

# **Ofcom broadcast bulletin**

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## Introduction

Ofcom's Broadcasting Code took effect on 25 July 2005 (with the exception of Rule 10.17 which came into effect on 1 July 2005). This Code is used to assess the compliance of all programmes broadcast on or after 25 July 2005. The Broadcasting Code can be found at <http://www.ofcom.org.uk/tv/ifi/codes/bcode/>

The Rules on the Amount and Distribution of Advertising (RADA) apply to advertising issues within Ofcom's remit from 25 July 2005. The Rules can be found at <http://www.ofcom.org.uk/tv/ifi/codes/advertising/#content>

The Communications Act 2003 allowed for the codes of the legacy regulators to remain in force until such time as Ofcom developed its own Code. While Ofcom has now published its Broadcasting Code, the following legacy Codes apply to content broadcast before 25 July 2005.

- Advertising and Sponsorship Code (Radio Authority)
- News & Current Affairs Code and Programme Code (Radio Authority)
- Code on Standards (Broadcasting Standards Commission)
- Code on Fairness and Privacy (Broadcasting Standards Commission)
- Programme Code (Independent Television Commission)
- Programme Sponsorship Code (Independent Television Commission)
- Rules on the Amount and Distribution of Advertising

From time to time adjudications relating to advertising content may appear in the bulletin in relation to areas of advertising regulation which remain with Ofcom (including the application of statutory sanctions by Ofcom).

## Sanctions

### **Kiss FM Radio Limited**

*Kiss 100 FM*

*Fairness and Privacy: 5 July 2005 (taking into account 29 July 2005)*

*Standards: 27 and 28 April 2005, 13 and 21 June 2005, 19 and 21 September 2005 and 15 November 2005*

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On 20 June 2006, Ofcom published its decision to impose a financial sanction on Kiss FM Radio Limited, in respect of its service Kiss 100 FM for breaches of the rules of Ofcom's Programme Code (ex-Radio Authority) concerning the protection of younger listeners (1.2(b)) and wind ups (3.4.1), and for breaches of the rules of Ofcom's Broadcasting Code concerning: fairness (7.1); privacy (8.1); and protecting the under-eighteens (1.3 appropriate scheduling, 1.5 when children are particularly likely to be listening, 1.14 most offensive language, 1.17 discussion of sexual behaviour).

For the reasons set out in the Decision, Ofcom decided that Kiss FM Radio Limited should be fined the sum of £175,000 (all fines are payable to HMG and once received by Ofcom are forwarded to The Treasury).

The full text of this decision can be found at:

[http://www.ofcom.org.uk/tv/obb/ocsc\\_adjud/kiss100.pdf](http://www.ofcom.org.uk/tv/obb/ocsc_adjud/kiss100.pdf)

## Standards cases

### In Breach

#### ATN Bangla

*ATN Bangla, 13 January 2006, 19:00 and 14 January 2006, 19.00*

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#### Introduction

A viewer complained about graphic images included in news reports about the crash of a minibus in Bangladesh.

The complainant also expressed concern about a young child being interviewed for the report while in a state of distress, stating that she was also filmed identifying her parents' bodies.

#### Response

ATN Bangla supplied a recording of the news bulletin from 13 January 2006. However it was unable to supply a recording of the bulletin from 14 January 2006. It explained that, as programmes came from a play-out centre in Bangladesh, recordings were not retained in the UK and it had encountered difficulties obtaining this tape.

The broadcaster accepted that the material included in the reports had been "quite shocking", but said that the programme makers had given an undertaking not to include similar images in future.

#### Decision

The minibus crash was reported in detail during the news programme of 13 January 2006. The report included some medium distance images of dead bodies, laid out in a row close to the scene of the accident. Although the images were disturbing, we did not consider them to be overly graphic, within the context of a valid news report about such an horrific accident.

There were also some closer images of the bodies included in the report, but these were partially obscured by electronic blurring techniques, which lessened the impact. Again, within the context of a news bulletin, we consider that the treatment of this footage did not represent a breach of the Code.

However, it was not possible to complete a full investigation of the complaint because we were unable to view the bulletin broadcast on 14 January 2006. In particular, the recording supplied did not include an interview with a child, as identified in the complaint, nor images of her identifying her parents' bodies.

