

Ofcom Broadcast and On Demand Bulletin

Issue 464
19 December 2022

Get Your Glasto On, Worthy 87.7 FM

Type of case Broadcast Standards

Preliminary View In Breach

Service Worthy 87.7 FM

Date & time 23 June 2022, 18:41

Category Offensive language

Generally accepted standards

Summary Offensive language, including the most offensive language, was broadcast when children were particularly likely to be listening. In breach of Rules 1.14, 1.16 and 2.3 of the Broadcasting Code.

Introduction

Worthy 87.7 FM (“Worthy FM”) is the on-site radio station for the Glastonbury Festival which according to the Licensee “provid[es] public welfare and information, travel information and entertainment for attendees of the Glastonbury Festival 2022”.

A Restricted Service Licence (RSL) can be granted by Ofcom for radio services with small coverage areas that are broadcast for the purposes of events or within a particular establishment or location in the UK. In this case, the licence was granted for the duration of Glastonbury Festival broadcasting in the Somerset area. This type of radio licence is awarded to an individual or an organisation and in this case, the Licence for Worthy FM is held by Joanne Schofield (“the Licensee”).

Ofcom received a complaint about the use of offensive language in the song “Miss Understood” by the rap artist Little Simz, which was broadcast at 18:41. The song featured one use of the word “*fucked*” and one use of the word “*niggas*”.

We considered that the content 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 1.16: “Offensive language must not be broadcast...when children are particularly likely to be listening (in the case of radio), unless it is justified by the context...”.
- 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, but is not limited to, offensive language...Appropriate information should also be broadcast where it would assist in avoiding or minimising offence”.

Ofcom requested comments from the Licensee on how the content complied with these rules.

During Ofcom’s assessment of the programme, it identified the broadcast of another song; “DNA” by Kendrick Lamar, which appeared to contain offensive language. As such, Ofcom also requested the Licensee’s comments regarding its compliance considerations for the broadcast this song. Following representations from the Licensee, we accepted that an attempt had been made to “dip” the offensive words, which reduced its audibility to listeners. In light of this, we will not be taking any further regulatory action in relation to the broadcast of this track.

Response

The Licensee acknowledged that the song “Miss Understood” contained offensive language, and it apologised that it “was broadcast and that someone was offended by it”, it accepted “that a mistake was made in playing a non-edited version of “Miss Understood” by Little Simz”.

The Licensee explained that the station “only plays music from artists who are appearing at this year’s festival, or who have appeared at the festival previously” and that the music playlist was compiled from the previous years’ playlists, tracks submitted by presenters and tracks received from record labels when clean versions of tracks were not readily available. The Licensee said that “all crew members were repeatedly reminded that all music had to be clean and radio friendly” and all the music was then manually double-checked before being added to the playlist.

The Licensee advised that the “Miss Understood” track “was not in our playout library at the time of the festival” as it was not a clean version, so it had been put in the “non-compliant electronic folder of tracks containing bad language”. The Licensee stated that the track was broadcast “at the end of an unusually busy show for the presenters” which included “live guests...interviews and live performances”, which meant they were “not able to pay as close attention to the music being broadcast”.

During the programme “the presenters decided they wanted to promote the Little Simz headline show” scheduled for the next day, so “they ran a search on the playout computer itself for ‘Little Simz’. This unfortunately searched beyond the playlist itself and returned a result from the non-compliant folder”. The presenters “believed they were just searching the Worthy FM music folder and not the whole computer”, and therefore believed the track was “safe to play”.

The Licensee explained that while the song was playing the presenters were busy “greeting and briefing the next guests” and therefore missed the offensive language and “missed the opportunity to fade it down immediately and apologise on air”. The Licensee confirmed with the presenters that this is what they would have done “if the issue had been noticed at the time”. The Licensee advised that “the crew on site at this time were limited”, and that they were busy “supporting the presenters with setting up the next guest outside the studio”.

The Licensee reflected that this programme is not aimed at younger audiences, and at the time of this broadcast “listener numbers were demonstrably low...and given the time, met none of Ofcom’s own criteria specified in the Ofcom guidance for children being likely to be listening”.

It also suggested that “Glastonbury Festival performers who are known to use offensive language in the public areas of the festival” and that the festival website warns parents to exercise caution as the festival includes “some adult-themed entertainment [and] artwork”. The Licensee therefore “believe that anyone listening from within the festival, which is the primary coverage area of our range restricted FM signal in particular, will have been aware of the potential of hearing offensive language as part of the festival’s output”.

The Licensee highlighted “that there is no ‘listen again’ functionality for Worthy FM’s broadcast, meaning that only those listening to the show live at that specific time will have been exposed to that content, again significantly reducing the reach and impact of the content’s broadcast.”

The Licensee confirmed that its compliance controls were being strengthened in light of this incident in the following ways:

- the playout computer will only contain music that has been approved to be played on air;
- all lines into the broadcast desk will be removed and no access to the internet will be provided on the playout computer. The only means of broadcasting content on air will be via the playout computer and the three studio microphones;
- the playout computer will be isolated from having content added to it by non-authorised persons;
- increased crew briefings to ensure all crew, especially any new joiners, are reminded daily of our controls, their application and why they matter; and
- the studio will be treated as a closed set, to further minimise presenter distraction from the broadcast.

