

# **Ofcom Broadcast Bulletin**

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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 objectives<sup>1</sup>. Ofcom must include these standards in a code or codes. These are listed below. 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 Act<sup>2</sup>.

The Broadcast Bulletin reports on the outcome of investigations into alleged breaches of those Ofcom codes 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 ATVOD and the ASA on the basis of their rules and guidance for ODPS. These Codes, rules and guidance documents include:

- a) [Ofcom’s Broadcasting Code](#) (“the Code”).
- b) the [Code on the Scheduling of Television Advertising](#) (“COSTA”) which contains rules on how much advertising and teleshopping may be scheduled in 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. 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 advertising<sup>3</sup>.
- 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) rules and guidance for both [editorial content and advertising content on ODPS](#). Ofcom considers sanctions in relation to ODPS on referral by the Authority for Television On-Demand (“ATVOD”) or the Advertising Standards Authority (“ASA”), co-regulators of ODPS for editorial content and advertising respectively, or may do so as a concurrent regulator.

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

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<sup>1</sup> The relevant legislation is set out in detail in Annex 1 of the Code.

<sup>2</sup> The relevant legislation can be found at Part 4A of the Act.

<sup>3</sup> 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.

licensees must 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 Bulletin may therefore cause offence.**

## Standards cases

### In Breach

#### Subh-e-Pakistan

Geo TV, 19 June 2015, 10:00

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#### Introduction

Geo TV is a general entertainment television channel for the Asian community, broadcasting in English and Urdu. The licence for this service is held by Geo TV Limited (“the Licensee”). *Subh-e-Pakistan* is a magazine style live morning show.

A complaint alerted Ofcom to the broadcast in this programme of potentially harmful advice on how to control diabetes. Ofcom viewed the material and translated the relevant section of the programme from Urdu to English. Geo TV confirmed that the translation was accurate.

Having assessed the programme, Ofcom was concerned about an astrology section within the programme. This ten minute segment included a discussion with a man, Ali Muhammed, who introduced and referred to himself as a “*gemmologist*”<sup>1</sup> in the programme. The discussion focused on diamonds. It covered: the astrological significance of diamonds “*considered [to be] lucky stones*”; a historical summary about prestigious diamonds such as the Koh-i-Noor<sup>2</sup> diamond; and an explanation on the “*power that Allah has imbued*” in diamonds.

Ofcom was concerned about the following exchange between the presenter and his guest:

Ali Muhammed: *“This [diamonds] basically can bring you great wealth and treasure, as Allah has endowed it with great powers...it should be noted that you should never wear a diamond that has been worn by someone else, because it is absorbent...A diamond stone does not simply reflect, it also absorbs. It takes energy from outside and transfers it into your body...You see, in the same way that Allah has imbibed special qualities in certain herbal medicines, diamonds are the same. There’s nothing intrinsic in the diamond stone itself, it’s the power that Allah has imbued in the stone. For instance, like fire has the power to burn. So, by wearing diamonds it gives a person a certain gravitas, and it also increases your wealth, and intellectual capacity. Also, and I speak from my own personal experience, is the issue of diabetes. If a person wears a diamond their diabetes can be controlled, and I have 10 years personal experience in this regard”.*

Presenter: *“So it affects the pancreas directly?”*

Ali Muhammed: *“Yes, it affects the pancreas and controls diabetes. It doesn’t bring your diabetes to an end, but it can bring it under control”.*

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<sup>1</sup> A gemmologist is someone who is an expert in the science of natural and artificial gemstones.

<sup>2</sup> The Koh-i-Noor diamond forms part of the Crown of Queen Elizabeth II.

Presenter: *“But that’s so expensive, who could afford such treatment?”*

Ali Muhammed: *“Look, this is entirely a person’s preference”.*

Guest: *“In certain people buying a diamond can cause cardiac arrest!”*  
[Audience laugh and applaud]

Ofcom considered this material raised issues warranting investigation under Rule 2.1 of the Code, which states that:

“Generally accepted standards must be applied to the content 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”.

We therefore sought comments from the Licensee as to how the material complied with this rule.

### **Response**

The Licensee said it did not consider that these comments breached Rule 2.1 of the Code. The Licensee stated that the exchange between the presenter and Ali Muhammed (as detailed in the Introduction) lasted “no more than 30 seconds in a programme of nearly an hour...Accordingly, the segment must be looked at in this context and not in isolation [emphasis in original]”.

By way of background, Geo TV Limited said that *Subh-e-Pakistan* was a “light entertainment programme targeted specifically at [a] female audience” and included “lifestyle segments such as fashion, cooking and healthcare”.

The Licensee explained that “Muslim gem[m]ologist[s] representing a few Muslim sects [were] of the view that stones like diamonds help rid deficiencies in people”. It added that this view stemmed from the belief “in the powers vested by God (Allah) in [gem]stones [because] Prophet Muhammed is believed to have worn an “Aqeeq” [Akik]<sup>3</sup> stone...[which] helps the human body in many ways”.

Geo TV Limited argued that the “segment complained of was not medical advice”. The Licensee said that Ali Muhammed “did not say that diamonds could cure diabetes [and] clearly [said] it can be controlled”. It added that Ali Muhammed “was not medically qualified” and “it was clear that [it] was his view as a gem[m]ologist [emphasis in original] and those of a certain sect”. Therefore, “any reasonable Pakistani [emphasis in original] viewer would have known that what Mr Muhammed was saying was not medical advice”.

The Licensee said it would place an on screen ticker during the morning show for two days stating that “the content [broadcast on 19 June 2015] was not intended to be and is not a substitute for professional medical advice, diagnosis or treatment” and to “[a]lways seek medical advice from your doctor regarding a medical condition”. Geo TV Limited explained that “a compliance team member regularly [met] with the producer and editing teams” and regularly checked episodes to ensure that the Code was complied with. Geo TV added that since Ofcom recently found an edition of

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<sup>3</sup> An Akik stone is a stone with a special status in Islam because such a stone was worn by the Prophet Muhammed in the form of ring. Some Muslims believe an Akik stone brings good health and offers protection to one who wears it.

*Subh-e-Pakistan* in breach of Rule 2.1<sup>4</sup> it had taken steps to ensure that episodes were now reviewed on “a daily basis”. The Licensee said in future it would broadcast a disclaimer “where any alternate medical advice is being given or where it may form part of a belief” and edit segments that might raise concerns.

## Decision

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

Rule 2.1 states that generally accepted standards must be applied to the contents of television and radio services so as to provide adequate protection from members of the public from the inclusion in such services or harmful and/or offensive material. This rule is specifically concerned with the protection of viewers from harm.

In reaching a Decision in this case, Ofcom has taken into account the broadcaster’s and audience’s right to freedom of expression set out in Article 10 of the European Convention on Human Rights (“ECHR”). Ofcom also had regard to Article 9 of the ECHR which states that everyone “has the right to freedom of thought, conscience and religion”. This Article goes on to make clear that this right is “subject only to such limitations as are prescribed by law and are necessary in a democratic society in the interests of public safety, for the protection of...health...or the protection of the rights and freedoms of others”.

Programmes that provide lifestyle and health advice about potentially serious medical conditions against a background of religious and spiritual beliefs can be broadcast, provided adequate protection is provided for members of the public so as to comply with the Code. Whether such protection is provided will depend on all the circumstances, including as relevant: the health or lifestyle issues being discussed; the extent to which a cure or treatment is offered; and, any warnings or caveats given to viewers.

We noted that the purpose of this segment of the programme was to give a specialist insight into the belief that *“Allah imbued...special qualities”* in diamonds. One example provided by Ali Muhammed was the suggested ability of diamonds to control diabetes. Diabetes is a potentially serious medical condition, with a number of significant associated risks if not sufficiently controlled, and for which there are various widely accepted and recommended medical treatments<sup>5</sup>.

We noted that during the segment Ali Muhammed compared the qualities of a diamond to herbal medicines: *“in the same way that Allah has imbibed special qualities in certain herbal medicines, diamonds are the same...it’s the power that Allah has imbued in the stone”*. He went on to explain that *“[i]f a person wears a diamond their diabetes can be controlled”* and testified that he had *“10 years personal experience in this regard”*. In Ofcom’s view Ali Muhammed was clearly providing advice on how to control diabetes, partly based on his own experience, and

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<sup>4</sup> [http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb284/Issue\\_284.pdf](http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb284/Issue_284.pdf)

<sup>5</sup> <https://www.diabetes.org.uk/Guide-to-diabetes/Complications/>

advocated the practice of wearing a diamond as an effective treatment for this potentially serious medical condition.

In Ofcom's view Ali Muhammed's statements were capable of encouraging some viewers to believe that diabetes could successfully be controlled, and therefore treated, by the type of spiritual healing using diamonds advocated in this programme. We were mindful that some viewers with diabetes may have been more vulnerable to the advice in the programme that wearing a diamond could effectively control diabetes without the need for conventional medical treatment. This clearly had the potential to cause harm to viewers because some of them – especially more vulnerable ones – may not seek, or may abandon, existing medical treatment on the basis of this advice given in the programme.

We noted the Licensee's comment that Ali Muhammed "was not medically qualified". However we took into account that Ali Muhammed had referred to himself as a "*gemmologist*" in the programme. Therefore by presenting himself to viewers as an expert on gemstones, we considered it more likely that some viewers would respect and follow his advice about treating diabetes and so increase to some extent the likelihood that the broadcast of his advice might cause harm.

We took into account that Ali Muhammed stated that wearing a diamond "*doesn't bring your diabetes to an end*" – that is, cure it completely. However, we considered that advocating the practice of wearing a diamond as an effective treatment for controlling this medical condition was potentially very harmful. This is because if diabetes is left untreated it can lead to potentially serious and life threatening complications.

Ofcom noted the Licensee's comments that "many Muslims" considered gemstones helped "rid deficiencies in people" due to "the powers vested by God (Allah) in [gem]stones [because] Prophet Muhammed is believed to have worn an "Aqeeq" [Akik] stone...[which] helps the human body in many ways". The astrology segment of this lifestyle programme was intended in part to explain the spiritual belief in gemstones based on the benefits of the Akik stone worn by the Prophet Muhammed<sup>6</sup>. For example, Ali Muhammed stated that possession of a diamond would "*increase wealth and your intellectual capacity*". However, in Ofcom's view the segment clearly went further than providing an insight into this spiritual belief practised by certain Muslim sects.