It is a condition of a Cable and Satellite Licence that the licensee retains recordings of its output for 60 days, and provides Ofcom with any material on request. Failure to supply the recording from 14 January 2006 is a serious and significant breach of ATN Bangla's licence. This will be held on record.

**Breach of Licence Condition 11**  
(See additional information page 9)

## **Babeworld**

*Babeworld TV, 11 April 2006, 22:15*

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### **Introduction**

A viewer complained about the explicit sexual content of this channel, which is transmitted free-to-air on satellite TV.

### **Response**

Babeworld said that it was unable to supply a recording of the relevant part of the channel's output for 11 April 2006. This was due to a technical failure by the company administering the channel's compliance recordings.

Nevertheless, it acknowledged that some of the content carried before midnight on Babeworld was "too explicit for our market". As a result, it had changed its production and editorial partners, and the output was now being produced to revised guidelines.

Babeworld also confirmed that it was now producing its own compliance tapes, and was no longer dependant on outside contractors.

### **Decision**

We welcome the steps Babeworld has taken to avoid any future failure to supply recordings.

It is a condition of a Cable and Satellite Licence that the licensee retains recordings of its output for 60 days, and provides Ofcom with any material on request. Failure to supply the recording from 11 April 2006 is a serious and significant breach of Babeworld TV's licence. This will be held on record.

**Breach of Licence Condition 11**  
(See additional information page 9)

## **You TV**

*You TV, 8 June 2005 and 28 July 2005*

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### **Introduction**

In the course of other investigations, we requested recordings of the output broadcast by You TV on 8 June 2005 and 28 July 2005.

The broadcaster was unable to supply the recording of output from 8 June 2005.

Although the broadcaster did provide a recording of output from 28 July 2005, this was not in a readable format. The broadcaster was unable to provide a replacement.

### **Response**

8 June 2005 - You TV said that, following a company reorganisation, there had been a misunderstanding between the broadcaster and the company that provided its uplink services. Although You TV thought that the uplink company was providing a recording facility, in fact it was not. As soon as the broadcaster became aware of the situation, it had rectified the situation and taken the recordings of You TV in-house.

28 July 2005 - In relation to the unreadable recordings, the licensee regretted that its playout operator no longer had copies of the relevant transmissions.

### **Decision**

We acknowledge that a communication failure during the company's reorganisation led to the inability to supply a recording for 8 June 2005.

With reference to the recording of 28 July 2005, the recording originally provided was in a format that we could not read. Although we requested a replacement after the 60 day period for which Cable and Satellite Television broadcasters are legally obliged to retain recordings, the broadcaster had been on notice from 4 August 2005 that this matter was being investigated. It should therefore have been in a position to provide the recording.

It is a condition of a Cable and Satellite Licence that the licensee retains recordings of its output for 60 days, and provides Ofcom with any material on request. Failure to supply the recordings from 8 June 2005 and 28 July 2005 is a serious and significant breach of You TV's licence. This will be held on record. Given the licensee's failure to produce a readable recording of the relevant output – despite being on notice - any future similarly serious compliance issues may result in the consideration of further regulatory action.

### **Breach of Licence Condition 11**

(See additional information page 9)

## **Evening Blessing**

*Asian Gold, 19 April 2006, 18:00*

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### **Introduction**

This is a regular Christian-focussed programme. One listener complained that the presenter:

- criticised members of the Christian community, who were phoning in to criticise the conduct of the presenters; and
- criticised a former presenter of the programme.

We wrote to the station requesting a recording of the relevant content. The broadcaster did not supply the requested recording.

### **Response**

Asian Gold said that it had experienced technical difficulties and therefore recordings had not been made of the content. The broadcaster said that it took this matter very seriously and had gone to the extent of asking listeners to supply the relevant recording, if they had made a copy themselves.

### **Decision**

We welcome the steps that the broadcaster took to try and obtain a recording.

However it is a condition of the Radio Licensable Content Service licence that broadcasters retain recordings of their output for 42 days, and provide Ofcom with any material on request. Failure to supply the recording from 19 April 2006 is a serious and significant breach of Asian Gold's licence. This will be held on record.

