedom of speech”;
- said it had exercised “editorial caution” and pointed to various contextual factors as follows: the programme was broadcast after the 21:00 watershed when “all channels are allowed a greater amount of leeway as to what they are allowed to show”; “a relatively large number of guests were invited at extremely short notice to allow the best possible opportunity to have a variety of views”; members of the public were allowed to “phone in freely” and no caller was “prevented from expressing a view” regardless of their status or background; the audience for the programme “was limited to a Muslim audience of Pakistani origin”; and, the language (Urdu) of the programme ensured that “no other segment of British Society would have understood the contents of the programme even if they had accidentally come across it” and it followed therefore, that “no other segment of British Society could have been offended” by the programme; and
- said that editorial control was also exercised during the programme and that, in recognition of the “strength of opinion” and that a “misconception could arise” due to the fact that “there were fewer alternative views”, a disclaimer (described as a “warning” by Takbeer) was drafted and broadcast “towards the latter part of the programme”. The Licensee added that other warnings were given during the programme, for example, the presenter gave a “warning” at the outset saying “we are against murder”, followed by “two further messages of peace”; and other contributors warned viewers “to abide by the law in Britain and Pakistan” and warned them “against vigilantism”.

In summary, Takbeer contended that “this was a live current affairs programme covering a very controversial issue at extremely short notice whilst events were unfolding in Pakistan with live phone calls and therefore, the Editorial control was naturally limited and hindered”.

In conclusion, although the Licensee considered that the programme was not in breach of the Code, it said that it had diligently and dutifully learnt many lessons” from this case and taken “a series of practical steps” to ensure that none of its programming in future could be perceived as potentially inciting crime or hatred”. These included: appointing a new Director

to ensure better editorial control over live programmes; arranging an independent media company to act as a compliance consultant to help Takbeer to draw up a new code of conduct for live programming; and, introducing new training for presenters of live programmes to ensure they better handle "delicate live current affairs issues".

The Licensee also provided its written and oral representations on Ofcom's Preliminary View in this case, which was to record a breach of Rule 2.3. It submitted that the Provisional View was "in some places inaccurate, in some places short and makes omissions, and in certain places biased and prejudicial".

The Licensee cited the importance of Articles 9 (freedom of thought, conscience and religion), 10 (freedom of speech) and 14 (enjoyment of human rights without discrimination on any grounds, such as of sex, race and religion) of the European Convention on Human Rights ("ECHR"). Takbeer said it was exercising its rights under these articles and did so responsibly with the context of Rule 2.3 regardless of whether the statements are interpreted as religious, political, or legal views and whether made passionately or poetically. Takbeer also cited the law of conflict and emphasised the importance of respecting the law of other states even if "we do not always agree with laws of other countries". Takbeer argued that Article 9 entitled "Takbeer TV and the audience to a freedom of religion without discrimination and interference subject [to] restrictions prescribed by law".

Takbeer stated that, in its primary submission, "expressing religious views is exempt [and] does not and cannot cause offence". If that was not the case, the Licensee believed it wouldn't be possible for broadcasters to show any religious programming, such as Songs of Praise or services on Christmas Day from Westminster Abbey. Accordingly, "the fact that a religious view was expressed, whether one agrees with it or not, is exempt, and that view in itself does not breach rule 2.3".

Notwithstanding this view, the Licensee noted that Rule 2.3 does not restrict offensive views from being expressed *per se* but that context was important and that this was an objective test. Accordingly, the Licensee argued, "when one looks at the context guidance [i.e. the definition of "Context" in Rule 2.3] in the round, it is submitted that Rule 2.3 is not breached even if it was held that the material was a specific religious point of view not shared by the whole or any part of the UK population. It reiterated that the programme contained: "verbal warnings"; "peaceful messages"; "messages that no one should break the law, either in this country or in Pakistan"; "messages...that the presenters, the channel and that particular sect of religion (i.e. Sunni Islam) was against murder"; and a "written warning". It added, by way of example, that where an anti-Semitic view was expressed in the programme, "a warning was given against that".

In addition, the Licensee cited other contextual factors:

- Takbeer TV is a channel available in the religious section of the Sky Electronic Programme Guide ("EPG"), "so anyone who is going to go to that particular section is going to know that these [are] channels which are expressing religious views". This, together with the fact that Takbeer TV is broadcast in Urdu meant that "it is limited and restricted to a particular community from a particular background" who would have been aware of the debate and the whole Mumtaz Qadri affair;

- accordingly, it had a small audience and any viewers who came across this programme unawares would not have understood the content unless they were Urdu speakers and the programme was not “being aired in English”;
- this was a one-off programme, which had not been advertised beforehand “covering a peaceful procession and a topic involving a legal, political and religious debate that had been on-going for almost 5 years” and it should not be assessed by “the standard of a pre-written, pre-recorded soap opera or programme; we have to measure it by virtue of a current affairs news programme being aired live”; and
- the programme was broadcast after the 9pm watershed “which allows a great amount of leeway as to what [channels] are able to show”.

Takbeer reiterated its argument that the viewers to this programme would already have been “aware of the topic” of the Mumtaz Qadri case. The Licensee put particular emphasis in its representations on the background to the programme, which it did not consider had been fully or appropriately taken into account in Ofcom's Preliminary View. It explained that the debate started among the legal community “when the government of Pakistan decided to prosecute [Mumtaz Qadri] under terrorism laws”. The Licensee said that Mumtaz Qadri's crime was “a murder under the penal codes [and not] a criminal act under [Pakistan's] terrorism laws”. Therefore, trying him under the terrorism act in a terrorism court denied him a fair trial with legal representation and the opportunity to present a proper defence, which were his rights under the law. Instead, he was tried in private, with limited rights. Takbeer said that “it was in fact the [Pakistani] legal fraternity who stated that, if you try [Mumtaz Qadri] in the terrorism courts, you are in effect taking him out of the category of murderer, of someone who's committed a criminal offence, and putting him into a religious category of Ghazi [Islamic warrior], and that title was given to him by the legal fraternity”.

The Licensee explained that the consequence of being tried in the terrorism court and being found guilty in that court was that Mumtaz Qadri's execution was “tantamount to an extrajudicial killing”. In other words, “illegal and both in terms of legal context and religious context” and therefore an execution that was “carried out in the name of the entire population”. Accordingly, “when the entire public [in Pakistan], by a majority, became involved in the debate, backed by the religious fraternity, that this man should not go to the gallows, [it was] because this is a man who has been tried without due process of law... and we, as the people of this country, in whose name you are about to execute him, do not agree”. Takbeer further said that Mumtaz Qadri's “sentencing was expedited...without his exhausting his right of appeal... and he was executed”. “In protest at that execution, within hours, the mass population of Pakistan turned out to [his] funeral... which was the largest funeral in Pakistani history... And that funeral procession was peaceful, passed without any incident whatsoever...”.

The Licensee accepted that some of the statements within the programme came “from certain callers, from a religious perspective, but a lot of them [were] also coming from a legal, political perspective”. However, “for all [the statements], whether they are legal, political or religious, the underlying principle from which they derive is an extrajudicial killing. In relation to that, unanimously, the entire country was in agreement, and those of Pakistani origin around the world were in majority agreement”. Therefore, Takbeer explained, “the titles given to [Mumtaz Qadri] were given to him on the basis not of the act he had committed, because he wasn't called a Ghazi [Islamic warrior] at the time of the murder by anyone, not by the legal fraternity and not by the religious fraternity, but for the

undue process that he was put through". Likewise the title of "*Shaheed*" [Islamic martyr] was given to him because "there was a perception that in his trial and execution proper due process of the law had not been followed". The Licensee stressed that this had to be understood by Ofcom, "just as it is understood by the audience... because they understand why he's being called this". Therefore, the "pre-act" was considered murder (as noted by the presenters who stated they did not condone murder and warned viewers not to take the law into their own hands); whereas the comments made in praise of Mumtaz Qadri were saluting "the journey he has embarked on because of the extrajudicial killing that's been done in my name" and the peaceful response of the people.

Takbeer also argued that: the majority of the views in the programme "just so happened" to be "one sided". However, Takbeer said that in this case there was not "editorial control over only extracting one view...the lines were open to...anyone to call in and express any view they wished, and that could have been contrary to the majority view". For example, noting that an elected councillor from a political party contacted the programme, Takbeer said that "one would expect [his] view to be a considered view, but one cannot prevent him from giving that view".

In order to demonstrate that the extrajudicial killing was the principle that lay at the heart of the comments in the programme, the Licensee gave its analysis of the various statements quoted by Ofcom in the Introduction. In its submission, these statements could not "be understood without knowing the full background" to the programme. To try to do otherwise would be biased and discriminatory and would breach the right to freedom of speech and freedom of religion and belief. We have taken Takbeer's representations on these various statements into account in our Decision below.

Finally, the Licensee was concerned to emphasise "no inference" should be drawn by Ofcom from the fact that it had taken steps to improve compliance following the broadcast of this programme and it wished to make clear, for the avoidance of doubt, that it did not accept that any breach of the Code had taken place.

Decision

Under the Communications Act 2003, Ofcom has statutory duties to set such standards for broadcast content as appear to it best calculated to secure the standards objectives. These 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". These duties are reflected in Section Two of the Code.

In reaching a Decision in this case, Ofcom has taken account of the audience's and broadcaster's right to freedom of expression set out in Article 10 of the European Convention on Human Rights³⁰ ("ECHR"). Ofcom has also had regard to Article 9 of the ECHR which states that everyone "has the right to freedom of thought, conscience, and religion". This Article goes on to make clear that freedom to manifest one's religion or beliefs is "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...or for the protection of the rights and freedoms of others". Further, we have also taken account of Article 14 of the ECHR, which states that: "The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex,

³⁰ https://www.ofcom.org.uk/_data/assets/pdf_file/0024/86361/bc2015-15-appendix_3.pdf

race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status”.

The ECHR enshrines the Licensee's right as a broadcaster largely serving the Pakistani Muslim community in the UK (the Licensee does not broadcast in Pakistan), to broadcast material from an Islamic perspective on issues which may be of interest to its viewers. Consistent with that right, Ofcom recognised that Takbeer TV would wish to cover developments in the case of Mumtaz Qadri, given the salience of that matter internationally and the interest the case aroused amongst the Pakistani community in the UK, and to discuss related issues of blasphemy, apostasy and the administration of justice. This matter was a legitimate area and subject of enquiry for the Licensee to cover which Ofcom did not seek to question. However, all broadcasters are required to comply with the standards set out in the Code so as to provide adequate protection for members of the public and it was incumbent on the Licensee to ensure that it did so and for Ofcom to be satisfied whether this was the case.

In particular, Rule 2.3 requires broadcasters to ensure that in applying generally accepted standards, the broadcast of potentially offensive material is justified by the context. Context is assessed by reference to a range of factors including: editorial content of the programme, the service on which the material was broadcast, the degree of harm or offence likely to be caused, the effect of material on viewers who might come across it unawares, and likely audience expectations.

