



The Mid-Day Show

Type of case	Broadcast Standards
Outcome	In Breach
Service	Coast and County Radio
Date & time	25 April 2023, 13:15
Category	Due accuracy
Summary	A news bulletin incorrectly said that comedian Barry Humphries was in a stable condition, when he had died three days previously. There was no acknowledgment or correction of the mistake on air. In breach of Rules 5.1 and 5.2 of the Broadcasting Code.

Introduction

Coast and County Radio is a community radio station primarily broadcasting in North Yorkshire and featuring various genres of music. The License is held by Scarborough Radio Ltd (“Scarborough Radio” or “the Licensee”).

The Mid-Day Show is broadcast on weekdays between 12:00 and 14:00. Ofcom received a complaint that there was an error in the ‘showbiz’ news bulletin, which stated that Barry Humphries, an Australian comedian best known for his alter ego Dame Edna Everage, was being treated in hospital, when he had actually died three days previously. During the broadcast, the bulletin included the following statement by the reporter:

Reporter: *“A hospital in Sydney says the entertainer Barry Humphries, best known for his character Dame Edna Everage, is in a stable condition. A spokesperson for Saint Vincent’s also described reports the 89 year-old had gone into an unresponsive state as not accurate. He’s been suffering with health issues following hip surgery”.*

We considered that the content raised potential issues under the following rules of the Ofcom Broadcasting Code:

Rule 5.1: “News, in whatever form, must be reported with due accuracy and presented with due impartiality”.

Rule 5.2: “Significant mistakes in news should normally be acknowledged and corrected on air quickly. Corrections should be appropriately scheduled...”.

Response

In its formal comments to Ofcom, Scarborough Radio provided details concerning its news service, supplied by the third party supplier Independent Radio News (“IRN”).¹ Ofcom considered it appropriate in this instance to invite IRN to make its own representations on the information in Ofcom’s Preliminary View, in addition to those of the Licensee. We provide a summary of both Scarborough Radio and IRN’s responses below.

Scarborough Radio

When providing a recording to Ofcom of the relevant content, Scarborough Radio said that its “importer had not updated this particular item” and advised that a listener had “reported this error” via text message and “the segment [was] immediately removed”. The Licensee said it had then reported the error to its news service, IRN who advised that other broadcasters were also “having issues” with this service. The Licensee said it takes its compliance responsibility seriously and the incident “is nothing more than an error of service which was not heard by the presenter”.

Scarborough Radio said it “fully [complied] with Rule 5.1”. The Licensee said it takes its national and regional news from “reputable sources” who provide “accuracy and due impartiality”. It explained that its subscription for this service has been with IRN since 2021 and that the Licensee “never had [had] concerns or reasons to fault or question [IRN]’s editorial submissions to us”. The Licensee explained that IRN’s output is the same output received by many licensed stations.

With regard to Rule 5.2, the Licensee said:

- when it had removed the incorrect item and investigated the issue, it found that IRN, which had recently upgraded its website, “had not updated this particular streamed segment” to the new website;
- it and other stations were experiencing “unknown / undisclosed issues” with the IRN service Net Newsroom which had failed and “by default reverted to earlier dates and archived material was inadvertently delivered” to the new website for broadcast use;
- IRN had directed clients back to the old service website (which was carrying updated packages) until it resolved the issue;
- according to correspondence between its technical team and IRN, which it provided to Ofcom, IRN was experiencing technical difficulties on the service Net Newsroom;
- it decided to “let the error pass without comment” as it was widely known that Barry Humphries had died prior to the broadcast of the bulletin and as stories reminiscing about, and working with, Humphries had been told on air; and

¹ Independent Radio News provides news services to commercial radio broadcasters in the UK and to English speaking stations globally.

- after this incident “the item was removed and deleted” and there “were no further issues”.

Scarborough Radio said that it did not regularly experience many compliance issues and this incident was a “rarity”. It added that all presenters had been advised to check the time of stream updates to the IRN news website going forward.

IRN

IRN confirmed that the news item appeared to have been sourced from the IRN Net Newsroom and identified the text from its “P-Showbiz Lunch Script sent on 21 April 2023”.

IRN stated that it “did experience an outage” as it transitioned from the “old” to the “new” Net Newsroom and had therefore advised its clients “to switch back to the old site”. However, IRN said this outage took place on 28 April 2023, three days after the programme in question was broadcast. IRN explained that this outage resulted in the need to “revert all clients back to the ‘old’ site to maintain service”. IRN explained that in practice, this meant that between 28 April and 2 May the “new” site was inactive, “so no stories were available”. IRN explained that “therefore, this information doesn’t tie in with the reported information” from Scarborough Radio as IRN “recall no new stories were available from the ‘new’ site in any case”. IRN added that it couldn’t “find any story on [its] logs after 23rd April which was sent which mentions Barry Humphries”.

IRN explained that while it did not currently have a detailed audit logging system, it confirmed that “stories older than 48 hours are automatically deleted from both the ‘new’ and ‘old’ sites” and that there are no archived stories on the Net Newsroom.

