

# Ofcom Broadcast and On Demand Bulletin

Issue 481  
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## Casualty

<b>Type of case</b>	Broadcast Standards
<b>Outcome</b>	In Breach
<b>Service</b>	Drama
<b>Date &amp; time</b>	12 June 2023, 10:30
<b>Category</b>	Offensive language
<b>Summary</b>	The most offensive language was broadcast before the watershed. In breach of Rule 1.14 of the Broadcasting Code.

## Introduction

Drama is a television channel which specialises in repeats of well-known British TV drama series. The licence for Drama is held by UKTV Media Limited (“UKTV” or “the Licensee”).

Ofcom received a complaint about the broadcast of offensive language in the optional subtitles for this programme. Although the programme’s audio did not include any offensive language, the subtitles included two instances of the word “*fucking*”.

We considered this raised potential issues under the following rule of the [Ofcom Broadcasting Code](#) (“the Code”):

Rule 1.14: “The most offensive language must not be broadcast before the watershed (in the case of television)...”.

Ofcom therefore requested comments from the Licensee on how the programme complied with this rule.

## Response

The Licensee said that the episode was “incorrectly subtitled” with the word “*fucking*” appearing twice despite the word not being audible in the programme.

UKTV explained that its subtitling is outsourced to Red Bee Media Limited (“Red Bee”) and that it had contacted Red Bee as soon as it was notified of the complaint to “ask how this error occurred”. It said

that subtitling is of “great importance” to it as a broadcaster and that it works “closely with Red Bee to ensure that we provide the highest standards to our audience”.

The Licensee said that Red Bee has “a number of processes and checks in place that should have prevented this word from erroneously appearing in the subtitles”, including:

- the broadcast time of the programme being “visible to the subtitler”, which showed that it was “clearly a pre-watershed programme”. UKTV explained that “subtitlers are trained to flag any strong language in the soundtrack to a pre-watershed programme to their Duty Managers”, who then “follow-up with the UKTV Compliance team to check whether there has been a compliance error”;
- “profanity checks” in Red Bee’s pre-recorded subtitling production tools. UKTV said that subtitlers run these “as part of the spellcheck they do at the end of subtitling a programme”;
- written guidance in the protocol documents followed by Red Bee’s subtitlers on the handling of strong language in subtitle files. UKTV provided an excerpt of this guidance to Ofcom, which included that “if you see swearing in the subtitles, but CAN’T hear it on the audio, then you **must** remove it” (emphasis as per the guidance document); and
- a training module for Red Bee’s staff, which goes into “great detail” about strong language in subtitling and “the likely consequences for broadcasters if the language appears in the subtitles and not in the programme”.

UKTV said that, in this case, “the subtitler responsible did not follow the agreed procedures” and that “they did not check the broadcast time and wrongly assumed that the programme was scheduled post-watershed”. It also said that the subtitler “did not follow Red Bee’s protocols copied above” and had not referred the content to their line manager or the duty managers.

The Licensee said that Red Bee had said that the subtitler had been “disciplined and withdrawn from subtitling duties until they have been through a thorough retraining process with their line manager”. UKTV also said that “the whole subtitling team responsible for UKTV services have also been made aware of this incident” and that they have been “given refresher training which reinforces the messages around broadcast times and the query process with UKTV Compliance”.

The Licensee reiterated that subtitling is “of great importance to UKTV” and that it is proud to offer 100% subtitling on Drama as part of its commitment to diversity and inclusion. It apologised to Ofcom for the incident and said that it hopes that “the above actions provide reassurance that we have mitigated any risks moving forward”.

#### *Representations from the Licensee on Ofcom’s Preliminary View*

Ofcom prepared a Preliminary View finding the programme in breach of Rule 1.14 and provided it to UKTV for its comments. In response, UKTV said that it provides “huge volumes of access services across our linear channels” and that the “error” in this circumstance was the “the first issue of this nature UKTV has experienced”. The Licensee reiterated that both UKTV and Red Bee took action to “address the error as soon as we were made aware of the issue” and that Red Bee has put “extra processes and training in place to guard against a repeat of this issue”. UKTV asked Ofcom to take these factors into account and to consider this case resolved.

### *Representations from Red Bee on Ofcom's Preliminary View*

Ofcom recognises that there may be persons/bodies who may be directly affected by the outcome of Ofcom's investigation and determination of a complaint. Our procedures encourage broadcasters to seek to take account of and include such representations. In this case, Ofcom considered it was appropriate to ask the Licensee to invite Red Bee to make representations on the Preliminary View if it wished to do so.

Red Bee provided its representations via the Licensee and said that, in addition to the actions referenced in UKTV's initial response to the investigation, Red Bee had "reviewed, revised and republished their Offensive Language Training Module" and had "ensured that all subtitlers have completed the new version of the training".

### **Decision**

Reflecting our duties under the Communications Act 2003, Section One of the Code requires that people under eighteen are protected from unsuitable material in programmes.

Ofcom takes account of the audience's and the broadcaster's right to freedom of expression as set out in Article 10 of the European Convention on Human Rights when considering a broadcaster's compliance with the Code.

#### **Rule 1.14**

Rule 1.14 prohibits the broadcast of the most offensive language on television before the watershed.

When considering this case, Ofcom took into account its research into [Public attitudes towards offensive language on TV and radio](#), which was published in September 2021. This research found that the word "fuck" was considered by audiences to be among the most offensive language and required clear and strong contextual justification. It also found that audiences consider that, in order to protect children, this word should not be aired before the watershed on television.

In this case, the broadcast of subtitles including two instances of the word "fucking" at 10:30 were clear examples of the most offensive language being broadcast before the watershed.

Ofcom's [Guidelines on the provision of television access services](#) states that "...those using subtitles can range from those with normal hearing (using subtitles so that the television sound can be turned down), through those with relatively minor hearing loss, to those who are profoundly deaf". While the instances of offensive language were not audible to viewers who were not using subtitles, viewers of this programme who were using subtitles would have been exposed to the broadcast of two instances of the most offensive language before the watershed.

We took into account: the Licensee's explanation of the circumstances that had resulted in this incident; the processes in place to ensure compliance; and the steps it said it had taken since being notified of the incident. We also took into account the steps that Red Bee said it had taken with regard to its offensive language training.

We acknowledged that, given the circumstances of the case, the Licensee had asked Ofcom to consider the case resolved. However, Ofcom did not consider that this was warranted given that this was a pre-recorded programme, which included two instances of the most offensive language before

the watershed, and UKTV would have had the opportunity to check this content prior to broadcast. Further, we considered there were no mitigations, such as an on air apology, made by UKTV following the broadcast. Ofcom took into account the Licensee's representations that it had not experienced this issue before and that it took action to address the issue once notified of it. However, in Ofcom's view, these factors would not have mitigated the offence caused to viewers as a result of this broadcast. Ofcom's Decision is therefore that the broadcast was in breach of Rule 1.14.

**Breach of Rule 1.14**