Offence

We first considered whether the programme included potentially offensive material.

Ofcom was concerned by Takbeer's "primary submission" that "expressing religious views is exempt [and] does not and cannot cause offence" under Rule 2.3. Religious content, in and of itself, is not exempt from the ambit of Rule 2.3 and is treated no differently from any other type of content. Therefore, if content referring to religious matters is potentially offensive, it must be justified by contextual factors, as appropriate. We were also concerned that Takbeer claimed that a "distinction" needed to be made between "programmes which cover controversial issues and those that cause offence". It is important to make clear that a current affairs programme may still be capable of causing offence even if it deals with controversial issues.

Ofcom also wishes to make clear at the outset that it did not question the Licensee's overall position in relation to the programme, which it set out in its submissions as follows:

"We do not advocate vigilantism anywhere in the world. We do not advocate the right of any civilian to take the law into his own hands and execute a judicial or juristic determination or anarchy. We do not propagate the notion that any human should be persecuted for his or her ideological or theological beliefs, no matter how perverse we may consider them to be. We condemn all forms of terrorism in the name of religion or otherwise, whether it is mounted by an individual, organisation or even a state".

We did consider, however, that the programme had the potential to be offensive. This was because it contained numerous statements which glorified or praised Mumtaz Qadri as someone with a "perfect state of faith", "a perfect love for the Prophet" and someone who, by carrying out this violent act, had achieved heroic and saintly status. We also noted that

several speakers showed obvious emotion (for example by sobbing) when making positive statements about Mumtaz Qadri.

We acknowledged that the programme contained some statements emphasising the need to abide by the law and opposing vigilantism. For example:

"But you must remember that he did not, even though he did this, he did not... there are no copycats. Nobody has followed this thing. There is no vigilantism in Islam, and the people who have shown solidarity with him, have no vigilantism within them".

"What both Allama sahib and myself want to say is that wherever we live, whether it is here in Britain or Pakistan we should abide by the law, both the rulers should abide by the law, and the ruled should remain within those constraints".

"There is no question that I am saying this from a responsible platform, because we are against murder. We abide by the law, and that is our message".

"As far as an individual committing murder, obviously we are against that, and we want judgements to be made according to the law".

However, we did not consider these remarks were sufficient to mitigate the potential offence from the numerous statements glorifying Mumtaz Qadri; such remarks were only occasional, made during the course of a three-hour programme, and were immediately or very swiftly qualified or undercut by the dialogue which invariably followed these remarks.

In Ofcom's view the statements about Mumtaz Qadri were potentially offensive to the memory of his victim, Salman Taseer and to members of the Muslim community in the UK as well as viewers in general. Ofcom is aware that this murder and the consequent trial and execution of Mumtaz Qadri caused considerable debate and controversy within the Pakistani Muslim community in the UK. We are aware, therefore, that not everyone in the community would have shared the views expressed in the programme. Indeed, the Licensee acknowledged this itself in referring to Ofcom to Mumtaz Qadri as being "seen as a tragic religious hero *by some* sections of the community" and in saying that "*some* believe that he sacrificed his life both as a patriotic citizen in upholding the true constitution and as a principled believer who uniquely took the law into his own hand very well knowing the consequences" [Ofcom's emphasis in italics]. We also noted the Licensee's submission that the panellists regretted that their opinion led to complaints.

Ofcom noted from the programme that the studio panel and callers were all, bar the occasional exception, senior religious scholars and prayer leaders within the Muslim community. In Ofcom's view the status of these contributors, together with the fact that they were unanimous in their praise for Mumtaz Qadri and the lack of any alternative opinion canvassed during the programme (see further below under "Context"), suggested a unanimity of view amongst Muslim scholars and prayer leaders, particularly as these views were being expressed by senior figures. Ofcom noted that most of the panellists and callers

were drawn from the Sunni Barelvi tradition and that no Shi'a or other Islamic community opinion was reflected during the programme. There was no acknowledgement either by the studio panellists or by any of the callers that there was a range of divergent opinions within the wider Muslim community surrounding the Qadri case.

Ofcom considered the programme had the potential to cause offence to those who disagreed with Mumtaz Qadri's violent act. The programme presented Mumtaz Qadri, not as a self-confessed murderer who took the law into his own hands, but as an Islamic warrior and a martyr, thereby elevating his violent action and endorsing it as an act that was deemed worthy of praise. In particular, Ofcom noted religious terms, such as "*Ghazi*" [Islamic warrior] and "*Shaheed*" [Islamic martyr] were used in connection with Mumtaz Qadri and the Licensee's explanation that these titles were given to him "on the basis not of the act he had committed" but because of the "undue process that he was put through" and because "there was a perception that in his trial and execution proper due process of the law had not been followed". We also noted Takbeer's submission that Mumtaz Qadri was not given these titles at the time of the murder "by anyone, not by the legal fraternity and not by the religious fraternity"; it was only after his execution that these titles began to be used. Ofcom is aware that the use of such terms to reframe illegal and immoral acts is an emotive issue amongst the Muslim community. Ofcom is also aware that Mumtaz Qadri was being labelled "*Ghazi*" from the time he had murdered Salman Taseer in 2011³¹. We also considered it likely that the audience would have interpreted the references to Mumtaz Qadri as being "*Shaheed*" [or Islamic martyr] as a form of religious reference to Mumtaz Qadri dying for expressing his Islamic Faith; rather than being used in the context of criticisms of the legal process that Mumtaz Qadri had gone through.

In summary, Ofcom considered that the use of such terminology within the programme and the emotion with which it was expressed made it more likely to be potentially offensive to those who did not share these views, particularly in view of the nature and extent of the statements that were made.

For all these reasons we considered that the programme included material which had the potential to be offensive.

Context

³¹ We found several references including the following:

- <http://dailymuslims.com/2011/01/05/mumtaz-qadri-killer-of-taseer-showered-with-rose-petals-lauded-before-court/> This 2011 news article is entitled: "Ghazi Malik Mumtaz Qadri, Killer of Taseer Showered with Rose Petals, Lauded Before Court";
- <http://spme.org/news-from-the-middle-east/500-pakistani-muslim-clerics-and-scholars-justify-and-praise-assassination-of-governor-as-a-revival-of-a-1400-year-old-tradition-of-dealing-with-blasphemy/9267/> This article published by Scholars for Peace in the Middle East ("SPME") cited a report in the Urdu language newspaper 'Roznama Jang', published in January 2011, which reported on a statement made by 500 clerics and scholars in the wake of Mumtaz Qadri's killing of Governor Salman Taseer. According to the SPME article, the Roznama Jang newspaper article had said: "Lauding the bravery and sense of honor for faith and religion of the Prophet's lover Ghazi Malik Mumtaz Hussain, who assassinated the governor, the leaders and clerics of Jamaat Ahl-e-Sunnat [an organisation representing the Sunni Barelvi tradition in Pakistan] said that this brave person has maintained the 1400 years of Muslim tradition, and has held the heads of 1.5 billion Muslims of the world high with pride; and
- <https://www.dawn.com/news/813579> This 2011 news article reported that "Over 500 'moderate' religious clerics, pronounced Qadri as 'ghazi' while lawyers showered him with rose petals".

Ofcom went on to consider whether the broadcast of this content was justified by the context. As noted above, Ofcom assesses context under Rule 2.3 by reference to a range of factors including: editorial content of the programme, the service on which the material was broadcast, the degree of harm or offence likely to be caused, the effect of material on viewers who might come across it unawares, and likely audience expectations. Having reached the view that the programme included material which had the potential to be offensive, and taking account of the nature and extent of the statements that were made, Ofcom was of the view that there would need to be very strong, if not exceptional, contextual factors to justify the likely degree of offence, particularly so soon after the execution of Mumtaz Qadri and at a time when Salman Taseer's murder would be subject to intense public scrutiny and discussion.

We took careful note of Takbeer's detailed submissions about the background and why, in that context it said it had broadcast this programme. In particular, we noted the Licensee's references to the "overwhelming demand as a public interest issue as well as requests from our viewership", and the "depth of feeling" within the Pakistani Muslim community, who the Licensee said represents the majority of Takbeer's viewers.

We also noted the Licensee's comments about the circumstances surrounding Mumtaz Qadri's trial and subsequent execution and the "mass outpouring of public opinion" regarding the legal process that had been followed (i.e. being tried under Pakistan's terrorism act rather than under the penal code) and the way Mumtaz Qadri had been treated as a result. We acknowledged some of the statements in the programme could be construed as criticisms of the legal process under which Mumtaz Qadri was convicted, sentenced and executed, such as the following:

"The decision to execute him, and the people who ordered the execution should be condemned".

"Mumtaz Sahib was neither a terrorist nor an extremist".

"Who are they [the Pakistan government] trying to please by carrying out this act? Who were they trying to please by carrying out this sentence on Ghazi Mumtaz Qadri Shaheed?"

However, we considered the large majority of the statements within the programme went much further than this as a result of the way in which they praised and glorified Mumtaz Qadri. Having carefully taken account of the Licensee's explanation of the full background and its analysis of the extracts quoted by Ofcom, we did not accept that these statements were justified by the context. The following representative examples serve to illustrate our reasons for taking this view:

Allama Hafiz Ghulam Rasool:

"But when this person [Mumtaz Qadri], with his extraordinary state of his heart, his perfect love for the Prophet Muhammad...when he concluded, and took this extraordinary step [of killing Salman Taseer], a step that me, and you and others would not have taken, but his state of faith, his perfect state of faith made him take that extra step, that extra leap which not many others would have taken. What did it result in? He took a life, and in that taking of life, he paid the ultimate price in this world, and that price he knew. He knew the consequences of his actions. The consequences will be that his life will also be taken. But he gave that sacrifice to uphold a principle. But you must remember...even though he did this...there are no copycats. Nobody has followed this thing. There is no vigilantism in Islam, and the people who have shown solidarity with him, have no vigilantism within them, but because he took that extraordinary step, which is shocking and amazing at the same time which not many others would have taken".

The Licensee explained that Mr Rasool was making a factual statement here of what happened "in that Mumtaz Qadri took a life knowing the consequences" but that Mr Rasool was "reiterating no one else would do that". Takbeer said that the statement "discourages vigilantism in Islam which was the message from the peaceful funeral procession". Ofcom accepted that this statement does refer to the "consequences of his actions" but it considered it undermined the licensee's argument that the titles given to Mumtaz Qadri in the programme were not on the basis of the act he had committed but for the undue process he had gone through. In our view the statement makes no attempt to clarify that it is not condoning the murder. On the contrary, Mr Rasool's references to: "*this extraordinary step*"; Mumtaz Qadri's "*perfect state of faith*"; and his "*extraordinary state of heart*" and "*perfect love for the Prophet*" appear to be openly praising him for the act he committed. Maulana Muhammad Bostan Qadri³²:

"We would like to salute Ghazi Mumtaz Qadri who has embarked on this illustrious journey [to the afterlife]. This was a message to the whole Muslim world from the Ahle Sunnat³³ and I would ask you to share with us as scholars of Islam what you yourselves feel is the lesson to be learnt today".

