

REVOCATION NOTICE

NOTICE OF REVOCATION OF LICENCE FOR BROADCASTING MATERIAL LIKELY TO ENCOURAGE OR INCITE CRIME OR TO LEAD TO DISORDER

PURSUANT TO SECTION 111B OF THE BROADCASTING ACT 1990 AS AMENDED (THE “1990 ACT”) BY SECTION 91 OF THE DIGITAL ECONOMY ACT 2017

TO IMAN MEDIA UK LIMITED (“THE LICENSEE”)

IN RESPECT OF LICENCE NUMBERED CR100152 (THE “BA LICENCE”) GRANTED ON 17 OCTOBER 2014 AND PRESENTLY HELD BY IMAN MEDIA UK LIMITED TO PROVIDE A COMMUNITY RADIO SERVICE UNDER PART III OF THE 1990 ACT

NOTICE OF REVOCATION OF LICENCE NUMBERED CR100152WT/1 (THE “WTA LICENCE”) GRANTED ON 17 OCTOBER 2014 AND PRESENTLY HELD BY THE LICENSEE FOR THE TRANSMISSION OF COMMUNICATION RADIO BROADCASTING SERVICES UNDER THE WIRELESS TELEGRAPHY ACT 2006 (THE “WTA”)

PURSUANT TO SCHEDULE 1 PARAGRAPH 8 OF THE WTA AND CONDITION 3 OF THE WTA LICENCE

STATUTORY FRAMEWORK AND BACKGROUND

- i. Iman Media UK Limited (“the Licensee”) holds the BA Licence to provide a community radio service under the 1990 Act.
- ii. Condition 5 of the BA Licence requires the Licensee to ensure that the provisions of Ofcom’s Broadcasting Code (“the Code”) are observed in the provision of the community radio station broadcasting service, and refers to section 319 of the Communications Act 2003 (“the Communications Act”).
- iii. Section 319 of the Communications Act sets out a list of the standards objectives which are reflected in Ofcom’s Code for the content of programmes to be included in television and radio services. These objectives include *“that material likely to encourage or to incite the commission of crime or to lead to disorder is not included in television and radio services”* and *“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”*.¹
- iv. Pursuant to section 87(1)(a), (d) and (f) of the 1990 Act which empower Ofcom to include appropriate conditions in broadcast licences, Condition 15 of the BA Licence requires the Licensee to adopt procedures and ensure that such procedures are observed by those involved in providing the community radio service for the purposes of ensuring that programmes included in the service comply in all respects with the provisions of the BA Licence, the 1990 Act, the Broadcasting Act 1996 and the Communications Act. This includes a duty to ensure that there are sufficient persons involved in providing the community radio service who are adequately versed in these provisions as well as all relevant codes and

¹ Sections 319(2)(b) and 319(2)(f) respectively.

guidelines as may be drawn up and from time to time revised by Ofcom, and that such persons are able to ensure compliance with such requirements on a day-to-day basis.

- v. Part 4 of the BA Licence sets out conditions relating to enforcement of licences. It includes provisions at Condition 30 enabling Ofcom to revoke the BA Licence, for example in circumstances where the Licensee fails to comply with any condition of the BA Licence or with any direction given by Ofcom and the failure is such that it would justify the revocation of the BA Licence, or where Ofcom ceases to be satisfied that the Licensee is a fit and proper person to hold the BA Licence.
- vi. Under section 86(4) of the 1990 Act, Ofcom:
 - a. shall not grant a licence to any person unless satisfied that the person is a fit and proper person to hold it; and
 - b. shall do all that they can to secure that, if they cease to be so satisfied in the case of any person holding a licence, that person does not remain the holder of the licence.
- vii. Therefore, Ofcom has an ongoing duty to remain satisfied that the Licensee is fit and proper to hold a licence to provide a community radio service. This duty must be understood in the context of Ofcom's role as the broadcast regulator, and the regulatory regime for broadcasting.
- viii. Condition 30(2)(e) of the BA Licence provides that "*Ofcom may revoke the Licence by notice in writing served on the Licensee and taking effect either from the time of service or on a date specified in the notice, in any of the following circumstances: ... (e) if Ofcom ceases to be satisfied that the Licensee is a fit and proper person to hold the Licence*".
- ix. Section 111B of the 1990 Act as amended by section 91 of the Digital Economy Act 2017 provides that:

"(1) OFCOM must serve a notice under subsection (2) on the holder of a licence granted under this Chapter if they are satisfied that—

 - (a) the licence holder has included in the licensed service one or more programmes containing material likely to encourage or incite the commission of crime or to lead to disorder,*
 - (b) in doing so the licence holder has failed to comply with a condition included in the licence in compliance with section 263 of the Communications Act 2003, and*
 - (c) the failure would justify the revocation of the licence.*

(2) A notice under this subsection must—

 - (a) state that OFCOM are satisfied as mentioned in subsection (1),*
 - (b) specify the respects in which, in their opinion, the licence holder has failed to comply with the condition mentioned there,*
 - (c) state that OFCOM may revoke the licence after the end of the period of 21 days beginning with the day on which the notice is served on the licence holder, and*

