

# Ofcom Broadcast and On Demand Bulletin

Issue 397  
24 February 2020

## Studio 66 TV

<b>Type of case</b>	Broadcast Standards
<b>Outcome</b>	In Breach
<b>Service</b>	Studio 66
<b>Date &amp; time</b>	13 August 2019, 21:15 27 August 2019, 10:43 17 September 2019, 08:48 22 September 2019, 08:51 7 October 2019, 13:56 15 September 2019, 23:00 13 October 2019, 11:30 15 October 2019, 10:15
<b>Category</b>	Harm & Offence and Scheduling of television and radio advertisements
<b>Summary</b>	The sexualised actions of various presenters on the chat service were capable of causing offence and had the potential to harm or distress children. In breach of Rules 32.3 and 4.2 of the UK Code of Broadcast Advertising (BCAP Code). Due to the serious nature of these breaches we are considering imposing a statutory sanction.

## Introduction

Studio 66 TV is interactive 'daytime chat' advertising broadcast on the service Studio 66, which is available as part of a standard satellite subscription package. The content consists of presenters inviting viewers to contact them via premium rate telephony services ("PRS"). Studio 66 is available without mandatory restricted access and is situated in the 'adult' section of electronic programme guides ('EPGs'). The licence for the service is held by 914 TV Limited ("914 TV" or "the Licensee").

Ofcom received eight complaints, each about a different broadcast. In six of the cases, the complainants considered that the presenters were dressed inappropriately and were behaving in a sexualised manner. In two cases, the complainants considered that the behaviour of the presenters was inappropriate for broadcast. Having reviewed the material, Ofcom identified the following:

### Pre-watershed content

*27 August 2019, 10:43*

- The presenter's nipple protruded through the top of her dress for approximately 20 seconds. The presenter also pulled her dress over her hips, gyrated and stroked her buttocks.

*17 September 2019, 08:48*

- The presenter's dress was pulled over her hips with most of her breasts exposed. The presenter also gyrated and stroked her buttocks.

*22 September 2019, 08:51*

- Over a period of approximately five minutes, the presenter gyrated and rocked her buttocks with her legs apart and her skirt pulled over her hips.

*7 October 2019, 13:56*

- The presenter stroked her legs, breasts and buttocks and wore a dress which rose over her hips.

*13 October 2019, 11:30*

- A presenter stroked her thighs and buttocks, rocked and gyrated with her legs apart.

*15 October 2019, 10:15*

- A presenter's nipple was exposed for approximately three seconds.

### Post watershed content

*13 August 2019, 21:15*

- The presenter exposed and stroked her breasts for approximately 45 seconds, and subsequently exposed her buttocks towards the camera.

*15 September 2019, 23:00*

- The presenter simulated masturbation and mimed stimulating a penis with her hand.

Ofcom considered that the material raised potential issues under the following rule of the UK Code of Broadcast Advertising ("[the BCAP Code](#)")<sup>1</sup>.

Rule 32.3: "Relevant timing restrictions must be applied to advertisements that, through their content, might harm or distress children of particular ages or that are otherwise unsuitable for them".

For the post-watershed broadcast on 15 September, Ofcom considered that the material raised potential issues under the following rule of the BCAP Code:

Rule 4.2: "Advertisements must not cause serious or widespread offence against generally accepted moral, social or cultural standards".

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

## Response

### Pre-watershed content

*27 August 2019, 10:43*

914 TV stated that the exposure of the presenter's nipple was "brief, inadvertent and corrected as soon as she became aware". It accepted that the presenter's dress rode up over her hips and that she "occasionally briefly wiggled or stroked her buttocks". The Licensee also accepted that this combination of factors resulted in the content "not meeting Ofcom's Guidance [in this area]".

*17 September 2019, 08:48*

The Licensee accepted that the presenter's dress and movements were inappropriate for the time of day and said that the presenter was "spoken to about her outfit and movement" at the end of the broadcast.

