

# Ofcom Broadcast and On Demand Bulletin

Issue 417  
21 December 2020

## Friday Night KISS

**Type of case** Broadcast Standards

**Outcome** In Breach

**Service** Kiss FM

**Date & time** 24 July 2020, 17:50

**Category** Offensive language  
Generally accepted standards

**Summary** The most offensive language was broadcast when children were likely to be listening. The offensive language was also not justified by the context. In breach of Rule 1.14 and 2.3 of the Broadcasting Code.

### Introduction

Kiss FM is a UK radio station specialising in urban and dance music. The licence is held by Bauer Radio Limited (“Bauer Radio” or “the Licensee”).

*Friday Night KISS* is a music radio programme, broadcast between 17:00-19:00 on Fridays.

Ofcom received a complaint about offensive language used by the presenter when she made a mistake whilst introducing a competition sponsored by Disney+, a video on demand streaming service which focuses on family oriented viewing.

The presenter said:

*“This is massive guys, all week we have been winning with Disney+, it has all – oh fucker. This is massive guys all week we have been winning with Disney+ it has got all of the best Disney and Pixar movies together in one place...”*

This use of offensive language was not addressed in the programme and no apology was issued.

Ofcom considered that this material raised potential issues under the following Code rules:

- Rule 1.14: “The most offensive language must not be broadcast ... when children are particularly likely to be listening (in the case of radio) ...”.
- Rule 2.3: “In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context ... Such material may include ... offensive language ...”.

We requested the Licensee’s formal comments on how the programme complied with the above rules.

## Response

Bauer Radio acknowledged that the programme did not comply with the Broadcasting Code.

It said that in this case the programme was operating different recording procedures due to COVID-19. The programme was being recorded out of the studio within 30 minutes of broadcast, and then aired “as live”. The Licensee said that the producer of the programme in question “inadvertently played out an unedited link” that contained the presenter saying “*fucker*” after she stumbled on a recorded link.

Bauer Radio said that by the time the producer was aware that this unedited link had been played, and had alerted colleagues, it was deemed too late to apologise on air as the programme had finished. However, the Licensee said that the programme was immediately removed from its on-demand catch-up service so that it was not available to listeners again.

The Licensee said in response to this incident they had put additional compliance procedures in place.

## 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. Section Two of the Code requires that generally accepted standards are applied to provide adequate protection for members of the public from the inclusion of harmful or offensive material.

### Rule 1.14

Rule 1.14 prohibits the broadcast of the most offensive language when children are particularly likely to be listening. [Ofcom’s research on offensive language](#) clearly indicates that the word “fuck” and variations of it are considered by audiences to be amongst the most offensive language.

[Ofcom’s guidance on offensive language on radio](#) states that children are particularly likely to be listening between 15:00 and 19:00, Monday to Friday during school term time. In this case the most offensive language was broadcast at 17:50 on a Friday. In conjunction with the time of day, we also considered that the competition’s association with Disney+ would have increased the likelihood that children would have been listening.

We took into account the Licensee’s explanation that this transmission occurred due to difficulties arising from new recording conditions in place as a result of the COVID-19 pandemic. We also considered the adjustments made to the recording procedures as a result of this incident. Nevertheless, Ofcom’s decision is that the programme was in breach of Rule 1.14.

### Rule 2.3

Rule 2.3 requires that broadcasters must ensure that the broadcast of potentially offensive content is justified by the context. Context includes for example: the editorial content of the programme, the service on which it is broadcast, the time of broadcast and the likely expectations of the audience.

We considered that the audience of an early evening dance music show on a national commercial radio station would not expect to hear offensive language. We considered the potential for offence was increased by:

- the offensive language being broadcast at a time when children were likely to be listening;
- the offensive language being broadcast during a Disney+-related competition; and,
- the lack of an apology after the offensive language was used.

As a result, we considered the broadcast of this language was not justified by the context.

Ofcom took into consideration the Licensee's representations that the language was the result of the presenter stumbling over her words and had been broadcast in error. However, the Licensee is responsible for all content broadcast on its service, and for checking that all content does not raise potential compliance issues before it is broadcast.

In this case, the programme was recorded approximately 30 minutes before it was broadcast "as live". We acknowledged that technical difficulties due to COVID-19 recording conditions meant that this error was not picked up in time to remove it from the transmission. But we also considered that no apology was broadcast for this mistake. It is Ofcom's decision that the broadcast of this offensive language was not justified by the context and was therefore in breach of Rule 2.3.

### **Breach of Rules 1.14 and 2.3.**