

Ofcom Broadcast and On Demand Bulletin

**Issue number 318
5 December 2016**

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Introduction

Under the Communications Act 2003 (“the Act”), Ofcom has a duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives¹. Ofcom also has a duty to secure that every provider of a notifiable On Demand Programme Services (“ODPS”) complies with certain standards requirements as set out in the Act². Ofcom must include these standards in a code, codes or rules. These are listed below.

The Broadcast and On Demand Bulletin reports on the outcome of investigations into alleged breaches of those Ofcom codes and rules below, as well as licence conditions with which broadcasters regulated by Ofcom are required to comply. We also report on the outcome of ODPS sanctions referrals made by the ASA on the basis of their rules and guidance for advertising content on ODPS. These Codes, rules and guidance documents include:

- a) [Ofcom’s Broadcasting Code](#) (“the Code”) for content broadcast on television and radio services.
- b) the [Code on the Scheduling of Television Advertising](#) (“COSTA”) which contains rules on how much advertising and teleshopping may be scheduled in television programmes, how many breaks are allowed and when they may be taken.
- c) certain sections of the [BCAP Code: the UK Code of Broadcast Advertising](#), which relate to those areas of the BCAP Code for which Ofcom retains regulatory responsibility for on television and radio services. These include:
 - the prohibition on ‘political’ advertising;
 - sponsorship and product placement on television (see Rules 9.13, 9.16 and 9.17 of the Code) and all commercial communications in radio programming (see Rules 10.6 to 10.8 of the Code);
 - ‘participation TV’ advertising. This includes long-form advertising predicated on premium rate telephone services – most notably chat (including ‘adult’ chat), ‘psychic’ readings and dedicated quiz TV (Call TV quiz services). Ofcom is also responsible for regulating gambling, dating and ‘message board’ material where these are broadcast as advertising³.
- d) other licence conditions which broadcasters must comply with, such as requirements to pay fees and submit information which enables Ofcom to carry out its statutory duties. Further information can be found on Ofcom’s website for [television](#) and [radio](#) licences.
- e) Ofcom’s [Statutory Rules and Non-Binding Guidance for Providers of On-Demand Programme Services](#) for editorial content on ODPS. Ofcom considers sanctions in relation to advertising content on ODPS on referral by the Advertising Standards Authority (“ASA”), the co-regulator of ODPS for advertising or may do so as a concurrent regulator.

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

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

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

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

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

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

Note to Broadcasters and On Demand Service Providers

Upcoming consultations on proposed amendments to the Broadcasting Code, and new BBC complaints handling procedures

Ofcom is currently preparing for its new responsibilities of regulating the BBC. This follows the publication on 15 September 2016 by the UK Government of the new draft Royal Charter and Framework Agreement for the BBC.

On 10 November 2016 Ofcom published the first of a series of consultation documents as we prepare for our new BBC duties, covering changes to the rules on due impartiality, due accuracy, elections and referendums¹. This was published ahead of other consultations so that broadcasters and political parties have time to plan ahead for the various elections taking place in May 2017.

We are taking this opportunity to let broadcasters, on demand programme service (ODPS) providers and other interested stakeholders know that Ofcom will be publishing two further consultations in the area of content standards before the end of the year. These include:

- i) **Further proposed amendments to the Broadcasting Code.** The proposed revisions will make clear the areas where Ofcom has new responsibility to regulate content standards for BBC licence-fee funded services; and that the BBC iPlayer will be regulated under the Code, as relevant. We are also proposing to add the existing statutory rules for ODPS as a separate part alongside the Broadcasting Code.
- ii) **New procedures for handling complaints about BBC content standards, and for conducting our BBC investigations and sanctions.** Our proposed procedures will reflect key aspects of the Charter and Agreement. They aim to inform consumers and other relevant stakeholders clearly and effectively how Ofcom will consider complaints on a 'BBC First' basis, where the BBC will handle complaints in the first instance before a complainant can refer their issue to Ofcom.

Ofcom will inform all broadcasters and ODPS providers when these consultations are published and open for responses. Ofcom intends to give stakeholders until early February 2017 to respond.

¹ <https://www.ofcom.org.uk/consultations-and-statements/category-2/broadcast-impartiality-accuracy-and-elections-rules-review>

Broadcast Standards cases

In Breach

Pinky Pinky

Kanshi Radio, 30 June 2016, 01:59 and 1 September 2016, 00:05

Warning:

This Finding contains very offensive language.

Introduction

Kanshi Radio is a satellite radio station that provides speech and music programmes for the Asian community in the UK. The licence for Kanshi Radio is held by Kanshi Radio Limited (“KRL” or “the Licensee”).

A complainant alerted Ofcom to a “filthy Punjabi” song broadcast on 1 September 2016 on this station containing lyrics that the complainant considered were “threatening to...Muslim women”. In its representations (see Response below) the Licensee confirmed that the song had also been broadcast on 30 June 2016.

Ofcom translated the song, which was in Punjabi and called “*Pinky Pinky*”. We gave the Licensee an opportunity to comment on the accuracy of the translation. KRL did not raise any accuracy issues, and we therefore relied on this translation for the purposes of the investigation.

We noted that at around 00:05, the song “*Pinky Pinky*”, which lasted approximately 11 minutes, was broadcast, including the following lyrics:

Male voice: *“I stuck my cock in your cunt, I stuck my cock in your shit”*. [sung repeatedly]

Male voice: *“Your sister’s cunt, Oi, your sister’s cunt, let me fuck your mother’s cunt [sound of bullet shot]. Let me fuck your sister, come over here and let me give you some Sikh cock. Allahu Akbar¹ motherfucker [sound of bullet shot] motherfucker, sons of bitches, Allah Huma Rabhi² sons of bitches, motherfuckers [sound of bullet shot] sons of bitches, motherfuckers and you want to mess with Punjabis³? Don’t make me destroy you [said in English] Allahu Akbar [sound of rifle being loaded] fuck your sister, let me fuck your sister, you wanted some Sikh cock, let me give you some [Sikh] cock! Don’t make me destroy you [said in English]. Allahu Akbar [sound of rifle being loaded and fired] fuck your sister, let me fuck your sister, you wanted some Sikh cock, come over and have some Sikh cock!”*

Female voice: *“Allah!”*. [panting and groaning]

¹ Allahu Akbar: [Arabic] God is Great [opening line from Islamic call to prayer].

² Allah Huma Rabhi: [Arabic] Qur’anic phrase in praise of Allah.

³ Punjabis: in this context the term Punjabis was used as a generic term for Sikhs.

Male voice: *"I will destroy you!"* [said in English]

The song then took the Islamic profession of faith (also referred to as the Shahada)⁴ and repeated it three times but replaced words within it with offensive language that has pejorative and sexual connotations. It continued:

Male voice: *"Allahuma Rabhi* [sound of bullet shot] *motherfuckers, sons of bitches, Allahuma Rabhi* [sound of bullet shot] *motherfuckers, sons of bitches* [Qur'anic verse being recited]. *Fuck your mothers* [sound of rifle being loaded and fired]. *Let me fuck your sister, you wanted some Sikh cock, let me give you some Sikh cock! Motherfuckers and you want to mess with Punjabis?"*

Female voice: *"Allah! Allah!"* [panting and groaning]

Male voice: *"You sister fucker, let me fuck your sister, you wanted some Sikh cock, let me give you some Sikh cock!"* [sounds of a woman panting and repeatedly exclaiming 'Allah'] *Motherfuckers you want to fuck with Punjabis? Sister fuckers, sister fuckers, sister fuckers* [woman panting and repeatedly exclaiming 'Allah'] *Let me fuck your sister, you wanted some Sikh cock, let me give you some Sikh cock! Motherfuckers you want to mess with Punjabis? Pakistani, you sister fucker!"* [sound of woman groaning]

Male voice: *"Allahu Akbar, Allahu Akbar"* [sounds of woman panting and moaning in background]

Female voice: *"Allah, Allah".*

Male voice: *"Motherfuckers you want to mess with Punjabis? Pakistani, you sister fucker!"*

Male voice: *"Allahu Akbar, Allahu Akbar"* [sounds of woman panting and moaning in background]

Male voice: *"Motherfuckers you want to mess with Punjabis?"* [sounds of woman panting and moaning in background]

Female voice: [sounds of woman panting and moaning in background and repeatedly exclaiming "Allah!"]

Male voice: *"You sister fucker, let me fuck you, you wanted some Sikh cock, now you can have it!"*

Male voice: *"Allah Huma Rabhi".*

Male voice: *"You motherfucker* [sound of rifle loaded and fired] *you sister fucker, I will fuck your sisters. Come over here, as you wanted some Sikh cock, and I will give you some".*

⁴ The Shahada is a sacred declaration which expresses belief in the oneness of God and the acceptance of Muhammad as God's prophet.

Male voice: *“Well, well, well, English films are very popular nowadays. A young man goes over to his Dad and says ‘Dad, dad, give me £5’, I want to watch a Bund⁵ film. To which the father replied: “Idiot you don’t need to pay £5 to see a Bund, you can see mine”.*

Male voice: *“Let me put my cock inside her [said repeatedly] Let me suck her big tits, let me suck her big tits [Punjabi words “Pudhi” (‘cunt’) and “lund” (‘cock’) are said repeatedly]. Put your tits in my mouth you bitch [said repeatedly] You keep saying ‘I love you’, and when I stuck my cock in you from behind you cried out ‘No entry’ [said repeatedly]. You bastard, you bastard, with her big fat tits she made me ejaculate [repeated] I stuck my cock in the bitch, I stuck my cock in the bitch. Oh Pinky, oh Pinky you farted so stinky, so stinky. Aren’t you ashamed of yourself, aren’t you ashamed of yourself. You bastard, you bastard, come over here and I will teach you to sit on my balls [repeated]. The bitch made me ejaculate as I sucked her big tits [repeated]. You bastard, you bastard, doing it, I shat in my pants, doing it I shat in my pants [said repeatedly]”.*

Ofcom considered the above content clearly raised issues warranting investigation under the following rules of the Code:

Rule 2.1: “Generally accepted standards must be 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 harmful and/or offensive material”.