- (d) inform the licence holder of the right to make representations to OFCOM in that period about the matters that appear to OFCOM to provide grounds for revoking the licence.*
- (3) The effect of a notice under subsection (2) is to suspend the licence from the time when the notice is served on the licence holder until either—*
- (a) the revocation of the licence takes effect, or*
- (b) OFCOM decide not to revoke the licence.*
- (4) If, after considering any representations made to them by the licence holder in the 21 day period mentioned in subsection (2)(c), OFCOM are satisfied that it is necessary in the public interest to revoke the licence, they must serve on the licence holder a notice revoking the licence.*
- (5) The revocation of a licence by a notice under subsection (4) takes effect from whatever time is specified in the notice.*
- (6) That time must not be earlier than the end of the period of 28 days beginning with the day on which the notice under subsection (4) is served on the licence holder.*
- (7) Section 111 does not apply to the revocation of a licence under this section.”²*

- x.** Condition 22 of the BA Licence provides (inter alia):
- a.** Any notification to be served, given or sent under or in relation to the BA Licence may be delivered to the party to be served or sent by first-class post to him at his proper address or left at that address;
 - b.** Any such notification or document shall be deemed to have been served:
 - i.** if so delivered or left, at the time of delivery or leaving; or
 - ii.** if so posted, at 10.00 am on the second business day after it was put into the post;
 - c.** Notices may also be served by Ofcom on the Licensee in electronic form subject to the requirements set out in sections 395 and 396 of the Communications Act.
- xi.** Under section 6 of the Human Rights Act 1998, Ofcom (as a public authority) has a duty to ensure that it does not act in a way which is incompatible with the European Convention on Human Rights (“the Convention”). In particular, in the context of this case, Ofcom has taken account of the related rights under Article 9 and Article 10 of the Convention.
- xii.** Article 9 of the Convention provides for the right to freedom of thought, conscience and religion. This Article makes clear that freedom to “*manifest one’s religion or beliefs shall be subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interest of public safety, for the protection of...health...or for the protection of rights and freedoms of others*”.

² Pursuant to section 118 of the Digital Economy Act 2017 which received Royal Assent on 27 April 2017, this provision entered into force on 27 June 2017.

- xiii.** Article 10 of the Convention provides for the right to freedom of expression. Applied to broadcasting, this right encompasses the broadcaster’s freedom to impart and the audience’s freedom to receive information and ideas without interference by public authority and regardless of frontiers (Article 10(1) of the Convention). The exercise of these freedoms may be subject only to conditions and restrictions which are *“prescribed in law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health and morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary”* (Article 10(2) of the Convention).
- xiv.** Ofcom must exercise its duties in light of this right and not interfere with the exercise of these freedoms in broadcast services unless it is satisfied that the restrictions it seeks to apply are required by law and necessary to achieve a legitimate aim.
- xv.** On Thursday 22 June 2017, Ofcom sent the Licensee a “Preliminary View” that two pre-recorded lectures, broadcast on Iman FM on 14 June 2017 as part of a series of lectures during the month of Ramadan, breached (inter alia) Rule 3.1 of the Code (the “First Preliminary View”). On the same date, Ofcom also sent the Licensee a “Minded to” Decision which set out that Ofcom was minded to find that the Licensee was not fit and proper to hold a licence to provide the Iman FM community radio service and that the BA Licence should be revoked, based on the failings identified. Ofcom received written and oral representations on the “Minded to” Decision on 23 and 27 June 2017.
- xvi.** Ofcom received written and oral representations on the First Preliminary View and the “Minded to” Decision on 23 and 27 June 2017 respectively. In summary:
- a.** the Licensee admitted the breaches of the Code detailed in the First Preliminary View and in the “Minded To” Decision;
 - b.** the Licensee explained that the broadcasting of the material in question was done in error and explained the circumstances in which the content was selected and came to be broadcast (further details are provided below);
 - c.** in response to this incident, the Licensee had taken a number of remedial steps, including taking the lectures off air, deciding not to broadcast the material again, reviewing and enhancing its guidelines for presenters and content policy regarding compliance of lectures and speeches prior to broadcast, undertaking to run due diligence checks on the background of speakers before broadcast in future, and broadcasting an apology to listeners on Friday 23 June 2017;
 - d.** the Licensee submitted that Ofcom should give greater weight than it seemed to have done in its First Preliminary View and the “Minded To” Decision to the Licensee’s prior good compliance record, including in relation to previous radio Restricted Service Licences held by its former Station Manager for Radio Ramadan since 2000;
 - e.** the Licensee also highlighted the good work which the radio service was carrying out in the local community (including in terms of encouraging social cohesion and participating in charitable work);
 - f.** on balance, the Licensee’s error did not warrant the revocation of the BA Licence.