### **Breach of Licence Condition 8 (Part 2 General Conditions)**

(see additional information, page 9)



## Additional Information

In bulletin 46, published in October 2005, we reminded broadcasters that “It is a licence requirement that a licence holder retains, or [in the case of a television licensable content service] makes arrangements for the retention by others, of recordings of its output. Failure to do so is a serious breach of licence conditions. “

This bulletin records four further instances when broadcasters were unable to provide Ofcom with recordings of their output. Broadcasters should also note that once they are aware that an investigation is ongoing, they should retain all relevant material, including recordings, even if copies have been provided to Ofcom.

Although we have not proceeded to the consideration of a statutory sanction in any of the cases above, licensees should be fully aware of our concerns and should know that if we encounter similar compliance issues, these may result in the consideration of further regulatory action.

Furthermore, Ofcom will be consulting later this year on its procedures for the handling of standard cases and its procedures for the imposition of statutory sanctions. Ofcom will be considering whether it would be appropriate to include in the consultation for those licensees that fail to meet these licence requirements:

- a “fast-track” process for any sanctions; and/or
- an automatic sanction process.

Both TV and radio licences oblige licensees to “adopt procedures acceptable to Ofcom for the retention and production of recordings...of any programme which is the subject matter of a Standards Complaint<sup>1</sup>...”

In particular, Licensees are required to:

- (a) [*Television licensable content services*]: make and retain or arrange for the retention of a recording in sound and vision of every programme included in the Licensed Service for a period of 60 days from the date of its inclusion therein; and  
  
[*Radio services*]: make and retain for a period of 42 days from the date of its inclusion therein, a recording of every programme included in the Licensed Service together with regular time reference checks; and
- (b) at the request of Ofcom forthwith produce to Ofcom any such recording for examination or reproduction; and
- (c) at the request of Ofcom forthwith produce to Ofcom any script or transcript of a programme included in the Licensed Service which he is able to produce to it.

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<sup>1</sup> Derived from sections 325 and 334 of the Communications Act 2003.

## Resolved

### **Praise or Grumble**

*BBC Radio Sheffield, 8 April 2006, 18:45*

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#### **Introduction**

This is a phone-in programme on BBC Radio Sheffield, which allows callers to comment on that afternoon's football matches. One away fan rang in and described the goalkeeper of the home side as a "fucking cunt".

A listener complained that this language was offensive.

#### **Response**

The BBC said that it very much regretted the offence caused. The caller had spoken in reasonable terms when talking to the production team before being put on air. The caller had then exploited this opportunity by insulting the opposing team's goalkeeper.

The presenter, with speed, firmness and clarity, closed down the call in a way that the broadcaster felt was exemplary. He made it clear that the language was unacceptable and offered an unreserved apology to the audience.

Callers using this type of language were rare as calls were always carefully vetted. At times when emotions ran high, the station had a practice of warning would-be callers against the use of strong language. As a result of the incident, programme teams were asked to take particular care at all times, but especially at contentious moments, before allowing away fans to give their views. During the rest of the season, fewer such contributions were used.

#### **Decision**

We agree with the broadcaster that this language was unacceptable in this context. This language is considered to be among the most offensive, but we recognise that this was unprovoked and would have been very difficult for the broadcaster to have anticipated. In view of the steps the broadcaster has taken to try to prevent anything similar happening in future, we consider the matter resolved.

#### **Resolved**

## **Malcolm in the Middle**

*Sky Two, 26 February 2006, 19:00*

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### **Introduction**

In the opening scene of this family drama, a father finds his young son playing with a plastic dry cleaning cover. Taking it away from the child, the father then warned him about the danger of playing with plastic bags. In demonstrating the associated dangers, the father put the bag over his own head but started to have difficulties breathing. When he asked his son to fetch help, the boy misunderstood and laughed and clapped at his father's predicament.

A viewer felt that this scene gave the wrong impression to children of the dangers of plastic bags as it was treated in a light-hearted way.

Rule 1.13 of the Broadcasting Code states that "...the portrayal of dangerous behaviour, that is likely to be easily imitable by children in a manner that is harmful ...must not be broadcast before the watershed...unless there is editorial justification."