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

Rule 3.2: “Material which contains hate speech⁶ must not be included in television and radio programmes except where it is justified by the context”.

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

Ofcom therefore asked KRL how the content complied with these rules.

Response

The Licensee offered its “sincerest apologies...and regret that this incidence took place” adding that the song had not been “broadcast intentionally with [the] purpose to offend or threaten anybody”. It added that “The material was not created by Kanshi Radio and does not reflect who we are”. KRL also said that: “Kanshi Radio is dedicated to broadcast to the Asian community and as such we have a mixture of presenters from different backgrounds, from Sikh, Hindu, Muslim, Buddhist,

⁵ Bund: Punjabi slang for anus, and used here as a play on the Bond films.

⁶ 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”.

Ravidassia and Valmiki's. Our aim is to promote community cohesion and [we] do not wish to offend anybody from the Muslim and other communities”.

The Licensee also said that it had received one complaint about this content, as a result of which it had removed the “offending material from [its] database” and “audited [its] current playlists”.

According to KRL, the song was broadcast as part of the “night time playlist” between 22:00 and 05:00. It said that music on this playlist is “vetted and uploaded into the library by the studio manager and copied onto the playlist”. The Licensee added that “the playlist is scheduled to commence according to the automatic scheduler with predesignated time set from the hard drive”. It added therefore that in this case “this track was not played by any presenter, it just sat there on the hard drive and got picked up by the automatic scheduler”.

Following an investigation, KRL confirmed that the song had been broadcast twice, firstly on 30 June 2016 at 01:59 and then on the occasion that prompted the complaint to Ofcom, 1 September 2016 at 00:05. The Licensee also set out what it believed to be the sequence of events which had led to the song being broadcast:

- KRL said that “our previous studio got burgled and all broadcasting equipment stolen” in 2013, and on 12 October 2013 it had “beg[u]n to assemble as much equipment and material as we could to start broadcasting as quickly as we could”;
- it added that at the same time it had also “borrowed a small number of CDs as back up in case we needed them”. The Licensee stated its belief that “a rogue CD was inadvertently copied into our new PC bought that day [i.e. 12 October 2013] when we were in a state of shock” following the burglary. It also said that “Unfortunately during this time we did not catalogue the borrowed CD and who handed it to us at this time”; and
- KRL said following “several power outages” in 2014, it had had to refresh and rebuild its “night time playlists several times to pick up recordings from the drive on a rotational basis through an automatic scheduler”. Due to this fact, the studio manager did not “know how the mistake had happened, and was genuinely shocked how this could happen since she normally makes up the playlist herself”. The Licensee said that instead “the programme scheduler picked up the night time playlist from the hard drive without [the studio manager’s] knowledge”.

In conclusion, KRL said it had taken this matter “very seriously” and had taken “preventative measures to eradicate the possibility of this happening again”. It therefore, outlined the actions it had taken to make its procedures “more robust”, which were as follows:

- all music albums would be listed in the Licensee’s “catalogue library” and would “include album covers depicting the artists and their music”;
- all music would be “vetted for content prior to uploading to hard drive”;
- all playlists had been “vetted and edited”;

- “latest music CDs” would be provided to KRL’s service provider “for use during out of hours on non-live programmes and during breakages in airtime transmission”; and
- It had moved “into a more secure studio”.

The Licensee also provided representations on Ofcom’s Preliminary View which indicated that Ofcom was minded to record breaches of Rules 2.1, 2.3, 3.2 and 3.3 of the Code and put KRL on notice that Ofcom considered these serious and repeated breaches for the imposition of a statutory sanction.

The Licensee set out what it believed to be “mitigating circumstances”:

- KRL said that “whilst this song was on our data base since 2013, it was never played” until 2016 and “therefore would not have caused harm, until now and even then, only after we experienced [a] power failure which led to our playlist being misdirected to our data base”;
- the Licensee said it was “not aware of this type of music...being available to the public to buy and [it] would not have purchased or commissioned anyone to broadcast and harm our reputation”. It added that following the burglary of its studio on 12 October 2013, “our team...were under great stress and shocked that someone could do this”. KRL added that “During this time, we also believe that this song was passed onto us by someone who wanted us to get into trouble and consequently we did by not vetting it. This is the mistake we made by human error and apologise for it. This event took place 12 to 18 hours after the burglary”; and
- KRL said that the “members⁷ of our board and management team have the necessary qualifications, skills and experience to rise above this unfortunate incident and to become even better broadcasters”.

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set such standards for broadcast content as appear to it best calculated to secure the standards objectives, including that “generally accepted standards are applied so as to provide adequate protection for members of the public from the inclusion of offensive and harmful material”. This duty is reflected in Sections Two and Three⁸ of the Code.⁹

⁷ In its representations, KRL provided biographical details of the nine members of its management team.

⁸ As a result of changes made to Section Three of the Code, following a public consultation, new Rules 3.2 and 3.3 were introduced on 9 May 2016 to reflect the standards objective contained within section 319(f) of the Act which is that “generally accepted standards are applied so as to provide adequate protection for members of the public from the inclusion of offensive and harmful material”.

⁹ Under the Equality Act 2010, Ofcom must also, in carrying out our functions, have due regard to the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under that Act, and to foster good relations between persons who share a relevant protected characteristic (such as religion or sex) and persons who do not share it. We have had due regard to this duty in reaching our Decision and we consider it consistent with it.

In reaching this Decision, 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 also had regard to Article 9 of the ECHR, which states that everyone "has the right to freedom of thought, conscience and religion".

The Code places no restrictions on what music broadcasters can include in their programming, so long as such music does not, for example, contain: contextually unjustified hate speech; derogatory treatment of individuals, groups, religions or communities; and/or offensive material that is not justified by the context.

Ofcom recognises there are certain genres such as music programming 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.

Rule 3.2

Rule 3.2 requires that 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".

Ofcom first considered whether the content in this case constituted hate speech.

We noted that the 11-minute song in this case, *Pinky Pinky*, was principally sung in Punjabi by a male singer, and the lyrics clearly identified him as being a member of the Sikh community.

We also noted that the song used various references which, in our view, were clearly highly and aggressively pejorative references to the Islamic faith. For example, as described above, well known sacred Islamic phrases were interspersed with very offensive terms while the sounds of gunshots were heard. Further, a female voice was heard exclaiming the Islamic words for "God" and "God is Great" ("*Allah*" and "*Allahu Akbar*") to the sound of sexualised pants and groans. In addition, the song contained a distorted recitation of the Islamic profession of faith, the Shahada, in which words had been replaced by sexual offensive language. The fact that this song was clearly an expression of an extreme Sikh perspective in opposition to the Muslim community was, in our view, shown by lyrics such as "*Motherfuckers you want to mess with Punjabis* [i.e. a reference to Sikhs]". "*Pakistani* [i.e. a reference to Islam], *you sister fucker!*" and the repeated sounds of gunshots throughout the song.

In summary, Ofcom considered the audience would have likely to have interpreted the lyrics and surrounding content of the song as detailing a violent and menacing message, from an extreme Sikh perspective, towards Muslims and in particular towards Muslim women. In our view, the song spread, promoted and justified hatred against Muslims and was therefore hate speech, as defined by the Code.

We then went on to consider whether this example of hate speech was justified by the context. Rule 3.2 permits hate speech being included in programming, as long as

there is sufficient context. As our published Guidance¹⁰ to Rule 3.2 states, there are certain genres 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 more contextual justification.

We noted that this song was broadcast at 00:05. In this regard, Ofcom's 2010 research on offensive language¹¹ makes clear that words such as "cunt" and "motherfucker", which were included in this song, might be acceptable to audiences when broadcast at that time of night. Further, songs which include sexually explicit lyrics might also may be suitable for broadcast at that time. However, the various components of this song and the manner in which the song was delivered, such as the frequent repeated examples of violent and sexual imagery and extremely offensive references to the Islamic faith, comprising as they did hate speech, would have been, in our view, highly upsetting to those who heard it and potentially highly detrimental to relations between Muslim and Sikh people.

In its representations, the Licensee offered its "sincerest apologies...and regret" for the broadcast of this song, which had arisen, according to KRL, because, following a burglary "a rogue cd was inadvertently copied into our new PC" and the song was "not played by any presenter, it just sat there on the hard drive and got picked up by the automatic scheduler". We also noted that the Licensee said it had removed the track in question from its music database. It also told us it had taken various "preventative measures to eradicate the possibility of this happening again" and to make its compliance "more robust" including ensuring that all music is vetted prior uploading on to the Kanshi Radio's hard drive and that all music play lists are vetted and edited.

However, given the very strong nature of the material in this case, we considered for all the reasons stated above that there clearly was not sufficient context in this case to justify the broadcast of this example of hate speech. Our Decision was therefore that Rule 3.2 was breached.

Rule 3.3

Rule 3.3 requires that material which contains abusive or derogatory treatment of individuals, groups, religions or communities, must not be included in television and radio services except where it is justified by the context.

The Code does not prohibit legitimate criticism of any religion. However, such criticism must not spill over into pejorative abuse. The Code has been drafted in the light of the Human Rights Act 1998 and the ECHR. In particular, the right to freedom of expression encompasses the broadcaster's and audience's right to receive material, information and ideas without interference, as well as the right to freedom of thought, conscience and religion and the right to enjoyment of human rights without discrimination on grounds such as religion.

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

¹¹ https://www.ofcom.org.uk/_data/assets/pdf_file/0017/27260/offensive-lang.pdf
Broadcasters should note that on 30 September 2016 Ofcom published new research on public attitudes to potentially offensive language on TV and radio:
https://www.ofcom.org.uk/_data/assets/pdf_file/0022/91624/OfcomOffensiveLanguage.pdf;
and https://www.ofcom.org.uk/_data/assets/pdf_file/0023/91625/OfcomQRG-AOC.pdf

We first considered whether the content in this case constituted derogatory treatment of individuals, groups, religions or communities. We considered that the content of *Pinky Pinky*, in terms of its lyrics and surrounding material and the tone and manner in which it was performed, described in detail above, constituted both abusive and derogatory treatment of Muslims – the song containing as it did various derogatory references to the Islamic faith, such as the exclaiming of sacred Islamic phrases to the sound of sexualised pants and groans, gunshots and a highly offensive recitation of the Islamic profession of faith, the Shahada.