Takbeer argued that this statement dealt with "two aspects". One, a journey to the afterlife "which is a religious belief for all Muslims regardless of whether they are pious, saints or criminals" and secondly "a message of peace to the world from the peaceful funeral procession". According to Takbeer, "this is not offensive or controversial". It added that this statement was delivered following the extrajudicial killing of Mumtaz Qadri and the speaker "is not saying that 'I support the act of murder he committed'. He is saying 'I salute the journey he has embarked on because of the extrajudicial killing that's been done in my name'". However, in our view, this statement could very well have been interpreted by viewers as expressing admiration of the convicted murder Mumtaz Qadri ("*We would like to salute Ghazi Mumtaz Qadri*"), and therefore had the potential to cause offence.

Allama Abdul Bari³⁴ [speaking in verse]:

³² Founder and Secretary-General of the Confederation of Sunni Mosques, Midlands, which represents over 100 mosques and Islamic centres in the region.

³³ Ahle Sunnat Wal Jamaat: here referring to the wider Sunni South Asian Muslim community.

³⁴ Allama Abdul Bari Chishti: A noted Sufi scholar based in Milton Keynes.

*"When you offer a sacrifice for the sake of the Prophet
You will receive reward from the Prophet for your allegiance.
Everything can be found in the obedience and service of the Holy Prophet
Everything is dedicated and subsumed in the love of the Prophet.*

[The caller's voice broke at this point]
*Today the universe has borne witness to the supreme sacrifice of that lover [i.e. Mumtaz Qadri] of the Holy Prophet.
And ensured that that funeral of the Ghazi has been conducted with great pomp and prestige.
Even as he kissed the noose he silently recited the shahada³⁵.*

*He sent a message to every Muslim of the importance of allegiance to the Holy Prophet.
Every drop of your blood will be reincarnated within 100 other souls".*

[AAA was sobbing in the studio while these verses were recited].

"Today it is incumbent on every person to send their salutations to Ghazi Malik Mumtaz Qadri who upheld the honour of the Holy Prophet. We pray that from today and until the end of time we are able to follow in his footsteps and are protected from the mischief and treason of troublemakers. Amen. Takbeer TV has taken this bold step and I pray that you are showered with blessings".

The Licensee explained that the final sentence of this verse encompassed its whole meaning when [the speaker] talks of protection from the mischievous troublemakers. The Licensee said that this "cannot be perceived as offensive regardless of whether it is considered to be from a religious, legal or political view". However, in our view the speaker was clearly praising a convicted killer ("*Today it is incumbent on every person to send their salutations to Ghazi Malik Mumtaz Qadri who upheld the honour of the Holy Prophet*").

Similarly, we considered the following statement, to have been potentially offensive:

[Caller] Allama Umar Yar Qadri Sahib³⁶:

"...I offer my condolences and express my sadness to the entire Islamic community and its scholars at the death of Ghazi Mumtaz Hussain Qadri. May Allah grant him a lofty status. Without doubt the sacrifice that Ghazi Mumtaz Hussain Qadri has performed for the love of the Holy Prophet is without parallel...".

By contrast, we noted that Takbeer argued this statement was expressing condolences and that "there is nothing offensive in expressing condolences even for a murderer". Takbeer added that "even those who did not agree with Salman Taseer [the murdered governor] expressed condolences on his death and continue to do so to this date whilst at the same time expressing condolences for Mumtaz Qadri".

³⁵ Shahada: the fundamental statement of faith in Islam i.e. "There is no God but Allah and Muhammad is his Messenger."

³⁶ Ofcom understands that Allama Umar Yar Qadri is a leading Sufi Barelvi scholar and lecturer associated with Tahir ul Qadri's Minhaj ul Qur'an organisation, who is based in Pakistan but who regularly visits the UK.

In addition to considering the Licensee's submissions that the views expressed were justified in the context of the debate regarding the legality of Mumtaz Qadri's trial and execution, we also considered the Licensee's argument that the opinions expressed in the programme were "not offensive in their own right but rather a different opinion to that some may hold". Ofcom took careful account of the nature of this programme and the submission that the programme should not be assessed by "the standard of a pre-written, pre-recorded soap opera or programme...[but as] a current affairs news programme being aired live". We acknowledge that any debate within a programme about controversial issues, such as those relating to Mumtaz Qadri, will inevitably generate different opinions, many of which are likely to be strongly held. However, in this case we did not accept that the programme was reflective of differing opinions on the matters discussed. No alternative perspective was offered to counter the strong views that were expressed and it was evident from the programme that all the guests who were invited to participate spoke from broadly the same position, despite the Licensee's assertion that it had sought "to allow the best possible opportunity to have a variety of views". In Ofcom's view, the guests were all highly supportive of a convicted killer, Mumtaz Qadri, and critical of Salman Taseer, who was seen as having committed blasphemy or as having inappropriately questioned Pakistan's blasphemy laws.

In particular, the speakers and callers (most of whom had status and authority within the Muslim community as scholars, imams, or even in one case an elected local politician of a mainstream political party) spoke uninterrupted, and their views were not challenged or scrutinised. In this regard, Takbeer said that: "It just so happened to be the case that the majority of the views [in the programme]...were one sided". It also said that less weight had to be given to what the callers say and argued that "you can't hold the channel responsible for the views of the public". Takbeer said there was not "editorial control over only extracting one view...the lines were open to...anyone to call in and express any view they wished, and that could have been contrary to the majority view". By way of example, it noted that an elected local politician had contacted the programme, the Licensee said that "one would expect [his] view to be a considered view, but one cannot prevent him from giving that view". It added that this elected politician was "expressing a political view...no different a position from Nigel Farage, Marine Le Pen or Donald Trump...this cannot be perceived -to be possibly offensive".

Ofcom was concerned by these arguments as they suggested a fundamental misunderstanding of the Licensee's obligations under the Code. As we have said previously, Ofcom does not question the right of Takbeer to broadcast content focusing on the issues surrounding Mumtaz Qadri and the importance of political expression but Rule 2.3 also enshrines the need to protect the rights of viewers. Accordingly, it was necessary for the Licensee to contextualise any potential offence. As the broadcaster with editorial responsibility for this content, it was incumbent on Takbeer to ensure that appropriate context was provided to justify any potentially offensive content. For example, just because one speaker was an elected politician did not detract from the offence caused by him speaking in reverential terms about a convicted murderer. We recognise the importance of political expression and the practical challenges that some broadcasters can face when they wish to transmit live programmes as a response to developing events in the news, and we note the Licensee's explanation that this resulted in "the editorial control [being] naturally limited and hindered". However, broadcasters must nevertheless have appropriate processes in place to ensure that offensive content is justified by the context. Specifically, given that the broadcaster has full responsibility for any live broadcast, it is essential that the

broadcaster retains full control, as appropriate, over all its broadcast material, including live contributions from studio guests and callers.

We noted Takbeer's various submissions about the audience to this programme. For example, the Licensee argued that the audience would have "understood the legal political and religious background [of the discussion]" and "the views expressed by callers would not have been new to them or offensive". Whilst we recognise that this topic was likely to have been of interest to Takbeer TV's audience and that the views expressed were likely to be shared by others in the Muslim community, we did not accept that the views expressed would have been shared by all viewers. Indeed, Ofcom is aware that there is no uniformity of view within the Muslim community on matters of blasphemy in general, and the Mumtaz Qadri case in particular, yet the programme offered no alternative viewpoint on the statements that were made. Accordingly, we considered that the prolonged and sustained reference to a convicted killer over a three-hour programme, would have exceeded the expectations of UK audiences on an Ofcom-licensed channel irrespective of whether or not the programme would only have been viewed by Urdu speakers³⁷. The programme made no allowance for viewers who did not subscribe to the same viewpoint as the panellists and programme makers and who may therefore have found the content and views being expressed offensive. It also failed to take appropriate measures to take account of the potential effect of the material on any such viewers who may have come across the programme unawares, regardless of the fact that Takbeer TV is broadcast in the religious section of the Sky EPG and only to a "limited audience".

With regard to Takbeer's comments on other contextual factors, we noted the Licensee's arguments that there was no use of foul language, indecent images or offensive views against any particular part of the British community: that the coverage of Mumtaz Qadri's funeral reflected a "peaceful procession"; that the programme "was not designed to cause...offence"; that this was a one-off programme, which had not been advertised beforehand; and that it was broadcast at 21:00 to reflect the "depth of feeling" within the Pakistani Muslim community. Ofcom accepted that there was no intention to cause offence and we noted that the programme dealt with a matter which the Licensee considered was likely to have been of particular interest to the channel's audience. However, this did not mean that what was broadcast was not still capable of being potentially offensive. Indeed, in view of the likely degree of offence in this case we did not consider that these contextual factors were sufficient to justify the broadcast of the material, even if it was broadcast later in a 9pm slot.

As we have already noted there was no content that could reasonably be described as providing alternative views to the large number of statements that were supportive of Mumtaz Qadri. As to whether there were any other contextualising factors, Ofcom noted that there was no warning or information given before or during this three-hour programme to set the views included in the programme in context. We had regard to Takbeer's argument that a disclaimer was broadcast in recognition of the "strength of opinion" and the possibility that a "misconception could arise" due to the fact that "there were fewer alternative views". The disclaimer stated: the "*professional and personal views, and opinions, wishes and traditions of the host(s), guest(s) and caller(s) expressed herein do not necessarily reflected the views of Takbeer TV*". However, in Ofcom's view, this disclaimer was likely to have had only a limited effect. This was because the disclaimer was very brief and broadcast

³⁷ Despite Takbeer's representations on this point we noted that the final segment of the programme, lasting approximately 10 minutes was in English.

once only at the end of the programme. We considered that there was no guarantee that viewers of this three-hour programme would have watched the programme to its end.

In conclusion, Ofcom was concerned that the reverential tone of the programme towards Mumtaz Qadri, and the eulogising of his violent action over a three-hour broadcast, presented viewers with a one-dimensional viewpoint on the murder and subsequent execution of Mumtaz Qadri. The overwhelming effect, in Ofcom's view, was to endorse the murderous act carried out by Mumtaz Qadri. Ofcom considered these factors significantly mitigated against a finding that the broadcast of the potentially offensive material was justified by the context, particularly given the likely degree of offence.