For all the reasons set out above, we concluded that this material had the potential to cause harm to the audience. We next considered whether the Licensee took steps to provide adequate protection to viewers from this potentially harmful material.

We noted that at no point immediately before, during or immediately after the astrology segment of the programme was a warning to viewers broadcast or any references made to the need to seek qualified medical advice. However, we did take into account that: the gemmologist did, when talking about diamonds controlling diabetes, say that "*it doesn't bring your diabetes to an end...*"; the advice was for a small portion of a larger astrology and daily horoscope reading; and, the presenter and a guest on the show queried the expense of the "*treatment*" – that is, buying a diamond. However, we considered that these comments were not sufficient to mitigate the risk of viewers following the advice as an alternative method of treatment to control diabetes.

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<sup>6</sup> See footnote 3.

We took into account the Licensee's comment that "any reasonable Pakistani [emphasis in original] viewer would have known" that it was Ali Muhammed's "view [as] a gemmologist [emphasis in original]" and "was not medical advice". We disagreed. Ali Muhammed was presented as a "*gemmologist*" (an expert on gemstones) who gave his view of the diamond as having "*the power that Allah as imbued in the stone*", and likened it to a similar spiritual belief that "*Allah has imbued special qualities in certain herbal medicines*". The "*power*" of the diamond was described as "*affect[ing] the pancreas and control[led] diabetes*". In Ofcom's view the cumulative effect of these statements, together with Ali Muhammed's testimony of having "*10 years personal experience*" in controlling his own medical condition through wearing a diamond, posed a material risk that some viewers might take his views seriously and follow his advice.

Ofcom was concerned that the Licensee did not consider the advice of Ali Muhammed to be potentially harmful, especially in view of the fact that Ofcom had previously found the same programme in breach of Rule 2.1 for broadcasting inappropriate advice about how to treat serious medical conditions. We noted that as a result of that breach, but while investigating the current case, Ofcom met with Geo TV to discuss its compliance arrangements. At that meeting Geo TV Limited outlined various steps it was taking to improve its compliance with Rule 2.1 in the future. These included: providing both more and appropriate warnings for viewers before and during programmes; reviewing episodes of this programme more rigorously; and, being more aware of the need to edit out unsuitable content.

For all the reasons set out above, however, Ofcom considered that Geo TV Limited did not provide adequate protection to viewers from potentially harmful material, and so breached Rule 2.1. Ofcom remains concerned about the Licensee's approach to compliance with this rule. We are therefore putting Geo TV Limited on notice that any further breaches of this rule may result in further regulatory action.

### **Breach of Rule 2.1**

## In Breach

### Inside Amy Schumer (trailer)

Comedy Central, 5 September 2015, 22:00

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#### Introduction

Comedy Central is a channel featuring comedy series and stand-up comedy aimed at a primarily adult audience. The licence for Comedy Central is held by Paramount UK Partnership (“Paramount UK” or the “Licensee”).

A complainant alerted Ofcom to a trailer broadcast at 22:00 on Comedy Central for the new season of *Inside Amy Schumer*, which they considered to be too graphic in its language and description of sexual acts.

The trailer featured a group of men sitting around a table playing poker. A female character played by the comedian Amy Schumer entered the room with a plate of chicken wings, which she placed in the middle of the poker table. Before leaving the room she turned to one of the players, her husband, played by the actor Zach Braff, and put her arms around his neck before saying:

*“If nobody needs anything else, honey, I’m going to head upstairs, start lubing up, so you can blast my dirt-box with your thumb while you lobster hand me in the twat, okay? Seriously, I want you to thumb-dash that mudpit ‘til I make a pig noise. Then you can shit on my tits while I call my mom”.*

Amy Schumer then addressed the other poker players (“*You guys are always welcome here!*”) before leaving the room. Zach Braff then paused for a moment, while all the other poker players looked down in an uncomfortable silence, and then reached for a chicken wing and said:

*“Guess I should eat up... I gotta shit on those tits!”*

We considered that this material raised potential issues under Rule 2.3 of the Code:

*“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,...sex,...discriminatory treatment or language (for example on the grounds of...gender...). Appropriate information should also be broadcast where it would assist in avoiding or minimising offence”.*

We therefore sought comments from Paramount UK as to how the trailer complied with this rule.

#### Response

Paramount UK said that when originally broadcast it considered that this trailer was suitable for post-watershed audiences and was not in breach of Rule 2.3. This was because at that time its view was that: Comedy Central was “a challenging brand” and on this service the trailer was acceptable post-watershed; “the self-contained nature of the skit and its familiar setting would provide enough context”; the “extreme nature of the dialogue would negate any offence as it was clearly intended to verge

on the ridiculous”; and, scheduling post-watershed “would allow for stronger and more challenging content.”

However, the Licensee said it had revised that view in light of Ofcom’s breach finding involving 14 pre-watershed trailers broadcast on Comedy Central<sup>1</sup> and a subsequent meeting with Ofcom to discuss its compliance of trailers both pre- and post-watershed. As a result, Paramount UK said it accepted that this trailer was “scheduled in error”. The Licensee added that it had: taken account of Ofcom’s guidance; recognised that the broadcast of trailers containing offensive material (which viewers come across unawares) could not be justified by the context in the same way as editorial programming; and accepted that the scheduling of “stronger” promotional trailers required “a much more stringent process”.

It therefore said it was tightening up its compliance process for such trailers, requiring them to be approved by the senior director of compliance and the Managing Director of Comedy Central before broadcast and requiring them to be “flagged to only be broadcast around more relevant content later in the evening. We feel that had the promo adhered to those rules, it may have been suitable [for broadcast] and therefore this is the approach we intend to take.”

## Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, which includes providing adequate protection for members of the public from harmful and/or offensive material. This objective is reflected in Section Two of the Code.

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.

Although the Code requires that potentially offensive material is justified by its context, there is significant room for innovation, creativity and challenging material within comedy programming. However, broadcasters do not have *unlimited* licence in terms of offensive material. There may be circumstances in which relevant contextual factors (such as whether the editorial content is programming or a trailer, audience expectations, or warnings given to the audience) are not sufficient to justify the broadcast of offensive material.

In applying Rule 2.3 in this case, Ofcom acknowledged the paramount importance attached to the right of freedom of expression, as set out in Article 10 of the European Convention on Human Rights. In particular, broadcasters must be permitted to enjoy the creative freedom to explore controversial and challenging issues and ideas, and the audience must be free to view and listen to those issues and ideas, without unnecessary interference. However, the broadcaster’s right to freedom of expression is not absolute. In carrying out its duties, Ofcom must balance

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<sup>1</sup> Published on 12 October 2015. See: [http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb290/Issue\\_290.pdf](http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb290/Issue_290.pdf)

the right to freedom of expression on one hand, against the requirement in the Code to apply generally accepted standards.

Ofcom first considered whether the material in this programme had the potential to cause offence. We noted that in this trailer Amy Schumer used a number of highly graphic terms to describe various sexual acts such as: “*lubing up*”, “*blast my dirt-box with your thumb*”, “*lobster hand me in the twat*”, “*thumb-dash that mudpit*”, and “*shit on my tits*”. We considered that these various graphic, sexual references were clearly capable of causing offence.

We went on to consider whether the broadcast of these potentially offensive statements were justified by the context.

We assessed first the editorial context in which the trailer was broadcast. We noted this trailer was broadcast at 22:00<sup>2</sup>, one hour after the watershed. We recognised that viewers of specialist comedy channels, such as Comedy Central, would have been likely to expect stronger and more challenging material to be broadcast at this time well after the watershed.

However, the content in this case was included within a trailer. Ofcom’s research on offensive language<sup>3</sup> notes that audiences consider offensive language less acceptable if it is included in trailers. This is because audiences do not choose to watch promotions for programmes. They come across them unawares. Viewers cannot therefore make informed choices to avoid offensive material in trailers compared to pre-scheduled programmes, and consequently audiences consider that the offensive language is imposed upon them. As stated in Ofcom’s published guidance to Rule 2.3<sup>4</sup>, broadcasters should bear these factors in mind when scheduling trailers which include challenging material.

In this case we took into account that the language and graphic sexual description was used as a comedic tool by a performer known for her scatological and adult approach to comedy. However, because the offensive content was in a trailer, viewers would have come across it unawares. There was therefore no opportunity to place the trailer in context or give viewers any form of warning or information in advance.

On the basis of the scheduling information that the Licensee provided to us, we noted that this trailer was broadcast only between 22:00 and 04:25. However we noted that it was shown during programmes such as: *Friends*; *Two and a Half Men*; and, as in this particular case, *Impractical Jokers*. In our view, while these programmes dealt at times with adult subject matter, they do not contain the graphic sexual language of the strength that appeared in this trailer in this case. We therefore considered that the material broadcast in the trailer would have exceeded audience expectations.

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<sup>2</sup> According to scheduling information that the Licensee had provided to Ofcom we noted that this trailer had not been broadcast before 22:00 or after 04:25. Under the Code the watershed is defined as follows: “The watershed only applies to television. The watershed is at 21:00. Material unsuitable for children should not, in general, be shown before 21:00 or after 05:30”.

<sup>3</sup> Audience attitudes towards offensive language on television and radio, August 2010 (<http://stakeholders.ofcom.org.uk/binaries/research/tv-research/offensive-lang.pdf>), p.60.

<sup>4</sup> See <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section2.pdf>

Ofcom noted that this material was highly graphic in its use of sexual language, and that in our opinion the latitude given to licensees to broadcast highly offensive language in trailers (which are promotional and which viewers come across unawares) should be less than in programmes. We concluded that the content was so offensive that in our view it would have exceeded viewers' expectations even when broadcast at 22:00 (and afterwards) on a specialist comedy channel.

We were concerned that Paramount UK's comment that that this trailer "may have been suitable" for broadcast on Comedy Central after 10pm if "broadcast around more relevant content later in the evening." In our opinion to broadcast this trailer on Comedy Central after 22:00 and comply with the Code would require very careful scheduling and exceptional justification by the context.