We also considered that the song constituted highly abusive and derogatory treatment of women. As described above, it contained a number of sexually aggressive and abusive phrases, delivered in a pejorative manner that objectified women.

We then went on to consider whether these various highly abusive and derogatory references to women and the Islamic faith were justified by the context. As already discussed in relation to Rule 3.2, we considered there was insufficient contextual justification for the broadcast of these derogatory statements against Muslims and we considered the same to be true of the abusive and derogatory treatment of women. In particular, despite this song being broadcast just after midnight, we considered that the strength of the material would have clearly exceeded audience expectations.

We noted: KRL's apology and regret for this incident; its explanation as to why the song had been broadcast in this case; the fact that it had removed this track from its music database; and the steps that the Licensee said it had taken to improve compliance.

Given all the above, our Decision was that Rule 3.3 had been breached.

Rule 2.1

Rule 2.1 requires that generally accepted standards must be 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 harmful and/or offensive material.

Under this rule, broadcasters must ensure that they take sufficient steps to provide adequate protection to members of the public from the inclusion of harmful and/or offensive material. This rule deals with the reasonable likelihood of members of the public being caused harm and/or offence by material that has been broadcast. How adequate protection might be achieved is an editorial matter for the individual broadcaster. In reaching a decision under Rule 2.1, Ofcom must assess the nature of the material and either its potential effect or what actual harm and/or offence has occurred. The crucial question is whether broadcasters have provided sufficient context in the editorial content so that harm and/or offence is unlikely to be caused as a result. Accordingly, if it is to find a programme in breach of Rule 2.1, Ofcom must satisfy itself that there is a sufficient causal link between the editorial content in question and instances of actual or potential harm and offence. 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 first considered whether these programmes contained potentially harmful and/or offensive material. As already discussed, we considered this song to be a form of hate speech and to be abusive and derogatory. Therefore, as such, the song would have had the potential to be extremely offensive to listeners.

We also considered that the content taken as a whole had the potential to cause harm. We considered that the likely overall effect of this content would have been to increase tensions between the Sikh and Muslim communities and to promote the objectification and abuse of women.

We noted: KRL's apology and regret for this incident; its explanation as to why the song had been broadcast in this case; the fact that it had removed this track from its music database; and the steps that the Licensee said it had taken to improve compliance. However, for the reasons outlined above, our Decision was that KRL had failed to apply generally accepted standards to ensure that adequate protection was provided for members of the public from the inclusion in such services of harmful and/or offensive material. Rule 2.1 had therefore been breached.

Rule 2.3

Rule 2.3 requires broadcasters to ensure that the broadcast of potentially offensive material is justified by the context. Context is assessed by reference to a range of factors including: the editorial content of the programme, the service on which the material was broadcast, the time of broadcast, what other programmes are scheduled before and after, the degree of harm or offence likely to be caused, likely audience expectations, warnings given to viewers, and the effect on viewers who may come across the material unawares.

Therefore, the Code places no restrictions on the subjects covered by broadcasters, or the manner in which such subjects are treated, as long as potentially offensive content is justified by the context.

Ofcom first considered whether the material in these programmes had the potential to cause offence. As already discussed, this song contained highly challenging material which we identified as hate speech and as abusive and derogatory towards women. As such we considered that the content would have had the potential to be extremely offensive.

We therefore went on to consider whether the broadcast of this song was justified by the context. Ofcom acknowledges that Kanshi Radio is a channel that broadcasts music of interest to various South Asian communities within the UK. We also acknowledge that songs may make reference to sexual matters and sacred texts without necessarily breaching the Code. However, in this case, we considered that the various references to Islamic sacred texts and prayers were highly likely to have been interpreted by the audience as direct and pejorative references to aspects of the Islamic faith. Coupled with the pejorative sexualised lyrics targeted towards women, and Muslim women in particular, we considered that this song would have clearly exceeded audience expectations, even when broadcast at 00:05.

We took into account: KRL's apology and regret for this incident; its explanation as to why the song had been broadcast in this case; its assurance that it had removed this track from its music database; and the steps that the Licensee said it had taken to improve compliance. However, for all the above reasons, our Decision was that the broadcast of this highly offensive song was not justified by the context, and was therefore in breach of Rule 2.3.

Conclusion

Ofcom considered the breaches in this case to be serious.

We are putting the Licensee on notice that we will consider these breaches for the imposition of a statutory sanction.

Breaches of Rules 2.1, 2.3, 3.2 and 3.3

In Breach

Bulletin

Made in Tyne & Wear, 9 September 2016, 21:00

Introduction

Made in Tyne and Wear is a local television service for Newcastle and surrounding areas. The licence for Made in Tyne and Wear is held by Made Television Limited (“Made TVL” or “the Licensee”).

On becoming aware of the broadcast of offensive language in the above programme, the Licensee itself alerted Ofcom to this incident.

The programme was the service’s Friday evening 21:00 news programme. Approximately ten seconds into the programme and immediately after 21:00, the news reader said:

“Oh sorry, can I start again? Fucking hell. What? You what? I think you’ll find that you fucking do”.

Made TVL said it broadcast an apology to viewers of the same programme on the evening of Monday, 12 September 2016.

Ofcom considered this material raised issues warranting investigation under the following rules of the Code:

- Rule 1.6: “The transmission to more adult material must not be unduly abrupt at the watershed...For television, the strongest material should appear later in the schedule”.
- Rule 2.3: “In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context...Such material may include, but is not limited to offensive language...”.

We therefore sought comments from the Licensee as to how the material complied with these rules.

Response

Made TVL said it thought it best to alert Ofcom to this incident. It told Ofcom this “mistake” was “realised immediately” and subsequent broadcasts of this programme “were pulled, including catch-up” and an apology broadcast on 12 September.

The Licensee explained it was “extremely unhappy” about this “swearing incident”. It underlined that it “has very strict rules on presenters swearing in front of camera and any pre-recorded programme [such as this one] is required to be signed off by the news editor and the station manager”. In this instance, the Licensee explained that the staff members in question failed to do so by mistake, and that it had taken action to address it.

In relation to Rule 1.6, Made TVL acknowledged that “the offending language was abrupt”, but that it was “clearly a mistake by a presenter rather than an aggressive use of offensive language”. The Licensee explained that the “Bulletin was not aimed at a young audience and so the likelihood of offence was minimal bearing in mind it was post-watershed”.

In relation to Rule 2.3, Made TVL acknowledged that “the context of a news programme should clearly not include offensive language from a presenter”. However, the Licensee did not believe Rule 2.3 provided “the scope for assessing the incident” because the offensive language was broadcast in error rather than as a result of editorial judgement.

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set such standards for broadcast content as appear to it best calculated to secure the standards objectives, including that “persons under the age of eighteen are protected” and that “generally accepted standards” are applied so as to provide adequate protection for members of the public from the inclusion of offensive and harmful material. These objectives are reflected in Sections One and Two of the Code.

Rule 1.6

Rule 1.6 states that the transition to more adult material must not be unduly abrupt at the watershed¹.

As Ofcom noted in its Guidance on observing the watershed on television², “[c]ontent that commences after the watershed should observe a smooth transition to more adult content. It should not commence with the strongest material”. Recognising that children may not have ceased viewing at exactly 21:00, Rule 1.6 is designed to avoid a sudden change to more adult material that would only be deemed suitable for a post-watershed broadcast.

What constitutes an “unduly abrupt” transition to more adult material depends on the context: for example, factors such as the nature of the offensive or harmful material, the editorial content of the programme, the time it is broadcast and the expectations of the audience. We therefore took account of all these factors when determining whether there was sufficient justification for broadcasting this content approximately ten seconds after the 21:00 watershed.

In this case, the word “fucking” was broadcast twice immediately (within ten seconds) of the start of the watershed. Ofcom’s 2010 research on offensive language³ highlighted that the word “fuck” and similar words are considered by audiences to be

¹ Section One of the Code states: “Meaning of “the watershed:…The watershed is at 21:00. Material unsuitable for children should not, in general, be shown before 21:00 or after 05:30”,

² https://www.ofcom.org.uk/_data/assets/pdf_file/0026/29537/1-189291759_annex.pdf, published 30 September 2011.

³ https://www.ofcom.org.uk/_data/assets/pdf_file/0017/27260/offensive-lang.pdf. Broadcasters should note that on 30 September 2016 Ofcom published new research on public attitudes to potentially offensive language on TV and radio: <https://www.ofcom.org.uk/research-and-data/tv-radio-and-on-demand/tv-research/offensive-language-2016>.

among the most offensive language. Ofcom therefore considered other contextual factors to assess whether there was sufficient editorial justification for broadcasting these instances of the most offensive language very soon after the 21:00 watershed.

This news bulletin on a local television service started at 21:00. It was therefore aimed at adults. Ofcom considered however that audiences for television news bulletins broadcast at 21:00 (or indeed later) would not expect the news reader to use the most offensive language, especially twice in short succession and only about 10 seconds after the 21:00 watershed. Ofcom noted that the material was pre-recorded and it was clear from the material that the presenter was under the impression that she was rehearsing. Although this may have mitigated the offence caused to viewers to a very limited extent, in Ofcom's opinion the broadcast of this content at this time on this service was clearly inconsistent with the expectations of viewers, particularly any who came across this material unawares. The transition to more adult material was therefore unduly abrupt at the watershed.

Ofcom acknowledged and welcomed the Licensee's decision to report this incident to Ofcom. We also took account of the facts that Made TVL: took immediate steps to ensure the broadcast was not shown again that evening or made available on catch up; broadcast an apology to viewers of the same bulletin on the following Monday night; and, said it had taken action to address the mistake made by staff.

Nonetheless, for all the reasons above, our Decision was that Rule 1.6 was breached.

Rule 2.3

Rule 2.3 requires that broadcast material which may cause offence, including language, is justified by the context. Context includes, but is not limited to, the editorial content of the programme, the time of broadcast, and likely audience expectations.