- xvii.** On Tuesday 4 July 2017, Ofcom sent a decision (“the First Breach Decision”) to the Licensee in which Ofcom found that the broadcast lectures breached (inter alia) Rule 3.1 of the Code.³ The First Breach Decision set out specific examples of broadcast material that were in breach, along with reasoning as to why, in relation to each breach, the material had breached Rule 3.1.
- xviii.** On Tuesday 4 July 2017, Ofcom sent a section 111B suspension notice (the “Suspension Notice”) to the Licensee. In the Suspension Notice, Ofcom set out the reasons why it was satisfied that—
- a.** by broadcasting the lectures which were the subject of the First Breach Decision, the Licensee had included in the licensed service one or more programmes containing material likely to encourage or incite the commission of crime or to lead to disorder,
 - b.** in doing so the Licensee had failed to comply with conditions included in the BA Licence in compliance with section 263 of the Communications Act, namely Conditions 5 and 15 of the BA Licence, and
 - c.** the failure would justify the revocation of the BA Licence.
- xix.** Condition 3 of the WTA Licence provides that pursuant to schedule 1, paragraph 8 of the WTA, Ofcom may not revoke the WTA Licence before its termination date except (inter alia) if the BA Licence ceases to remain in force. Pursuant to Schedule 1 paragraph 7 of the WTA, the Suspension Notice included a notification that Ofcom also proposed to revoke the Licensee’s WTA Licence if the BA Licence ceased to remain in force.
- xx.** The effect of the Suspension Notice was to suspend the BA Licence from 4 July 2017 until either the revocation of the BA Licence takes effect, or Ofcom decides not to revoke the BA Licence.
- xxi.** On Monday 17 July 2017, Ofcom sent a Preliminary View (“the Second Preliminary View”) to the Licensee in which Ofcom stated it was minded to find that a further three programmes of eight pre-recorded lectures, broadcast on Iman FM on 5, 10 and 12 June 2017, breached (inter alia) Rule 3.1 of the Code. The Second Preliminary View set out specific examples of broadcast material that were in breach, along with reasoning as to why, in relation to each breach, the material had breached inter alia Rule 3.1.
- xxii.** Ofcom invited written and oral representations from the Licensee on the Suspension Notice and on the Second Preliminary View. The Licensee made oral representations in relation to both to Ofcom on 18 July 2017. In summary:
- a.** the Licensee admitted the breaches of the Code highlighted in the First Breach Decision and in the Second Preliminary View;
 - b.** the Licensee admitted the failure to comply with the conditions of the BA Licence specified in the Suspension Notice;

³ The First Breach Decision also recorded breaches of Rule 3.2 (hate speech must be justified by the context) and Rule 2.3 (offence must be justified by the context) of the Code.

- c. the Licensee submitted that the failures identified by Ofcom did not warrant a revocation of the BA Licence. In this regard:
 - i. although the Licensee's actions had been reckless, there had been no intent to commit the breaches or fail to comply with the BA Licence conditions;
 - ii. the Licensee had sought to address the failures by broadcasting two apologies, had generally been responsive and assisted Ofcom throughout the investigation;
 - iii. out of the 25 hours of broadcast, at most only a few minutes had been deemed in breach of the Code;
 - iv. Iman FM was a community radio service with a small audience so that the impact of the breaches had to be placed in that context and be seen as limited;
 - v. the Licensee also provided Ofcom with messages of support from the local community, highlighting the need for a community radio service of this kind in the local area.
 - d. should Ofcom decide to revoke the BA Licence, Ofcom should at least recognise that although the Licensee's conduct had been reckless, it had not intended to carry out the breaches and had fully cooperated throughout the investigation.
- xxiii. On Wednesday 26 July 2017, Ofcom sent a further breach decision (the "Second Breach Decision") to the Licensee in which Ofcom stated it had found the three programmes referred to in the Second Preliminary View breached (inter alia) Rule 3.1 of the Code.⁴ The Second Breach Decision set out specific examples of broadcast material that were in breach, along with reasoning as to why, in relation to each breach, the material had breached Rule 3.1.

NOW THEREFORE

1. Ofcom hereby gives notice to the Licensee that pursuant to section 111B(4) of the 1990 Act (as amended), after considering the Licensee's representations, it is satisfied that it is necessary in the public interest to revoke the BA Licence. The reasons for which Ofcom is satisfied that it is necessary in the public interest to revoke the BA Licence are set out in the "Ofcom is satisfied it is necessary in the public interest to revoke the BA Licence" section of this Revocation Notice.
2. Ofcom hereby gives notice that such revocation will take effect from the day after the end of the period of 28 days beginning on the date on which this notice is served, namely **Thursday 24 August 2017** (the "Revocation Date").
3. Until the Revocation Date, the BA Licence remains suspended pursuant to the Suspension Notice and the Licensee must not broadcast any material on the licensed service Iman FM.
4. Pursuant to section 97 of the 1990 Act, failure to comply with the Suspension Notice or with this Revocation Notice by broadcasting material on the Iman FM service during the Suspension Period would amount to a criminal offence which is punishable by an unlimited fine.

⁴ The Second Breach Decision also recorded breaches of Rule 3.2 (hate speech must be justified by the context) and Rule 2.3 (offence must be justified by the context) of the Code.

5. Ofcom also hereby gives notice to the Licensee that pursuant to Schedule 1 paragraph 8 of the WTA and Condition 3 of the WTA Licence, the WTA Licence will be revoked from the same date as the revocation of the BA Licence. The reason for the revocation of the WTA Licence is that Ofcom is revoking the BA Licence and that the BA Licence will therefore cease to remain in force.
6. Ofcom hereby informs the Licensee that based on the evidence and considerations set out in the section titled "Ofcom is satisfied that it is necessary in the public interest to revoke the BA Licence" below, Ofcom is no longer satisfied that the Licensee remains fit and proper to hold its broadcast licence. It has demonstrated an inability to comply with the regulatory regime such that continuing to license it would put listeners and the general public at risk. In addition, the breaches it has committed are so serious that, in our view, continuing to license it would damage public confidence in the licensing regime.⁵

Ofcom is satisfied that it is necessary in the public interest to revoke the BA Licence

A. The failures identified in the First and Second Breach Decisions are extremely serious breaches of the Code

Background on the broadcasts

7. The Licensee broadcast a series of lectures by Anwar al-Awlaki entitled "The Life of Muhammad (Seerat-un-Nabi)"⁶ throughout the month of Ramadan.⁷ Ofcom received a complaint from a listener regarding two of the lectures. These were the subject of the First Breach Decision. 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 found in the Second Breach Decision that three further programmes of lectures contained content which was in serious breach of the Broadcasting Code (including Rule 3.1 on material likely to encourage or incite the commission of crime or lead to disorder).
8. 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-Qaeda.⁸ 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.
9. 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 focuses on the spiritual life of Prophet Muhammad as a religious leader. However, during our 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

⁵ We note that at the time of the breaches, the directors of the company were Kauser Parveen, Shazia Iram Hussain and Akhtar Mahmood; its compliance officer was Raja Muhammad Anwar Khan and its station manager was Mohammed Shabbir Mughal.

