

Decision

In Breach

Three Programmes – 8 lectures by Anwar al-Awlaki *The Breakfast Show, Iman FM, on 5, 10 and 12 June 2017*

Introduction

Iman FM is a community radio station broadcasting to the Muslim Community living 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 entitled “The Life of Muhammad (Seerat-un-Nabi¹)” throughout the holy month of Ramadan². Ofcom received a complaint from a listener regarding two of the lectures. These were the subject of a separate Breach Decision.³ During the course of its investigation, Ofcom assessed the rest of the series of lectures by Anwar al-Awlaki broadcast on Iman FM. In total 25 hours of lectures were broadcast between 26 May and 16 June 2017. Ofcom reviewed them all and our Decision is that three further programmes of lectures (amounting to eight individual lectures) contained content which was in serious breach of the Broadcasting Code.

Ofcom noted that the lectures were broadcast during Ramadan, a time when Muslims fast, pray and seek spiritual guidance. Ofcom is aware that during this month many Islamic radio and TV channels broadcast material that traditionally focuses on the spiritual life of prophet Muhammad as a religious leader. However, during its assessment of the content broadcast on Iman FM, Ofcom noted that the lectures of Anwar al-Awlaki presented an account of the life of prophet Muhammad purely in terms of his prowess as a military leader. The lectures detailed the preparation and justification for taking military action and the rules governing warfare. This emphasis on warfare differed from traditional *Seerah*⁴, which usually focus on the life of Muhammad as the spiritual and benevolent founder of Islam.

Freely available information on Anwar al-Awlaki indicates that he was an American born 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-Qaeda⁵. His overt endorsement of violence as

¹ Seerat-un- Nabi: Life of the Prophet

² Ramadan in 2017 started on around 26 May 2017.

³ https://www.ofcom.org.uk/_data/assets/pdf_file/0017/103940/Breach-Decision-Iman-FM.pdf

⁴ Seerah/Sira/Seerat: A narration of the life of an individual often used in reference to prophet Muhammad

⁵ <http://www.un.org/press/en/2011/sc10468.doc.htm>

a religious duty in his sermons and on the internet, is believed to have inspired several recruits to Islamic militancy to carry out high profile terrorist attacks. In 2011, President Obama authorised the targeted killing of Anwar al-Awlaki in a drone strike in Yemen. Following his death, his writings and sermons remain available online.

First Programme: Two Lectures by Anwar al-Awlaki, 5 June 2017⁶

Iman FM broadcast two lectures by Anwar al-Awlaki on 5 June 2017. Ofcom assessed these lectures which lasted around two hours. At 08:30 the following statements were made:

“These are some of the verses revealed talking about Al Yahood⁷ and this is referring to another problem that the Yahood suffer from, another disease that they suffer from is blasphemy. They would speak ill of the Prophet, they would speak ill about Islam, and speak ill about Allah...”

“Jewish prejudice and arrogance towards the Arabs” and “the Jews used to always treat them as if they were a lower class, as if the Jewish religion is only suitable for the elites”.

Second Programme: Four Lectures by Anwar al-Awlaki, 10 June 2017⁸

Iman FM broadcast a further four lectures by Anwar al-Awlaki on 10 June. Ofcom assessed this broadcast which lasted around two hours. At 08:57 the following statements were made.

“So, some lessons from this Sareeha⁹ number one, the enemies of Allah are going to pick on your actions and they are going to try and blow them out of proportion, they might try and twist the truth, and they will try and present you in the worst form they possibly can. To be aware of that we need to be aware of the reality of the situation, just as these verses of Allah put these things in perspective. So if Muslims are ever accused of being terrorists or that Islam is promoting violence let whoever is saying that remember, that hundreds of thousands of people killed in Iraq, that Palestinians have been suffering for over 50 years, that Muslims in Kashmir and Chechnya and the Philippines and one can go on and on, have been suffering for a very long time – bring these things up...even if the Muslims do something that is not justified – that cannot fall under justifiable resistance - it can never reach to the level of violence and evil that is committed against the Muslims from disbelievers. More than a million killed in sanctions laid upon Iraq. Things need to be put in the right perspective. Don’t be gullible and naïve and fall into what the media is saying because the media is not on your side. Muslims need to be aware about the reality of the situation and not just take what is on the radio and TV, but look deep into what is happening and you’ll see the evil that is caused by the enemy...”