As noted above under Rule 1.6, the word "fuck" and its variations are considered by audiences to be among the most offensive language. Clearly, the broadcast of the word "fucking" about 10 seconds after the 21:00 watershed had the potential to offend viewers.

For many of the same reasons given under Rule 1.6 above when assessing whether the transition to more adult material was unduly abrupt, we were of the view that this broadcast of this most offensive material was not justified by context. Although the programme was a news programme broadcast post-watershed aimed at an adult audience, we considered that this repeated use of the most offensive language by a news reader immediately after the 21:00 watershed would have clearly exceeded audience expectations for this type of programme, especially for any viewers who came across this material unawares.

Again, Ofcom welcomed the Licensee's decision to report this incident to Ofcom, and we took account of the steps taken by Made TVL to mitigate the offence caused.

However, our Decision was that the Licensee did not apply generally accepted standards and also breached Rule 2.3 of the Code.

Breaches of Rules 1.6 and 2.3

In Breach

Frank Skinner Show

Absolute Radio, 1 October 2016, 09:30

Introduction

Absolute Radio specialises in rock music and is aimed at 25 to 44 year olds. It broadcasts nationally on analogue and digital radio as well as having local analogue services in both Greater London and the West Midlands. The licence for this service is held by Absolute Radio Limited (“Absolute Radio” or “the Licensee”).

A complainant alerted Ofcom to offensive language in a song broadcast at approximately 09:30 on a Saturday.

Ofcom noted that the track *Narwhal* by the band Xylaroo featured the following lyrics:

“...And I’m so fucked. This lake is looking fucking big”.

Ofcom considered the material raised issues warranting investigation under Rule 1.14 of the Code which states:

“The most offensive language must not be broadcast...when children are particularly likely to be listening (in the case of radio)”.

Response

Absolute Radio said that “we regrettably agree” that this incident was a breach of the Code and apologised for what it described as “a genuine mistake from a team with an unblemished record in this area”. It said that it had processes in place to address the issue of offensive language within content broadcast on Absolute Radio and that these had “worked well up to this point”. The Licensee said it had now added “a further layer of monitoring by a senior member of staff at Absolute Radio, who must now check any shows and productions originating from a third party production company”. It added that all Absolute Radio staff had been reminded of the “recent Ofcom study of offensive language”¹.

Decision

Under the Communications Act 2003, Ofcom has a duty to set standards for broadcast content as appear to it best calculated to ensure the standards objectives, which include ensuring that “persons under the age of eighteen are protected”. This objective is reflected in Section One of the Code.

Rule 1.14 states that the most offensive language must not be broadcast on radio when children are particularly likely to be listening. Ofcom’s research on offensive language² clearly notes that the word “fuck” and related words are considered by audiences to be amongst the most offensive language.

¹ See footnote 2.

² Audience attitudes towards offensive language on television and radio, August 2010 https://www.ofcom.org.uk/_data/assets/pdf_file/0017/27260/offensive-lang.pdf Broadcasters should note that, on 30 September 2016, Ofcom published new research on public attitudes

The Code states that the phrase “when children³ are particularly likely to be listening” particularly refers to: “the school run and breakfast time, but might include other times”. Ofcom’s guidance⁴ on offensive language in radio notes that:

“For the purpose of determining when children are particularly likely to be listening, Ofcom will take account of all relevant information available to it. However, based on Ofcom’s analysis of audience listening data, and previous Ofcom decisions, radio broadcasters should have particular regard to broadcasting content at the following times:

- between 06:00 and 19:00 at weekends all year around, and in addition, during the same times from Monday to Fridays during school holidays...”.

The words “*fucked*” and “*fucking*” were broadcast during the breakfast show at 09:30 on a Saturday. The most offensive language was therefore broadcast at a time when children were particularly likely to be listening.

Ofcom noted the Licensee’s apology and the steps Absolute Radio said it had taken to improve compliance following this incident. However, the broadcast of this material was a clear breach of Rule 1.14.

Breach of Rule 1.14

to potentially offensive language:

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

³ The Code says that “children” means: “people under the age of fifteen years”.

⁴ Ofcom Guidance, Offensive language on radio, December 2011, paragraph 13 (https://www.ofcom.org.uk/_data/assets/pdf_file/0014/40541/offensive-language.pdf).

In Breach

Various programmes

Believe TV, 15 June 2016, various times

Introduction

Believe TV is a digital satellite channel that broadcasts a variety of Christian programming. The licence for the service is held by The Light Academy Limited (“the Licensee” or “TLA Ltd”).

As part of routine monitoring, Ofcom assessed the following programmes. Each was broadcast on 15 June 2016 and contained references to a particular business.

Law Simplified with Justice, 09:00 and 16:30

This 25 minute programme began with a voiceover that said:

“Law Simplified with Justice is anchored by Justice Maduforo. Tice Madox Solicitors is result orientated and with a distinctive approach tailored to our clients’ needs in our specialist fields – immigration law, criminal law, employment law, commercial law, family law and contracts law. We are well equipped in our litigation and our advocacy for the benefit of our clients – corporates and individuals. Why not visit us at [address given]. Tice Madox Solicitors – we are professionals”.

The logos for *Law Simplified with Justice* and Tice Madox Solicitors were broadcast alongside this voiceover in addition to the address and telephone number for the firm.

The remainder of the programme featured Justice Maduforo speaking directly to camera. He introduced the programme by saying:

“Hello and welcome to Law Simplified with Justice. I am Justice Maduforo, your usual, regular host of this programme – Law Simplified with Justice. This is the very best programme you can ever wish to listen to at any point in your spare time. On this programme, I have brought you various topics, different areas of law. I’ve discussed criminal law on this platform with you. I’ve discussed employment law, I’ve discussed immigration law, I’ve discussed contract law. I’ve discussed all these areas of law. And remember, the purpose of this programme is to get you to take action, not for you to act on what I say on this programme. On that note, I will tell you now that whatever I say on this programme or indeed my discussions on this platform, Law Simplified with Justice, they are not legal advice. They are not legal advice. Therefore you must not act on them. You must not”.

Throughout the programme Mr Maduforo made frequent positive references to the legal services provided by himself and Tice Madox Solicitors. For example:

“Over the course of this programme, and over entirely the course of this programme, most of you who have come to Tice Madox Solicitors for me to represent you and for the firm to act on your behalf in your matters, you have gone home smiling, the reason being that we are technical, we are thorough, we are professionals. We take detailed instruction from you [inaudible]. We do not

mess around with you. We go straight and discuss matters with you. Detailed instruction is very key to your success and therefore Tice Madox Solicitors do not joke with that. We do not disregard that. We hold it sacrosanct. We hold it tenaciously because it is the foundation to relieve you and to deliver success on your table. Therefore, when you come to speak to me or call the telephone number and make an arrangement to see me in the office you must pay consultation fee. Consultation fee is essential, because I do not understand why you would build a house without laying the foundation. I do not understand why you want a solicitor to just make the application without speaking to you. It is not in your interest. Any firm, any legal advisor, any solicitors firm that does that are not acting in your best interest. Tice Madox does in your best interest. Consultation fee is essential for me to critically analyse your case and run with your instruction”.

“Those of you have seen the difference between an application you make in other places or the ones you make by yourself compared to the one we will prepare for you. Compared to the one we will do for you. Tice Madox Solicitors will run with your instruction. Tice Madox Solicitors will keep you informed – Tice Madox Solicitors will continually update you. You do not even need to tell us, call us on the phone on updates. We will do that. We have the technology that immediately, it makes us understand that you must be kept informed. That is why you come to the firm that imbibes the best practice. That’s why you come to the firm that explains to you that you can work out and you will be able to say ‘this is what I was told, this is what I understand, this is what they will do for me, this is what I want them to do for me”.

“Ladies and gentlemen, Tice Madox Solicitors is the very firm that you can count on to prepare and produce an on-point, full-proof application and representation and documents...an application that is convincing. You must take advantage of this programme because some of you have gone elsewhere and when you finally get to have contact with me or Tice Madox Solicitors your story has been defamed. You’ve seen the difference between those that have done that in the past for you and when you engage with me and with Tice Madox Solicitors. You’ve seen the difference. The telephone number is on the screen”.

“Tice Madox Solicitors will fight for you. I am a fighter. I stand for justice. I ensure that you get your papers to ensure that you get justice...Ladies and gentlemen you do not want to mess around. You want to get it once and at a moderate fee. Come to Tice Madox Solicitors. That’s what I will do for you. That is what I do for you. This programme is only a vehicle for directing you to Tice Madox Solicitors. It is not a legal advice programme. Once you get the details on screen you can follow us on Twitter...you can also go to our Facebook – and add us as a friend – you can also check us on YouTube...”.

“Just recently, I can tell you, as I am recording this programme, I just recorded six successful immigration applications on my table successfully granted, from those who have lost hope from different legal representatives, and they have come to Tice Madox Solicitors. It has been repackaged it has been redone for those of you that I can remedy. For those of you if you don’t take the opportunity and go elsewhere, the application is completely destroyed. Hmmm. I wonder how that can be remedied? What I tell you, you can come to us. Speak to me, I will take detailed instruction from you. And I tell you, everything is possible. At Tice Madox Solicitors, any legal issue is possible. There must be options that we’ll present before you and you take them and we’ll discuss the fee from there. Our fee is moderate. Moderate. I’ll prepare also payment plan with you. But you’ll have to

keep to the payment plan. I will do so to enable you to get your papers. You must keep to payment plan. We'll keep the fee moderate. We'll give you reasonable discount, deduction. But remember what and guess what. It will be the highest quality standard that you cannot get elsewhere, even at the moderate fee that we will charge you. We will repay you at the highest optimum standard".

At the end of the programme, Mr Maduforo said:

"When I come to court and argue for you, you don't want to mess with me when you see me in court ladies and gentlemen. You'll be glad. In your interest I will run. I will put you on my shoulders and I will run with you. As Jesus Christ is our advocate, let me tell you, I Justice Maduforo, Tice Madox Solicitors are your advocate when it comes to legal matters in this country and outside this country depending on your interest that you have – until next time I come in I ask you to go to website [website address given] go to [website address given]. Check us out there. YouTube and Facebook as well. And send us an email. Enquiries at [website address given]. The phone number is on there. Book an appointment. Come and see me in the office. You'll be glad you did. See you next time I come again. You stay wise. Your time has definitely come. I remain Justice Maduforo".