For all the above reasons, Ofcom considered that the content was not consistent with generally accepted standards in the UK and the likely expectation of UK viewers for Ofcom licensed channels. In conclusion, therefore, Ofcom's Decision was that the Licensee was in breach of Rule 2.3 in that it had failed to apply generally accepted standards to ensure that material which may cause offence was justified by the context

Conclusion

Ofcom has concerns about the Licensee's understanding of its obligations under Rule 2.3 of the Code. We are therefore requesting that Takbeer attend a meeting to explain its compliance processes in this area.

Breach of Rule 2.3

In Breach

Qannon Ki Baat

TV99, 8 February 2017, 18:00

Introduction

TV99 is a general entertainment channel aimed at the Asian community in the UK and in Europe, broadcasting in English and Urdu. The licence for the service is held by 99 Media Org Limited ("the Licensee").

Ofcom received a complaint about the programme *Qannon Ki Baat*, a legal advice programme, in which presenters Adnan Khan (a director of and lawyer at Raims Law Solicitors) and his colleague Hannah Ahmed answered questions from viewers on legal matters. The complainant considered that the programme provided a platform for the law firm to promote its services.

Ofcom commissioned an independent English translation of the material broadcast in Urdu and gave the Licensee an opportunity to comment on the accuracy of the translation. The Licensee did not raise any issues and we therefore used the translation for the purposes of this investigation.

The subject matter for discussion in the programme was immigration law. Throughout the programme two telephone numbers were displayed. Viewers were invited to contact either a "live call" number, to participate in the show, or contact a "pre-booking" number – the telephone number for Raims Law Solicitors – for a consultation on a range of legal issues:

"If you want to arrange a booking. Both numbers will soon appear on screen".

"If you have any questions related to immigration, you may call me afterwards. The live number too is on the screen".

"You may call on the booking number given below during office hours and you can make an appointment too. You can obtain an appointment to speak on the phone. We also provide consultation on Skype".

The presenters also made a number of references to the services offered by the law firm. For example:

"These days you can make holiday sickness claims and our firm specialises in this".

"If you want to make such claims with us, it is done on a no-win-no-fee basis. We will not charge a fee from you..."

“And another thing I would like to tell you is that we also have RT [road traffic] claims and holiday sickness. For those clients who directly come to us, we will not deduct charges from them. If you have an RT claim or holiday claim that you want to make through us but you are concerned that we would make deductions, we do not deduct for direct claims”.

“...I will just add a quick one about family law: we specialise in family law too and in domestic violence. We work with women's organisations too. If you are suffering from domestic violence, we can have injunctions in place. We do molestation injunctions too; occupational injunctions as well...We also deal in divorces. We can obtain children contact orders if your partner is not allowing you to meet your children”.

Ofcom requested information from the Licensee about any commercial arrangements associated with the references to Raims Law Solicitors. Based on the information provided, we considered the material raised issues under the following Code rules:

- Rules 9.4: “Products, services and trade marks must not be promoted in programming”.
- Rule 9.5: “No undue prominence may be given in programming to a product, service or trade mark. Undue prominence may result from:
- the presence of, or reference to, a product, service or trade mark in programming where there is no editorial justification; or
 - the manner in which a product, service or trade mark appears or is referred to in programming”.

We sought the Licensee's comments on how the material complied with these rules.

Response

The Licensee explained that the purpose of the programme was to provide community information to viewers. It said that the director of the law firm was “new” and was providing his opinion and information on issues discussed on the show. It added that the director did not intentionally make promotional references.

The Licensee stated that the programme had been removed from its schedule to ensure a similar incident does not occur again.

Decision

Reflecting our duties under the Communications Act 2003¹, Section Nine of the Code limits the extent to which commercial references can feature within television programming. This ensures that there is a distinction between advertising and programming, and prevents

¹ <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

broadcasters exceeding the limits on the amount of time they are allowed to use for advertising.

Section Nine does not proscribe all references to products and services in programmes. However, it does require such references to be justified by the editorial requirements of a programme and not to be promotional or unduly prominent. Specifically, Rule 9.4 requires that products, services and trade marks must not be promoted in programming. Ofcom's published guidance² on Rule 9.4 states: "Where a reference to a product or service features in a programme... the extent to which [it] will be considered promotional will be judged by the context in which it appears". Further Rule 9.5, which requires that no undue prominence is given in programming to a product, service or trade mark, makes clear that undue prominence may result from a reference to a product, service or trade mark where there is no editorial justification, or from the manner in which the product etc. is referred to.

In this case, a "*pre-booking*" number featured prominently throughout the programme which was the telephone number for a law firm. As detailed in the Introduction, the presenters, who are employees of the law firm, spoke about the services offered by the company and encouraged viewers to call the number to make an off-air appointment with them.

We took into account the Licensee's comments that the purpose of the programme was to provide community information to viewers, and that the director of the law firm was providing advice on legal matters. However, in our view, the programme went beyond offering general advice on immigration law. It explicitly promoted the services offered by one company (e.g. "*If you want to make such claims with us, it is done on a no-win-no-fee basis*") and invited viewers to contact this company to make an appointment. Ofcom's Decision is that the promotion of the company in the programme was in breach of Rule 9.4 of the Code. Further, that the references to the services offered by the law firm and to the company's telephone number were not editorially justified and therefore that the programme was in breach of Rule 9.5.

This is the third case in nine months in which Ofcom has found the Licensee in breach of Section Nine rules for promoting businesses in its programming³. Ofcom remains concerned that the Licensee continues to demonstrate a fundamental misunderstanding of the requirements of Section Nine of the Code despite the Licensee attending a compliance meeting at Ofcom in December 2016. We are therefore putting the Licensee on notice that we are likely to consider further regulatory action should additional breaches of this nature occur. This may include the consideration of a statutory sanction.

Breaches of Rules 9.4 and 9.5

² https://www.ofcom.org.uk/_data/assets/pdf_file/0014/33611/section9_may16.pdf

³ See:

https://www.ofcom.org.uk/_data/assets/pdf_file/0031/88708/Issue_312_of_Ofcoms_Broadcast_and_On_Demand_Bulletin.pdf and
https://www.ofcom.org.uk/_data/assets/pdf_file/0027/90819/Issue-313-of-Ofcoms-Broadcast-and-On-Demand-Bulletin.pdf

Resolved

Broadcast competition

KMFM, 28 April 2017, 08:00 to 19:00

Introduction

KMFM is a local radio station serving Kent which is owned and operated by KM Media Group Limited ("KM Group" or "the Licensee").

KMFM broadcast several invitations to listeners to enter a competition to win £1,000. Listeners could enter either by premium rate ("PRS") text message costing £1.50 plus the user's standard network rate, or online.

KMFM notified Ofcom on the day of broadcast that, owing to a technical issue, not all entries were registered.

Ofcom considered this raised issues under Rule 2.14 of the Code, which states:

"Broadcasters must ensure that viewers and listeners are not materially misled about any broadcast competition".

We therefore asked the Licensee for its comments about how the competition complied with this rule.

Response

KM Group said that the problem was caused by technical issues affecting the company which managed the text entries.

The Licensee said that after noticing that the level of response to the competition was below expectations, it contacted the company managing the text entries to ascertain whether there were any technical issues. When sufficient assurances were not provided, the Licensee said it took the decision to abort the competition. This decision was announced on air at 17:35 and further announcements were made until the end of the programme at 19:00.

The Licensee informed Ofcom that a text message explaining the problem was sent to all entrants, along with instructions on how to claim a full refund. KM Group confirmed that the full cost of entry would be refunded to all affected participants.

KM Group expressed its regret for this "highly unfortunate incident" which had been caused by technical issues out of its control, affecting the SMS operator it had used for all 18 previous occasions on which the broadcast competition had run.

Decision

Reflecting our duties under the Communications Act 2003¹, Section Two of the Code requires that adequate protection is given to viewers and listeners from harmful material in programmes.

Rule 2.14 requires broadcasters to ensure that viewers and listeners are not materially misled about any broadcast competition.

In this case, listeners were invited to pay to enter the broadcast competition. A technical issue meant they were charged for, but not entered into, the competition. Ofcom therefore considered that listeners were materially misled that they could take part in the competition when, in fact, they could not.

Ofcom took into account: the swift action taken by the Licensee to identify the technical issue; the process it had put in place to ensure those affected were offered a refund; and the proactive manner in which it had brought this issue to Ofcom's attention.

Taking the above factors into account, our Decision is that the matter is resolved.

Resolved

¹ <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

Advertising scheduling cases

In Breach

Advertising minutage

NTV, 26 February 2017, 01:00 and 02:00

Introduction

NTV is a news and general entertainment channel broadcast in Bangla and serving the Bangladeshi community in the UK and Europe. The licence for NTV is held by International Television Channel Europe Limited ("the Licensee").

During routine monitoring Ofcom observed that NTV broadcast 13 minutes and 55 seconds of advertising between 01:00 and 02:00, and 16 minutes and 28 seconds of advertising between 02:00 and 03:00.

Ofcom considered that the amount of advertising broadcast raised issues under Rule 2 of the Code on the Scheduling of Advertising (COSTA), which states:

"Time devoted to advertising and teleshopping spots on any channel in any clock hour must not exceed 12 minutes".

Ofcom therefore sought comments from the Licensee as to how the content complied with this rule.

Response

The Licensee did not respond to Ofcom's request for its comments.

Decision

Reflecting our duties under the Communications Act 2003¹, COSTA sets limits on the amount of advertising than can be broadcast.

In this case, the Licensee exceeded the permitted allowance by one minute and 55 seconds and four minutes and 28 seconds in clock hours 01:00 and 02:00 respectively. Therefore, Rule 2 of COSTA was breached.

Ofcom will continue to monitor the Licensee's compliance with COSTA.

Breaches of Rule 2 of COSTA

¹ <http://www.legislation.gov.uk/ukpga/2003/21/section/322>

Broadcast Licence Conditions cases

In Breach

Provision of information

Saint FM, 5 to 7 May 2017

Introduction

Saint FM is a community radio station licensed to provide a service for the people of Burnham-on-Crouch, Essex. The licence is held by St Peters Studio and Community Radio Limited ("SPS" or "the Licensee").

On 29 November 2016, it was agreed by Ofcom that Saint FM could broadcast up to 60 hours per week of overnight output from Radio Caroline, as well as up to six hours of Radio Caroline output in the daytime on Saturdays. Following a complaint that the Licensee was broadcasting more Radio Caroline output than allowed for in its licence, Ofcom asked the Licensee to provide recordings of the content broadcast on 5, 6, and 7 May, as well as programme schedules, to determine whether the service was broadcasting the agreed volume of Radio Caroline output.

The recordings which Ofcom received did not match the schedule provided, and were not presented in a manner which allowed Ofcom to determine whether the Licensee was complying with its licence obligation. Consequently, Ofcom requested revised copies of the recordings, but these too were not presented in a manner which enabled Ofcom to determine whether the Licensee was complying with its licence obligations.