⁶ “The Life of Muhammad Part 1/15 and Part 2/15”

⁷ Al Yahood: Arabic term referring to Jewish people

⁸ “The Life of Muhammad Part 3 of 19, Part 1/20, Part 2/20 and Part 3/20”

⁹ Narration of life of the Prophet Muhammad

and this is later followed by “Look at what the Quraysh¹⁰ did to Muhammad, the enemies of Allah are doing to Muslims today. Preachers who are preaching the true Islam are being thrown in jail, or killed or subjugated to threats. If Muslims try to present the truth as it is, they are fought against or restricted. Muslim lands are taken as booty and milking cows for the enemies of Allah. Muslim blood has become very cheap. In fact, it has not just become cheap it has become worthless...”

“Can we find anything as virtuous as Jihad, and the prophet said I cannot find any. When the Mujahid¹¹ goes out in the path of Allah, can you enter your mosque and pray continuously without any rest, and fast continuously without breaking your fast, and the man said, and who could do that. Meaning that the reward of the Mujahid is greater than fasting continuously and praying continuously. So, the fighting of disbelievers is more virtuous than Jihad un Nafs¹², because praying and fasting is part of Jihad un Nafs and the prophet is saying here that if a person is praying continuously then he cannot receive that someone gets who fights in the way of Allah...so the peak of Islam is fighting Jihad fi Sabilillah¹³. The prophet said in a Hadith that paradise lies under the shade of swords. In another it says that whoever finances a fighter in the cause of Allah has fought [Jihad], and whoever takes care of the family of a fighter has fought”.¹⁴

Third Programme: Two lectures by Anwar al-Awlaki 12 June 2017¹⁵

Iman FM broadcast a further two lectures by Anwar al-Awlaki on 12 June 2017. Ofcom made an assessment of this broadcast, which lasted around two hours. At 07:58 the following statement was made:

“Finally, the ruling of POW. The Islamic ruling on prisoners of war. It is up to the leader. It is up to the Muslim Imam to determine the fate of prisoner of wars. He has the choice of executing them. The example is [LIST NAMES] who were executed by [name]. Number two, he can free them without ransom as he did with [list names]. He can free them with ransom like he did with the rest of the prisoner of wars and he has the option of enslaving the prisoner of wars such as the ruling of [list names] as we will talk about later on. So, these are the rulings of prisoner of wars in Islam. We have our own Geneva convention¹⁶ we don’t have to abide by anyone’s Geneva convention. Allah has

¹⁰ A tribe who historically controlled Mecca. The Prophet Muhammad was born into the Banu Hashim clan of the Quraysh tribe

¹¹ Mujahid: A fighter who takes part in Jihad

¹² Jihad un Nafs: Orthodox Muslim belief that the Jihad [struggle] against Nafs [self] was greater than violent Jihad, and is referred to as Jihad Akbar i.e the greater Jihad.

¹³ Jihad fi Sabilillah: Jihad in the way of Allah

¹⁴ “The Life of Muhammad Part 1/20”

¹⁵ “The Life of Muhammad Part 2/23 and 3/23”

¹⁶ For further information on the Geneva Convention, see: <https://www.icrc.org/en/war-and-law/treaties-customary-law/geneva-conventions>

already taught what is right and what is wrong so Muslims have their own rules which part of Sharia of Allah's [they obey] and it has all the Hadiya [guidance] that Muslims would need".

We considered the material broadcast in the three different programmes on 5, 10 and 12 June 2017 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".

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...)"

Response

When Ofcom investigated the previous case, regarding two lectures of Anwar al-Awlaki,¹⁷ Iman FM provided Ofcom with both written and oral representations relating to its broadcast of the wider series of lectures.

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 had 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 broadcasts

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

¹⁷ https://www.ofcom.org.uk/_data/assets/pdf_file/0017/103940/Breach-Decision-Iman-FM.pdf

- 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;
- Ofcom did not find any content in breach in relation to the 12 hours which the Licensee had fully reviewed;
- of the remaining 8 hours that were broadcast, only samples were assessed prior to broadcast;
- the three programmes which are the subject of this Decision belong to the latter category of lectures and were 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 these broadcasts;
- 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".