Throughout the programme, the logo for Tice Madox Solicitors was displayed at the bottom of the screen alongside, variously, the firm's website address, telephone number, email address, YouTube channel details and street address.

The voiceover that was broadcast at the beginning of the programme was then repeated and the programme ended.

The Legal Panorama, 11:00

Throughout this programme, a banner was broadcast at the bottom of the screen which displayed variously the name, email, website and telephone number for Del & Co. Solicitors. The programme began by the presenter, Winnette St Luce, introducing her guest as *"Mr Dele Olawanle, from Del & Co. Solicitors"*.

Mr Olawanle then said:

"The purpose of The Legal Panorama is to educate the viewers on the latest developments on immigration law, to take the law and simplify it and to enable our viewers to know their rights, their obligations, their duties..."

Mr Olawanle went on to talk about changes taking place to immigration law and the fees associated with applications for British citizenship.

Approximately 20 minutes after the start of the programme, Ms St. Luce asked Mr Olawanle:

"So what can your firm do to help such people who need to regularise their [immigration] status?"

Mr Olawanle replied:

"We are here to help. We provide a one-stop service, take people's cases on and then represent them. We give them legal advice. Help them to make applications to The Home Office and if they are given a right of appeal help them to prepare and argue their appeal. If they are not given a right to appeal help them to see if

there is an error of law strong enough to make an application for judicial review or to advise them whether they have to make an “out of country” application. So, people in this country, all they need to do is book an appointment for consultation at the consultation meeting then you’ll be able to speak to us in a private and confidential manner and that we will be able to advise you, answer a lot of questions and then advise you as to the state of the law and what you can do to regularise your stay. We don’t give telephone advice and also there is a consultation fee to be paid for getting legal advice. So what we can do is give them legal advice and then they move on from there and if they are not contented or happy or satisfied with advice given they can get a second opinion from another firm and then decide on what they want to do but what we do is give legal advice they can rely on”.

At the end of the programme, the presenter said:

“Now if you would like further information or if you would like to see Mr Dele Olawanle in person or if you would like to visit his law firm Del & Co Solicitors feel free to call the number on the screen. Thank you for watching”.

A voiceover then said:

“Thank you for watching The Legal Panorama presented by Dele Olawanle of Del & Co Solicitors”. Talk to Del & Co Solicitors. We can professionally help you in the following areas: obtaining and/or extending your visa; asylum; humanitarian protection and discretionary leave; application for overstayers; immigration and asylum appeals; judicial review at The High Court; tier one to five under the point system including post-study work; fiancé visas; settlement applications; indefinite leave to remain – ILR, naturalization and citizenship; entry clearance and appeals against visa refusals abroad; reconsideration against visa refusals abroad. In addition, we do other areas of law such as: family law; traffic offences; employment, civil and criminal litigation; and advocacy. If you need legal advice call Del & Co. Solicitors now on [telephone number given] or visit our website [website address given]. Del & Co. Solicitors, legal advice you can rely on”.

UK Health Food Centre, 12:30

This programme was presented by the owner of the UK Health Food Centre (a health food shop in Central London). He introduced himself by saying:

“Hi, my name is Raj and I am the owner of the health food centre here at [address given]. I’ve been running the business for the past 25 years with my wife Meena”.

Throughout the remainder of the programme, a banner was broadcast at the bottom of the screen that gave details of the shop’s website address and telephone numbers. Below these details the words *“to order any of our products, please call or visit us online”* were written.

We noted, in particular, the following promotional references to the services available at the shop and the products available to buy there. For example, near the start of the programme, the presenter said to camera:

“This is the health and nutritional side of the centre where we do a wide range of vitamins, minerals, herbal remedies, Indian Ayurvedic herbs, homeopathic remedies, body-building and sports nutritional supplements, high quality sports and nutritional bars, natural skin care, herbal shampoos and conditioners, natural

deodorants, herbal teas, slimming products, Manuka honey, and much much more”.

“It’s not just a matter of picking a product off the shelf and saying ‘I’ve used this product, and it doesn’t work’. Knowing what works and what doesn’t work is the key to getting results and that’s where we come in. We here at the Health Food Centre can provide you with the correct products for whatever your health needs. For example, for arthritis, herbs like boswellia and bromelain with glucosamine and chondroitin with turmeric have proved to be effective combinations in helping with the chronic pain of arthritis and inflammation. Also, creams made with capsicum, which is like a chilli cream, when applied to joints where there is pain, you can find relief for painful areas like, say, knees or back pain within one to two hours of using the cream”.

Approximately six minutes after the start of the programme, a picture was shown of a bottle of “Easy Colon Cleaner” tablets alongside the following information:

“Colon Cleanser £37.99. Buy 3 bottles get 1 free. We accept all major credit and debit cards, PayPal and Western Union transfers”.

Five seconds later, a picture of a bottle of “Prostate Support” tablets was shown, accompanied by the following text:

“Prostate support £39.99. Buy 3 bottles get 1 free. We accept all major credit and debit cards, PayPal and Western Union transfers”.

During the remainder of the programme, a further 15 products were showcased in a similar way. These products included a number of natural remedies designed to improve male virility, reduce joint pain, and stabilise blood pressure.

Fourteen minutes after the start of the programme, a short film of just under two minutes in duration was shown. This included the following narration:

“Many experts in nutrition believe that a healthy lifestyle and sound diet can have an impact on health and wellbeing. Each individual’s requirements depend on their lifestyle and existing health problems. Most of the essential nutrients can be obtained from the diet but for those who do not achieve this, supplementary vitamins and minerals may be an important addition to the lifestyle. The Health Food Centre has over 25 years of experience in advertising and vitamins, minerals and herbal supplements. Our nutritionist aims to provide a personalised and individual service to bring our customers the most advanced nutritional formulas. For all your health need including remedies from manufacturers such as Solgar, Natures Plus and Bioforce we also have an extensive range of Indian Ayurvedic herbs, herbal teas and skincare products. Call or visit the Health Food Centre at [address and telephone number given] to receive personalised advice or visit our website at [website address given]. We are committed to our customers and confidently provide clear, concise information to assist them in making informed choices about nutritional products. To browse the different brands or supplements, including sports nutrition and protein shakes, natural skincare, men’s aphrodisiacs, slimming programmes and much, much more, why not visit our store at [address given] and let us show you the path to a happier and healthier life. We also do a wide selection of Body Magic and reshaping garments. Our café adjacent to the shop serves a delicious and health selection of hot food, salads, wholefood cakes, fresh juices, smoothies and sandwiches. The Health Food Centre now introduces the Bodhi Tree Therapy Centre. Book

now for facials, threading, waxing and massages. Call or visit the Health Food Centre at [address and telephone number given].

This film was broadcast on a further three occasions before the programme concluded.

Ofcom's investigation

Ofcom requested information from the Licensee about how these programmes were produced and funded and whether there were any commercial arrangements between the Licensee and the businesses featured in the programmes.

The Licensee confirmed that the content had been produced by the businesses themselves and that it had received payment from the businesses in return for broadcasting the material on Believe TV.

Based on this information, Ofcom considered the content raised issues warranting investigation under Rule 9.2 of the Code. This states:

“Broadcasters must ensure that editorial content is distinct from advertising”.

We therefore asked the Licensee for its comments as to how the content complied with this rule.

Response

The Licensee said that it is not a “TV Channel established for commercial purposes” but rather its aim “is to promote the message of Jesus Christ and the moral and religious values of Christianity”. The Licensee said that programmes “which are not of a religious nature are extremely limited on [its] channel” and when such content is broadcast it “is predicated on the basis that the programmes are of an informative nature; non-contentious and likely to be of benefit to the target audience/likely viewers”. The Licensee then provided representations with respect to each of the programmes summarised above.

Law Simplified with Justice and The Legal Panorama

The Licensee said that these programmes, which had been prepared by the legal firms featured in them, were “seeking to provide information relating to the change of Immigration Rules as applicable to England and Wales”. However, in both cases, the Licensee accepted that it appeared that the firms were “seeking to promote their business and were soliciting for business”.

The Licensee told Ofcom it had been unaware the inclusion of the firms’ contact information was “considered to be a technical breach of [the Code]”. The Licensee also said it had relied on both firms being “reasonable conversant with the law and all legal implications arising out of their submitting programme content for broadcasting”.

The Licensee said that its compliance officer had reviewed the programme and passed it for broadcast. However, the Licensee acknowledged that “this demonstrated a lack of knowledge on their part of the Code” and it regretted this.

The Licensee also told Ofcom it had now removed this content from its schedules and said it would “ensure that in future all such programme content is reviewed prior to transmission to ensure there are no further breaches of the Code”.

UK Health Food Centre

The Licensee said that this programme “was made by BTV-UK-Health-1...a retail business operating in Warren Street London and providing health food products and ancillary services”. The Licensee explained said that “when the programme content was reviewed it was considered to be inoffensive and of an informative nature”. However, it now accepted that the UK Health Food Centre was “advertising direct response details...and providing their building address”. It confirmed that this content had also been removed from its schedules.

Licensee’s conclusion

The Licensee explained that its compliance officer was “no longer employed by [it] in this capacity” and said it had appointed a new compliance officer who has “formal legal training”. TLA Ltd said it had also “engaged the services of an external consultant to advise [it] on the relevant provisions of the Code”. In addition, the Licensee said it had: implemented a new compliance procedure that “requires all programme content to be submitted to [it] at least 3 days prior to the intended date of broadcast, for review”; arranged “staff training on the provisions and application of the Code”; and, “instigated a requirement [to provide] clear delineation between editorial content and advertisements”.

In conclusion, the Licensee said it understood “the seriousness of the breaches of the Code” and said it “will do everything possible to ensure that this does not happen again”.

Decision

Under the Communication Act 2003 (“the Act”), Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure a number of standards objectives, one of which is “that the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with”. These objectives include ensuring compliance with the Audiovisual Media Services (“AVMS”) Directive.