For all of these reasons, our view was that the offensive content within this trailer was not justified by the context and exceeded generally accepted standards. Consequently, the trailer breached Rule 2.3 of the Code.

### **Breach of Rule 2.3**

## In Breach

### South Park (trailer)

Comedy Central, 14 September 2015, 22:00

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#### Introduction

Comedy Central is a channel featuring comedy series and stand-up comedy aimed at a primarily adult audience. The licence for Comedy Central is held by Paramount UK Partnership (“Paramount UK” or the “Licensee”).

A complainant alerted Ofcom to a trailer broadcast at 22:00 on Comedy Central to promote the new season of the animated comedy series *South Park*. The complainant considered it featured unacceptable language and was too graphic in its depiction of various offensive acts.

The trailer had a total duration of about 30 seconds. It featured a song celebrating *South Park*'s new season, citing various situations that the characters had found themselves in previous episodes. The lyrics were as follows:

*“Do you recall when Cartman found out his mom was his Dad?  
Or Kyle being turned into a human centi-pad?  
Or how Butters became a pimp and took care of his hos?  
Well, I got some good news for you; we’re making brand new shows!  
South Park’s back for series 19, I can’t fucking wait.  
They’ve been on for nearly 20 years and they’re still fucking great.  
‘I think I prefer Family Guy’, some fucking asshole moans.  
Well, why don’t you go fuck yourself ‘cos South Park’s coming home!”*

The song was illustrated by a variety of short clips from earlier programmes, and some directly corresponded to the lyrics of the song:

- A clip showing the child character Kyle with his face strapped to a man’s anus, while a woman’s face was strapped to Kyle’s anus. The two adult characters were shown on all fours wearing knee pads, while Kyle was suspended between them. The man then began defecating into Kyle’s mouth while violently shaking. This clip coincided with the line in the song about “*Kyle being turned into a human centi-pad*” and lasted about four seconds.
- The next clip corresponded to the line, “*Or how Butters became a pimp and took care of his hos?*” It showed the character Butters standing with a group of prostitutes.
- Another brief clip depicted the character Cartman vomiting excrement into a toilet.
- A clip showing an animated character of Michael Jackson with his nose missing.
- A clip showing a Santa Claus character being tortured, which implied that he was receiving electric shocks to his genitals.

We considered that this material raised potential issues under Rule 2.3 of the Code:

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

We therefore sought comments from Paramount UK as to how the trailer complied with this rule.

## Response

Paramount UK stated that when it originally assessed the trailer it considered it to be suitable for post-watershed audiences. However, it also said that due to a separate Ofcom investigation into a number of Comedy Central’s pre-watershed trailers<sup>1</sup>, the trailer in this case had been removed from the Comedy Central schedule as part of a wider review of the appropriateness of material in all its promotional trailers.

The Licensee initially felt that: “as a challenging brand this promo was acceptable for post-watershed;... its familiar setting would provide enough context and... would negate any offense as it was clearly intended to verge on the ridiculous. Further, at the time Comedy Central felt a post-watershed slot would allow for stronger and more challenging content”. However, having reviewed the content Comedy Central accepted that “the scheduling of stronger promos requires a much more stringent process”, and that “going forward, stronger promos will be escalated by Comedy Central’s compliance manager to both the Senior Director of Compliance and...(the Managing Director of Comedy Central)...for final approval and will be flagged to only be broadcast around more relevant content later in the evening”.

The Licensee stated that it was carrying out a comprehensive review of its compliance procedures, which would include a review of its approval process for post-watershed trailers.

## Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, which includes providing adequate protection for members of the public from harmful and/or offensive material. This objective is reflected in Section Two of the Code.

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.

Although the Code requires that potentially offensive material is justified by its context, there is significant room for innovation, creativity and challenging material within comedy programming. However, broadcasters do not have *unlimited* licence in terms of offensive material. There may be circumstances in which relevant contextual factors (such as whether the editorial content is programming or a trailer, audience expectations, or warnings given to the audience) are not sufficient to justify the broadcast of offensive material.

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<sup>1</sup> See [http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/1519673/Issue\\_290.pdf](http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/1519673/Issue_290.pdf)

In applying Rule 2.3 in this case, Ofcom acknowledged the paramount importance attached to the right of freedom of expression, as set out in Article 10 of the European Convention on Human Rights. In particular, broadcasters must be permitted to enjoy the creative freedom to explore controversial and challenging issues and ideas, and the audience must be free to view and listen to those issues and ideas, without unnecessary interference. However, the broadcaster's right to freedom of expression is not absolute. In carrying out its duties, Ofcom must balance the right to freedom of expression on one hand, against the requirement in the Code to apply generally accepted standards.

Ofcom first considered whether the material in this programme had the potential to cause offence. We noted that this trailer featured various images with adult themes showing characters involved in various offensive acts: for example the child character Kyle was shown engaged in facial to anal contact as part of a 'human centipede' with a male character defecating into Kyle's mouth. In another scene the character Butters was shown with prostitutes ("*his hos*"); the character Cartman was featured vomiting excrement into a toilet, and a Santa Claus character was depicted being tortured. Also this trailer included three instances of "*fucking*" and one instance of "*fuck*". Ofcom's research shows that audiences regard the word 'fuck' and similar words as amongst the most offensive language<sup>2</sup>. We considered that such material was clearly capable of causing offence.

We went on to consider whether the broadcast of this potentially offensive content was justified by the context.

This trailer was broadcast at 22:00<sup>3</sup>, one hour after the watershed. We recognised that viewers of specialist comedy channels, such as Comedy Central, would have been likely to expect stronger and more challenging material to be broadcast at this time well after the watershed.

We had regard also to the following factors: *South Park* is a well-established animated comedy series, known for its adult themes and provocative comedy; the clips were taken from previously broadcast *South Park* material featuring popular moments from previous seasons; and the song lyrics were in *South Park*'s tradition of challenging humour. These factors helped mitigate to some extent in our view the degree of potential offence.

However, the content in this case was included within a trailer. Ofcom's research on offensive language<sup>4</sup> notes that audiences consider offensive language less acceptable if it is included in trailers. This is because audiences do not choose to watch promotions for programmes. They come across them unawares. Viewers cannot therefore make informed choices to avoid offensive material in trailers compared to pre-scheduled programmes, and consequently audiences consider that the offensive language is imposed upon them. As stated in Ofcom's published

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<sup>2</sup> Audience attitudes towards offensive language on television and radio, August 2010 (<http://stakeholders.ofcom.org.uk/binaries/research/tv-research/offensive-lang.pdf>).

<sup>3</sup> From scheduling information that the Licensee provided to Ofcom we noted that this trailer had been broadcast on several occasions but only between 22:00 and 04:30. The Code states: "The watershed only applies to television. The watershed is at 21:00. Material unsuitable for children should not, in general, be shown before 21:00 or after 05:30".

<sup>4</sup> Audience attitudes towards offensive language on television and radio, August 2010 (<http://stakeholders.ofcom.org.uk/binaries/research/tv-research/offensive-lang.pdf>), p.60.

guidance to Rule 2.3<sup>5</sup>, broadcasters should bear these factors in mind when scheduling trailers which include challenging material.

On the basis of the scheduling information that the Licensee provided to us, we noted that this trailer was broadcast during and between programmes such as *Friends*, *Two and a Half Men*, and, in this particular case, *Impractical Jokers*. We noted that the Comedy Central channel does broadcast programmes post-watershed which sometimes contain strong material. However, in our opinion, viewers were not likely to have expected to see the type of material involved in this case in a trailer broadcast at this time. We therefore considered that this trailer would have exceeded most viewers' expectations.

For all of these reasons, our view was that the offensive content within this trailer was not justified by the context and exceeded generally accepted standards. Consequently, the trailer breached Rule 2.3 of the Code.

### **Breach of Rule 2.3**

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<sup>5</sup> See <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section2.pdf>

## In Breach

### Kiss Breakfast

*Kiss, 13 August 2015, 06:00*

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#### Introduction

Kiss is a UK radio station specialising in urban and dance music. The licence for Kiss's London FM service is held by Kiss FM Radio Limited ("Kiss Limited" or "the Licensee").

A complainant alerted Ofcom to offensive language broadcast during a local travel report (broadcast only to the London area) in the breakfast show on 13 August 2015. At 06:40 the presenter said:

*"Latest travel for you. There is queuing traffic for two miles due to, oh fucking hell".*

Approximately three minutes later, after an advertisement break which immediately followed the travel report, a second presenter said:

*"It's Kiss Breakfast. We'd like to apologise if you heard any bad language earlier on today".*

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

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

We therefore asked the Licensee how this use of offensive language complied with this rule.

#### Response

The Licensee apologised and said the broadcast of offensive language in this case was "accidental" and "completely unintentional".

Kiss Limited explained that travel bulletins are broadcast every 30 minutes during the breakfast show. For these bulletins, separate updates are pre-recorded for each of Kiss FM's three regional services as well as its national DAB service. These are then broadcast simultaneously.

Kiss Limited said that in the case of the 06:40 bulletin, the travel update broadcast in London was "not fully edited and the presenter can therefore be heard swearing under her breath in frustration at an error in her delivery". It considered the incident was "deeply regrettable".

The Licensee told Ofcom that "the team immediately noticed the error and apologised at the earliest live opportunity as instructed by the show's Producer...[T]he Producer also reported the error to the Programme Director following the show who subsequently spoke to both the Presenter and Assistant

Producer about the serious nature of the incident and how to prevent it happening again”.

The Licensee said that an updated procedure was put in place the following day to allow each travel bulletin to be recorded earlier “in order to relieve the pressure of turning around a complicated set of local updates”. The Licensee also said that both team members had been “reminded by the Programme Director of the importance of being mindful of language in a studio environment, regardless of whether” the studio was broadcasting live.

In further submissions to Ofcom in response to the Preliminary View (which was to record a breach of Rule 1.14), Kiss Limited emphasised that this incident “was an under-the-breath throw away comment rather than being a sustained rant or intentional link on-air”. The Licensee also said that the presenter had been issued with a warning and had received additional training. In addition, Kiss Limited said it had “reminded all staff about intentional or unintentional swearing in the studio”.