### **Response**

Sky said that the programme was not aimed primarily at children. The scene did not show dangerous behaviour as it was performed by an adult who was demonstrating the potential dangers of suffocation – this also provided the scene's editorial justification. The scene was in context as it was accompanied by a warning from the father beforehand. The father's decision to physically illustrate the dangers of playing with plastic bags was a stupid one, but entirely consistent with his character. His reaction when he first spotted his son playing with the bag and his own distress when he himself became trapped reinforced the danger and did not encourage it.

However, Sky said that it had decided to edit the scene out of the programme prior to broadcast. This instruction had been issued to a member of the editing team but, due to human error, the scene had not been removed. As soon as Sky became aware that the scene had not been removed, the programme was immediately re-edited and the member of staff was reprimanded.

### **Decision**

We acknowledge that Sky's instruction to remove the scene prior to broadcast had been overlooked due to human error. We welcome the prompt action taken to re-edit the programme and the advice given to staff. We consider that this resolves the matter.

### **Resolved**

## Fairness and Privacy Cases

### Resolved

Complainant	Channel	Programme	Trans Date	Category	Form of redress
Mr Terence Murray	Isle of Wight Radio	<i>The mid morning boogie with Alex Dyke</i>	10/03/2006	<ul style="list-style-type: none"><li>▪ Unjust and unfair treatment and unwarranted infringement of privacy</li></ul>	<ul style="list-style-type: none"><li>▪ Broadcast of apology</li><li>▪ Written apology</li><li>▪ Undertaking not to rebroadcast the material</li></ul>

## Other Programmes not in breach/out of remit

24 May – 6 June 2006

Programme	Trans Date	Channel	Category	No of Complaints
10 Years Younger	31/05/2006	Channel 4	Generally Accepted Standards	1
99 Ways to Lose Your	19/05/2006	Channel 4	Generally Accepted Standards	1
Australian Princess	05/02/2006	ITV2	Offensive language	2
BBC Radio Manchester	04/05/2006	BBC Radio Manchestere	Generally Accepted Standards	1
Big Brother 7	22/05/2006	Channel 4	Hypnosis/Subliminal	1
Big Brother 7	26/05/2006	Channel 4	Hypnosis/Subliminal	1
Big Brother 7	24/05/2006	Channel 4	Generally Accepted Standards	1
Big Brother 7	30/05/2006	Channel 4	Generally Accepted Standards	1
Bratz	24/04/2006	ITV1	Generally Accepted Standards	1
Century FM	16/05/2006	Century	Competitions	1
Channel 4 News	23/05/2006	Channel 4	Substance abuse	1
Colin and Justin's How Not to ..Decorate	23/05/2006	Five	Religious Offence	1
Countdown	23/05/2006	Channel 4	Offensive language	1
Deal Or No Deal	25/05/2006	Channel 4	Competitions	1
Derren Brown: Trick of	16/04/2006	Channel 4	Exorcism/Occult	1
Dil Pardesi Ho Gaya	01/01/2006	MATV	Offence	1
Dispatches - Mad About	15/05/2006	Channel 4	Due Impartiality/bias	3
The New Fundamentalists	06/03/2006	Channel 4	Religious Offence	2
Doctor Zhivago	20/05/2006	ITV1	Violence	1
Eggheads	23/05/2006	BBC2	Generally Accepted Standards	1
Emmerdale	28/05/2006	ITV1	Sex/Nudity	1
Emmerdale	31/05/2006	ITV1	Offensive language	1
Emmerdale	01/06/2006	ITV1	Generally Accepted Standards	1
Eurovision Song Contest	20/05/2006	BBC1	Generally Accepted Standards	3
Fifth Gear	15/05/2006	Five	Offensive language	1
Fifth Gear	29/05/2006	Five	Dangerous behaviour	1
FTN - Quiz Night Live	21/04/2006	FTN	Competitions	1
FTN - Quiz Night Live	09/04/2006	FTN	Competitions	1
Full Length and Fabulous	28/05/2006	ITV1	Religious Offence	1
GMTV	17/05/2006	ITV1	Crime Incitement	1
GMTV	26/05/2006	ITV1	Generally Accepted Standards	2
Human Traffic	30/05/2006	Sky One	Sex/Nudity	1