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 1500 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”.

Ofcom considered Iman FM’s submission that management and volunteers were “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. The Licensee asked Ofcom to consider that its Station Manager had run several RSL licences to observe Ramadan and had held a good compliance record when holding those licences.

The Licensee stated that 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 first preliminary view.

In oral representations made to Ofcom on 18 July 2017, Iman FM identified to Ofcom the source of the material for these lectures and provided a link to the YouTube content from where it had downloaded the material it chose to broadcast. Ofcom noted that in the description provided underneath the video, there was a further “show more” tab which, once selected, provided more detail of the content and identified Anwar al-Awlaki as the speaker and detailed his arrest and subsequent death following a drone strike authorised by President Obama. The Licensee argued that the further detail would not have been immediately apparent and would have required a more detailed search. Iman FM restated that the first 12 hours of material was fully listened to and none of that content had raised compliance concerns. The Licensee pointed out that Ofcom had not recorded any breach in that 12 hours of material and that the content it had raised concerns about in the 4 July 2017 Breach Decision and in the present Decision amounted to no more than a few minutes out of the total of 25 hours. In addition, Iman FM submitted that in a context where the preacher of the lectures was not introduced as part of the broadcast, listeners would not have known the identity of the preacher, which would also have limited the impact of the breaches.

The Licensee told Ofcom there is “no challenge from Iman FM, in terms of the breaches. It is fully accepted that the breaches highlighted by Ofcom do exist.” However, it said the breach was due to “recklessness, but not deliberate intent”.

Iman FM also pointed out to Ofcom that it is a community station with a small audience share in comparison to other broadcasters and their limited audience therefore restricted the potential harm caused in this case.

Iman FM confirmed that prior to Ramadan 2017 the station has never broadcast any lectures by Anwar al-Awlaki.

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 services¹⁸. 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 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 has serious concerns about the decision by the Licensee to give a platform to Anwar al-Awlaki, a widely named al-Qaeda propagandist and recruiter with controversial views, by broadcasting in excess of 25 hours of his lectures during Ramadan (of which approximately 2 hours were repeats).

Ofcom is aware that during Ramadan many Islamic radio and TV channels broadcast material that traditionally focuses on the spiritual life of prophet Muhammad as a religious leader. However, during its assessment of the content broadcast on Iman FM, Ofcom noted that the lectures of Anwar al-Awlaki presented an account of the life of prophet Muhammad purely in terms of his prowess as a

¹⁸ <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

military leader. The lectures detailed the preparation and justification for taking military action and the rules governing warfare. This emphasis on warfare differed from traditional *Seerah*¹⁹, which usually focus on the life of Muhammad as the spiritual and benevolent founder of Islam. In Ofcom's view, Anwar al-Awlaki's description of prophet Muhammad purely in militaristic terms during the month of Ramadan would have been potentially offensive to the majority of Muslims.

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).

First Programme: Two Lectures by Anwar al-Awlaki, 5 June 2017

During two lectures broadcast on 5 June 2017, Anwar al-Awlaki spoke about why the people of Medina converted to Islam rather than Judaism and various reasons were given. He said the people of Medina had been fighting each other for years and yearned for peace. Belief in one God appealed to them as they admired the religion and education of their Jewish neighbours and allies.

At 08:30 Anwar al-Awlaki made the following statements:

"These are some of the verses revealed talking about Al Yahood²⁰ and this is referring to another problem that the Yahood suffer from, another disease that they suffer from is blasphemy. They would speak ill of the Prophet, they would speak ill about Islam, and speak ill about Allah..."

He goes on to say that they probably would have adopted the Jewish religion but did not because of "Jewish prejudice and arrogance towards the Arabs" and "the Jews used to always treat them as if they were a lower class, as if the Jewish religion is only suitable for the elites". The rest of the lecture gave an account of prophet Muhammad's trip to Ta'if²¹, and his invitation to the people of Ta'if to accept Islam. It gave an account of prophet Muhammad's meeting with various tribes in Ta'if.