Although the Licensee acknowledged that Ofcom’s guidance in determining when children are particularly likely to be listening is “between 06:00 and 19:00 from Monday to Fridays during school holiday”, it also said that it knew “from daily interactions via social media etc. that it is extremely unlikely that children are likely to be listening in the holidays at this time”.

The Licensee also said it went to “great lengths to ensure the highest standard of broadcasting” and reiterated that “this was a genuine error by a young presenter who was covering the more experienced regular hosts”.

## **Decision**

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

Rule 1.14 of the Code states that “the most offensive language must not be broadcast...when children are particularly likely to be listening (in the case of radio)”. Ofcom research on offensive language<sup>1</sup> notes that the word “fuck” and variations of this word are considered by audiences to be amongst the most offensive language. Ofcom guidance on offensive language makes clear that for the purpose of determining when children are particularly likely to be listening, Ofcom will take account of all the relevant information but that “broadcasters should have particular regard to broadcasting content...between 06:00 and 19:00 at weekends all year round, and in addition, during the same times from Monday to Fridays during school holidays”.

In this case, Ofcom noted the steps taken by the Licensee to correct the error. However, the most offensive language was broadcast in a pre-recorded item on a Thursday morning during school holidays which, as made clear in Ofcom’s guidance, is a time when children are particularly likely to be listening. Therefore there was a breach of Rule 1.14 of the Code.

## **Breach of Rule 1.14**

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<sup>1</sup> <http://stakeholders.ofcom.org.uk/binaries/research/tv-research/offensive-lang.pdf>

## Resolved

### Q Breakfast

Q, 17 August 2015, 06:00

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#### Introduction

Q is a network of seven commercial radio stations<sup>1</sup>, which provide music, local news and information to listeners across Northern Ireland. Q is owned by Northern Media Group Ltd (“Northern Media” or “the Licensee”).

*Q Breakfast* is a programme networked across the seven Q stations. Over the week commencing 17 August 2015, Q’s networked programming included ‘Grab-a-Grand’ – a broadcast competition in which listeners were asked to submit answers via premium rate text message charged at £1.50 plus the user’s standard network rate. A winner was selected at random from a pool of correct entrants after the competition closed, at 18:00 on 21 August.

A Q96.7/102.5 (Belfast) listener complained to Ofcom about the broadcast of ‘Grab-a-Grand’ in *Q Breakfast* on 17 August 2015. The complainant considered the terms and conditions of the broadcast competition were not made clear to listeners.

Ofcom noted that the competition was run six times during *Q Breakfast* on 17 August. On five occasions, the feature ended with a pre-recorded message, which included:

*“...this is a Q group-wide production”.*

On one occasion, at approximately 08:20, ‘Grab-a-Grand’ was broadcast without the pre-recorded message. Listeners were not therefore informed that the competition was being conducted on more than one radio station.

Ofcom considered the broadcast competition raised issues warranting investigation under Rule 2.15 of the Code, which states:

“Broadcasters must draw up rules for a broadcast competition or vote. These rules must be clear and appropriately made known. In particular, significant conditions that may affect a viewer’s or listener’s decision to participate must be stated at the time an invitation to participate is broadcast”.

We asked the Licensee how the broadcast of ‘Grab-a-Grand’ at 08:20 complied with this rule.

#### Response

Northern Media said it had drawn up rules for ‘Grab-a-Grand’, which Q’s Programme Manager had “recorded and placed in the programme schedule to follow the competition read-out”. The Licensee added that “the presenter brief included the line (in capitals!): ‘THERE IS A TOP AND TAIL WHICH YOU MUST PLAY - ESPECIALLY THE TAIL, AS WE ARE LEGALLY OBLIGED TO STATE T & Cs’”. It stated that the brief also “told presenters [when] they were to read out the

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<sup>1</sup> Q96.7/102.5 (Belfast); Q100.5 (Newry), Q101.2 (Omagh and Enniskillen), Q102.9 (Londonderry), Q106/7 (Mid Ulster), Q107 (Ballymena), Q97.2 (Coleraine)

[competition] details, so that this would immediately precede the recorded terms and conditions”.

The Licensee said that, on 17 August, a song which contained the answer to that week’s ‘Grab-a-Grand’ competition, was scheduled to play at 08:18. It added that, when the presenter heard the song being broadcast, “he decided to give the competition an extra mention – but the terms and conditions tail wasn’t placed in this part of his programme schedule, and as a result the terms and conditions weren’t included on this one occasion”. The Licensee also provided information about the number of entries that were received after this broadcast of the competition and before the competition was next broadcast.

Northern Media apologised for this mistake. The Licensee said it had now instructed all its presenters to have a hard copy of the relevant terms and conditions with them in the studio, when running a broadcast competition, so that the relevant information would always be given to potential entrants. The Licensee added that Q’s Programme Manager was now responsible for ensuring presenters adhere to this procedure.

## Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure standards objectives, including “that generally accepted standards are applied to the contents of...radio services so as to provide adequate protection for members of the public from the inclusion in such services of...harmful material.”

This is reflected in part by Rule 2.15 of the Code, which requires, among other things, that “[broadcast competition] rules must be clear and appropriately made known” and “in particular, significant conditions that may affect a...listener’s decision to participate must be stated at the time an invitation to participate is broadcast”.

For competitions to be run fairly, listeners should be given sufficient information to enable them to decide whether or not to participate. When competitions are run simultaneously on various local services, this is likely to result in participation being spread wider (i.e. beyond the local area) than might be obvious to listeners in any one location.

Ofcom’s Guidance to Rule 2.15<sup>2</sup> makes clear that, where a competition is run simultaneously across a number of stations (e.g. a radio network) and the main prize is not awarded by each local/regional service, we normally expect it to be made clear that other services are participating. The Guidance also advises that this should be done both on air and in any written rules, whenever the competition or its results are run. Further, Ofcom expects licensees to exercise particular caution when inviting their audiences to pay premium rates to participate in broadcast competitions.

Ofcom noted that network messaging required in ‘Grab-a-Grand’ was omitted once during the programme on 17 August, in which the broadcast competition was run on five other occasions, when listeners were informed that it was “a Q group-wide production”. However, we considered the fact that the competition was being run across Q – a network of seven stations – to be a significant condition that may have affected listeners’ decision to participate. Some listeners were therefore likely to have entered unaware that they were competing against a significantly larger number of

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<sup>2</sup> See: <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section2.pdf>.

people than they had believed was the case. These listeners would have therefore had a lower chance of being selected to win the prize than they had anticipated. We therefore concluded that the broadcast of 'Grab-a-Grand' ran at approximately 08:20 on 17 August 2015, breached Rule 2.15.

However, Ofcom noted that only approximately 0.5% of that week's 'Grab-Grand' entries were received by Q after the broadcast competition was run at 08:20 and before it was run again, correctly (i.e. when listeners were informed that it was "a Q *group-wide production*"), 20 minutes later. We also noted that Northern Media had both apologised for the error, which was the result of an individual mistake by the presenter of the programme, and taken appropriate action to minimise the risk of recurrence.

Taking all the above factors into account, Ofcom considered the matter to be resolved.

**Resolved**

## Broadcast Licence Conditions cases

### In Breach

#### Provision of licensed service

*EAVA FM (Leicester), 22 June to 31 July 2014*

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#### Introduction

EAVA FM (Leicester) is a community radio service for “Inner-city Leicester’s new migrant and refugee communities, particularly those from East Africa and related areas.” The Licensee for the service is St. Matthews Community Solution Centre Ltd (“SMCSC” or “the Licensee”).

On 1 December 2014, Ofcom found that SMCSC had breached Rules 5.13 and 10.2 of the Code<sup>1</sup> by broadcasting what appeared to be advertisements for Friends of Al Aqsa between 22 June and 31 July 2014<sup>2</sup>. In light of SMCSC’s representations to Ofcom during the course of that investigation, it appeared to us that the programming in question, and possibly all of the programming broadcast on the station between 22 June and 31 July 2014, may not have been ‘provided’ by the Licensee for the purposes of Ofcom’s licensing regime (as set out further below). Rather, it appeared that the output may have been provided by a third party – an organisation called the Federation of Muslim Organisations (“FMO”)<sup>3</sup>, albeit with the consent of SMCSC.

SMCSC is required under Condition 2(1) of the Schedule to its licence to

“...provide the Licensed Service specified in the Annex for the licence period.”

Ofcom considered that the matter raised issues warranting investigation under Condition 2(1) of SMCSC’s licence.

Following the publication of Ofcom’s Finding on the Friends of Al Aqsa material, we wrote to the Licensee to request its comments as to how it complied with Condition 2(1) of its licence between 22 June and 31 July 2014. We also asked for copies of any agreements between itself and FMO with respect to the provision, selection and scheduling of programmes broadcast on EAVA FM during this period.

#### Response

The Licensee provided Ofcom with a copy of its contract with FMO dated 2 June 2014, entitled “Agreement for sponsorship with EAVA FM” (the Contract), and made the following comments:

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<sup>1</sup> <http://stakeholders.ofcom.org.uk/binaries/broadcast/831190/broadcastingcode2011.pdf>

<sup>2</sup> This Finding is available at:  
<http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb2671/obb268.pdf>

<sup>3</sup> The FMO is an established Leicester organisation which had previously broadcast five FM Restricted Service Licences to cover Ramadan in the city between 2007 and 2013. However, in 2014 FMO was unsuccessful in securing a Restricted Service Licence for Ramadan in Leicester.

“Anyway as per our agreement of FMO is as shown below where by they were a partnership and our sponsor for programs of Ramadan, but as you will see below we had strict rules with them to follow and rules of EAVA and Ofcom but they have let us down and they have never shared with the involvement of third party Friends of Al-aqsa or any other party we strictly agreed Ramadan programs and any other sponsor or outside program they should have shared with us.”