Hype Williams Directed	15/04/2006	Kiss	Religious Offence	1
I Didn't Divorce My Kids	28/02/2006	BBC1	U18s in programmes	1
			Generally Accepted Standards	
Iain Lee	17/04/2006	LBC97.3		1
Iain Lee	11/05/2006	LBC97.3	Crime Incitement	1
			Generally Accepted Standards	
ITV News	17/05/2006	ITV1		2
			Generally Accepted Standards	
James Whale Show	14/05/2006	Talksport		1
Johnny Vaughan Breakfast Show	08/05/2006	Capital FM	Generally Accepted Standards	1
			Generally Accepted Standards	
Lip Service	13/05/2006	ITV2		1
Lost Treasure	09/12/2005	Sky Movies	Offensive language	1
		Sci Fi	Generally Accepted Standards	
Masters of Horror	21/03/2006			1
Mike Dickin	06/05/2006	Talksport	Crime Incitement	1
Mike Mendoza	11/05/2006	Talksport	Crime Incitement	1
Miss Match	29/05/2006	Channel 4	Sex/Nudity	1
		BBC Radio		
Newsbeat	26/04/2006		Offensive language	1
Nice House, Shame About the Garden	19/05/2006	Five	Offensive language	1
			Generally Accepted Standards	
Nick Ferrari	04/04/2006	LBC97.3		1
			Generally Accepted Standards	
Nighty Night	11/05/2006	BBC2		1
Quiz Call	04/04/2006	Quiz Call	Competitions	1
Quizmania	20/03/2006	ITV1	Competitions	1
Sky News	11/04/2006	Sky News	Dangerous behaviour	1
Stitch Up!	21/04/2006	BBC1	Crime Incitement	1
T4	13/05/2006	Channel 4	Sex/Nudity	2
Talksport	18/05/2006	Talksport	Animal welfare	1
Tarrant on TV	18/05/2006	ITV1	U18s Sexual offence	1
Test Drive My Girlfriend	07/04/2006	ITV2	Sex/Nudity	1
That Mitchell and Webb		BBC Radio	Generally Accepted Standards	
	11/05/2006			1
The Armstrongs	12/04/2006	BBC2	Offensive language	3
The Best Man	20/03/2006	ITV1	Sex/Nudity	2
		96.4 The		
The Eagle 96.4FM	19/05/2006		Offensive language	1
The Great Big British				
	04/04/2006	TTV	Competitions	1
The Great Big British				
	07/04/2006	I Play	Competitions	1
The Hits	23/05/2006	The Hits	Offensive language	1
The KNTV Show	27/01/2006	Channel 4	Violence	1
The Line of Beauty	24/05/2006	BBC2	Sex/Nudity	1
The Mint	09/05/2006	ITV1	Competitions	1
The Mint	12/05/2006	ITV1	Competitions	1
The Power FM Breakfast		103.2		
	24/03/2006		Sex/Nudity	1
The Search for Animal				
	19/04/2006	Channel 4	Due Impartiality/bias	1
The Simpsons	24/05/2006	Channel 4	Generally Accepted	1

			Standards	
The Vault	03/06/2006	The Vault	Dangerous behaviour	1
The X Factor: Battle of the Stars	28/05/2006	ITV1	Generally Accepted Standards	1
The X Factor: Battle of the Stars	30/05/2006	ITV1	Generally Accepted Standards	2
The X Factor: Battle of the Stars	01/06/2006	ITV1	Generally Accepted Standards	1
This Week	18/05/2006	BBC1	Generally Accepted Standards	1
		BBC Radio	Generally Accepted Standards	1
Today Programme	26/05/2006			
Tonight with Trevor	03/04/2006	ITV1	Due Impartiality/bias	1
Tonight with Trevor	19/05/2006	ITV1	Crime Incitement	1
Top Gear	08/05/2006	BBC2	Offensive language	1
Top Gear	14/05/2006	BBC2	Crime Incitement	2
Trisha Goddard	01/06/2006	Five	Sex/Nudity	1
UTV Live	18/04/2006	ITV1	Inaccuracy/Misleading	1
Wales This Week	27/02/2006	ITV1	Due Impartiality/bias	1
Wife Swap	23/05/2006	Channel 4	U18s in programmes	1
WWE Heat	09/05/2006	Sky Sports	Generally Accepted Standards	1