*22 September 2019, 08:51*

The Licensee accepted that the presenter's skirt had "ridden up" and that she "occasionally rocked or wiggled her buttocks", adding that the "combination of factors" did not accord with Ofcom's Guidance.

*7 October 2019, 13:56*

The Licensee stated that a five minute segment was broadcast in error that was "not in line with 914 TV Limited's own internal standards and guidelines" and accepted that the broadcast did not accord with the Guidance.

*13 October 2019, 11:30*

The Licensee considered that the material was "on the border of constituting restrained glamorous presentation", but accepted that the broadcast likely did not accord with Ofcom's Guidance.

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<sup>1</sup> Daytime chat' and 'adult chat' interactive PRS are regulated as participation tv services. Participation TV is defined as "long form television advertising for direct response, remote entertainment services that typically include the possibility of interacting with the broadcast content". See paragraph (n) of the introduction to the BCAP Code. Examples of Participation TV also includes on-screen quizzes, chats and message boards. See paragraphs 3.19 to 3.24 of Ofcom's June 2010 Statement "Participation TV: Regulatory Statement". Issue 397 of Ofcom's Broadcast and On Demand Bulletin 24 February 2020

*15 October 2019, 10:15*

The Licensee stated that the exposure of the presenter's nipple was "brief, inadvertent and corrected as soon as she became aware" and accepted that it did not accord with the Guidance.

The Licensee apologised and, referring to previous recent investigations ([Issue 376](#), [Issue 388](#)) and Ofcom's [published guidance](#) in this area, accepted that Ofcom was likely to consider that the content breached the BCAP Code.

914 TV acknowledged that, for these broadcasts, the combination of the presenters' movements and outfits could be considered too provocative for the times of transmission, but added that it did not consider that, if taken in isolation, the "issues would have crossed the line between restrained glamorous presentation and sexual dress or conduct".

The Licensee said that the likelihood of a child viewing Studio 66 was very low, stating that the channel is positioned within the 'adult' section of the EPG with most set-top boxes delivered with this section hidden. It also believed that, in any event, it was very unlikely that the content in question would have caused actual harm or distress to children.

The Licensee reiterated its apologies for the broadcast of the material and reassured Ofcom of its ongoing commitment to responsible and compliant broadcast advertising. 914 TV added that it held a full company meeting with every member of production staff where "refresher training" was provided and staff were reminded of the channel's compliance obligations.

### Post-watershed content

*13 August 2019, 21:15*

914 TV Ltd accepted that the content did not comply with Rule 32.3 of the BCAP Code and apologised for this. It added that the material "failed to meet 914 TV Ltd's corresponding internal standards and guidelines in relation to the transition from daytime chat to more adult material". The Licensee told Ofcom that it had investigated the matter and that this 'brief lapse in compliance' resulted from an unplanned staffing issue and, as far as it was aware, this was an isolated incident. In mitigation, it added that the likelihood of a child having seen the content was "very low", and even if it was the case "914 TV Ltd considers that it is very unlikely to have caused any actual harm or distress to children".

*15 September 2019, 23:00*

914 TV said that there were no "invasive, physically intrusive or intimate" shots of the presenter's body but accepted that the presenter was shown to simulate masturbation through her clothing. However, the Licensee questioned whether the material was capable of causing "serious or widespread offence" as it was broadcast late at night.

### Decision

Reflecting our duties under Section 319 of the Communications Act 2003, Rule 32.3 of the BCAP Code requires timing restrictions to be applied to advertisements that might harm or distress children, or that are otherwise unsuitable for them. Rule 4.2 of the BCAP Code requires broadcasters to ensure that advertisements do not cause serious or widespread offence against generally accepted moral, social or cultural standards.