The Contract set out (amongst other things) that:

- it covered the period between 22 June and 31 July 2014 on a 24 hour basis, where ‘Community Slots’ would be provided from 06:00 to 00:00 and a “Ramadan special” would be provided from 12:00 to 06:00;
- all programmes would “still remain under the banner of EAVA FM” and that FMO would abide by “EAVA FM rules and regulations and also comply with the Ofcom broadcasting law”;
- during the broadcast of its programmes, FMO agreed to “play the News Feed provided by IRN followed by all jingles provided by EAVA FM every hour. There should also be some information broadcasted regarding weather and traffic at some point during the programmes”;
- FMO agreed to “keep all equipment in the studio to a good working standard and will be responsible during your scheduled time slot”;
- “[e]very once in a while there will be special reports and programmes for the community and EAVA FM expects from FMO to incorporate in their programming”; and
- FMO agreed to “pay a sum of £10,000 for sponsorship to ‘EAVA’ in 3 part payments.” The first payment was to be on the signing of the Contract; the second payment in the first week of broadcasting; and the third payment in the fourth week of broadcasting.

SMCSC again apologised for the broadcasts during Ramadan and stated that it “will never repeat and not work with any of those organisation involve in this matter.”

#### Further representations

Given SMCSC’s comments in its representations about the FMO’s role in the potential licence breach, we decided to seek representations<sup>4</sup> from the FMO on Ofcom’s Preliminary View in this matter.

In its representations, the FMO stated that, since 2012, it had had a contractual agreement in place to work in partnership with EAVA FM to provide Ramadan programming. Further, the FMO stated that the current agreement was not due to expire until 2018 and provided Ofcom with an unsigned copy of that document (dated June 2013). The FMO stated that its arrangements with EAVA FM were “never on the basis of ‘taking over the broadcast capacity’, [but] rather, providing our expertise to the licensee to provide a specialist service to the Muslim community at this time of year.” It continued that “whilst content was facilitated by the FMO, this was

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<sup>4</sup> In accordance with paragraph 1.28 of Ofcom’s general procedures for investigating breaches of broadcast licences.

undertaken in regular consultation with EAVA FM and its representatives” and that “this was not the first year we have worked in partnership...”.

On examining the agreement provided to us by the FMO, it appeared to Ofcom that this differed from the agreement provided to us by SMCSC. In particular, the version provided to us by the FMO seemed to suggest that SMCSC had, since 2012, allowed the FMO to take control over the selection and scheduling of programming broadcast on EAVA FM during the Ramadan period, and that those arrangements were intended to remain in place until 2018.

The FMO’s representations raised concerns for Ofcom that, to the extent that SMCSC may have failed to provide its licensed service during the Ramadan period in 2014, this situation may also have occurred in previous years, and that there may be an intention for it to occur on an annual basis until 2018. On this basis, Ofcom sought further representations from SMCSC on the points raised by the FMO.

In response, SMCSC explained that it had had several meetings with the FMO, during which certain documents were proposed which “were never fully agreed”. SMCSC further stated that the agreement it had provided to Ofcom was the “working document” for 2014 (rather than the agreement provided by the FMO of 2013). Finally, SMCSC stated that “... we have no more working relationship nor we have any agreement in place that will make them [FMO] to have partnership working with us any more. We are assuring you that our Relationship had been terminated...”.

On the basis of the representations received (as set out above), Ofcom decided that EAVA FM was in breach of Condition 2(1) of its Licence, but that this was for a limited period only and was not an ongoing situation. On providing a copy of Ofcom’s draft Decision in this case to the parties, however, the FMO made further representations, reiterating that: a) it had had a “long standing partnership” with EAVA FM; b) that the incident in 2014 was not a “one off”; and c) that the FMO had various pieces of documentation which indicated that certain statements contained in Ofcom’s draft Decision were inaccurate.

In light of SMCSC’s comments and having considered the further representations received from the FMO, Ofcom decided to re-open its investigation and notified both parties accordingly. We asked the FMO to clarify whether or not it held signed copies of any agreement between itself and EAVA FM for the Ramadan period in the years 2012 and 2013 and, if so, to provide those to Ofcom. We also asked the FMO to provide us with any further correspondence that may be relevant to the case. The FMO did not provide us with any further documents.

On that basis, Ofcom concluded its investigation and issued a further Preliminary View, allowing the parties an opportunity to respond before coming to its final decision. SMCSC reiterated its assurance that it would not seek to depend on other parties for the delivery of its service in the way that had occurred during the 2014 Ramadan period. The FMO did not comment on the Preliminary View.

## **Decision**

The Communications Act 2003 (“the 2003 Act”), the Broadcasting Act 1990 (“the 1990 Act”) and the Broadcasting Act 1996 require that any person who provides a radio service in the UK must be authorised to do so under a licence granted by Ofcom. Under section 97(1) of the 1990 Act it is a criminal offence to provide a radio service without a licence.

Under section 362(2) of the 2003 Act, the person responsible for holding a licence is the person who exercises general control over which programmes and other services and facilities are comprised in the service. In May 2010, Ofcom published a document called “Guidance regarding the licensing position on the ‘provider of a service’ and the ‘sub-letting of capacity’” (“the Guidance”)<sup>5</sup>. It states: “Ofcom considers that a person will normally have general control if that person exercises effective control over the selection of programmes that comprise the service and their organisation into a programme schedule. It is the person who will normally be treated as being the provider of the relevant service and who will need to hold a broadcasting licence authorising its provision.”

The Guidance makes clear that a broadcasting licence cannot be ‘sub-let’ by virtue of a Licensee entering into an agreement with a third party to enable that third party to use the Licensee’s broadcast capacity.

In this case, the Licensee’s representations and the contract it provided indicated that it was the FMO, rather than SMCSC, who was exercising effective control over the selection of programmes that comprised the service and their organisation into a programme schedule. In particular, it appeared that FMO was entitled to broadcast material of its choosing, in exchange for paying SMCSC the sum of £10,000. It did not appear that SMCSC had any oversight of the content that FMO chose to broadcast, nor reviewed it prior to transmission. It appeared that the only content SMCSC was selecting and scheduling itself during this time was the “News feed from IRN followed by all jingles provided by EAVA FM every hour,” “some information...regarding weather and traffic” and “special reports and programmes,” which FMO was required to incorporate into its programming as it saw fit.

In Ofcom’s view, this appeared to confirm our concerns that SMCSC did not provide the licensed service, at least between 22 June and 31 July 2014, and that this task may have been ‘sub-let’ to a third party (i.e. the FMO) in breach of Condition 2(1) to the Schedule to SMCSC’s Licence.

Ofcom also gave careful consideration to the representations and agreement that were provided to us by the FMO, and to the representations made in response by SMCSC. As stated earlier, our concern was that, to the extent that SMCSC may have sub-let its capacity during Ramadan 2014, this may also have happened on previous occasions, and that SMCSC may have intended to sublet its capacity again during the Ramadan period. As noted above, ‘sub-letting’ of a radio station’s licence is inconsistent with section 362(2) of the 2003 Act and a matter which Ofcom treats seriously. In cases where this practice is prolonged or continuing, Ofcom may consider it appropriate to revoke the licence.

On the basis of the representations made by SMCSC and the FMO in this case, it appeared that the parties had established a working relationship with respect to broadcasting during Ramadan, at least during 2014 and possibly earlier than that. On the basis of an unsigned agreement for 2013 submitted to Ofcom however, and in the absence of any further information, it was not possible for Ofcom to conclude definitively that SMCSC had sub-let its capacity to the FMO on previous occasions.

Ofcom noted that the incidence of sub-letting in 2014 by SMCSC was for a limited period only (i.e. during Ramadan), and was therefore not an ongoing situation. We also noted the representations made by the Licensee, that it would not repeat this practice and that it had terminated the arrangements which gave rise to this situation.

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<sup>5</sup> <http://licensing.ofcom.org.uk/binaries/tv/service-provider.pdf>

For these reasons, and in the absence of further information to the contrary, it appeared to Ofcom that this instance of sub-letting to the FMO was unlikely to be repeated.

On that basis, given the representations and agreements received from both SMCSC and the FMO, we concluded that SMCSC failed to provide the EAVA FM service between 22 June and 31 July 2014, in breach of Condition 2(1) of its licence. This is because, during that period, SMCSC sub-let its broadcast capacity, which is not permitted under its Licence.

Ofcom takes this opportunity to remind all licensees that they should not enter into 'sub-letting' arrangements.

**Breach of Licence Condition 2(1) in Part 2 of the Schedule to the community radio licence held by St. Matthews Community Solution Centre Ltd (licence number CR000178)**

## In Breach

### Broadcasting licensees' late payment of licence fees

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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 Principles<sup>1</sup>. Detail on the fees and charges payable by licensees is set out in Ofcom's Tariff Tables<sup>2</sup>.

The payment of a licence fee is a requirement of a broadcasting licence<sup>3</sup>. 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 licensees failed to pay their annual licence fees by the required payment date. These licensees have therefore breached 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	Licence Number	Service Name
BRfm Limited	CR000110BA	BRFM
GGFC UK Limited	RLCS000141BA	Ahomka Radio
Seaside Radio Limited	CR000052BA	Seaside FM 105.3

#### Breaches of Licence Conditions 3(1) and (2) in Part 2 of the Schedule of the relevant licences

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[http://stakeholders.ofcom.org.uk/binaries/consultations/socp/statement/charging\\_principles.pdf](http://stakeholders.ofcom.org.uk/binaries/consultations/socp/statement/charging_principles.pdf)

2 [http://www.ofcom.org.uk/content/about/annual-reports-plans/tariff-tables/Tariff\\_Tables\\_2015\\_16.pdf](http://www.ofcom.org.uk/content/about/annual-reports-plans/tariff-tables/Tariff_Tables_2015_16.pdf)

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

## Fairness and Privacy cases

### Not Upheld

#### Complaint by Mrs Jennifer Lee

*News bulletins – Steve and Karen’s Breakfast Show, Metro Radio, 10 June 2015*

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#### Summary

Ofcom has not upheld Mrs Jennifer Lee’s complaint of unjust or unfair treatment in the programme as broadcast.

The programme included a series of news items about Mrs Lee, a young woman suffering from rheumatoid arthritis and her experiences in living with the condition. One news bulletin referred to how the condition has made Mrs Lee “housebound”.