The AVMS Directive contains a number of provisions designed to help maintain a distinction between advertising and editorial content, including requirements that television advertising is kept visually and/or audibly distinct from programming in order to prevent programmes becoming vehicles for advertising and to protect viewers from surreptitious advertising.

The requirements of the AVMS Directive and the Act are reflected in Section Nine of the Code, including Rule 9.2, which requires that editorial content must be distinct from advertising. Ofcom’s Guidance on Rule 9.2 states that its purpose “... is to prevent editorial content being distorted for advertising purposes, so ensuring that editorial control is reserved to the Licensee and that programming is understood by viewers as not being subject to the control of advertisers”. In cases involving a lack of distinction, there is an inherent potential harm to viewers on the basis that they can be misled that they are watching, and can trust, independent editorial content, when in fact they are watching promotional material. Rule 9.2 therefore seeks to ensure that viewers are easily able to differentiate between editorial material and advertising. In this case, Ofcom judged that all of the content was presented to the audience as if it was standard editorial programming: it was scheduled as programmes; it featured a style (and in the case of *Law Simplified with Justice* and *The Legal Panorama* a studio setup) that viewers would associate with programming; and, in relation to *Law*

Simplified with Justice, was described on-air as a programme. We also noted that the Licensee had intended the content to be programmes of “an informative nature”.

However, although the content took the form of programmes, Ofcom considered that it served the function of advertising. As highlighted in the Introduction to this Decision, the material contained numerous and frequent promotional references to: the range and quality of services and products provided by Tice Madox Solicitors, Del & Co Solicitors and UK Health Food Centre; explicit calls to action to viewers to use these services or buy the products; and, relevant businesses’ contact details.

For example, during *Law Simplified with Justice*:

“Tice Madox Solicitors is result orientated and with a distinctive approach tailored to our clients’ needs in our specialist fields - immigration law, criminal law, employment law, commercial law, family law and contracts law. We are well equipped in our litigation and our advocacy for the benefit of our clients - corporates and individuals. Why not visit us at [address given]. Tice Madox Solicitors – we are professionals”.

“Tice Madox Solicitors is the very firm that you can count on to prepare and produce an on-point, full-proof application and representation and documents ... You’ve seen the difference between those that have done that in the past for you and when you engage with me and with Tice Madox Solicitors. You’ve seen the difference. The telephone number is on the screen”.

“Why not visit us at [address given]. Tice Madox Solicitors – we are professionals”

“Tice Madox Solicitors will fight for you ... Ladies and gentlemen you do not want to mess around. You want to get it once and at a moderate fee. Come to Tice Madox Solicitors ... This programme is only a vehicle for directing you to Tice Madox Solicitors. ... Once you get the details on screen you can follow us on Twitter...you can also go to our Facebook...and add us as a friend...you can also check us on YouTube...”

At Tice Madox Solicitors, any legal issue is possible ... Our fee is moderate ... We’ll keep the fee moderate. We’ll give you reasonable discount, deduction ... It will be the highest quality standard that you cannot get elsewhere, even at the moderate fee that we will charge you. We will repay you at the highest optimum standard”

Until next time I come in I ask you to go to website [website address given] go to [website address given]. Check us out there. YouTube and Facebook as well. And send us an email. Enquiries at [website address given]. The phone number is on there. Book an appointment. Come and see me in the office. You’ll be glad you did”.

During *The Legal Panorama*:

“We are here to help. We provide a one-stop service, take people’s cases on and then represent them ... We give them legal advice. ... So, people in this country, all they need to do is book an appointment for consultation at the consultation meeting then you’ll be able to speak to us in a private and confidential manner and that we will be able to advise you ... We don’t give telephone advice and also

there is a consultation fee to be paid for getting legal advice ... what we do is give legal advice they can rely on”.

“Now if you would like further information or if you would like to see Mr Dele Olawanle in person or if you would like to visit his law firm Del & Co Solicitors feel free to call the number on the screen”.

“Talk to Del & Co Solicitors. We can professionally help you in the following areas ... If you need legal advice call Del & Co. Solicitors now on [telephone number given] or visit our website [website address given]. Del & Co. Solicitors, legal advice you can rely on”.

During *UK Health Food Centre*:

“The Health Food Centre has over 25 year of experience in advertising and vitamins, minerals and herbal supplements. Our nutritionist aims to provide a personalised and individual service to bring our customers the most advanced nutritional formulas. For all your health need including remedies from manufacturers such as Solgar, Natures Plus and Bioforce we also have an extensive range of Indian Ayurvedic herbs, herbal teas and skincare products. Call or visit the Health Food Centre at [address and telephone number given] to receive personalised advice or visit our website at [website address given]. We are committed to our customers and confidently provide clear, concise information to assist them in making informed choices about nutritional products”.

“To order any of our products, please call or visit us online”.

We therefore considered that each of these programmes blurred the distinction between editorial and advertising, and, as a result, Believe TV’s viewers would have been unlikely to be able to determine whether they were watching editorial content or advertisements. The content therefore breached Rule 9.2.

The Licensee’s presentation of the content about *UK Health Food Centre* as editorial was of particular concern to Ofcom as it was used to promote products and services for the treatment of health conditions. Proper distinction between editorial content and advertising is important for consumer protection, particularly in relation to the promotion of products of a medical or health related nature, where strict rules apply to broadcast advertising to protect audiences. The BCAP Code: the UK Code for Broadcast Advertising¹ has special provisions under section 11 for broadcast advertising relating to medicines, medical devices, treatments and health. These include strict rules on the substantiation of health claims, on the professional qualifications and financial interests of those individuals making recommendations, and on implying cure as distinct from symptom relief. This reflects the higher level of scrutiny required for health claims in advertising.

Conclusion

We noted that TLA Ltd accepted that the broadcast content was promotional in nature. We further noted the various measures the Licensee said it had implemented to “ensure there are no further breaches of the Code”.

However, we were concerned by the Licensee’s acknowledgement that, at the time this material was broadcast, it was “unaware that [it was] of a promotional character”

¹ <https://www.cap.org.uk/Advertising-Codes/Broadcast.aspx>

and, in relation to *Law Simplified with Justice* and *The Legal Panorama*, that it had relied on the legal firms who had produced the programmes being “reasonably conversant with the law and all legal implications arising out of their submitting programme content for broadcasting”. When acquiring content from a third party for broadcast, it is essential that broadcasters take steps to ensure that it is not used as a vehicle to promote the interests of the third party. In circumstances where broadcasters have accepted payment to broadcast content, it is particularly important that broadcasters have adequate procedures in place to ensure that the material complies with the rules in Section Nine of the Code. We were therefore concerned that the Licensee said the member of staff who reviewed this material before broadcast “was not fully familiar with all the applicable rules as set out in the Code”.

In Ofcom’s view, these breaches demonstrated a fundamental lack of understanding of the rules in Section Nine of the Code. We are therefore requesting an urgent meeting with the Licensee to discuss its compliance arrangements. We are also putting the Licensee on notice that Ofcom intends to monitor this service again, and should further breaches of this type occur, we may consider further regulatory action including the imposition of a statutory sanction.

Breaches of Rule 9.2

In Breach

Advertising placement

Venus TV, various times and dates

Introduction

Rule 10 of the Code on the Scheduling of Television Advertising (“COSTA”) states that:

“The transmission of films and news programmes may be interrupted by advertising or teleshopping only once for each scheduled period of at least 30 minutes”.

In July 2014, Ofcom consulted on how it should apply certain rules in COSTA. A significant element of the consultation¹ concerned how Ofcom should measure the scheduled duration of a programme. After careful consideration of the responses to the consultation, Ofcom published a statement² on 8 July 2015 which confirmed that, for the purposes of COSTA, the scheduled duration of a programme is equivalent to the length of the slot it occupies in an electronic programme guide (‘EPG’).

Venus TV is a satellite general entertainment television channel broadcasting in English, Urdu, Hindi, Punjabi, Gujarati and Bengali. The licence for the service is held by Venus Global TV Limited (“the Licensee”).

Ofcom identified 34 films broadcast on Venus TV between 6 August and 8 September 2016 which raised issues under Rule 10 of COSTA. Each film occupied a 180 minute EPG slot and was interrupted eight times by advertising – twice more than permitted by Rule 10 of COSTA.

Ofcom therefore asked the Licensee how the scheduling of advertising breaks during these films complied with Rule 10 of COSTA.

Response

The Licensee apologised for the broadcast of the excessive advertising breaks and explained that they were the result of an oversight. It added that it understood the rules and was committed to comply with them in future.

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content which it considers are best calculated to secure a number of standards objectives. One of these objectives is that “the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with”.

¹ The Scheduling of Television Advertising – consultation document:
https://www.ofcom.org.uk/_data/assets/pdf_file/0027/68913/scheduling-adverts.pdf

² The Scheduling of Television Advertising – statement:
https://www.ofcom.org.uk/_data/assets/pdf_file/0021/63291/costa-statement.pdf

Articles 20 and 23 of the Audiovisual Media Services Directive set out strict limits on the amount and scheduling of television advertising. Ofcom has transposed these requirements by means of key rules in COSTA. Ofcom undertakes routine monitoring of its licensees' compliance with COSTA.

Rule 10 of COSTA states that "films and news programmes may be interrupted by advertising or teleshopping only once for each scheduled period of at least 30 minutes". The 34 films identified by Ofcom had a scheduled duration of 180 minutes and were therefore entitled to contain a maximum of six advertising breaks. However, in each case, an additional two advertising breaks were broadcast. Consequently, these films breached Rule 10 of COSTA.

Ofcom will continue to monitor advertising scheduling practices on this service.

Breaches of Rule 10 of COSTA

Broadcast Licence Conditions cases

Broadcasting licensees' late payment of licence fees

Ofcom is partly funded by the broadcast licence fees it charges television and radio licensees. Ofcom has a statutory duty to ensure that the fees paid by licensees meet the cost of Ofcom's regulation of broadcasting. The approach Ofcom takes to determining licensees' fees is set out in the Statement of Charging Principles¹. Detail on the fees and charges payable by licensees is set out in Ofcom's Tariff Tables².