Decision

Reflecting our duties under the Communications Act 2003, Section One of the Code requires that people under the age of 18 are sufficiently protected from unsuitable material in programmes. Section Two of the Code requires that generally accepted standards are applied to content so as to provide adequate protection for members of the public from the inclusion of offensive 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 the radio when children are particularly likely to be listening.

When considering this case Ofcom took into account our 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 highly offensive and required clear and strong contextual justification. It also found that, in order to protect children, this word should not be aired before the watershed on television or, on radio, at times when children are particularly likely to be listening. We took into account the Licensee’s argument that the programme was not aimed at younger audiences and that “listener numbers were demonstrably low...and given the time, met none of Ofcom’s own criteria specified in the Ofcom guidance for children being likely to be listening”. However, according to [Ofcom’s Guidance on offensive language on radio](#), radio broadcasters should have particular regard to broadcasting content at the following times: between 06:00 and 09:00 and 15:00 and 19:00 Monday to Friday during term time; and between 06:00 and 19:00 at weekends all year around, and in addition, during the same times from Monday to Fridays during school holidays.

In this case, the broadcast of the word “fucked” at 18:41 was a clear example of the most offensive language being broadcast in the early evening when parents and carers would not be expecting it and at a time when children were particularly likely to be listening.

We acknowledged this song was played in error and the steps the Licensee said it was taking as a result of this broadcast to improve its compliance. Nevertheless, Ofcom’s view is that the broadcast was in breach of Rule 1.14.

Rule 1.16

Rule 1.16 prohibits the use of offensive language when children are particularly likely to be listening unless justified by the context.

Ofcom’s latest research on [Public Attitudes towards Offensive language on TV and Radio](#)¹ makes clear that the word “nigger” and variations of it were considered by audiences to be among the most offensive language and unacceptable for broadcast without very strong contextual justification. The research recognised the significant levels of offence that words related to race, ethnicity and nationality could cause, and participants felt words such as “nigga” should be used carefully, with consideration of the wider context and likely audience.

We went on to consider whether the use of potentially highly offensive language at this time was justified by the context. Context includes, for example, the nature of the content, the service in which the programme is broadcast, its editorial content, and the likely expectation of the audience.

We had regard to the Licensee’s argument that in the context of the Glastonbury Festival there is an expectation of offensive language given the history of the festival and wide range of artists that perform there, and that parents were warned about adult content at the festival.

¹ https://www.ofcom.org.uk/data/assets/pdf_file/0021/225336/offensive-language-summary-report.pdf.
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We also considered that although it is not endorsed by all rap artists, the word “nigga” is used in some rap music, and therefore some listeners of this genre may be more accepting of the word. Some Black participants in Ofcom’s offensive language research distinguished between the word “nigga”, which they felt could be used as a term of endearment within certain Black communities, compared to the word “nigger” which in their view was used to offend. However, for other Black participants, the racist connotations and historical context of the word meant they felt it was never acceptable.

We took into account that the content was broadcast at 18:41 on a specialist music station, which features the varied genres of music showcased at Glastonbury Festival, including rap. However in Ofcom’s view it was unlikely listeners would have anticipated the broadcast of racially offensive language at this time, even in the context of a rap song. Ofcom therefore considered that listeners, particularly parents and carers, would have had an expectation that children would be protected from unsuitable material at this time.

Ofcom took into account the Licensee’s comments that Worthy FM had a low number of listeners at this time and therefore it was likely its child audience would be even lower. However, regardless of the size of the potential audience, the Licensee must adhere to the Code and in this case, we considered that the word “niggas” was clearly audible and likely to be identified by listeners including to children.

We acknowledged the steps taken by the Licensee to improve its compliance and have taken into account this track was played in error. However, Ofcom’s view is that the use of racially offensive language was not justified by the context and was therefore in breach of Rule 1.16.

Rule 2.3

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

Taking account of the factors outlined above, we considered there was potential for offence for the use of the word “fuck” and “niggas” in this song. In our view this potential for offence was heightened by the lack of apology immediately after the offensive language was broadcast and the offensive language being broadcast at a time when children were particularly likely to be listening and when listeners of all ages would not expect to hear it.

Ofcom went on to consider whether the broadcast of the offensive language was justified by the context. We considered that while some listeners may be more accepting of the word “niggas” on a specialist music station we did not consider that the early evening broadcast of a track containing the most offensive language and racially offensive language would have been within the expectation of the majority of listeners. While we took into account that many of the listeners to this service would have been the audience to the live music festival and may have expected potentially offensive material in that context, we did not consider this extended to the output of the licensed radio station. We were also mindful that the audience of the radio station was likely to extend beyond the Glastonbury festival site, as indicated by the complaint in this case.

We took into account that the Licensee broadcast this song in error and has accepted that the content was not appropriate for broadcast at this time and has taken a number of steps to avoid a recurrence of this issue.

However, the content exceeded generally accepted standards and, therefore, the programme was in breach of Rule 2.3 of the Code.

Breach of Rules 1.14, 1.16 and 2.3