Ofcom considered that this raised potential issues under Condition 9(1) ("Provision of information) of SPS's licence, which states that the Licensee:

"...shall furnish to Ofcom in such manner and at such times as Ofcom may reasonably require such documents, accounts, returns, estimates, reports, notices or other information as Ofcom may require for the purpose of exercising the functions assigned to it by or under the 1990 Act, the 1996 Act, or the Communications Act".

Ofcom therefore asked the Licensee for its formal comments on its compliance with this licence condition.

Response

The Licensee stated its view that "all reporting [...] included all required information", and that it was "aware of no infraction during this time or previously".

The Licensee stated that it "currently hold[s] recordings of our broadcast output from the very first day we begun broadcasting", and explained the systems it uses for recording and storing its output. SPS informed Ofcom that on the two previous occasions when recordings had been requested, they had been provided.

SPS claimed that as far as it was aware, the recordings were "accessible, audible and navigable". The Licensee explained that the schedule may not have matched the recordings

as last minute changes in output, due to presenters being unable to present, are not generally updated in the schedule. The Licensee stated that the "only variance in such situations is the presenter's name". The Licensee also said that it could find no evidence of a technical issue, "apart from one overnight where the MP3 player activated due to a crashed playout PC".

Decision

Ofcom has a duty to ensure that community radio services provide the service for which they have been licensed.

Despite attempts to verify the information provided with the Licensee, several instances where the output did not match the programme schedule were identified.

For example, on Saturday 6 May 2017, between 10:00 and 12:00, *The Matt Podd Show* was scheduled, yet the recordings indicated that a programme from Tuesday 3 January 2017 at 07:30 (*Breakfast with Ben Kearns*) had been broadcast.

On Sunday 7 May 2017, between 10:00 and 12:00, *6 Decades of Music with Ben Kearns* was scheduled. In this instance, a number of different programmes were broadcast in this time slot.

- Between 10:00 to 10:30 the recordings contained output featuring an interview between a female presenter and her mother.
- Between 10:30 to 11:00 a programme called *Writer's Block* was broadcast during which there was a clear reference to this programme being broadcast in the evening. The presenter also announced that the programme would be an hour in duration, although it lasted for only half an hour.
- Between 11:00 and 12:00, *Snap, Crackle n Pop* was broadcast. Again, a reference from the presenter clearly indicated that this programme had been broadcast in the evening.

We also noted two periods of silence (on Sunday 7 May 2017, between 16:04 and 20:11 and between 23:00 and 00:00) which had not been identified in the schedule.

Not only did the recordings not match the schedule provided, they contained content from January 2017. Despite referring to this discrepancy in our correspondence with the Licensee, we did not receive a definitive response as to whether this content was in fact broadcast on 6 May 2017 or whether it had been included erroneously in the recordings provided to Ofcom.

Given that the recordings also contained content from times of day that were different to the times Ofcom had requested recordings for, Ofcom was concerned that the recordings were not those it had requested. This prevented Ofcom from determining whether the Licensee was complying with its licence obligation.

In this particular case, we requested information from the Licensee to enable us to carry out our duty as set out above, but the Licensee did not provide the information in a manner which allowed us to do this. Ofcom's view is therefore that there was a breach of Licence Condition 9(1).

Breach of Licence Condition 9(1) to the community radio licence held by St. Peters Studio and Community Radio Limited (licence number CR000106).

In Breach

Retention and production of recordings *New Vision, 29 March 2017, 09:20*

Introduction

New Vision provides news and general entertainment programming, aimed at the Pakistani community in the UK. The licence for New Vision is held by New Vision TV Ltd ("New Vision" or "the Licensee").

Ofcom received a complaint about commercial references in the above broadcast. Ofcom therefore requested a recording of the programme from the Licensee to assess the content.

The Licensee responded that at 09:20 on 29 March 2017 New Vision was broadcasting what it described as "test transmissions". It said that they were "test transmissions" because the service was not available to the public until 10:45 that day. As a result, New Vision said it could not provide a recording of the programme.

Ofcom understood that the channel did not appear on viewers' Electronic Programme Guides until 10:45 on 29 March 2017. However, it was still possible for viewers to watch the channel before this time (including at 09:20 that day) by manually changing the settings on their satellite receiver. In addition, the licence held by New Vision makes no allowance for 'test transmissions' – the Licensee is required to comply with all relevant conditions in its Licence when it is broadcasting a service.

Ofcom considered that New Vision's inability to provide a recording raised potential issues under Licence Condition 11(2) of its Television Licensable Content Service (TLCS) licence which states:

"the Licensee shall:

- (a) make and retain or arrange for the retention of a recording in sound and vision of every programme included in the Licensed Service for a period of 60 days from the date of its inclusion therein; and
- (b) at the request of Ofcom forthwith produce to Ofcom any such recording for examination or reproduction..."

Ofcom therefore asked the Licensee how it had complied with Licence Condition 11(2) in this case.

Response

New Vision said that "test transmissions" were carried out "in good faith" and were "in no way an attempt to circumvent [their] licence commitments". The Licensee stated that once the channel had been "launched", off-air recording commenced via a third-party provider, however no recordings were made of the "test transmissions".

In addition, while the Licensee said that it could not provide the off-air recording that Ofcom had requested, it did offer to provide the source material (“without the blurs and graphics added for compliance”).

Decision

In each broadcaster's licence there are conditions requiring the licensee to retain recordings for a specific number of days after broadcast, and to comply with any request by Ofcom to produce recordings of programmes as broadcast. For TLCS licences, this is reflected in Licence Conditions 11(2)(a) and (b).

Breaches of Licence Conditions 11(2)(a) and (b) are significant because they impede Ofcom's ability to assess whether a particular broadcast raises potential issues under the relevant codes. This affects Ofcom's ability to carry out its statutory duties in regulating broadcast content.

We took into account that New Vision considered that it was providing “test transmissions” on the morning of 29 March 2017, on the basis that these broadcasts were not available to the public. As detailed in the Introduction, however, Ofcom considered that viewers could in fact watch the content broadcast on the channel by changing the settings on their satellite receiver. Furthermore, these broadcasts were being provided under New Vision's TLCS licence. A TLCS licence makes no allowance for ‘test transmissions’. Licence Condition 11(2) applies to all broadcasts.

We acknowledged the Licensee's offer to provide the source material of the programme. However, Ofcom needs to review the programme as broadcast to assess its compliance and the material offered by the Licensee would not be sufficient to satisfy Licence Condition 11(2)(a).

The failure by the Licensee to record and provide the material requested by Ofcom prevented us from assessing the relevant broadcast material. Ofcom's Decision is therefore that the Licensee was in breach of Licence Conditions 11(2)(a) and (b).

Breaches of Licence Conditions 11(2)(a) and (b)

In Breach

Providing a service in accordance with 'Key Commitments' Beyond Radio, 9 to 11 March 2017

Introduction

Beyond Radio is a community radio station licensed to provide a local service for people who live, work or study in Lancaster and Morecambe. The licence is held by Proper Community Media (Lancaster) Limited ("PCML" or "the Licensee").

Like other community radio stations, PCML is required to deliver the 'Key Commitments' which form part of its licence¹. These set out how the station will serve its target community and include a description of the programme service.

Ofcom received a complaint that the PCML was not delivering some of the programming requirements set out in the station's Key Commitments.

We requested recordings of three days of Beyond Radio's output, covering Thursday 9, Friday 10 and Saturday 11 March 2017.

After listening to the output, we identified some potential issues with PCML's delivery of the following Key Commitments:

- "Speech. The main types of speech output broadcast over the course of each week are: community information, drama, documentaries, poetry and comedy."
- "The service provides original output for a minimum of 16 hours per day"².

Ofcom considered that this raised potential issues under Conditions 2(1) and 2(4) in Part 2 of the Schedule to Beyond Radio's licence. These state, respectively:

"The Licensee shall provide the Licensed Service specified in the Annex for the licence period." (Section 106(2) of the Broadcasting Act 1990); and

"The Licensee shall ensure that the Licensed Service accords with the proposals set out in the Annex so as to maintain the character of the Licensed Service throughout the licence period" (Section 106(1) of the Broadcasting Act 1990).

We requested comments from PCML on how it was complying with these conditions, with reference to the specific Key Commitments set out above.

¹ The Key Commitments are contained in an annex to PCML's licence. They can be viewed in full at: <http://static.ofcom.org.uk/static/radiolicensing/Community/commitments/cr100156.pdf>

² Original output is defined by Ofcom as output that is first produced for and transmitted by the service, and excludes output that was transmitted elsewhere before. Original output can be live, pre-recorded or 'voice-tracked'. Repeat broadcasts of original output do not count towards the minimum requirement, and neither does continuous music.

Response

PCML accepted that on the days in question, the output of the station did not meet the Key Commitments set out above. The Licensee explained that full volunteer recruitment “remains an ongoing effort for the station” and that “the coverage of daytime programming at weekdays has proven more difficult than evening and weekend cover”.

The Licensee explained that it had mistakenly thought that it was able to work towards providing a full service within 12 months of going on air (i.e. by July 2017). However, since receiving notice from Ofcom of the complaint, PCML said that it has “given a greater amount of focus and effort into the recruitment of volunteers to support our weekday daytime output”. PCML informed us that it has identified new volunteers, several of which are in place, and that its daytime live output on certain days has therefore increased. The Licensee also stated its intention to introduce further volunteers into its daytime scheduling “as soon as their training is complete”. Furthermore, PCML said that it will begin training volunteers in ‘voice tracking’ to increase its original output.

PCML explained that following the launch of Ofcom's investigation, “a specific individual from the board [has been appointed] to oversee [the issue]” and that a new board structure has been confirmed, with “specific responsibilities assigned in relation to programming and volunteer recruitment, training and support”.

In regards to its commitment to broadcast specific types of speech output, the Licensee informed us that it has identified individuals and groups who can support the broadcasting of this content, and confirmed that this output is now in the schedule.

Decision

Reflecting our duties to ensure a diverse range of local radio services, community licensees are required to provide the specified licensed service set out in their Key Commitments.

During the monitored period, it was clear that PCML was not meeting the Key Commitments relating to speech output and the minimum amount of original output. While Ofcom acknowledged that the service was providing community information, there was no evidence of speech output such as drama, documentaries, poetry or comedy.

The Licensee was broadcasting less original output per day than is required. This was a particular problem during weekdays; original output amounted to two hours on Thursday 9 March, three hours on Friday 10 March and 6 hours on Saturday 11 March.

Ofcom is concerned that the Licensee is still unable to meet its Key Commitments to broadcast the required speech and original output. Ofcom is therefore putting the Licensee on notice that it will monitor the station in the near future. If we find that PCML is still not meeting its Key Commitments, we will consider further regulatory action.

Breaches of Licence Conditions 2(1) and 2(4) in Part 2 of the Schedule to the community radio licence held by Proper Community Media (Lancaster) Limited (licence number CR100156).