Ofcom found that, while inaccurate and the result of a mistake on the newsreader’s part, the inclusion of the newsreader’s comment relating to Mrs Lee being “housebound”, was unlikely to have materially and adversely affected listeners’ perception of Mrs Lee in a way that was unfair to her.

#### Introduction and programme summary

On 10 June 2015, Metro Radio, a local commercial radio station covering the Tyne and Wear area of England, broadcast an edition of its weekday breakfast programme, *Steve and Karen’s Breakfast Show*, broadcast between 06:00 and 10:00. This edition included half hourly news bulletins until 10:00 (although no bulletin was read at 09:30). Each bulletin included a report about the complainant, Mrs Lee, who has rheumatoid arthritis. The reports, which varied as to the specific details included, summarised Mrs Lee’s experience of being diagnosed with and living with rheumatoid arthritis at a young age. All the reports included statements which Mrs Lee had made about her condition during a pre-recorded interview.

#### 06:00 and 08:00 news bulletins

The newsreader introduced the following report about Mrs Lee:

*“A Newcastle woman with arthritis tells Metro Radio more should be done to help young people with it. Jennifer Lee has the condition which affects the joints”.*

Mrs Lee was then heard saying:

*“Misconception is that it’s something that affects older people. It’s something I got when I was 27 and it just came on very, very quickly. I had lots of problems with my joints and they just became very sore and very sore and it got to the point where I couldn’t get out of bed”.*

This was followed by the newsreader saying:

*“She now wants to make sure that people know that it’s just something, that it’s not just something that old people get”.*

06:30 news bulletin

The newsreader introduced the following report about Mrs Lee:

*“A Newcastle woman who is 27 and has arthritis says there should be more support for younger people with it. It’s often thought it’s older people who suffer from the disease, here’s Jennifer Lee.”*

Mrs Lee was then heard saying:

*“From being very, very fit to suddenly being completely, basically, housebound it was quite difficult”.*

This report was repeated in the 07:30 and the 08:30 news bulletins.

07:00 and 09:00 news bulletins

The newsreader introduced the following report about Mrs Lee:

*“A Newcastle woman tells Metro Radio how her life’s changed completely after being diagnosed with arthritis. Jennifer Lee was just 27 when she was told by doctors that she’ll be taking medication for the rest of her life”.*

Mrs Lee was then heard saying:

*“Osteoarthritis is essentially wear and tear and that’s what a lot of people get, you know, especially older people, but rheumatoid is actually an autoimmune disease, it’s your body immune system which actually attacks the fluid that’s in the joints”.*

The newsreader then said:

*“She now wants more support and better knowledge of the condition among younger people”.*

10:00 news bulletin

The newsreader introduced the following report about Mrs Lee:

*“A Newcastle woman with arthritis says there should be more support for younger people with it. At just 27 years old, Jennifer Lee was told she’d need medication for rheumatoid arthritis all her life. It’s made her housebound”.*

An extract of a pre-recorded interview of Mrs Lee was then played:

*“I think it would help from sort of employers’ point of view to understand what it is cause I don’t think they understand and it is very difficult and I am not saying that’s their fault. It’s something that people don’t really know what it is”.*

No more reports about Mrs Lee were included in the programme and Mrs Lee was not referred to again in the programme.

## Summary of the complaint and the broadcaster's response

Mrs Lee complained that she was treated unjustly or unfairly in the programme as broadcast because her contribution was unfairly edited and misrepresented her personal well-being. Mrs Lee said that the reports implied that she was *"housebound"* when, in fact, she said "I work full time and am extremely active, my disease is well controlled with medication and does not affect my day-to-day living".

In response, Bauer Media Group ("Bauer"), who holds the Ofcom licence for Metro Radio, said that for the 10:00 bulletin, the newsreader had rewritten the story themselves from information they had found in the original transcripts and included the line, which was read aloud, *"it's made her housebound"*. Bauer said that the newsreader had taken this as a direct quote from an earlier clip of Mrs Lee's interview when she said that she had gone *"from being very, very fit to suddenly being completely, basically, housebound it was quite difficult"*. Bauer said that the programme makers stated that it was an error to suggest that Mrs Lee was currently housebound, when, in fact, she had been housebound.

The broadcaster said that Mrs Lee's initial complaint to the radio station suggested that the news items did not fully address the issue of the misunderstanding of rheumatoid arthritis. However, the focus of her complaint changed to the specific use of the word *"housebound"* in the 10:00 bulletin (Metro Radio said that Mrs Lee had only heard the 10:00 bulletin when she made her initial complaint, and none of the previous seven bulletins). Bauer said that the radio station's Head of News and Sports had explained to Mrs Lee what had happened, but that she did not accept that the reference to her being *"housebound"* in the 10:00 bulletin had been a mistake, that it had been done on purpose, and that she wanted a formal apology.

Bauer said that the reference to Mrs Lee being housebound was not done on purpose. It explained that Mrs Lee had said that she was left housebound in the first minute of a ten minute interview and then the discussion moved on, without clarity as to when she stopped being housebound. Bauer said that a journalist had left a clip of Mrs Lee saying that she, "[had been] left housebound" and that subsequently, the newsreader had then used that phrase once herself, in one bulletin, implying wrongly that she "[has been] left housebound". Bauer maintained that it was a genuine mistake.

Whilst clearly regrettable, Bauer said that the programme makers did not feel that this situation warranted a formal apology, but it did warrant an honest admission of a mistake. It was also felt warranted to offer to put the Mrs Lee's full interview online to add clarity to her condition and an offer of a clarification being broadcast. However, the broadcaster said that both these offers were refused by Mrs Lee.

Bauer concluded that it truly believed that everything possible was offered in this situation to make amends for a genuine mistake.

## Ofcom's Preliminary View

Ofcom prepared a Preliminary View on this case that the complaint should not be upheld. Both parties were given the opportunity to make representations on the Preliminary View, but neither chose to do so.

## Decision

Ofcom's statutory duties include the application, in the case of all television and radio services, of standards which provide adequate protection to members of the public and all other persons from unjust or unfair treatment and unwarranted infringement of privacy in, or in connection with the obtaining of material included in, programmes in such services.

In carrying out its duties, Ofcom has regard to the need to secure that the application of these standards is in the manner that best guarantees an appropriate level of freedom of expression. Ofcom is also obliged to have regard, in all cases, to the principles under which regulatory activities should be transparent, accountable, proportionate and consistent and targeted only at cases in which action is needed.

In reaching this decision, Ofcom carefully considered all the relevant material provided by both parties. This included a recording of the programme as broadcast, a transcript of it, a recording of Mrs Lee full interview and both parties' written submissions and supporting documentation.

When considering complaints of unfair treatment, Ofcom has regard to whether the broadcaster's actions ensured that the programme as broadcast avoided unjust or unfair treatment of individuals and organisations, as set out in Rule 7.1 of Ofcom's Broadcasting Code ("the Code").

Ofcom considered Mrs Lee's complaint that she was treated unjustly or unfairly in the programme as broadcast because her contribution was unfairly edited and implied, wrongly, that she was "*housebound*".

In considering this head of the complaint, we had particular regard to Practice 7.9 of the Code and considered whether the portrayal of Mrs Lee in the programme was consistent with the broadcaster's responsibility to take reasonable care to satisfy themselves that material facts had not been presented, disregarded or omitted in a way that is unfair to an individual or an organisation.

Ofcom listened to all the news bulletins broadcast in the programme and noted that reference to Mrs Lee having been "*housebound*" occurred in four of the bulletins. We noted that the 6:30, 7:30 and 8:30 bulletins included the same report, in which the newsreader introduced Mrs Lee's condition and a segment of the pre-recorded interview of Mrs Lee was played, in which Mrs Lee said that "*From being very, very fit to suddenly being completely, basically, housebound it was quite difficult*". In our view, Mrs Lee's comments in these bulletins would have made it clear to listeners that she was referring to being "*housebound*" in the past tense and that this suggested that she did not consider herself "*housebound*" anymore.

However, we then went on to assess the content of the last bulletin in the programme broadcast at 10:00 which stated "*A Newcastle woman with arthritis says there should be more support for younger people with it. At just 27 years old, Jennifer Lee was told she'd need medication for rheumatoid arthritis all her life. It's made her housebound*". We took the view that it was the last sentence in this bulletin that had the potential to be interpreted by listeners that Mrs Lee's rheumatoid arthritis has "*made her housebound*" without the clarification that her being "*housebound*" was in the past. Ofcom considered that by presenting Mrs Lee as being currently housebound, there was a potential for some listeners to form the view that her day-to-day living was affected, which, in turn could, potentially, have negative repercussions for her, for example, by jeopardising her employment prospects.

It is important to note at this point that it is not Ofcom's role to establish whether the substance of the comments about Mrs Lee included in the programme were correct or not, but to determine whether in broadcasting those comments, the broadcaster took reasonable care not to present, disregard or omit material facts in a way that was unfair to Mrs Lee. It is also important to note that the choice of material included in a programme is an editorial decision for programme makers and broadcasters to make and that they are free to exercise such editorial control, so long as it is consistent with the requirements of the Code.

In relation to the bulletin broadcast at 10:00, Ofcom noted the broadcaster's explanation that the format of wording read by the newsreader had been the result of a mistake by the newsreader when editing and summarising part of Mrs Lee's interview and how rheumatoid arthritis had affected her. We acknowledged that the broadcaster accepted that a "regrettable" mistake had been made and that the newsreader's comment had been inaccurate. We also noted that the broadcaster had offered to broadcast a statement to clarify that Mrs Lee was no longer housebound, but that that offer was not taken up by her.

Ofcom considered that care must be taken in choosing the manner in which material is presented in programmes and programme makers and broadcasters must be aware of the risk, whether intentional or not, that an unfavourable impression may be created in the minds of listeners that could have the potential to be unfair to an individual or organisation.

We recognised that that there was potential for listeners to have formed a negative perception of Mrs Lee by the reference to her in the 10:00 bulletin to her being "*housebound*" and that this could have had repercussions for her in her private and/or professional life. However, from the information available to Ofcom in considering Mrs Lee's complaint, we noted that she did not provide us with any material to show that she had experienced any negative or adverse repercussions or that listeners had taken a negative view of her as a direct result of the bulletin.