Ofcom's [published guidance](#) on the advertising of PRS 'chat' services ("the Chat Service Guidance") sets out what Ofcom considers to be acceptable to broadcast on these services. The Chat Service Guidance requires 'daytime chat' services to be placed within the 'adult' or similarly identified section of EPG listings. It reflects that the "presentation of daytime chat should always be suitable for wide audiences, that is for audiences including children and young persons...should they come across it unawares". It specifically states that when broadcasting 'daytime chat' broadcasters should:

- "ensure that presenters are wearing appropriate clothing, that adequately covers their bodies, in particular their breasts, genital areas and buttocks"; and
- "not broadcast images of presenters touching or stroking their bodies in a suggestive manner, in particular avoiding breasts, thighs, crotches and buttocks".

In addition, the guidance makes clear that shots of bare breasts should not be broadcast before 22:00

Ofcom considered that the content across the six daytime broadcasts and that broadcast at 21:15 on 13 August 2019 did not reflect the elements of the Chat Service Guidance listed above. It featured presenters who were positioned and dressed in such a way that resulted in significant exposure of their buttocks, thighs or breasts.

Ofcom acknowledged that Studio 66 is situated in the 'adult' section of the Sky EPG and that likelihood of children watching the channel was low. However, in most cases this material was broadcast without mandatory restricted access during the daytime. In Ofcom's view, audiences – and in particular parents and carers – would not expect material of this nature to be broadcast on easily accessible services at the times it was. Therefore, our decision is that the seven broadcasts breached Rule 32.3 of the BCAP Code.

Rule 4.2 of the BCAP Code requires that advertisements must not cause "serious or widespread offence against generally accepted moral, social or cultural standards". The BCAP Code permits 'adult chat' services to be advertised within prescribed times and on unencrypted channels (i.e. without mandatory restricted access) that are specifically licensed by Ofcom for that purpose provided content is restricted to exclude inappropriate material.

Ofcom has made clear in a number of published decisions the type of material that is unsuitable to be broadcast in 'adult chat' advertising content which is available without mandatory restricted access. Our published guidance specifically states that Licensee's must "at no time broadcast images of any real or simulated sex acts".

The content broadcast on 15 September included a presenter simulating sex acts. In Ofcom's view, this material was clearly capable of causing offence.

We took into account that this content was broadcast after the watershed and that viewers generally expect on all channels that stronger material may be shown at this time. Further, that Studio 66, is positioned in the 'adult' section of the EPG and that viewers tend to expect the broadcast of stronger sexual material on channels in an 'adult' section of an EPG than on channels in other sections.

However, the content was of a type which Ofcom's Chat Service Guidance clearly indicates as being unacceptable on 'adult chat' services. Ofcom did not consider the positioning of the channel in the 'adult' section of the EPG or its time of broadcast at 23:00 were sufficient to prevent the material from

causing widespread offence against generally accepted standards. Therefore, Ofcom's decision is that this broadcast was in breach of Rule 4.2 of the BCAP Code.

On 7 October 2019, in [Issue 388 of Ofcom's Broadcast and On Demand Bulletin](#), Ofcom recorded a breach of Rule 32.3 of the BCAP Code against the Licensee for the pre-watershed broadcast of material featuring five presenters who behaved inappropriately and were inadequately dressed. This followed on from a previous decision published on 8 April 2019, in [Issue 376 of its Broadcast and On Demand Bulletin](#), where Ofcom recorded a similar breach of Rule 32.3.

We acknowledge the Licensee's apology and recognition that the material was non-compliant. However, we are concerned that it has continued to broadcast material in breach of Rule 32.3, notwithstanding Ofcom's published guidance and the breach decisions made against it in April and October 2019. As set out above, one of the breaches occurred on the same day that our most recent breach decision was published (7 October 2019), and two subsequently.

The previous breach decisions against the Licensee published in April and October 2019 are the subject of ongoing sanctions proceedings. In all circumstances, we regard the breaches set out in this decision as serious and will also consider them for sanction.

**Breaches of Rule 32.3 of the BCAP Code**

13 August 2019  
27 August 2019  
17 September 2019  
22 September 2019  
7 October 2019  
13 October 2019  
15 October 2019

**Breach of Rule 4.2 of the BCAP Code**

15 September 2019