In Breach

Providing a service in accordance with 'Key Commitments' TCR FM, 9 to 11 March 2017

Introduction

TCR FM is a community radio station licensed to provide a service for the residents of Tamworth, primarily those under the age of 30. The licence is held by Tamworth Radio Broadcasting CIC ("TRB" or "the Licensee").

Like other community radio stations, TRB is required to deliver the 'Key Commitments' which form part of its licence¹. These set out how the station will serve its target community and include a description of the programme service.

Ofcom received four complaints alleging that TRB was not delivering some of the programming requirements set out in the station's Key Commitments.

We requested recordings of three days of TRB's output, covering Thursday 9, Friday 10 and Saturday 11 March 2017.

After listening to the output, we identified some potential issues with TRB's delivery of the following Key Commitment:

- "The main types of speech output broadcast over the course of each week are: local news, sports, community information, discussions, and features of relevance and interest to a younger audience."

Specifically, the station was not providing any local news and sports programming.

Ofcom considered that this raised potential issues under Conditions 2(1) and 2(4) in Part 2 of the Schedule to TRB's licence. These state, respectively:

"The Licensee shall provide the Licensed Service specified in the Annex for the licence period." (Section 106(2) of the Broadcasting Act 1990); and

"The Licensee shall ensure that the Licensed Service accords with the proposals set out in the Annex so as to maintain the character of the Licensed Service throughout the licence period" (Section 106(1) of the Broadcasting Act 1990).

We requested comments from TRB on how it was complying with these conditions, with reference to the specific Key Commitments set out above.

Response

TRB acknowledged that it was not delivering the Key Commitment relating to speech programming, and admitted that it also was not providing the volume of original output

¹ <http://static.ofcom.org.uk/static/radiolicensing/Community/commitments/cr000173.pdf>

required by its licence. The Licensee said that, for the dates the recordings were requested, "...a bulk of weekend volunteer presenters, where we normally have the most number of original output hours, [were] unable to do their broadcasts for several reasons...". The Licensee informed us that it had experienced a high presenter turnover rate, which caused this period of reduced output. TRB admitted that "local news content may have been more sporadic than normal as we are currently looking at the most efficient way to broadcast this formally." It explained that the usual weekly sports show was missed due to the presenter being unavailable. The Licensee indicated its intention to increase original output in the coming months, and stated that it would "...anticipate being up to approximately 57 hours of original output by August of this year...". It also said that as a result of training "...a minimum of 3 new trainees [will be] ready to go to an on-air role by the middle of the summer period, along with some brand new shows starting in the next couple of weeks...". Finally, the Licensee said it was seeking to improve its local news and sports coverage by establishing dedicated teams, to pre-record local news segments for automated hours and to help fill shows when the main presenter is unavailable. TRB said that since Ofcom's investigation was launched, it has made plans to broadcast local news and sports bulletins from early July, and has also encouraged presenters to use local news and sports content more consistently in their shows.

Decision

Reflecting our duties to ensure a diverse range of local radio services, community radio licensees are required to provide the specified licensed service set out in their Key Commitments.

It was clear that during the monitored period, TRB's output failed to meet its Key Commitments in relation to speech programming and original output. The weekly programme schedule provided by the station demonstrated that the station was not meeting its original output requirement – TRB broadcast 31 hours of original output during that week rather than the 44 hours per week required – and the content we listened to did not include the required local news and sports coverage. We took into account the unforeseen circumstances described by the Licensee, but it nevertheless failed to deliver on these commitments.

The Licensee has previously been found in breach of Condition 2(4) on 20 December 2010², and in breach of Conditions 2(1) and 2(4) on 20 October 2014³ and 8 February 2016⁴, for failing to comply with its Key Commitments in relation to the provision of original speech programming.

Ofcom is concerned that the Licensee is still unable to meet its Key Commitments to broadcast original programming, local news and sports coverage. We are therefore putting the Licensee on notice that Ofcom intends to monitor this service again, and should further

² Issue 172 of Ofcom's Broadcast and On Demand Bulletin can be viewed at:
https://www.ofcom.org.uk/_data/assets/pdf_file/0018/45531/issue172.pdf

³ Issue 264 of Ofcom's Broadcast and On Demand Bulletin can be viewed at:
https://www.ofcom.org.uk/_data/assets/pdf_file/0029/45965/obb264.pdf

⁴ Issue 298 of Ofcom's Broadcast and On Demand Bulletin can be viewed at:
https://www.ofcom.org.uk/_data/assets/pdf_file/0017/51029/issue_298.pdf

breaches of this type occur, we may consider further regulatory action including the imposition of a statutory sanction.

Breaches of Licence Conditions 2(1) and 2(4) in Part 2 of the Schedule to the community radio licence held by Tamworth Radio Broadcasting CIC (licence number CR000173).

In Breach

Under-provision of Subtitling *AXN Hungary, January to December 2016*

Introduction

Ofcom's Code on Television Access Services¹ ("the Access Services Code") requires certain broadcasters to provide access services (subtitling, signing and audio description) on a proportion of their programming.

Rule 14 of the Access Services Code sets out the proportion of programming that certain non-domestic channels are required to provide with access services. In 2016, AXN Hungary was required to provide subtitling on 28% of its programming. Ofcom informed the Licensee, Axn Europe Limited ("Axn Ltd" or "the Licensee"), of this on 18 June 2015.

In March 2017, Axn Ltd reported to Ofcom that only 17% of AXN Hungary's programming was broadcast with subtitles. We considered that this shortfall of 11% raised potential issues about how the Licensee had complied with the Access Services Code.

We therefore asked Axn Ltd for its formal comments on this matter.

Response

The Licensee acknowledged that it had failed to meet the channel's subtitling requirement and apologised for this. It said the issues that resulted in the under-provision "were largely due to this being the first year of the requirement". These issues included "production delays, the requirement to introduce an additional service with third party operators and technical implementation delay with [its] third party play-out operator".

Axn Ltd explained that subtitling commenced on the channel half way through 2016. It said that although subtitling percentages increased each week and exceeded the required level from September 2016, this was "simply not enough to make up the shortfall caused by the delay to the roll-out".

The Licensee said it would remedy the shortfall by providing an extra 11% of its programming broadcast in 2017 with subtitles on top of its existing requirement of 28.3%. It said this was "already well under way", and explained that in each of the first 14 weeks of 2017 it had provided between 33% and 57% of its programming with subtitles.

Decision

The Communications Act 2003² sets Ofcom's and television broadcasters' responsibilities for the accessibility of broadcast content. It makes specific mention of subtitling, and sets statutory targets for broadcasters.

¹ https://www.ofcom.org.uk/_data/assets/pdf_file/0020/97040/Access-service-code-Jan-2017.pdf

² Sections 303 to 305.

Under Rule 14 of the Access Services Code, Axn Ltd was required to subtitle 28% of AXN Hungary's programming in 2016. However, only 17% of the channel's output was subtitled.

We recognised that 2016 was the first year that this channel was required to provide access services, and that the Licensee said that this had contributed to the reasons why the channel did not meet its subtitling requirement. We also acknowledged that the channel has committed to making up the shortfall in its 2016 provision by the end of 2017.

However, the Licensee did not inform Ofcom of any issues regarding the provision of subtitling on this channel until Ofcom requested formal comments in this case. In addition, Ofcom has previously recorded two breaches of the Access Services Code (with a third breach being resolved) following the under-provision of subtitling on three other services licenced by Axn Ltd in 2014³.

Axn Ltd's failure to provide its full subtitling requirement on AXN Hungary represents a significant breach of the Access Services Code. On the condition that the Licensee meets its commitments to make up this under provision by the end of 2017, we do not propose to consider taking further regulatory action.

Breach of Rule 14 of the Access Services Code

³ See https://www.ofcom.org.uk/_data/assets/pdf_file/0037/49699/issue_283.pdf

Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 26 June and 9 July 2017 and decided that the broadcaster or service provider did not breach Ofcom's codes, rules, licence conditions or other regulatory requirements.

Investigations conducted under the Procedures for investigating breaches of content standards for television and radio

Programme	Broadcaster	Transmission date	Categories
Seed of Chucky (trailer)	Horror Channel	13/05/2017	Scheduling
Nigel Farage	LBC 97.3 FM	20/02/2017	Materially misleading
Nigel Farage	LBC 97.3 FM	21/03/2017	Materially misleading

For more information about how Ofcom conducts investigations about content standards on television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

Complaints assessed, not investigated

Here are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 26 June and 9 July 2017 because they did not raise issues warranting investigation.

Complaints assessed under the Procedures for investigating breaches of content standards for television and radio

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Naked Attraction	4Seven	15/06/2017	Generally accepted standards	1
The Last Frontier	Animal Planet	21/06/2017	Animal welfare	1
Spiritual Journey	Asian Sound Radio	22/06/2017	Hatred and abuse	1
Bob's Breakfast	Bob FM (Hertford)	16/06/2017	Generally accepted standards	1
"Ed to Ed" competition	Capital Radio	14/06/2017	Competitions	1
50 Shades of Gay (trailer)	Channel 4	24/06/2017	Sexual material	1
50 Shades of Gay (trailer)	Channel 4	28/06/2017	Scheduling	1
50 Shades of Gay (trailer)	Channel 4	29/06/2017	Sexual material	2
50 Shades of Gay (trailer)	Channel 4	01/07/2017	Sexual material	1
Ackley Bridge	Channel 4	07/06/2017	Race discrimination/offence	1
Ackley Bridge (trailer)	Channel 4	02/07/2017	Offensive language	1
Brexit: How To Get A British Passport	Channel 4	26/06/2017	Due impartiality/bias	1
Channel 4 News	Channel 4	09/06/2017	Due impartiality/bias	2
Channel 4 News	Channel 4	12/06/2017	Due impartiality/bias	1
Channel 4 News	Channel 4	16/06/2017	Due impartiality/bias	1
Channel 4 News	Channel 4	25/06/2017	Due impartiality/bias	1
Channel 4 News	Channel 4	28/06/2017	Due impartiality/bias	1
Channel 4 News	Channel 4	29/06/2017	Due impartiality/bias	1
Channel 4 News	Channel 4	03/07/2017	Due impartiality/bias	1
Hollyoaks	Channel 4	12/06/2017	Offensive language	1
Raised By Queers	Channel 4	22/06/2017	Sexual orientation discrimination/offence	2
The Last Leg	Channel 4	30/06/2017	Due impartiality/bias	1
Wife Swap: Brexit Special	Channel 4	19/06/2017	Due impartiality/bias	1
Ben and Holly's Little Kingdom	Channel 5	01/07/2017	Offensive language	1
Big Brother	Channel 5	12/06/2017	Race discrimination/offence	4
Big Brother	Channel 5	14/06/2017	Generally accepted standards	1
Big Brother	Channel 5	15/06/2017	Offensive language	2

