

The Gig Guide with Nigel Tant

Type of case	Broadcast Standards
Outcome	In Breach
Service	ExmouthAiR Radio
Date & time	1 October 2019, 19:18
Category	Generally accepted standards
Summary	A song contained one use of offensive language. Breach of Rule 2.3 of the Broadcasting Code.

Introduction

ExmouthAiR Radio is a local radio station providing a music and speech service in Exmouth and surrounding areas in Devon. The licence for this service is held by ExmouthAiR Radio Ltd (“ExmouthAiR Radio” or “the Licensee”).

Ofcom received a complaint that the broadcast of the song “Sorry I Let You Down” by Matthew Gordon-Price, as played during The Gig Guide with Nigel Tant, included a use of the word “*fucked*”.

Ofcom requested the Licensee’s comments under Rule 2.3 of the Code which states:

“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...”.

Response

The Licensee acknowledged its “unintentional [and] accidental inclusion of offensive language” and apologised “unreservedly” for the offence caused by the broadcast of the song.

The Licensee explained that the music in this broadcast was provided by a “trusted” guest. It said that the presenter, Nigel Tant, confirmed with the guest that “the music was suitable for transmission as per usual for all guests and the guest stated that the lyrics were clean”. It added that the song was played while the presenter discussed the next section of the interview with the guest, but as “the speakers were turned down”, he “failed to notice” that it contained offensive language.

The Licensee said that the presenter was unaware that offensive language had been broadcast at the time of transmission and was therefore unable to apologise for this on air. It added that the presenter apologised for the potential offence caused to listeners during his show the following week.

It added that, as a result of the incident, it had taken further steps to minimise similar occurrences, including retraining all presenters on the guidelines on offensive language on air and ensuring additional checks are made prior to music to be aired.

Decision

[Ofcom's research on offensive language](#) makes clear that the word "fuck" and variations of it are considered by audiences to be among the most offensive language.

Reflecting our duties under the Communications Act, Rule 2.3 requires that the broadcast of potentially offensive material is justified by the context. Context includes the service on which it is broadcast, the time of broadcast and likely audience expectations.

In this case, "*fucked*" was broadcast at 19:18 on a Tuesday. In our view, the majority of listeners to ExmouthAiR Radio were unlikely to have expected to hear the most offensive language at this time. As a result, we considered the broadcast of this language was not justified by the context.

Ofcom took into consideration the Licensee's representations that the language had been broadcast in error by a guest invited on to the programme. However, the Licensee is responsible for all content broadcast on its service, and for checking that any material it receives from third parties does not raise potential compliance issues before it is broadcast.

We also took into consideration the steps the Licensee said it had taken to prevent recurrence and that an apology was broadcast in the same programme a week later. However, we did not consider that an apology a week after the broadcast of the content would have mitigated the potential offence caused to listeners.

Ofcom's Decision is that the broadcast of offensive language in this programme was in breach of Rule 2.3.

Breach of Rule 2.3