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 our view these statements would have been interpreted as justifying intolerance towards Jewish people, based on the argument they suffer from the "disease" of "blasphemy" and the suggestion that Jewish people would denigrate the Muslim religion "*they would speak ill of the Prophet, they would speak ill about Islam*". Anwar al-Awlaki also refers to their "*prejudice and arrogance towards the Arabs*" and goes on to claim that Jewish people in the past had been disrespectful towards

¹⁹ Seerah/Sira/Seerat: A narration of the life of an individual often used in reference to prophet Muhammad

²⁰ See footnote 4

²¹ Ta'if: A city in southwest [Saudi] Arabia, close to Mecca.

Muslim people, the *“Jews used to always treat them as if they were a lower class, as if the Jewish religion is only suitable for the elites”*. We considered these statements encouraged a negative view of Jewish people which would have been perceived by listeners as justifying hatred or intolerance towards them. Therefore, it is Ofcom’s Preliminary View that this is 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 message of these two lectures. Further, there was no material broadcast before or after these lectures that provided any challenge to, criticism or explanation of, the intolerance towards Jewish people 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.

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 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 Muhammad, 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. Ofcom took into consideration the Licensee’s representations that the additional information on the source site was not immediately apparent. However, the information was freely available on the ‘show more’ tab which would have given clear information on the identity of the speaker and information on his background. In Ofcom’s view, it is the responsibility of the licensee to carry out more rigorous checks on the material they intend to broadcast prior to transmission, particularly if that content is to be broadcast at length without context or challenge. Given the notoriety of Anwar al-Awlaki and the information provided at the YouTube source, the Licensee’s failure to identify and investigate potential concerns with the source of the material was extremely reckless.

Our Decision is therefore that Rule 3.2 was breached.

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 amounted to hate speech, as it encouraged intolerance towards Jewish people. In our view, together with the portrayal of the prophet Muhammad in purely militaristic terms, 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 3.2, 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.

We considered Iman FM’s submission that it is a community station with a small audience share in comparison to other broadcasters. However, it is the responsibility of all licensees to comply with the Broadcasting Code, regardless of the size or audience share of that service. We also considered Iman FM’s argument that out of a total of 25 hours of broadcasts, the content in relation to which Ofcom had raised concerns in the 4 July 2017 Breach Decision and in the present Decision amounted to no more than a few minutes, and that as the speaker was not introduced by Iman FM as part of the broadcast, listeners would not have known who the preacher was, so that overall any offence caused to Iman FM’s audience would have been limited. While we acknowledge that as a community radio station, Iman FM has a relatively small footprint, broadcasting to the Muslim community in Sheffield, this does not lessen the seriousness of this breach or the potential harm or offence contained within these lectures. We also note that some listeners, as Ofcom was able to, may have been able to identify the preacher, from the content of his lectures which were delivered in English with an American accent.

As in the case of Rule 3.2, we took account of the Licensee’s various representations as to why it had broadcast the series of lectures generally. 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.

Second Programme: Four Lectures of Anwar al-Awlaki, 10 June 2017

On 10 June 2017, Iman FM broadcast a further four lectures by Anwar al-Awlaki which lasted two hours in total. During this broadcast, Anwar al-Awlaki discusses the reasons that Muslims at the time of Muhammad broke the convention of not waging war during four sacred months. He explains that Muslims had to make a choice between allowing a war party entering the outskirts of Mecca and defiling the Holy Kaa'ba²², or making a pre-emptive strike to avert this advance. After making the arguments for a pre-emptive strike, at 08:57 he goes on to say:

“So some lessons from this Sareeha,²³ number one, the enemies of Allah are going to pick on your actions and they are going to try and blow them out of proportion, they might try and twist the truth, and they will try and present you in the worst form they possibly can. To be aware of that we need to be aware of the reality of the situation, just as these verses of Allah put these things in perspective. So if Muslims are ever accused of being terrorists or that Islam is promoting violence let whoever is saying that remember, that hundreds of thousands of people killed in Iraq, that Palestinians have been suffering for over 50 years, that Muslims in Kashmir and Chechnya and the Philippines and one can go on and on, have been suffering for a very long time – bring these things up...even if the Muslims do something that is not justified – that cannot fall under justifiable resistance - it can never reach to the level of violence and evil that is committed against the Muslims from disbelievers. More than a million killed in sanctions laid upon Iraq. Things need to be put in the right perspective. Don't be gullible and naïve and fall into what the media is saying because the media is not on your side. Muslims need to be aware about the reality of the situation and not just take what is on the radio and TV, but look deep into what is happening and you'll see the evil that is caused by the enemy...” and this is later followed by *“Look at what the Quraysh²⁴ did to Muhammad, the enemies of Allah are doing to Muslims today. Preachers who are preaching the true Islam are being thrown in jail, or killed or subjugated to threats. If Muslims try to present the truth as it is, they are fought against or restricted. Muslim lands are taken as booty and milking cows for the enemies of Allah. Muslim blood has become very cheap. In fact it has not just become cheap, it has become worthless...”*

In the second lecture of this programme, Anwar al-Awlaki discusses the eligibility criteria for taking part in Jihad and how early Muslims prepared for warfare and excluded those who were not Muslims, from joining a war party that was undertaking a Ghazwa [Bedouin raid]. At 21:35 the following statement was made:

“Can we find anything as virtuous as Jihad, and the prophet said I cannot find any. When the Mujahid²⁵ goes out in the path of Allah, can you enter your mosque and pray continuously without any rest, and fast continuously without breaking your fast, and the man said, and who could do that. Meaning that the reward of the Mujahid is greater than fasting continuously and praying continuously. So the fighting of disbelievers is more virtuous than Jihad un Nafs²⁶, because praying

²² Building at the centre of Islam's most sacred Mosque, Al-Masjid Al Haram

²³ See footnote 4

²⁴ See footnote 6

²⁵ See footnote 7

²⁶ See footnote 8

and fasting is part of Jihad un Nafs and the prophet is saying here that if a person is praying continuously then he cannot receive that someone gets who fights in the way of Allah...so the peak of Islam is fighting Jihad fi Sabilillah²⁷. The prophet said in a Hadith that paradise lies under the shade of swords. In another it says that whoever finances a fighter in the path of Allah has fought [Jihad], and whoever takes care of the family of a fighter has fought”.²⁸

Ofcom assessed the further two lectures broadcast during the programme. The lectures spoke at length about the preparation and training by Muslims for battle, and the methods and rules for the establishment of a Muslim army. It stressed the importance of spiritual and practical training being undertaken in tandem while preparing for the commencement of warfare.

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 Ofcom’s view, the above statements clearly condone acts of terrorism or violence, citing past suffering of Muslim people as justification for such acts. In our view the statement *“So if Muslims are ever accused of being terrorists or that Islam is promoting violence let whoever is saying that remember, that hundreds of thousands of people killed in Iraq, that Palestinians have been suffering for over 50 years, that Muslims in Kashmir and Chechnya and the Philippines and one can go on and on, have been suffering for a very long time”* is clearly and unequivocally intended to give justification to acts of violence or terrorism. Ofcom was particularly concerned by Anwar al-Awlaki’s use of examples of modern conflict to condone terrorism, and the legitimising of violence by placing it into a theological context. As a self-styled “Imam”, we considered Anwar al-Awlaki aimed to provide theological justification and spiritual sanction for Muslims to carry out potentially violent acts *“even if the Muslims do something that is not justified – that cannot fall under justifiable resistance”*. The reasoning given by Anwar al-Awlaki is simply *“it can never reach to the level of violence and evil that is committed against the Muslims from disbelievers”*. He goes on to say *“More than a million killed in sanctions laid upon Iraq. Things need to be put in the right perspective”*. It is

²⁷ See footnote 9

²⁸ The rest of the lecture detailed the rules regarding the preparation of warfare observed by Muslims at the time of prophet Muhammad, and gave details of a number of Ghazwa[t] (battles in which prophet Muhammad participated). The lecture stressed the virtue and importance of military preparation before warfare commenced.

our view these statements intended to sanction, justify and encourage acts of crime, terror or violent behaviour.