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Big Brother	Channel 5	15/06/2017	Race discrimination/offence	1
Big Brother	Channel 5	15/06/2017	Violence	1
Big Brother	Channel 5	16/06/2017	Sexual material	1
Big Brother	Channel 5	17/06/2017	Offensive language	1
Big Brother	Channel 5	17/06/2017	Generally accepted standards	9
Big Brother	Channel 5	18/06/2017	Generally accepted standards	1
Big Brother	Channel 5	19/06/2017	Offensive language	1
Big Brother	Channel 5	19/06/2017	Violence	1
Big Brother	Channel 5	20/06/2017	Generally accepted standards	1
Big Brother	Channel 5	21/06/2017	Race discrimination/offence	1
Big Brother	Channel 5	23/06/2017	Generally accepted standards	1
Big Brother	Channel 5	24/06/2017	Generally accepted standards	8
Big Brother	Channel 5	25/06/2017	Generally accepted standards	10
Big Brother	Channel 5	25/06/2017	Race discrimination/offence	5
Big Brother	Channel 5	25/06/2017	Violence	38
Big Brother	Channel 5	26/06/2017	Race discrimination/offence	19
Big Brother	Channel 5	28/06/2017	Voting	1
Big brother	Channel 5	29/06/2017	Race discrimination/offence	1
Big Brother	Channel 5	01/07/2017	Drugs, smoking, solvents or alcohol	1
Big Brother	Channel 5	03/07/2017	Generally accepted standards	1
Big Brother	Channel 5	03/07/2017	Sexual material	1
Big Brother	Channel 5	04/07/2017	Generally accepted standards	1
Big Brother	Channel 5	05/07/2017	Generally accepted standards	1
Big Brother	Channel 5	06/07/2017	Nudity	2
Eamonn and Ruth Do Dubai	Channel 5	03/07/2017	Other	1
Ex on the Beach (trailer)	Channel 5	19/06/2017	Violence	1
In the Dark	Channel 5	05/07/2017	Offensive language	1
Most Shocking Moments (trailer)	Channel 5	03/07/2017	Scheduling	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
NCIS: Los Angeles	Channel 5	05/07/2017	Offensive language	1
OMG: My Barbie Body (trailer)	Channel 5	23/06/2017	Scheduling	1
Police Interceptors	Channel 5	26/06/2017	Animal welfare	2
Teenage Mutant Ninja Turtles	Channel 5	25/06/2017	Violence	1
Where There's Blame, There's a Claim (trailer)	Channel 5	27/06/2017	Animal welfare	1
Curtis McCosh	Cool FM	06/06/2017	Competitions	1
Mosquito (trailer)	Discovery Channel	06/07/2017	Materially misleading	1
50 Shades of Gay (trailer)	E4	29/06/2017	Scheduling	1
8 Out of 10 Cats	E4	13/06/2017	Due impartiality/bias	1
Hollyoaks	E4	04/07/2017	Disability discrimination/offence	1
Classic FM	Global Radio	30/05/2017	Materially misleading	1
Live at The Apollo	Gold	08/06/2017	Disability discrimination/offence	1
Istar With Hidayat	Hidayat TV	30/05/2017	Materially misleading	1
Amazing Animal Births	ITV	12/06/2017	Dangerous behaviour	1
Comparethemarket.com's sponsorship of Coronation Street	ITV	05/07/2017	Sponsorship credits	1
Coronation Street	ITV	01/06/2017	Generally accepted standards	1
Coronation Street	ITV	09/06/2017	Suicide and self harm	1
Coronation Street	ITV	16/06/2017	Drugs, smoking, solvents or alcohol	1
Coronation Street	ITV	21/06/2017	Generally accepted standards	20
Coronation Street	ITV	21/06/2017	Offensive language	1
Coronation Street	ITV	21/06/2017	Religious/Beliefs discrimination/offence	1
Coronation Street	ITV	23/06/2017	Sexual material	1
Coronation Street	ITV	26/06/2017	Offensive language	1
Coronation Street	ITV	26/06/2017	Sexual material	1
Coronation Street	ITV	03/07/2017	Scheduling	1
Coronation Street	ITV	03/07/2017	Violence	1
Coronation Street	ITV	06/07/2017	Drugs, smoking, solvents or alcohol	2
Emmerdale	ITV	24/04/2017	Violence	1
Emmerdale	ITV	08/06/2017	Scheduling	1
Emmerdale	ITV	13/06/2017	Violence	1
Emmerdale	ITV	20/06/2017	Violence	1
Emmerdale	ITV	06/07/2017	Dangerous behaviour	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Fearless	ITV	12/06/2017	Drugs, smoking, solvents or alcohol	1
Good Morning Britain	ITV	09/06/2017	Due impartiality/bias	1
Good Morning Britain	ITV	19/06/2017	Generally accepted standards	24
Good Morning Britain	ITV	19/06/2017	Offensive language	6
Good Morning Britain	ITV	20/06/2017	Disability discrimination/offence	1
Good Morning Britain	ITV	20/06/2017	Due accuracy	2
Good Morning Britain	ITV	20/06/2017	Due impartiality/bias	66
Good Morning Britain	ITV	20/06/2017	Offensive language	1
ITV News	ITV	12/06/2017	Due impartiality/bias	1
ITV News	ITV	13/06/2017	Due accuracy	1
ITV News	ITV	16/06/2017	Due impartiality/bias	2
ITV News	ITV	17/06/2017	Disability discrimination/offence	1
ITV News	ITV	19/06/2017	Due accuracy	1
ITV News	ITV	20/06/2017	Due impartiality/bias	2
ITV News	ITV	21/06/2017	Due impartiality/bias	1
ITV News	ITV	22/06/2017	Due impartiality/bias	1
ITV News	ITV	24/06/2017	Due impartiality/bias	1
ITV News	ITV	28/06/2017	Due accuracy	1
Killer Women with Piers Morgan	ITV	03/07/2017	Materially misleading	1
Love Island	ITV	26/06/2017	Drugs, smoking, solvents or alcohol	3
Love Island / Spa Wars (trailers)	ITV	24/06/2017	Scheduling	1
McCain's sponsorship of Emmerdale	ITV	20/06/2017	Sponsorship credits	1
The Chase	ITV	20/07/2016	Materially misleading	1
The Loch	ITV	02/07/2017	Generally accepted standards	1
The Tower Block Disaster: Tonight	ITV	15/06/2017	Generally accepted standards	2
The Voice Kids UK	ITV	24/06/2017	Materially misleading	1
This Morning	ITV	08/06/2017	Race discrimination/offence	1
This Morning	ITV	16/06/2017	Religious/Beliefs discrimination/offence	1
ITV News Granada Reports	ITV Granada	16/06/2017	Due impartiality/bias	1
Emmerdale	ITV2	25/04/2017	Scheduling	1
Emmerdale	ITV2	06/07/2017	Violence	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Love Island	ITV2	05/06/2017	Drugs, smoking, solvents or alcohol	1
Love Island	ITV2	15/06/2017	Generally accepted standards	1
Love Island	ITV2	18/06/2017	Drugs, smoking, solvents or alcohol	1
Love Island	ITV2	19/06/2017	Drugs, smoking, solvents or alcohol	7
Love Island	ITV2	22/06/2017	Drugs, smoking, solvents or alcohol	1
Love Island	ITV2	22/06/2017	Sexual orientation discrimination/offence	1
Love Island	ITV2	28/06/2017	Offensive language	1
Love Island	ITV2	02/07/2017	Drugs, smoking, solvents or alcohol	1
Love Island	ITV2	03/07/2017	Drugs, smoking, solvents or alcohol	5
Love Island (trailer)	ITV2	22/06/2017	Offensive language	1
The Jeremy Kyle Show	ITV2	15/06/2017	Sexual material	1
You've Been Framed! Gold	ITV2	26/06/2017	Generally accepted standards	1
You've Been Framed! Gold	ITV2	02/07/2017	Nudity	1
You've Been Framed! Supreme	ITV2	30/06/2017	Disability discrimination/offence	1
Tour de France Highlights	ITV4	02/07/2017	Disability discrimination/offence	1
Tour de France Live	ITV4	02/07/2017	Disability discrimination/offence	1
Feet Up!	Jewellery Maker	09/06/2017	Generally accepted standards	1
Botched	Kanal 11	13/06/2017	Gender discrimination/offence	1
Kisstory Early	Kisstory	21/06/2017	Offensive language	1
Beverley Turner	LBC 97.3 FM	10/06/2017	Religious/Beliefs discrimination/offence	2
Ian Collins	LBC 97.3 FM	23/06/2017	Generally accepted standards	1
Ian Payne	LBC 97.3 FM	21/06/2017	Due impartiality/bias	1
James O'Brien	LBC 97.3 FM	20/06/2017	Due impartiality/bias	1
James O'Brien	LBC 97.3 FM	04/07/2017	Due impartiality/bias	1
Maajid Nawaz	LBC 97.3 FM	11/06/2017	Religious/Beliefs discrimination/offence	1
Nigel Farage	LBC 97.3 FM	13/04/2017	Materially misleading	1
Steve Allen	LBC 97.3 FM	05/07/2017	Gender discrimination/offence	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Embarrassing Bodies	London Live	14/06/2017	Nudity	1
The Early Bird	London Live	16/06/2017	Generally accepted standards	2
Grand Designs	More4	23/06/2017	Offensive language	1
Ex on the Beach	MTV	04/07/2017	Generally accepted standards	1
10 Biggest Beats of the Week	MTV Base	21/06/2017	Dangerous behaviour	1
News	n/a	22/06/2017	Nudity	1
Paul Foster	Pulse 1 (Bradford/Huddersfield)	26/06/2017	Offensive language	1
How to Make the Most of Ramadan	Radio Ramadan Slough 87.7FM	28/05/2017	Hatred and abuse	1
Dr James Harrison: Raw Interviews	RAW1251AM	02/06/2017	Elections/Referendums	1
Riviera	Sky Atlantic	15/06/2017	Generally accepted standards	2
Press Preview	Sky News	19/06/2017	Generally accepted standards	1
Press Preview	Sky News	21/06/2017	Due impartiality/bias	1
Press Preview	Sky News	29/06/2017	Due impartiality/bias	1
Press Review	Sky News	25/06/2017	Age discrimination/offence	1
Sky News	Sky News	07/06/2017	Elections/Referendums	1
Sky News	Sky News	10/06/2017	Due impartiality/bias	1
Sky News	Sky News	13/06/2017	Due impartiality/bias	1
Sky News	Sky News	14/06/2017	Generally accepted standards	2
Sky News	Sky News	16/06/2017	Due impartiality/bias	1
Sky News	Sky News	16/06/2017	Generally accepted standards	8
Sky News	Sky News	17/06/2017	Due impartiality/bias	1
Sky News	Sky News	18/06/2017	Generally accepted standards	1
Sky News	Sky News	19/06/2017	Due accuracy	2
Sky News	Sky News	19/06/2017	Due impartiality/bias	2
Sky News	Sky News	19/06/2017	Race discrimination/offence	1
Sky News	Sky News	20/06/2017	Generally accepted standards	3
Sky News	Sky News	21/06/2017	Religious/Beliefs discrimination/offence	1
Sky News	Sky News	23/06/2017	Generally accepted standards	1
Sky News	Sky News	24/06/2017	Due impartiality/bias	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Sky News	Sky News	28/06/2017	Generally accepted standards	1
Sky News	Sky News	04/07/2017	Due impartiality/bias	1
Sunrise	Sky News	19/06/2017	Due accuracy	1
The Fire of London	Sky News	18/06/2017	Generally accepted standards	1
A League of Their Own	Sky1	19/06/2017	Animal welfare	1
A League of Their Own	Sky1	19/06/2017	Generally accepted standards	1
Animal Fight Club	Spike	22/06/2017	Animal welfare	1
Star Radio Breakfast	Star Radio	20/06/2017	Gender discrimination/offence	1
STV News at Six	STV	19/06/2017	Due impartiality/bias	1
Weather	STV2	20/06/2017	Other	1
Sunrise Radio Ramadan Programme	Sunrise Radio	31/05/2017	Materially misleading	1
The Late Night Alternative with Iain Lee	TalkRADIO	27/06/2017	Generally accepted standards	1
British and Irish Lions Tour (trailer)	Talksport	26/06/2017	Materially misleading	1
India Tonight	Times Now	23/05/2017	Due accuracy	1
Taggart	True Entertainment	03/07/2017	Generally accepted standards	1
Medieval Murder Mysteries	Yesterday	10/06/2017	Violence	1