⁶ Seerat-un-Nabi: Life of the Prophet.

⁷ Ramadan in 2017 started on around 26 May 2017.

⁸ <http://www.un.org/press/en/2011/sc10468.doc.htm>.

preparation and justification for taking military action and the rules governing warfare. This emphasis on warfare differs from traditional Seerah,⁹ which usually focus on the life of Prophet Muhammad as the spiritual and benevolent founder of Islam.

Specific breaches of Rule 3.1 of the Code

10. As set out above, Section 319(2)(b) of the Communications Act requires that material likely to encourage or incite the commission of crime or to lead to disorder is not included in television and radio services (section 319(2)(b)). This requirement is reflected in Rule 3.1 of the Code. Any breach of this rule must be regarded as potentially serious because it necessarily involves the broadcast of material judged by Ofcom to be likely to encourage or incite the commission of crime or lead to disorder, and so potentially cause serious harm. Indeed, Ofcom is given specific powers under section 111B of the 1990 Act (as amended) if we are satisfied that a breach of Rule 3.1 is such as to justify revocation.
11. In considering the seriousness of the breach and whether it was such as to justify revocation of the BA Licence, Ofcom has had regard to the following considerations.
12. Ofcom regards any breach of Rule 3.1 as a very serious matter. Ofcom is given a specific statutory duty to ensure broadcasters do not transmit material that is likely to encourage or incite crime or lead to disorder. Where such material is broadcast in contravention of this requirement, the 1990 Act recognises the potential for serious harm to be caused to society and that, where justified by the breach, the regulator may be required to act to be able to remove a broadcaster's entitlement to hold a licence.
13. In this case, the breaches of Rule 3.1 of the Code identified in the First and Second Breach Decisions were extremely serious because they included:
 - a direct call to action to members of the Muslim community to prepare for and carry out violent action against non-Muslim people;
 - statements clearly condoning and encouraging acts of crime, terrorism or violent behaviour, telling members of the Muslim community that it is acceptable to conceal their faith to perpetrate these acts, or citing examples of past suffering of Muslim people in modern conflicts as justification for such acts;
 - inflammatory statements against the West, whose cumulative effect could have served to heighten social tensions or encourage violent action;
 - statements sanctifying the belief in and practice of violent Jihad above the five pillars of Muslim faith (Prayer, Charity, Fasting, Performing Hajj and Belief in Allah), reinforced by a call to support violent action in the Middle East through the argument that financing and providing support to a Muslim fighter hereby fulfils his or her Islamic obligation of Jihad;
 - statements condoning or sanctioning the mistreatment of prisoners of war.
14. By placing the above statements within a theological context, Anwar al-Awlaki aimed to provide theological justification and spiritual sanction for Muslims to carry out acts of crime or disorder. In judging the likely effect of such content on those listening, Ofcom had regard to concerns about al-Qaeda and ISIL's use of propaganda to radicalise and recruit citizens of the UK and elsewhere. In our view, Anwar al-Awlaki's use of the English language and his reference to theological context involving the life of Prophet Muhammad would have been likely to have a

⁹ Seerah/Sira/Seerat: A narration of the life of an individual often used in reference to Prophet Muhammad.

greater persuasive impact and effect on the audience. The likely effect in our view would also have been exacerbated by the fact that Anwar al-Awlaki spoke uninterrupted for 1 to 2 hours daily over a three-week period (apart from advertising breaks) and there were no views or statements in the successive programmes which challenged or otherwise softened the inflammatory effect or the considerable level of potential offence to Muslims and others caused by his statements.

15. Depending on the circumstances, Ofcom generally considers the potential harm arising from any form of incitement to crime to be serious. The potential for very serious harm if the programmes in breach of the Code incited others is clear. Ofcom was concerned that the statements made by Anwar al-Awlaki had the clear potential to influence impressionable listeners by encouraging serious crime and/or leading to disorder in relation to members of the public.
16. Further details are available in the First and Second Breach Decisions. Overall, Ofcom's view is that the breaches highlighted in these decisions are extremely serious.

B. Ofcom has serious concerns as to the Licensee's ability to act as a responsible broadcaster

17. Within their context, the breaches reveal a fundamental lack of understanding of basic requirements of compliance with the Code and raise serious concerns as to the Licensee's ability to act as a responsible broadcaster. These concerns are not fully alleviated by the size and reach of the Licensee's service or by its conduct during the investigation.
18. The Licensee explained that the broadcasting of the material found to be in breach of the Code was done in error. In essence, it said that:
 - the Licensee had never previously broadcast any lectures by Anwar al-Awlaki;
 - the Licensee had listened to the first 12 hours of the content and found that none of that content raised any compliance concerns;
 - due to time constraints, the Licensee had only sampled the rest of the content (another 13 hours) prior to broadcast;
 - the material which Ofcom had found to be in breach of the Code came from the group of lectures which had only been sampled;
 - the lectures were all edited prior to broadcast to insert advertising breaks and then loaded into an automated schedule to be played out;
 - contrary to the Licensee's usual practice, the speaker was not introduced on air, as the Licensee's staff were rushing to prepare the material 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 the material 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*".