IRN said that the Licensee “has only ever had ‘web’ access” to IRN Net Newsroom’s web page and was uncertain what news capture system the Licensee had used to import the news story in this case. IRN stated that it “cannot be held responsible” if the Licensee was potentially using “their own news capture system which ‘scrapes’ the IRN Net Newsroom web page” and if it “doesn’t work properly”.

Decision

Reflecting our duties under the Communications Act 2003 (“the Act”)², Section Five of the Code requires that the due accuracy and due impartiality requirements are met.

In applying the rules in the Code, Ofcom takes account of the audience’s and the broadcasters right to freedom of expression, as set out in Article 10 of the European Convention on Human Rights.

Rule 5.1

Rule 5.1 requires that news, in whatever form, must be reported with due accuracy and presented with due impartiality. The rule is primarily intended to ensure that audiences can trust news broadcasters to report the facts of the news, and the factual background to it, with appropriate accuracy. It goes to the heart of the relationship of trust between a news broadcaster and its audience.

Ofcom’s published guidance to Section Five³ makes clear that “due” means adequate or appropriate to the subject and nature of the programme. The approach may vary according to the nature of the

² [Communications Act 2003 \(legislation.gov.uk\)](#)

³ [Ofcom’s Section Five Guidance](#), paragraph 1.4.

subject, the type of programme and channel, the likely expectation of the audience as to content, and the extent to which the content and approach is signalled to the audience. For example, where the matter is of particular public interest, the requirement to present that matter with due accuracy is correspondingly higher.

Ofcom first considered whether the news item in this case was duly accurate. News of Barry Humphries' death was reported widely on various news outlets on Saturday 22 April 2023.⁴ The Licensee broadcast the report about Humphries being stable in hospital three days later, on 25 April 2023.

We recognised that Barry Humphries had been a popular public figure in the UK since the 1970s and that the death of a well-loved celebrity, such as Barry Humphries, would have been a matter of public interest. It is important that broadcasters are able to fully inform the audience of developments in relation to ongoing news stories of public interest. However, in doing so, it is important that such events are reported with "due" accuracy.

Ofcom considered that the wording of this news report, i.e., stating that Barry Humphries was "*in a stable condition*", suggested that the comedian was still receiving treatment when in fact he had already died, had the potential to cause confusion to listeners.

We took into account that Barry Humphries' death three days previously had been widely reported on national and local media. Nevertheless we took the view that reporting that someone is alive, when they have in fact died three days earlier, was a significant error. While we acknowledged that the item was removed immediately following a message pointing out this error from a listener, it was unclear how long the technical issue which had led to this error had been ongoing and whether this particular item was broadcast on more than one occasion.

Ofcom was mindful of the Licensee's explanation that the error was caused by an unexpected technical fault with the news content it receives from its third-party supplier, IRN, which meant that archived material was inadvertently delivered on its service. However, we also acknowledged that IRN, in its separate representations to Ofcom, had disagreed with the Licensee's account and suggested that the fault was not theirs.

Notwithstanding the conflicting accounts provided by these parties, we remained of the view that reporting that someone is alive, when they have in fact died three days earlier, was a significant error. As we outline above, Rule 5.1 ensures that audiences can trust news broadcasters to report the facts of the news with appropriate accuracy. This rule goes to the heart of the relationship of trust between a news broadcaster and its audience.

Ultimately, the responsibility of complying content with the Code lies with the Licensee, even where it relies on content from a third party. We took into account the Licensee's comments that this incident was a "rarity", and it did not usually experience many issues. However, we found it concerning that the error was not identified via the Licensee's in-house compliance procedures and that Scarborough Radio was only alerted to the error via a listener.

We took into consideration the steps the Licensee said it had taken to improve its compliance procedures. However, for the reasons outlined above, Ofcom found that this news was not reported with due accuracy and the content was in breach of Rule 5.1.

⁴ Sky News, [Comedian and Dame Edna star Barry Humphries dies aged 89](#), 22 April 2023.

Rule 5.2

Rule 5.2 requires that significant mistakes in news should normally be acknowledged and corrected on air quickly and that corrections should be appropriately scheduled.

As outlined above, we took into account the steps Scarborough Radio told us it had taken in this case including removing the news item as soon as it became aware of the issue and advising its presenters to be more vigilant when accessing stream updates on the Licensee's third-party news provider website. We also took into consideration Scarborough Radio's representation that it had decided to "let the error pass without comment" as news of Barry Humphries' death would have been widely known. However, as outlined above, we considered this was a significant mistake and, given news of Barry Humphries' death had been covered widely across media in the UK in the three days preceding the broadcast, we would therefore have expected this incorrect report to have been noticed by the Licensee and an on-air correction provided quickly. For this reason, Ofcom's Decision is that the broadcast was also in breach of Rule 5.2.

While we acknowledged that the Licensee said it has taken steps to prevent errors of this nature recurring, we have concerns about its compliance procedures. We are therefore requesting that the Licensee attends a meeting with Ofcom to discuss its approach to compliance.

Breach of Rules 5.1 and 5.2