During this lecture, Anwar al-Awlaki also refers to Muslim lands being “*taken as booty*” and “*milking cows for the enemies of Allah*”. Ofcom understands this to be a recognised Arabic colloquialism used to describe exploitation, and in this context, to the exploitation of the wealth and natural resources such as oil by the West. Anwar al-Awlaki also states “*Muslim blood has become very cheap. In fact, it has not just become cheap, it has become worthless*”. It is Ofcom’s view that these statements were inflammatory and their cumulative effect could have served to heighten social tensions or encourage violent action. It is clear Anwar al-Awlaki seeks to condone or justify such action by placing these statements within a theological context.

Ofcom understands Orthodox Muslim belief is built on the five pillars of faith (Prayer, Charity, Fasting, Performing Hajj, Belief in Allah). In this lecture, Anwar al-Awlaki argues for supplanting prayer and fasting with violent Jihad as more virtuous than all other Islamic belief. “*the reward of the Mujahid is greater than fasting continuously and praying continuously. So the fighting of disbelievers is more virtuous than Jihad un Nafs²⁹, because praying and fasting is part of Jihad un Nafs and the prophet is saying here that if a person is praying continuously then he cannot receive that someone gets who fights in the way of Allah...so the peak of Islam is fighting Jihad fi Sabilillah³⁰* . This is a highly controversial belief and Anwar al-Awlaki does not provide any contextual justification for such a controversial view. It is Ofcom’s view that listeners may interpret this as sanctifying the belief and practice of violent Jihad above all other beliefs. Equally contentious and without sufficient contextual justification is the argument expounded by Anwar al-Awlaki that financing and providing support to a “fighter” has fulfilled the Islamic obligation of Jihad; “*whoever finances a fighter in the cause of Allah has fought [Jihad], and whoever takes care of the family of a fighter has fought*”. By speaking in English, it is Ofcom’s view that Anwar al-Awlaki is primarily addressing Muslims living in the West rather than Muslims in the Middle East. It is our view that some Muslims living in the West could interpret this as a call to provide financial support to those engaged in violent struggle in the Middle East.

These statements were in our view compounded by the assertion made that the mainstream media was not sympathetic towards Muslim people. “*Don’t be gullible and naïve and fall into what the media is saying because the media is not on your side.*” We were concerned these statements would serve to promote suspicion of the media among Muslim communities and aimed to undermine social cohesion.

In Ofcom’s view the content amounted to material likely to encourage violence or incite the commission of crime.

Ofcom has published Guidance³¹ 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,

²⁹ See footnote 8

³⁰ See footnote 9

³¹ https://www.ofcom.org.uk/data/assets/pdf_file/0021/24258/section_3_2016.pdf

the broadcasts did not appear to provide any other context to mitigate the more potentially harmful messages contained within these lectures.

As with other lectures in this series broadcast by Iman FM, we took into account the Licensee's various representations about why it had broadcast this content and the measures Iman FM said it had taken post broadcast to try to mitigate any offence caused. We considered that the two apology broadcasts provided some, but not sufficient context, to the speaker or his background.

We considered Iman FM's submission that it is a community station with a small audience share in comparison to other broadcasters. However, it is the responsibility of all licensees to comply with the Broadcasting Code, regardless of the size or audience share of that service. We also considered Iman FM's argument that out of a total of 25 hours of broadcasts, the content in relation to which Ofcom had raised concerns in the 4 July 2017 Breach Decision and in the present Decision amounted to no more than a few minutes, and that as the speaker was not introduced by Iman FM as part of the broadcast, listeners would not have known who the preacher was, so that overall any incitement would have been limited. While we acknowledge that as a community radio station, Iman FM has a relatively small footprint, broadcasting to the Muslim community in Sheffield, this does not lessen the seriousness of this breach or the potential harm or offence contained within these lectures. We also note that some listeners, as Ofcom was able to, may have been able to identify the preacher, from the content of his lectures which were delivered in English with an American accent.

Therefore, for 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 2.3

We first considered whether this content was potentially offensive. As already discussed above, we considered these lectures served to condone, sanction or justify violent acts and encourage people to carry them out. It is also our view the material condoned and justified that action through theological context.