For more information about how Ofcom assesses complaints about content standards on television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

Complaints assessed under the Procedures for investigating breaches of content standards on BBC broadcasting services and BBC ODPS.

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
News	BBC	various	Due impartiality/bias	1
BBC Breakfast and Today	BBC 1 and Radio 4	10/04/2017	Other	1
Brexit: Britain's Biggest Deal	BBC News Channel	15/03/2017	Due impartiality/bias	1
Newsnight	BBC 2	30/06/2016	Due impartiality/bias	1
The World at One	BBC Radio 4	30/12/2016	Due impartiality/bias	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Today: Thought for the Day	BBC Radio 4	14/02/2017	Materially misleading	1

For more information about how Ofcom assesses complaints about content standards on BBC broadcasting services and BBC ODPS, go to:

https://www.ofcom.org.uk/data/assets/pdf_file/0002/100100/Procedures-for-investigating-breaches-of-content-standards-on-BBC-broadcasting-services-and-BBC-on-demand-programme-services.pdf

Complaints outside of remit

Here are alphabetical lists of complaints received by Ofcom that fell outside of our remit. This is because Ofcom is not responsible for regulating the issue complained about. For example, the complaints were about the content of television, radio or on demand adverts or an on demand service does not fall within the scope of regulation.

For more information about what Ofcom's rules cover, go to: <https://www.ofcom.org.uk/tv-radio-and-on-demand/how-to-report-a-complaint/what-does-ofcom-cover>

Complaints about television or radio programmes

For more information about how Ofcom assesses complaints about television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

Programme	Service	Transmission Date	Categories	Number of complaints
Murder on the Internet	5Star	28/06/2017	Outside of remit	1
The Andrew Marr Show	BBC 1	27/11/2016	Due accuracy	1
Advertisement	Channel 5	07/07/2017	Advertising content	1
Advertisement	CITV	06/07/2017	Advertising content	1
Advertisement	DMAX	30/06/2017	Advertising content	1
Advertisement	ITV	16/06/2017	Advertising content	1
Advertisement	ITV	24/06/2017	Advertising content	1
Advertisement	ITV	24/06/2017	Advertising content	1
Advertisement	ITV	05/07/2017	Advertising content	1
Advertisement	ITV2	25/06/2017	Advertising content	1
Advertisement	ITV2	29/06/2017	Advertising content	1
Advertisement	ITV2	02/07/2017	Advertising content	1
Advertisement	Kiss Fresh	03/07/2017	Advertising content	1
David Attenborough: Galapagos	Sky1	11/06/2017	Advertising content	1
Advertisement	Spike	25/06/2017	Advertising content	1
Advertisement	W HD	23/06/2017	Advertising content	1

Complaints about the BBC, not assessed

A new BBC Royal Charter and Agreement was published in December 2016, which made Ofcom the new independent regulator of the BBC.

Here are alphabetical lists of complaints about the BBC that Ofcom was unable to assess. This is because Ofcom can normally only consider complaints about BBC programmes where the complainant has already complained to the BBC and the BBC has reached its final decision. The complaints in this table had been made to Ofcom before completing the BBC's complaints process.

Complaints about BBC television, radio or on demand programmes

Programme	Service	Transmission or Accessed Date	Categories	Number of complaints
BBC News	All	18/06/2017	Due impartiality/bias	1
BBC News	BBC	various	Due impartiality/bias	1
Programming	BBC	24/06/2017	Due impartiality/bias	1
Programming	BBC	various	Due impartiality/bias	1
BBC Election Debate 2017	BBC 1	31/05/2017	Due impartiality/bias	1
BBC News	BBC 1	26/04/2017	Elections/Referendums	1
BBC News	BBC 1	16/06/2017	Due impartiality/bias	2
BBC News	BBC 1	16/06/2017	Other	1
BBC News	BBC 1	22/06/2017	Due impartiality/bias	1
BBC News East Midlands	BBC 1	14/06/2017	Violence	1
Breakfast	BBC 1	24/06/2017	Due accuracy	1
Doctor in the House	BBC 1	27/06/2017	Materially misleading	1
EastEnders	BBC 1	19/06/2017	Drugs, smoking, solvents or alcohol	1
Election 2017	BBC 1	09/06/2017	Due impartiality/bias	1
Election 2017	BBC 1	09/06/2017	Offensive language	1
General Election	BBC 1	09/06/2017	Due impartiality/bias	1
Look East	BBC 1	22/06/2017	Due impartiality/bias	2
Question Time	BBC 1	22/06/2017	Due impartiality/bias	1
The Andrew Marr Show	BBC 1	25/06/2017	Due impartiality/bias	1
The Andrew Marr Show	BBC 1	25/06/2017	Due impartiality/bias	1
The Graham Norton Show	BBC 1	23/06/2017	Due impartiality/bias	2
The Graham Norton Show	BBC 1	26/06/2017	Race discrimination/offence	1
Mock the Week / Have I Got News for You / Zoe Ball / BBC News	BBC 1 / BBC 2 / BBC Radio 2 / BBC Radio 4	01/07/2017	Due impartiality/bias	1
Election 2017	BBC 1,	07/06/2017	Elections/Referendums	1
Daily Politics	BBC 2	19/06/2017	Due accuracy	1

Programme	Service	Transmission or Accessed Date	Categories	Number of complaints
Frankie Boyle's New World Order	BBC 2	30/06/2017	Due impartiality/bias	2
Glastonbury 2017	BBC 2	24/06/2017	Due impartiality/bias	6
Newsnight	BBC 2	15/06/2017	Due impartiality/bias	1
Newsnight	BBC 2	16/06/2017	Due impartiality/bias	1
Newsnight	BBC 2	23/06/2017	Generally accepted standards	1
Sex, Drugs and Murder: Life in the Red Light Zone	BBC 3	01/06/2017	Generally accepted standards	1
BBC News	BBC channels	01/06/2017	Due impartiality/bias	1
BBC News	BBC channels	19/06/2017	Due impartiality/bias	1
Programming	BBC channels	various	Due impartiality/bias	1
The Andrew Neil Interviews	BBC iPlayer	n/a	Due impartiality/bias	1
The Met: Policing London	BBC iPlayer	various	Generally accepted standards	1
BBC News	BBC News Channel	09/06/2017	Due impartiality/bias	1
BBC News	BBC News Channel	22/06/2017	Due impartiality/bias	1
BBC news	BBC News Channel	24/06/2017	Due impartiality/bias	1
BBC News	BBC News Channel	25/06/2017	Due impartiality/bias	1
Radio 1 Big Weekend	BBC Radio 1	27/05/2017	Offensive language	1
Ken Bruce	BBC Radio 2	30/06/2017	Generally accepted standards	1
Radio 3 in Concert	BBC Radio 3	12/06/2017	Gender discrimination/offence	1
Radio 3 in Concert	BBC Radio 3	12/06/2017	Generally accepted standards	1
BBC News	BBC Radio 4	21/06/2017	Due impartiality/bias	1
Programming	BBC Radio 4		Offensive language	1
Today	BBC Radio 4	22/06/2017	Due impartiality/bias	1
5 Live Breakfast	BBC Radio 5 Live	06/07/2017	Generally accepted standards	1
BBC News	BBC Radio 5 Live	04/07/2017	Due impartiality/bias	1
Glastonbury 2017	BBC Red Button	24/06/2017	Due impartiality/bias	1
Danny Kelly	BBC WM 95.6	14/06/2017	Due impartiality/bias	1
BBC News	BBC World News	16/06/2017	Generally accepted standards	1
BBC World News	BBC World News	20/06/2017	Due impartiality/bias	1
Meet the Kittens	CBeebies	04/06/2017	Violence	1
BBC News and Political programmes	Various	21/06/2017	Due impartiality/bias	1

Investigations List

If Ofcom considers that a broadcaster or service provider may have breached its codes, rules, licence condition or other regulatory requirements, it will start an investigation.

It is important to note that an investigation by Ofcom does not necessarily mean the broadcaster or service provider has done anything wrong. Not all investigations result in breaches of the codes, rules, licence conditions or other regulatory requirements being recorded.

Here are alphabetical lists of new investigations launched between 26 June and 9 July 2017.

Investigations launched under the Procedures for investigating breaches of content standards for television and radio

Programme	Service	Transmission date
Behind The Success	Channel i	16/05/2017
LJ's Bigger Drive Home	City Beat Preston	08/06/2017
Keeping Up With The Kardashians	E!	24/05/2017
Two lectures by Anwar al Awlaki	Iman FM	14/06/2017
Good Morning Britain	ITV	20/06/2017
Press Preview	Sky News	20/06/2017

For more information about how Ofcom assesses complaints and conducts investigations about content standards on television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

Investigations launched under the Procedures for the consideration and adjudication of Fairness and Privacy complaints

Programme	Service	Transmission date
Police Interceptors	Channel 5	2 May 2017

For more information about how Ofcom considers and adjudicates upon Fairness and Privacy complaints about television and radio programmes, go to:

https://www.ofcom.org.uk/_data/assets/pdf_file/0031/57388/fairness-privacy-complaints.pdf