The payment of a licence fee is a requirement of a broadcasting licence³. Failure by a licensee to pay its licence fee when required represents a significant and fundamental breach of a broadcast licence, as it means that Ofcom may be unable properly to carry out its regulatory duties.

In Breach

The following radio licensees failed to pay their annual licence fees in accordance with the required payment date. These licensees have therefore been found **in breach** of Condition 3(2) of their broadcast licences.

The outstanding payments have now been received by Ofcom. Ofcom will not be taking any further regulatory action in these cases.

Licensee Name	Service Name	Licence Number
GGFC UK Ltd	Ahomka Radio	RLCS000141BA
Seaside Radio Ltd	Seaside FM 105.3	CR000052BA

Breaches of Licence Condition 3(2) in Part 2 of the Schedule of the relevant licences

The following TV licensee failed to pay its annual licence fees in accordance with the required payment date. The licensee has therefore been found **in breach** of Condition 4(2) of its broadcast licence.

The outstanding payment has been received by Ofcom. Ofcom will not be taking any further regulatory action in this case.

Licensee Name	Service Name	Licence Number
AplusLive Media Ltd	Muzik Ankara	TLCS001195BA

Breach of Licence Condition 4(2) in Part 2 of the Schedule of the relevant licence

¹ https://www.ofcom.org.uk/_data/assets/pdf_file/0019/51058/charging_principles.pdf

² https://www.ofcom.org.uk/_data/assets/pdf_file/0034/57976/tariff-tables-2016-17.pdf

³ As set out in Licence Condition 3 for radio licensees and Licence Condition 4 for television licensees.

Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 14 and 27 November 2016 and decided that the broadcaster or service provider did not breach Ofcom's codes, rules, licence conditions or other regulatory requirements.

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

Programme	Broadcaster	Transmission date	Categories
The Late Show with Ian Timms	BBC Radio Cumbria	09/08/2016	Race discrimination/offence
News	News 18	10/10/2016	Race discrimination/offence

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

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

Complaints assessed, not investigated

Here are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 14 and 27 November 2016 because they did not raise issues warranting investigation.

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

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

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

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Programming	4 Music	24/11/2016	Sexual material	1
This Week's Fresh Music Top 20	4 Music	07/11/2016	Sexual material	1
First Dates	4seven	19/11/2016	Race discrimination/offence	1
Programme trailers	5Star	10/11/2016	Sexual material	1
Spotlight	Aaj Tak	25/10/2016	Promotion of products/services	1
The Christian O'Connell Breakfast Show	Absolute Radio	09/11/2016	Due impartiality/bias	1
ATN Bangla UK News	ATN Bangla UK	08/08/2016	Materially misleading	1
BBC News	BBC 1	25/10/2016	Scheduling	1
BBC News	BBC 1	14/11/2016	Generally accepted standards	1
BBC News	BBC 1	14/11/2016	Harm	1
Eastenders	BBC 1	22/11/2016	Scheduling	4
Holby City	BBC 1	15/11/2016	Generally accepted standards	1
Holby City	BBC 1	22/11/2016	Scheduling	1
Match of the Day	BBC 1	19/11/2016	Other	1
Panorama: Trump's New America	BBC 1	14/11/2016	Scheduling	2
Poldark	BBC 1	30/10/2016	Generally accepted standards	1
Prison, My Parents and Me	BBC 1	15/11/2016	Dangerous behaviour	1
Strictly Come Dancing	BBC 1	19/11/2016	Sexual orientation discrimination/offence	12
The Andrew Marr Show	BBC 1	13/11/2016	Generally accepted standards	11
The Apprentice	BBC 1	10/09/2016	Offensive language	1
The Apprentice	BBC 1	13/10/2016	Offensive language	1
The Last Miners	BBC 1	21/11/2016	Generally accepted standards	1
The National Lottery	BBC 1	various	Materially misleading	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
The One Show	BBC 1	15/11/2016	Other	1
Two Minute Silence	BBC 1	11/11/2016	Generally accepted standards	1
Black Is The New Black	BBC 2	20/11/2016	Race discrimination/offence	1
NW	BBC 2	14/11/2016	Sexual material	1
Steve Wright in the Afternoon	BBC Radio 2	23/05/2016	Materially misleading	1
Clare in the Community	BBC Radio 4	15/11/2016	Offensive language	1
The Today Programme	BBC Radio 4	12/11/2016	Race discrimination/offence	1
Cricket (trailer)	BT Sport 1	29/10/2016	Violence	1
Cricket (trailer)	BT Sport 1	03/11/2016	Violence	1
Capital Radio News	Capital FM (North East)	10/11/2016	Commercial communications on radio	1
Capital Breakfast With Dave Berry, George & Lilah	Capital FM London	08/11/2016	Commercial communications on radio	1
Marble.com's sponsorship of Judge Judy	CBS Reality	02/10/2016	Harm	1
Hunted	Chanel 4	27/10/2016	Dangerous behaviour	1
Celebrity Island with Bear Grylls	Channel 4	09/10/2016	Animal welfare	1
Channel 4 News	Channel 4	01/09/2016	Due accuracy	1
Channel 4 News	Channel 4	17/10/2016	Elections/Referendums	1
Channel 4 News	Channel 4	09/11/2016	Due impartiality/bias	1
Channel 4 News	Channel 4	11/11/2016	Race discrimination/offence	1
Channel 4 News	Channel 4	11/11/2016	Religious/Beliefs discrimination/offence	1
Channel 4 News	Channel 4	17/11/2016	Due impartiality/bias	1
Channel 4 News	Channel 4	21/11/2016	Promotion of products/services	1
Drifters	Channel 4	12/11/2016	Generally accepted standards	1
First Dates	Channel 4	14/11/2016	Sexual orientation discrimination/offence	1
Married at First Sight	Channel 4	various	Generally accepted standards	1
Naked Attraction	Channel 4	11/11/2016	Gender discrimination/offence	1
The Last Leg: US Election Special	Channel 4	09/11/2016	Generally accepted standards	1
Unreported World	Channel 4	14/10/2016	Other	1
Behind Closed Doors	Channel 5	23/11/2016	Other	1
Can't Pay? We'll Take It Away!	Channel 5	23/11/2016	Materially misleading	1
Home and Away	Channel 5	21/11/2016	Scheduling	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Super Casino	Channel 5	18/11/2016	Participation TV - Gambling	1
The Nightmare Neighbour Next Door	Channel 5	10/11/2016	Animal welfare	1
The Wright Stuff	Channel 5	08/11/2016	Due impartiality/bias	1
The Wright Stuff	Channel 5	11/11/2016	Due impartiality/bias	1
The Wright Stuff	Channel 5	11/11/2016	Race discrimination/offence	1
The Wright Stuff	Channel 5	18/11/2016	Race discrimination/offence	1
Undercover Benefits Cheat	Channel 5	26/10/2016	Generally accepted standards	1
Undercover Criminal	Channel 5	23/11/2016	Offensive language	1
South Park	Comedy Central	09/11/2016	Generally accepted standards	1
Carling's sponsorship of characters on Dave	Dave	various	Sponsorship credits	1
Dave Gorman: Modern Life is Goodish	Dave	22/11/2016	Generally accepted standards	1
Naked Attraction	E4	17/11/2016	Nudity	1
Programming	Fadak TV	various	Crime and disorder	1
Our Guy In China (trailer)	Film4	16/11/2016	Offensive language	1
12 Chefs of Christmas	Food Network	06/11/2016	Generally accepted standards	1
The Walking Dead	Fox	24/10/2016	Outside of remit	1
Aunt Bessie's sponsorship of I'm a Celebrity...Get Me Out of Here!	ITV	13/11/2016	Sponsorship credits	1
Coronation Street	ITV	18/11/2016	Race discrimination/offence	7
Countrywise Guide To Britain	ITV	18/11/2016	Animal welfare	1
Countrywise: Guide to Britain	ITV	18/11/2016	Animal welfare	1
Emmerdale	ITV	03/11/2016	Product placement	1
Emmerdale	ITV	21/11/2016	Scheduling	1
Emmerdale	ITV	21/11/2016	Scheduling	1
Emmerdale	ITV	22/11/2016	Religious/Beliefs discrimination/offence	1
Emmerdale	ITV	23/11/2016	Scheduling	3
Good Morning Britain	ITV	09/11/2016	Drugs, smoking, solvents or alcohol	1
Good Morning Britain	ITV	14/11/2016	Generally accepted standards	1
Good Morning Britain	ITV	16/11/2016	Generally accepted standards	6
Good Morning Britain	ITV	17/11/2016	Materially misleading	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Good Morning Britain	ITV	22/11/2016	Gender discrimination/offence	5
Good Morning Britain	ITV	22/11/2016	Disability discrimination/offence	1
I'm a Celebrity...Get Me Out of Here!	ITV	14/11/2016	Animal welfare	3
I'm a Celebrity...Get Me Out of Here!	ITV	16/11/2016	Animal welfare	41
I'm a Celebrity...Get Me Out of Here!	ITV	16/11/2016	Disability discrimination/offence	3
I'm a Celebrity...Get Me Out of Here!	ITV	17/11/2016	Animal welfare	1
I'm a Celebrity...Get Me Out of Here!	ITV	18/11/2016	Generally accepted standards	1
I'm a Celebrity...Get Me Out of Here!	ITV	21/11/2016	Animal welfare	10
ITV Hub (trailer)	ITV	various	Race discrimination/offence	1
ITV News	ITV	19/10/2016	Elections/Referendums	1
ITV News	ITV	16/11/2016	Generally accepted standards	1
ITV News	ITV	23/11/2016	Due accuracy	1
ITV News	ITV	23/11/2016	Due impartiality/bias	1
ITV News	ITV	23/11/2016	Race discrimination/offence	1
ITV Remind Me (trailer)	ITV	19/11/2016	Other	1
Loose Women	ITV	14/11/2016	Disability discrimination/offence	1
Off Their Rockers	ITV	13/11/2013	Harm	1
Off Their Rockers	ITV	13/11/2016	Gender discrimination/offence	1
Off Their Rockers	ITV	13/11/2016	Offensive language	1
Off Their Rockers	ITV	20/11/2016	Scheduling	7
Off Their Rockers (trailer)	ITV	15/11/2016	Harm	1
Peston on Sunday	ITV	20/11/2016	Offensive language	4
Sainsbury's sponsorship of ITV showcase drama	ITV	31/10/2016	Sponsorship credits	1
The Jeremy Kyle Show	ITV	11/11/2016	Gender discrimination/offence	1
The Jeremy Kyle Show	ITV	21/11/2016	Generally accepted standards	1
The Jeremy Kyle Show	ITV	22/11/2016	Generally accepted standards	1
The Next Great Magician	ITV	20/11/2011	Scheduling	1
The Next Great Magician	ITV	13/11/2016	Generally accepted standards	1
The X Factor	ITV	23/10/2016	Materially misleading	1
The X Factor	ITV	06/11/2016	Fairness	1
The X Factor	ITV	06/11/2016	Materially misleading	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
The X Factor	ITV	06/11/2016	Voting	1
The X Factor	ITV	06/11/2016	Voting	1
The X Factor	ITV	12/11/2016	Drugs, smoking, solvents or alcohol	11
The X Factor	ITV	12/11/2016	Generally accepted standards	1
The X Factor	ITV	12/11/2016	Promotion of products/services	1
The X Factor	ITV	13/11/2016	Voting	4
The X Factor	ITV	13/11/2016	Generally accepted standards	3
The X Factor	ITV	13/11/2016	Generally accepted standards	1
The X Factor	ITV	19/11/2016	Offensive language	3
The X Factor	ITV	19/11/2016	Sexual orientation discrimination/offence	3
The X Factor	ITV	19/11/2016	Crime and disorder	1
The X Factor	ITV	19/11/2016	Other	1
The X Factor	ITV	19/11/2016	Promotion of products/services	1
The X Factor	ITV	19/11/2016	Voting	1
The X Factor	ITV	20/11/2016	Scheduling	2
This Morning	ITV	09/11/2016	Materially misleading	93
This Morning	ITV	10/11/2016	Due impartiality/bias	1
This Morning	ITV	11/11/2016	Generally accepted standards	1
This Morning	ITV	23/11/2016	Generally accepted standards	1
Trump v Clinton: The Result	ITV	09/11/2016	Disability discrimination/offence	1
Tutankhamun	ITV	06/11/2016	Offensive language	1
I'm A Celeb: Stars of Oz	ITV2	13/11/2016	Offensive language	1
I'm a Celebrity...Get Me Out of Here Extra Camp	ITV2	13/11/2016	Outside of remit	1
Prank Pad	ITV2	11/11/2016	Gender discrimination/offence	1
A Touch of Frost	ITV3	20/11/2016	Sexual orientation discrimination/offence	1
118 118's sponsorship of ITV Movies	ITV4	24/10/2016	Sexual orientation discrimination/offence	1
Real Housewives of Orange County	ITVBe	23/11/2016	Offensive language	1
Ian Collins	LBC 97.3 FM	10/11/2016	Generally accepted standards	1
James O'Brien	LBC 97.3 FM	17/11/2016	Age discrimination/offence	1
Nick Ferrari	LBC 97.3 FM	11/11/2016	Race discrimination/offence	1
Programming	London Live	22/11/2016	Other	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Mitsubishi's sponsorship of documentaries on 4	More4	06/11/2016	Sponsorship credits	1
2016 MTV EMA	MTV	06/11/2016	Offensive language	1
Geordie Shore (trailer)	MTV	13/11/2016	Offensive language	1
Nick Jr. Trailer	Nick Jr plus 1	10/11/2016	Sexual material	1
Send In The Dogs	Pick TV	21/11/2016	Generally accepted standards	1
Jon White for Breakfast	Radio Plymouth	08/11/2016	Gender discrimination/offence	1
Date My Porn Star	Really	18/10/2016	Gender discrimination/offence	1
My Penis and I	Really	12/11/2016	Generally accepted standards	1
The Hillary Clinton Problem	Sky Atlantic	31/10/2016	Sponsorship	1
Sky News	Sky News	09/11/2016	Generally accepted standards	1
Sky News	Sky News	11/11/2016	Due impartiality/bias	1
Sky News	Sky News	11/11/2016	Generally accepted standards	1
Sky News	Sky News	12/11/2016	Generally accepted standards	1
Sky News	Sky News	14/11/2016	Due accuracy	1
Sky News	Sky News	14/11/2016	Race discrimination/offence	1
Sky News	Sky News	15/11/2016	Materially misleading	1
Sunrise	Sky News	19/10/2016	Violence	1
All Out Politics	Sky News Channel	23/11/2016	Generally accepted standards	1
Premier League Football	Sky Sports 1	15/10/2016	Offensive language	1
Royal London's sponsorship of Sky Sports Weather	Sky Sports 1	31/10/2016	Gender discrimination/offence	1
Hawaii Five O	Sky1	22/11/2016	Violence	1
Studio 66 Nights	Studio 66 TV	01/11/2016	Participation TV - Misleadingness	1
England v Scotland (trailer)	STV	08/11/2016	Generally accepted standards	1
Fischer Future Heating's sponsorship of STV Weather	STV	31/10/2016	Sponsorship credits	1
Latin Hot	Swindon 105.5	08/10/2016	Offensive language	1
James Whale	TalkRadio	09/11/2016	Generally accepted standards	5
Creations Creatures	TBN UK	20/10/2016	Materially misleading	1
Toddlers and Tiaras	TLC	15/11/2016	Animal welfare	1
Orphan Relief Charity	Ummah Channel	03/10/2016	Charity appeals	1
The Truth Behind Karbala 2016	Ummah Channel	11/10/2016	Crime and disorder	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Programming	Various	01/01/2016	Race discrimination/offence	1
Geordie Shore (trailer)	VH1	12/11/2016	Offensive language	1