Fundamental lack of judgment and understanding

19. 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*".
20. Alarming, more than 13 hours of content were not reviewed in full prior to being broadcast.
21. We noted that the lectures which the Licensee listened to in full prior to broadcasting them detailed the preparation and justification for taking military action and the rules governing warfare. This emphasis on warfare differs from traditional Seerah, which usually focus on the life of Prophet Muhammad as the spiritual and benevolent founder of Islam, and should have prompted the Licensee to run further checks on the rest of the content and its author before broadcasting the series.
22. 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 used to access the material on YouTube. 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 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, we find the Licensee's failure to identify and investigate potential concerns with the source of the material difficult to understand and extremely reckless.

Failure to comply with basic requirements enshrined in the BA Licence conditions

23. Given the type and nature of content sourced from YouTube, by not checking the pre-recorded material before broadcast, and by failing to check the output as it was being broadcast, in our view, the Licensee failed to comply with basic requirements which were enshrined in its BA Licence conditions.
24. Condition 5 of the BA Licence requires the Licensee to ensure that the provisions of the Code are observed in the provision of the community radio station broadcasting service. By including several lectures in the licensed service containing material likely to encourage or incite the commission of crime or to lead to disorder contrary to Rule 3.1 of the Code, the Licensee has failed to comply with Condition 5 of the BA Licence.

- 25.** In addition, Condition 15 of the BA Licence requires the Licensee to adopt procedures and ensure that such procedures are observed by those involved in providing the community radio service for the purposes of ensuring that programmes included in the service comply in all respects with the provisions of the BA Licence, the 1990 Act, the Broadcasting Act 1996 and the Communications Act. This includes a duty to ensure that there are sufficient persons involved in providing the community radio service who are adequately versed in these provisions as well as all relevant codes and guidelines as may be drawn up and from time to time revised by Ofcom, and that such persons are able to ensure compliance with such requirements on a day-to-day basis.
- 26.** The context in which the lectures were broadcast shows that the Licensee did not have adequate procedures in place to ensure compliance with the Code, contrary to the requirements of Condition 15 of the BA Licence:
- despite the known existence of a strand of Islamist extremism which promotes terrorism, and its awareness of the militaristic content of the lectures it acknowledges it reviewed, the Licensee still did not carry out any basic checks about the background of the lecturer. A simple online search would have shown him to be a designated terrorist;
 - it did not review the lectures in full prior to broadcasting them;
 - it appears that no-one at the radio station raised any concern upon hearing the material during its broadcasting.

Iman FM's small size and reach

- 27.** Iman FM submitted that as a community station it has a small audience share in comparison to other broadcasters, and that this should be reflected in Ofcom's consideration of the seriousness of the Code breaches. It is the responsibility of all licensees to comply with the 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 First and Second Breach Decisions 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.
- 28.** 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.
- 29.** 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.
- 30.** Finally, given the Licensee's failure to review the content in full before broadcast and the source of the material, it is sheer luck rather than the result of good broadcasting management that only a few minutes were found to be in breach of Rule 3.1 of the Code. The potential harm to Iman FM's audience caused by airing Anwar al-Awlaki's extremist views without challenge could have been much worse, and in preparing the material for broadcasting the Licensee failed to apply basic processes to prevent this from happening.

Licensee's conduct during the investigation

- 31.** Since the listener complaint was communicated to the Licensee, the Licensee has cooperated with Ofcom and provided further details promptly as and when requested.
- 32.** However, a number of the Licensee's responses suggest that the Licensee did not grasp the seriousness of the actions which led to the listener's complaint and Ofcom's investigation:
- the Licensee broadcast a further two lectures on 16 June 2017 (of a total duration of 1 hour and 25 minutes) before stopping any further broadcast of lectures by Anwar al-Awlaki;¹⁰
 - the Licensee did not thoroughly respond to Ofcom in two important respects:
 - i. the Licensee indicated that it had broadcast 20 hours' worth of lectures from a total of 53 available recordings of lectures by Anwar al-Awlaki on the life of Prophet Muhammad. However, upon Ofcom's request, the Licensee supplied a detailed breakdown of individual broadcasts which revealed that a total of 25 hours 16 minutes 46 seconds were actually broadcast on Iman FM (of which 2 hours 7 minutes and 21 seconds were repeats of earlier broadcasts);
 - ii. the Licensee indicated as part of written representations that it would broadcast a second apology to its listeners on a particular date (see further detail below) but did not flag to Ofcom that it had not in fact done so, despite meeting with Ofcom to provide oral representations after the date in question.
- 33.** We noted that the Licensee decided to broadcast two apologies for having broadcast the Anwar al-Awlaki 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*". The Licensee provided oral representations to Ofcom on Tuesday 27 June in relation to the First Preliminary View and the "Minded To" Decision. 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.

¹⁰ Before the complaint was brought to its attention, the Licensee had planned to broadcast the lectures on a daily basis until the end of the month of Ramadan, i.e. until 25 or 26 June 2017.