In the particular circumstances of case, although we appreciated that the editing and summary of Mrs Lee's interview by the newsreader was inaccurate, we considered that it was unlikely that the comment to her being "*housebound*" would, in itself, have materially or adversely affected the opinion those ordinary listeners (who had no knowledge of Mrs Lee, or of her condition prior to the broadcast) had of Mrs Lee in way that could reasonably be considered as being unfair to her. Further, we took the view that those listeners who knew Mrs Lee, would, in all likelihood, have been aware that Mrs Lee was not currently "*housebound*", but rather, as Mrs Lee stated in her complaint, that she was "extremely active" and that her "disease is well controlled with medication and does not affect my day-to-day living".

Given all the factors referred above, and in all the circumstances, we considered that, while inaccurate and the result of a mistake by the newsreader, the inclusion of the newsreader's comment relating to Mrs Lee being "*housebound*", did not, in itself, result in unfairness to her.

Therefore, Ofcom found that Mrs Lee was not treated unfairly in the programme in this respect.

**Ofcom has not upheld Mrs Lee's complaint of unjust or unfair treatment in the programme as broadcast.**

## Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 31 October and 13 November 2015 and decided that the broadcaster did not breach Ofcom's codes, 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
Celebrity Big Brother's Bit on the Side	5*	05/09/2015	Transgender discrimination/offence
The Jeremy Kyle Show	ITV	09/09/2015	Scheduling

For more information about how Ofcom conducts investigations about content standards, go to: <http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/>.

## Complaints assessed, not investigated

Here are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 31 October and 13 November 2015 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 conducts investigations about content standards, go to:

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/>.

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Drifters	4Music	14/10/2015	Sexual material	1
Programming	4Music	15/10/2015	Scheduling	1
Programming	4Music	06/11/2015	Scheduling	1
Trending! Your Afternoon Hitlist	4Music	02/11/2015	Sexual material	1
NCIS	5USA	08/11/2015	Outside of remit / other	1
News	Bangla TV	02/09/2015	Materially misleading	1
BBC News at Ten	BBC 1	29/10/2015	Outside of remit / other	1
Countryfile's Ramble for Children in Need	BBC 1	01/11/2015	Fairness	1
Cuffs	BBC 1	28/10/2015	Scheduling	28
Cuffs	BBC 1	04/11/2015	Materially misleading	1
Cuffs	BBC 1	04/11/2015	Scheduling	8
Cuffs	BBC 1	11/11/2015	Scheduling	14
Doctor Who	BBC 1	31/10/2015	Generally accepted standards	3
Doctor Who	BBC 1	07/11/2015	Generally accepted standards	31
EastEnders	BBC 1	23/10/2015	Transgender discrimination/offence	1
Is This Rape? Sex on Trial (trailer)	BBC 1	30/10/2015	Scheduling	2
Neighbourhood Blues	BBC 1	11/11/2015	Violence and dangerous behaviour	1
Panorama: Europe's Border Crisis – The Long Road	BBC 1	30/09/2015	Under 18s in programmes	1
Pointless	BBC 1	31/10/2015	Offensive language	1
Remembrance Sunday: The Cenotaph	BBC 1	08/11/2015	Generally accepted standards	1
Strictly Come Dancing	BBC 1	24/10/2015	Offensive language	1
The Apprentice	BBC 1	11/11/2015	Outside of remit / other	1
The Hunt	BBC 1	01/11/2015	Animal welfare	1
The Hunt	BBC 1	01/11/2015	Materially misleading	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
The One Show	BBC 1	04/11/2015	Offensive language	1
The Royal British Legion Festival of Remembrance 2015	BBC 1	07/11/2015	Generally accepted standards	2
Watchdog	BBC 1	05/11/2015	Religious/Beliefs discrimination/offence	1
Look East	BBC 1 East	09/10/2015	Animal welfare	1
Autumnwatch	BBC 2	02/11/2015	Generally accepted standards	1
London Spy	BBC 2	09/11/2015	Generally accepted standards	10
Nature's Weirdest Events	BBC 2	29/10/2015	Flashing images/risk to viewers who have PSE	1
Strictly Come Dancing: It Takes Two	BBC 2	05/11/2015	Outside of remit / other	1
The Great Pottery Throw Down	BBC 2	03/11/2015	Generally accepted standards	1
The Great Pottery Throw Down	BBC 2	07/11/2015	Scheduling	1
The Last Kingdom	BBC 2	22/10/2015	Gender discrimination/offence	1
The Last Kingdom	BBC 2	22/10/2015	Generally accepted standards	1
The Last Kingdom	BBC 2	22/10/2015	Television Access Services	1
The Last Kingdom	BBC 2	22/10/2015	Under 18s in programmes	1
Victoria Derbyshire	BBC 2	26/10/2015	Transgender discrimination/offence	1
Victoria Derbyshire	BBC 2	02/11/2015	Generally accepted standards	1
Britain's Biggest Sexists	BBC 3	03/11/2015	Gender discrimination/offence	2
Britain's Biggest Sexists	BBC 3	04/11/2015	Gender discrimination/offence	1
The Rise of Female Violence	BBC 3	09/11/2015	Generally accepted standards	1
Top Gear	BBC 3	03/11/2015	Offensive language	1
Storyville: 1.7 Billion Dollar Fraud	BBC 4	05/11/2015	Outside of remit / other	1
Sports Day	BBC News Channel	10/11/2015	Flashing images/risk to viewers who have PSE	1
The Radio 1 Breakfast Show with Nick Grimshaw	BBC Radio 1	11/11/2015	Fairness	1
BBC News	BBC Radio 2	08/11/2015	Scheduling	1
BBC News	BBC Radio 2	Various	Outside of remit / other	1
Jeremy Vine: Vanessa Feltz sits in	BBC Radio 2	30/10/2015	Sexual orientation discrimination/offence	9
Midweek	BBC Radio 4	04/11/2015	Race discrimination/offence	1
The Brig Society	BBC Radio 4	24/01/2015	Religious/Beliefs discrimination/offence	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
The Brig Society	BBC Radio 4	15/10/2015	Religious/Beliefs discrimination/offence	1
The Lentil Sorters	BBC Radio 4	11/11/2015	Race discrimination/offence	1
There is No Escape	BBC Radio 4	03/11/2015	Offensive language	1
BBC News	BBC Radio 5 Live	02/11/2015	Outside of remit / other	1
Alex Dyke	BBC Radio Solent	n/a	Outside of remit / other	6
Champions League Football	BT Sport 2	04/11/2015	Generally accepted standards	1
Murder in Paradise	CBS Reality	28/10/2015	Generally accepted standards	1
4NewsWall.com promotion	Channel 4	28/10/2015	Scheduling	1
Bernard Matthews' sponsorship of The Simpsons	Channel 4	05/11/2015	Sponsorship credits	4
Bernard Matthews' sponsorship of The Simpsons	Channel 4	06/11/2015	Sponsorship credits	1
Bernard Matthews' sponsorship of The Simpsons	Channel 4	Various	Sponsorship credits	4
Catastrophe (trailer)	Channel 4	Various	Scheduling	1
Channel 4 News	Channel 4	23/07/2015	Due accuracy	1
Channel 4 News	Channel 4	05/11/2015	Disability discrimination/offence	1
Dispatches: Aldi's Supermarket Secrets	Channel 4	09/11/2015	Materially misleading	5
Dispatches: How to Stop Your Nuisance Calls	Channel 4	25/10/2015	Harm	1
Food Unwrapped	Channel 4	02/11/2015	Scheduling	1
Gogglebox	Channel 4	23/10/2015	Generally accepted standards	1
Gogglebox	Channel 4	30/10/2015	Generally accepted standards	1
Hollyoaks	Channel 4	11/11/2015	Scheduling	1
Hollyoaks	Channel 4	12/11/2015	Scheduling	1
Homeland	Channel 4	11/10/2015	Race discrimination/offence	1
Kitchen Impossible with Michel Roux Jr	Channel 4	29/10/2015	Disability discrimination/offence	2
Kitchen Impossible with Michel Roux Jr	Channel 4	05/11/2015	Generally accepted standards	1
My Psychic Life	Channel 4	04/11/2015	Materially misleading	24
Prison Night (trailer)	Channel 4	02/11/2015	Offensive language	1
SAS: Who Dares Wins	Channel 4	02/11/2015	Sexual orientation discrimination/offence	1
TFI Friday	Channel 4	30/10/2015	Animal welfare	33
TFI Friday	Channel 4	30/10/2015	Generally accepted standards	1
TFI Friday	Channel 4	30/10/2015	Offensive language	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
TFI Friday	Channel 4	06/11/2015	Animal welfare	1
The Open at Cheltenham with AP McCoy (trailer)	Channel 4	11/11/2015	Generally accepted standards	1
The Secret Life of 4 Year Olds	Channel 4	10/11/2015	Race discrimination/offence	1
Unreported World: The Fight for Sight	Channel 4	16/10/2015	Generally accepted standards	1
Ben Fogle: New Lives in the UK	Channel 5	12/11/2015	Crime	1
Benefits	Channel 5	09/11/2015	Materially misleading	2
Can't Pay? We'll Take it Away!	Channel 5	04/11/2015	Fairness	1
Chris Tarrant: Extreme Railway Journeys	Channel 5	22/10/2015	Generally accepted standards	1
Defending Santa	Channel 5	08/11/2015	Offensive language	1
Milkshake (trailer)	Channel 5	30/10/2015	Scheduling	1
Pets Who Hate Vets	Channel 5	03/11/2015	Animal welfare	1
Robin Hood: Prince of Thieves	Channel 5	08/11/2015	Offensive language	1
Alan Davies: As Yet Untitled	Dave	10/11/2015	Offensive language	1
Ice Road Truckers	Dave	10/11/2015	Scheduling	1
Bear Grylls Running Wild	Discovery	28/10/2015	Animal welfare	1
Pickle and Peanut	Disney XD	01/11/2015	Scheduling	1
Bear Grylls: Born Survivor	DMAX	20/10/2015	Animal welfare	1
Catastrophe (trailer)	E4	25/10/2015	Scheduling	1
Chewing Gum	E4	13/10/2015	Race discrimination/offence	1
Made in Chelsea	E4	09/11/2015	Race discrimination/offence	1
Rude Tube	E4	10/11/2015	Generally accepted standards	1
Transformers: Revenge of the Fallen	E4	07/11/2015	Advertising scheduling	1
Diners, Drive-Ins and Dives	Food Network	16/10/2015	Offensive language	1
Blackadder	Gold	17/10/2015	Scheduling	1
Inhuman Resources	Horror Channel	04/11/2015	Generally accepted standards	1
Iman FM	Iman FM	27/10/2015	Gender discrimination/offence	1
Anadin's sponsorship of The Chase	ITV	02/11/2015	Sponsorship credits	1
Anadin's sponsorship of The Chase	ITV	05/11/2015	Sponsorship credits	1
Anadin's sponsorship of The Chase	ITV	Various	Sponsorship credits	1
Bridget Jones's Diary	ITV	17/10/2015	Advertising scheduling	2
Comparethemarket.com's sponsorship of Coronation Street	ITV	26/10/2015	Sponsorship credits	2