Ofcom then considered whether the broadcast of these comments was justified by the context. Taking into account the factors set out above under Rule 3.1, 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 Rule 3.1, we took account of the Licensee's various representations as to why it had broadcast the series of lectures generally. However, we considered that the contextual factors in this case were not sufficient to justify any potential offence.

Our Decision is therefore that Rule 2.3 was breached.

Third Programme: Two Lectures by Anwar al-Awlaki, 12 June 2017

Iman FM broadcast two further lectures by Anwar al-Awlaki on 12 June 2017. Lasting around two hours in duration, the lectures narrated the importance of loyalty to the Muslim cause at a time of war, and the treatment of prisoners of war by early Muslims. Awlaki gave examples from the Battle

of Badr³² a seminal event in early Islamic history. In addition, Awlaki stressed that Muslims should not be “bitten twice” but should learn from their mistakes or gullibility in the past and described this as an important lesson for Muslims.

Around an hour into this broadcast at 07:58 he went on to say:

“Finally, the ruling of POW. The Islamic ruling on prisoners of war. It is up to the leader. It is up to the Muslim Imam to determine the fate of prisoner of wars. He has the choice of executing them. The example is [list names] who were executed by [name]. Number two, he can free them without ransom as he did with [list names]. He can free them with ransom like he did with the rest of the prisoner of wars and he has the option of enslaving the prisoner of wars such as the ruling of [list names] as we will talk about later on. So, these are the rulings of prisoner of wars in Islam. We have our own Geneva convention we don’t have to abide by anyone’s Geneva convention³³. Allah has already taught what is right and what is wrong so Muslims have their own rules which part of Sharia of Allah’s [they obey] and it has all the Hadiya [guidance] that Muslims would need”.³⁴

Rule 3.1

It is Ofcom’s view that this material amounted to condoning or sanctioning the mistreatment of prisoners of war. Anwar al-Awlaki clearly says Imams have the power to determine the fate of prisoners of war and do not have to abide by the international law, enshrined in the Geneva Convention. We were particularly concerned by the potential offence caused by the statement’s endorsement of disregarding international law on the treatment of prisoners of war.

Ofcom has published Guidance³⁵ 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 disregard for the Geneva Convention 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.

As with the other lectures in this series, Ofcom took into consideration the Licensee’s representations about why they had broadcast this material. However, in this case Ofcom found the breach to be very serious and could not be justified by the context in which it was broadcast.

Therefore, our Decision is Rule 3.1 was breached.

³² Battle of Badr: First battle fought by early Muslims in 624CE, which proved a turning point for Muslims in their struggle against the tribe of Quraysh who opposed them.

³³ see footnote 16

³⁴ The rest of the lecture talked of the blessings attained by the Muslim participants in the Battle of Badr. It also talked of the Munafiqeen (Hypocrites) who professed loyalty to Muslims but at the same time spied on Muslims and provided information to the tribe of Qurayash who opposed the early Muslims.

³⁵ https://www.ofcom.org.uk/data/assets/pdf_file/0021/24258/section_3_2016.pdf

Rule 2.3

We first considered whether this content was potentially offensive. As already discussed above, when considering Rule 3.1, it is our view these lectures amounted to condoning the mistreatment of prisoners of war and therefore 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 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, we took account of the Licensee's various representations as to why it had broadcast the series of lectures generally. However, we considered that the contextual factors in this case were not sufficient to justify any potential offence.

Our Decision is therefore that Rule 2.3 was breached.

Conclusion

Overall Ofcom considered the breaches in this case to be extremely serious. Ofcom has already issued a Notice under section 111B Broadcasting Act 1990 suspending the Licence on the basis of the breaches identified in the Breach Decision of 4 July 2017³⁶. **We will consider these additional breaches in the context of Ofcom's decision as to whether to lift the suspension or to revoke the Licence under the section 111B Broadcasting Act 1990 procedure, as well as our ongoing duty to be satisfied that the Licensee is fit and proper to hold a community radio licence.**

Decision: Breaches of Rules 3.1, 3.2, and 2.3

³⁶ https://www.ofcom.org.uk/data/assets/pdf_file/0018/103941/Suspension-Notice-Iman-FM.pdf