34. We also noted that on 4 July 2017 a Licensee Board meeting took place at which the attendees decided to ask for the Station Manager's resignation. On 7 July 2017 the Station Manager sent the Licensee a letter of resignation, in which he took "*full responsibility for the reckless mistake that has resulted in IMAN FM's licence being suspended*". A new Station Manager was appointed on 11 July 2017 and began his functions on 14 July 2017. In Ofcom's view, while the former Station Manager appeared to have overall responsibility for the content being broadcast, we note that the Programming Manager (who is also the Licensee's contact for compliance issues) was responsible for selecting the lectures and took the decision to stop reviewing the content in full after listening to the first 12 hours of lectures. It is Ofcom's understanding that the Programming Manager remains in charge, a decision which must be attributed to the directors of the company.
35. Overall, the Licensee has been broadly cooperative during the investigation. While the Licensee appears not to have immediately grasped the seriousness of the failures in its processes, it admitted the breaches of the Code and provided full representations in response to Ofcom's requests for information relating to the material broadcast and the service in general, within the deadlines set by Ofcom. We took into account the Licensee's various representations about the measures Iman FM said it had taken post broadcast to try to mitigate any offence caused.
36. We took into consideration that since obtaining the BA Licence in October 2014, Ofcom has not found the Licensee to have breached the Code. In its submissions to date, the Licensee also referred to its former Station Manager's compliance record in relation to radio Restricted Service Licences for Ramadan FM since 2000. We considered the Licensee's argument that Ofcom had not given sufficient weight to this factor. However, the Licensee's previous good compliance record, in our view, only provided very limited mitigation for it broadcasting examples of incitement to violent action unchallenged in this case.
37. We also considered that the two apology broadcasts provided some, but not sufficient context, to the speaker or his background. The resignation of the Station Manager provided some degree of reassurance. Despite these assurances, we are concerned that the Licensee has demonstrated such a fundamental lack of understanding of the basic requirements of compliance in broadcasting this extensive material that it is unable to comply with the regulatory regime such that Ofcom's continuing to license the company would put listeners and the general public at risk. In addition, the breaches it has committed are so serious that, in our view, continuing to license it would damage public confidence in the licensing regime.

C. On balance, Ofcom is satisfied that it is necessary in the public interest and proportionate to revoke the BA Licence

Sanctions other than revocation would not be appropriate in this case

38. Given the seriousness of this case, Ofcom considered whether the breaches of Rule 3.1 were so serious that a revocation of the BA Licence was necessary in the public interest under s111B of the 1990 Act (as amended).
39. This is a matter of judgment for Ofcom. Revocation of a licence is the ultimate enforcement action available to Ofcom. Therefore, in considering whether it is necessary in the public interest to serve a notice to revoke a licence under s111B of the 1990 Act, Ofcom must take account of all the relevant considerations. These include in this case:

- the words used in the content broadcast and the circumstances in which they were spoken;
- previous licence breaches by the Licensee, and especially any previous occasions when material likely to incite or encourage crime has been broadcast;
- the explanation and response provided by the Licensee to Ofcom in response to the incidents; and
- the likelihood of further breaches.

- 40.** In summary, Ofcom must ensure that any decision that the breaches are such as to require revocation of the licence is proportionate. A relevant factor for Ofcom to consider in this regard is whether any sanction short of revocation could ensure that the Licensee would comply with the terms of the BA Licence.
- 41.** Ofcom must also have regard to the balance to be given to competing rights under the Convention. In particular, this includes: the right to freedom of expression under Article 10, against the competing rights and the protections necessary in a democratic society for the protection of citizens, including Ofcom’s statutory duty to ensure material likely to encourage crime or disorder is not included in radio services; and also the right to freedom of thought, conscience and religion under Article 9.
- 42.** Concerning Article 10 of the Convention, as pointed out above, the rights of the broadcaster to impart information and ideas and of the audience to receive them are also subject to restrictions *“prescribed in law...in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime...”*.
- 43.** Ofcom’s statutory obligation is to set standards to secure that material likely to encourage crime is not broadcast. Article 10 protects not only the substance of ideas or information expressed, but also the form in which they are conveyed. In some circumstances, this may include a polemical or aggressive tone. On the other hand, some types of expression, such as expressions of political support for terrorism, have been regarded by the courts as deserving of lesser (or no) protection against restrictions. On the facts of this case, Ofcom must therefore carefully balance the competing rights of the broadcaster and audience to freedom of expression against the duty to protect the public from material likely to encourage crime or disorder.
- 44.** Ofcom notes that in this case, Anwar al-Awlaki’s comments were not merely polemical or aggressive; he made a direct call to members of the Muslim community to prepare for and carry out violent action against non-Muslim people. He also made indirect calls on members of the Muslim community to commit violence, condoning and encouraging acts of crime, terrorism or violent behaviour. By placing these statements within a theological context, Anwar al-Awlaki aimed to provide theological justification and spiritual sanction for Muslims to carry out acts of crime or disorder. As Ofcom’s Guidance Notes on Section 3 of the Code emphasises,¹¹ broadcasters should take care to avoid the broadcast of unambiguous statements which support acts of violence where those statements derive from or are presented as reflecting religious texts and theological belief. By presenting such views as established orthodoxy and suggesting there is no scope for interpretation, there is an increased risk that the audience may understand the statements as calls to action to commit crime or disorder. No attempt was made by the

¹¹ https://www.ofcom.org.uk/_data/assets/pdf_file/0021/24258/section_3_2016.pdf.

Licensee to place the statements in a context to make them potentially less harmful. In Ofcom's view, therefore, the broadcasting of this content deserves a lower level of protection under Article 10 than for example the inclusion in a programme of comments about a controversial political issue within the context of a debate presenting differing views on that issue.