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Coronation Street	ITV	06/11/2015	Disability discrimination/offence	1
Death Becomes Her	ITV	07/11/2015	Violence and dangerous behaviour	1
Downton Abbey	ITV	01/11/2015	Materially misleading	1
Downton Abbey	ITV	08/11/2015	Generally accepted standards	2
Emmerdale	ITV	27/10/2015	Violence and dangerous behaviour	1
Everything or Nothing: The Untold Stories of 007	ITV	01/11/2015	Nudity	1
Everything or Nothing: The Untold Stories of 007	ITV	01/11/2015	Violence and dangerous behaviour	1
Gino's Italian Escape: Islands in the Sun	ITV	06/11/2015	Animal welfare	1
Green Flag's sponsorship of ITV Weather	ITV	08/11/2015	Sponsorship credits	1
Green Flag's sponsorship of ITV Weather	ITV	10/11/2015	Sponsorship credits	1
ITV News and Weather	ITV	01/11/2015	Outside of remit / other	1
ITV News London	ITV	03/11/2015	Scheduling	1
ITV News Wales at 6	ITV	09/11/2015	Outside of remit / other	1
Judge Rinder	ITV	30/10/2015	Religious/Beliefs discrimination/offence	1
Loose Women	ITV	03/11/2015	Scheduling	1
Loose Women	ITV	04/11/2015	Materially misleading	3
Loose Women	ITV	05/11/2015	Gender discrimination/offence	1
Lorraine	ITV	29/10/2015	Generally accepted standards	1
Lorraine	ITV	30/10/2015	Scheduling	1
McCain's sponsorship of Emmerdale	ITV	27/10/2015	Sponsorship	1
Prey (trailer)	ITV	24/10/2015	Scheduling	1
Programming	ITV	Various	Outside of remit / other	1
The Almost Impossible Gameshow	ITV	01/11/2015	Offensive language	1
The Channel Tunnel Group's sponsorship of Meridian Weather	ITV	05/10/2015	Sponsorship credits	1
The Jeremy Kyle Show	ITV	15/10/2015	Generally accepted standards	1
The Jeremy Kyle Show	ITV	10/11/2015	Generally accepted standards	1
The Jonathan Ross Show	ITV	26/10/2015	Animal welfare	1
The Jonathan Ross Show	ITV	31/10/2015	Offensive language	2
The X Factor	ITV	31/10/2015	Advertising minutage	1
The X Factor	ITV	31/10/2015	Outside of remit / other	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
The X Factor	ITV	31/10/2015	Scheduling	2
The X Factor	ITV	31/10/2015	Violence and dangerous behaviour	1
The X Factor	ITV	07/11/2015	Generally accepted standards	1
The X Factor	ITV	07/11/2015	Scheduling	42
The X Factor	ITV	07/11/2015	Violence and dangerous behaviour	1
The X Factor	ITV	08/11/2015	Scheduling	1
The X Factor Results Show	ITV	01/11/2015	Gender discrimination/offence	3
The X Factor Results Show	ITV	01/11/2015	Voting	1
The X Factor Results Show	ITV	08/11/2015	Generally accepted standards	2
The X Factor Results Show	ITV	08/11/2015	Outside of remit / other	2
The X Factor Results Show	ITV	08/11/2015	Scheduling	1
The X Factor Results Show	ITV	08/11/2015	Voting	5
You've Been Framed!	ITV	18/10/2015	Generally accepted standards	1
You've Been Framed!	ITV	18/10/2015	Generally accepted standards	1
Celebrity Juice	ITV2	05/11/2015	Gender discrimination/offence	1
Judge Rinder	ITV2	13/10/2015	Materially misleading	1
Pranksterz	ITV2	02/11/2015	Race discrimination/offence	2
Pranksterz	ITV2	02/11/2015	Race discrimination/offence	1
Pranksterz	ITV2	04/11/2015	Race discrimination/offence	1
The Mobo Awards 2015	ITV2	04/11/2015	Race discrimination/offence	2
The Mobo Awards 2015	ITV2	06/11/2015	Race discrimination/offence	1
Tricked	ITV2	27/10/2015	Offensive language	1
Two and a Half Men	ITV2	Various	Scheduling	1
You've Been Framed!	ITV2	02/11/2015	Generally accepted standards	1
The Only Way Is Essex	ITVBe	04/11/2015	Generally accepted standards	1
The Only Way is Essex	ITVBe	08/11/2015	Materially misleading	1
The Real Housewives of Cheshire	ITVbe	Various	Product placement	1
Big Brother	Kanal 11	22/10/2015	Generally accepted standards	3
DJ Q	Kiss Fresh	23/10/2015	Offensive language	1
James O'Brien	LBC 97.3	04/11/2015	Due accuracy	1
Nick Ferrari	LBC 97.3	15/10/2015	Commercial communications on radio	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Steve Allen	LBC 97.3	26/10/2015	Race discrimination/offence	1
LBC Radio	LBC Radio	25/10/2015	Due impartiality/bias	1
Ex on the Beach	MTV	13/10/2015	Nudity	1
The Big Welsh Wake Up	Nation Radio	30/10/2015	Transgender discrimination/offence	1
Programming	Pulse Radio	23/09/2015	Commercial communications on radio	1
Jon Holmes	Radio X	26/09/2015	Generally accepted standards	1
Sputnik with George Galloway	RT	31/10/2015	Religious/Beliefs discrimination/offence	1
Sky News	Sky News	11/10/2015	Gender discrimination/offence	1
Sky News	Sky News	06/11/2015	Generally accepted standards	1
Sky News with Anna Jones	Sky News	31/10/2015	Due accuracy	1
Sky News with Colin Brazier	Sky News	22/10/2015	Due accuracy	1
News	The Breeze (Bristol)	30/09/2015	Scheduling	1
Baggage Battles	Travel Channel	14/10/2015	Generally accepted standards	1
Lyxfällan	TV3	25/10/2015	Disability discrimination/offence	1

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

For more information about how Ofcom conducts investigations about broadcast licences, go to: <http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/general-procedures/>.

Licensee	Licensed service	Categories
Poole Community Radio Limited	Hot Radio 102.8	Key Commitments

## 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 and radio adverts, or accuracy in BBC programmes.

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 conducts investigations about content standards, go to:

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/>

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Advertisements	Bliss	01/11/2015	Advertising content	1
Advertisements	Channel 4	05/11/2015	Advertising content	1
Advertisements	Channel 4	06/11/2015	Advertising content	1
Advertisements	Dave	30/10/2015	Advertising content	1
Advertisements	ITV	30/10/2015	Advertising content	1
Advertisements	ITV	01/11/2015	Advertising content	11
Advertisements	ITV	02/11/2015	Advertising content	1
Advertisements	ITV	07/11/2015	Advertising content	1
Advertisements	ITV	09/11/2015	Advertising content	1
Advertisements	ITV2	01/11/2015	Advertising content	3
Advertisements	Pick TV	26/10/2015	Advertising content	1
Advertisements	Talksport	03/11/2015	Advertising content	1
Advertisements	Various	04/11/2015	Advertising content	1
Advertisements	Various	Various	Advertising content	1
Advertisements	Watch HD	12/10/2015	Advertising content	1
BBC News	BBC 1	08/11/2015	Due impartiality/bias	1
Only Connect	BBC 2	19/10/2015	Due accuracy	1
This is BBC Two	BBC 2	03/11/2015	Due impartiality/bias	1
Britain's Biggest Sexists	BBC 3	05/11/2015	Due impartiality/bias	1

## Complaints about broadcast licences

For more information about how Ofcom conducts investigations about broadcast licences, go to: <http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/general-procedures/>

Licensee	Licensed service	Categories
Preston Community Radio 23	City Beat Preston	Other

## Investigations List

If Ofcom considers that a broadcaster may have breached its codes, a condition of its licence 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 has done anything wrong. Not all investigations result in breaches of the licence or other regulatory requirements being recorded.**

Here are alphabetical lists of new investigations launched between 31 October and 13 November 2015.

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

Programme	Broadcaster	Transmission date
Anatomy of the Day	NTV Mir Lithuania	2 September 2015
Big Tunes	Brit Asia TV	30 September 2015
Charlotte Foster and Stuart George	BBC Radio Stoke	12 October 2015
Advertising minutage	NDTV 24x7	Various
Dog the Bounty Hunter	CBS Reality	24 October 2015
Live Appeal	Ummah Channel	29 August 2015
Rick Jackson: The Big Drive Home	Wave 105 FM	23 October 2015
TFI Friday	Channel 4	23 October 2015
The One Show	BBC 1	4 November 2015
The Simpsons	Channel 4	7 October 2015

For more information about how Ofcom assesses complaints and conducts investigations about content standards, go to:

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/>.

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

Licensee	Licensed Service
Tees Valley Christian Media	Cross Rhythms Teesside

For more information about how Ofcom assesses complaints and conducts investigations about broadcast licences, go to:  
<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/general-procedures/>.