Complaints assessed under the General Procedures for investigating breaches of broadcast licences

For more information about how Ofcom assesses complaints about broadcast licences, go to: https://www.ofcom.org.uk/_data/assets/pdf_file/0019/31942/general-procedures.pdf

Licensee	Licensed service	Categories
ESTV Limited	London Live	Television Access Services
Irvine Beat FM (SCIO)	Irvine Beat FM	Key Commitments

Complaints assessed under the Procedures for investigating breaches of rules for On Demand programme services

Programme	Service name	Service provider	Categories	Number of complaints
The Colour of War: Adolf Hitler	BBC iPlayer	BBC	Hatred and abuse	1

For more information about how Ofcom assesses complaints about on demand services, go to: https://www.ofcom.org.uk/_data/assets/pdf_file/0033/74499/procedures-investigating-breaches.pdf

Complaints outside of remit

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

For more information about what Ofcom's rules cover, go to:

<http://consumers.ofcom.org.uk/complain/tv-and-radio-complaints/what-does-ofcom-cover/>

Complaints about television or radio programmes

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

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

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Feed the Beast	AMC from BT	15/11/2016	Advertising content	1
BBC News	BBC 1	09/11/2016	Other	1
BBC News	BBC 1	22/11/2016	Outside of remit	1
Have I Got News For You	BBC 1	11/11/2016	Due impartiality/bias	1
Michael McIntyre's Big Show	BBC 1	19/11/2016	Product placement	1
BBC News	BBC News	23/11/2016	Due impartiality/bias	1
Jeremy Vine	BBC Radio 2	21/11/2016	Due impartiality/bias	1
Jeremy Vine	BBC Radio 2	21/11/2016	Due impartiality/bias	1
Jeremy Vine	BBC Radio 2	21/11/2016	Due impartiality/bias	1
Jeremy Vine	BBC Radio 2	21/11/2016	Due impartiality/bias	1
BBC News	BBC Radio 4 and BBC TV	15/11/2016	Due accuracy	1
Thought for the Day	BBC Radio Scotland	22/11/2016	Other	1
Interview with Labour MP Ruth Smeeth	BBC Website	02/09/2016	Other	1
Advertisement	BT Sport 1	19/11/2016	Advertising content	1
Advertisement	Dave	14/11/2016	Advertising content	1
The Book of Genesis	God TV	21/11/2016	Advertising content	1
Advertisement	ITV	08/11/2016	Advertising content	1
Advertisement	ITV	20/11/2016	Advertising content	1
Advertisement	ITV	21/11/2016	Advertising content	1
Advertisement	ITV	10/11/2016	Advertising content	1
Advertisement	LBC 97.3 FM	05/11/2016	Advertising content	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Paddy Power's sponsorship of Live International Rugby Union	Sky1	12/11/2016	Advertising content	1
BBC Radio 1 Newsbeat	Twitter	01/11/2016	Race discrimination/offence	1
Advertisement	Various	13/11/2016	Advertising content	1
Advertisement	Vintage TV	16/11/2016	Advertising content	1

Investigations List

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

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

Here are alphabetical lists of new investigations launched between 14 and 27 November 2016.

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

Programme	Broadcaster	Transmission date
Spotlight sponsorship credits	Aaj Tak	25 October 2016
Meet the Babes	Babestation	28 October 2016
New Blood	BBC 1	14 July 2016
This Morning	ITV	28 October 2016
News	Times Now	02 October 2016
The News Hour	Times Now	19 September 2016
The News Hour	Times Now	22 September 2016
The News Hour	Times Now	26 September 2016
Advertising minutage	TLC (Balkans)	02 September 2016
Advertising minutage	Travel Channel	02 September 2016

For more information about how Ofcom assesses complaints and conducts investigations about content standards on television and radio programmes, go to: https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf

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

Programme	Broadcaster	Transmission date
Can't Pay? We'll Take It Away!	Channel 5	9 October 2016
Rookies	ITV	6 September 2016

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

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

Investigations launched under the General Procedures for investigating breaches of broadcast licences

Licensee	Licensed Service
Cambridge and Anglia Ruskin Student Radio Limited	CAM FM
B.R.F.M. Bridge Radio Limited	BRFM 95.6

For more information about how Ofcom assesses complaints and conducts investigations about broadcast licences, go to:

https://www.ofcom.org.uk/data/assets/pdf_file/0019/31942/general-procedures.pdf