45. Ofcom noted that the broadcast was the result of a failure to run basic compliance checks in relation to a substantial amount of pre-recorded material prior to broadcast. There is no evidence that the Licensee's purpose in broadcasting the content was to incite crime or lead to disorder. However, the evidence is that the Licensee acted extremely recklessly in broadcasting extensive content it had not fully listened to or checked the source of, and that this approach fell substantially below the standards expected of a responsible broadcaster, including one that is run by a team of volunteers. We also noted that the breaches identified in the First and Second Breach Decisions were contained in several programmes which were broadcast over a sustained period of time.
46. We acknowledged that the Licensee admitted to breaching (inter alia) Rule 3.1 of the Code in relation to the content specified in the First and Second Breach Decisions,¹² as well as its failure to run background checks on the preacher and listen fully to the entire content of the lectures before broadcast. The Licensee also condemned the views expressed in the broadcasts in its representations to Ofcom during the investigation as well as through two broadcast apologies. The Licensee also explained steps it had taken in light of the breaches to improve its compliance procedures and prevent similar breaches occurring in the future.
47. We took account of the fact that a number of stakeholders have offered to support the Licensee in order to ensure its compliance with the Code and Licence conditions going forward. These included:
- [§< CONFIDENTIAL] a broadcasting association working to organise a legal and compliance training event which personnel from Iman FM have agreed to attend and help promote to other community radio stations in the North of England;
 - [§< CONFIDENTIAL – a member of a Muslim organisation] agreeing to join the station to focus programmes around defeating and exposing terrorism, in the form of a weekly programme on the issue as well as workshops around terrorism, their supporters, their financial backing and how to identify extremist preachers;
 - [§< CONFIDENTIAL] a UK registered charity supporting the Licensee to *“construct a much more robust vetting procedure in regards to what content is broadcast. They have formed a more suitable due diligence framework, as well as, practical speaker's and broadcast policy”*. The charity added they were also supporting to facilitate broadcasts that address issues of concerns in Sheffield to promote community cohesion. The charity noted that *“[t]he trustees and management of the radio station have shown real willingness to learn from this incident, and provide a better service for their local community”*;
 - [§< CONFIDENTIAL – a broadcaster] offering support to the Licensee, including in terms of *“shar[ing] in training, procedures, advice and just being at the other end of the telephone and email when doubt arises”*;

¹² In relation to both the First and Second Breach Decisions, the Licensee also admitted to breaching Rule 3.2 (hate speech must be justified by the context) and Rule 2.3 (offence must be justified by the context) of the Code. In addition, the Licensee admitted to failing to comply with Conditions 5 and 15 of the BA Licence in its representations relating to the Suspension Notice.

- [§< CONFIDENTIAL] a Muslim organisation stating it would continue to work with the radio team *“to ensure that Muslim Communities are served in a balanced way and to promote the message of Peace, Love and Harmony and unite communities of different faiths”*.
48. However, the Licensee’s and stakeholders’ reassurances have not been sufficient to convince Ofcom that similar breaches would not happen again in the future, for example if the Licensee were to find itself under time pressure to prepare a broadcast, as it did on this occasion.
49. We also took into consideration that the content in breach of Rule 3.1 was broadcast on a radio station providing a variety of programming to the Muslim community living in Sheffield and that if this licence were revoked, a number of listeners (and their rights to receive the service) would be adversely affected by them being deprived of this service. It is clear from submissions in support of Iman FM that there is a community need for a service such as Iman FM.
50. Ofcom has received a number of messages of support for the Licensee, including through stakeholder letters and two petitions for the suspension to be lifted. These messages often highlight the local need for the community radio service. By way of examples:
- [§< CONFIDENTIAL] a Muslim organisation emphasised that *“Iman FM has broken barriers and addressed controversial issues like forced marriages, honour killings, discrimination, terrorism, extremism and in many of these discussions, [Iman FM has] invited me to be a guest and [has] supported my campaigns. I know [Iman FM’s] presence as a radio station is essential for this important work to continue”*;
 - [§< CONFIDENTIAL] a UK registered charity working with the Licensee noted that *“[y]oung people and women in particular have benefitted from the new opportunities offered by this radio station and have utilised the skills and experiences gained to secure employment, including some who have gone into mainstream media. And become more independent”*;
 - [§< CONFIDENTIAL] a support organisation delivering services to victims of violence stated that *“for us, as an organisation it is crucial that Radio Iman radio station is able to continue to broadcast so that we can continue to raise the South Yorkshire’s communities understanding around violence against women and girls abuse issues”*;
 - [§< CONFIDENTIAL] a UK registered charity submitted that *“[o]ver the years we have witnessed Iman FM to be just one of many organisations that has used the medium of radio to help escalate the integration process of British Muslims and has also showcased the immeasurable contributions British Muslims make to society on a daily basis”*;
 - an individual highlighted that the Licensee *“has done some fantastic work highlighting many many issues that effect [sic] the everyday lives of British Muslims living in the area. This is the only local station that gave voice to issues that no that [sic] media outlet has ever even approached like the challenges of combating extremism [sic], youth identity, health and political participation”*.¹³
51. We also note that [§< CONFIDENTIAL] a media support company warned against the risk that revoking the Licensee’s BA Licence could be counter-productive in terms of protecting public safety and the prevention of crime or disorder: *“In the absence of Iman FM, audiences may turn to internet media where harmful material of the type described is widely and freely available.”*

¹³ [§< CONFIDENTIAL]

- 52.** While we recognise the needs highlighted by the Licensee and stakeholders, Ofcom also has a specific statutory duty to ensure broadcasters do not transmit material that is likely to encourage or incite crime or lead to disorder. The principal reason for broadcasting to be regulated at all is to protect audiences. To this end, broadcast licensees are required to comply with the Code, containing standards applicable to the content that is broadcast. This covers a range of matters, including for example the safeguards that must be observed to prevent incitement to the commission of crime or disorder. In addition, licensees must comply with licence conditions concerning a range of matters, including establishing and maintaining appropriate compliance procedures. Ofcom's published regulatory standards and the conditions contained in broadcast licenses are designed to embody the requirements of responsible broadcasting. Key considerations as to whether it is necessary in the public interest for a licensee's licence to be revoked in that context will be that person's compliance with regulatory standards and the conditions of its licence and whether the licensee's keeping of the licence poses a clear risk of substantial harm to an audience, if it brings into question public confidence in the regulated activity, or if it indicates that the licensee lacks respect for, or ability to comply with, the regulatory regime so that continued ownership of the licence would undermine that regime.
- 53.** We also note that, the community's need for a local radio service could in theory be served by other individuals, and that this may well be a preferable outcome in cases where existing licensees have committed extremely serious breaches of the Code and where Ofcom's failure to revoke their licence might bring the regulatory regime into disrepute.
- 54.** As a general observation, we noted that the Licensee had not previously been found in breach of this Code rule, or the Code more generally. However, on balance the risk of harm to Iman FM's audience should similar breaches occur in future appears to Ofcom to be greater than the potential harm that would be caused by the revocation.
- 55.** Based on the facts of this case before Ofcom in circumstances where we do not consider other sanctions to be sufficient to act as a deterrent against future breaches, we consider that the rights of the broadcaster and audience to freedom of expression (i.e. freedom to impart and to receive information) would not be disproportionately affected by a decision that the breach justified revocation of the licence under section 111B (as amended).

Precedents

- 56.** As part of its oral representations the Licensee submitted that its conduct did not warrant a revocation of the Iman FM service and that Ofcom had resorted to less severe sanctions in other similar cases.
- 57.** We note that in the recent *Ariana case*,¹⁴ Ofcom fined ATRN £200,000 and directed the channel to broadcast a statement of Ofcom's findings, for broadcasting a two-minute video of Muhammad Riyad speaking in Pashto just before the terrorist attack he was about to carry out on a train in Germany in July 2016. With regard to ATRN's breach of Rule 3.1 of the Code in this instance, the various statements in the video described in highly positive and graphic terms his and ISIL's intentions to carry out acts of extreme violence against the German population. We

¹⁴ https://www.ofcom.org.uk/data/assets/pdf_file/0026/103949/decision-ariana-television-radio-network.pdf.

also considered that the statement made by Muhammad Riyad at the end of the video was a direct call to action to members of the Muslim community to join ISIL. The video also contained an indirect call to the Muslim community to commit violence, up to and including murder, against members of the police and the army in the West.

58. Although there are some similarities between this case and *Ariana* (for example, the serious nature of the Rule 3.1 breaches, both licensees' admissions of the breaches and submissions that they resulted from errors), a key factual difference is that in *Ariana*, the content was contained in one two-minute programme, not several programmes broadcast over a period of time. In the present case, the content was spread across 25 hours of lectures, only half of which had been reviewed in full prior to broadcast. Ofcom found breaches of Rule 3.1 in several programmes during the course of Ramadan. Even though the material found to be in breach of Rule 3.1 during these programmes of lectures amounted to a few minutes in total, this is only as a result of chance rather than good broadcasting management. As mentioned above, the potential harm to Iman FM's audience and to the general public caused by airing Anwar al-Awlaki's unchallenged extremist views could have been much worse, and in preparing the material for broadcasting the Licensee failed to apply basic processes to prevent this from happening.
59. Other relevant cases where Ofcom imposed a financial penalty rather than revoking the licence can be distinguished for the same reason, and in some cases also because the programme found to be in breach of Rule 3.1 was being broadcast live rather than on a pre-recorded basis.¹⁵

Conclusion

60. On balance, after considering all the relevant factors, it is Ofcom's Decision that the contraventions of the Code and failures to comply with the BA Licence conditions in this case are so extremely serious, and that the Licensee's conduct was so extremely reckless that we have no confidence that the Licensee would be capable of complying with its BA Licence conditions or that similar breaches would be prevented in the future. On this basis, in Ofcom's view it is necessary in the public interest to revoke the BA Licence and proportionate to decide that these breaches and failures are such as to justify such revocation under section 111B of the 1990 Act (as amended).
61. Given that Ofcom considers that as these breaches and failures to comply warrant the revocation of the BA Licence, it follows that Ofcom also considers that these render the Licensee unfit to hold a broadcast licence.

Ofcom
26 July 2017

¹⁵ See, e.g., *Radio Asian Fever Community Interest Company* (23 November 2012): https://www.ofcom.org.uk/data/assets/pdf_file/0025/66706/radio-asian-fever.pdf; *DM Digital Television Limited* (5 July 2013): https://www.ofcom.org.uk/data/assets/pdf_file/0017/71072/rehmatul-dm-digital.pdf; *Al Ehya Digital Television Limited* (21 August 2013): See https://www.ofcom.org.uk/data/assets/pdf_file/0020/53309/noor-tv.pdf.