

## Rock FM Breakfast with Joel Ross

**Type of case** Broadcast Standards

**Outcome** In Breach

**Service** Rock FM

**Date & time** 19 October 2022, 08:40

**Category** Offensive language

**Summary** The most offensive language was broadcast at a time when children were likely to be listening. In breach of Rules 1.14 and 2.3 of the Broadcasting Code.

### Introduction

Rock FM is a local radio station broadcasting to Lancashire in northwest England and areas of north Wales. Its output is primarily contemporary pop and current chart hits. The licence for Rock FM is held by Bauer Radio Ltd (“Bauer Radio” or “the Licensee”).

*Rock FM Breakfast Show with Joel Ross* is a radio programme broadcast on Rock FM on weekday mornings between 06:00 and 10:00.

Ofcom received a complaint about the use of the word “*cunt*” in the above programme during a segment at around 08:40. The topic of this segment was whether listeners would go on holiday with their ex-partners and a number of pre-recorded voice notes sent in by listeners were broadcast.

At the end of one of these voice notes, one listener said:

*“...but that’s probably because my ex is a cunt”.*

Immediately after this, one of the presenters said:

*“Oh, you can’t say that! I do apologise, I do apologise for that”.*

The presenter then read out more contributions from listeners before cutting to a programme break, at which point he said:

*“...and I do apologise profusely if you were offended by that fruity language this morning”.*

We considered this raised potential issues under the following rules of the Ofcom Broadcasting Code (“the Code”):

- 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, but is not limited to, offensive language... Appropriate information should also be broadcast where it would assist in avoiding or minimising offence”.

## **Response**

Ofcom did not consider it necessary to request comments from the Licensee before reaching its Preliminary View. However, when providing Ofcom with a recording of the programme, Bauer Radio said that a voice note which “had not been vetted for air” was incorrectly broadcast.

The Licensee explained that it was “usual” for the programme to broadcast voice notes to illustrate listeners’ reactions to “relatable” topics being discussed. It said that there is a “robust process in place which involves the team listening to any voice notes and deciding which ones to use on air once vetted for quality and compliance”. It said that this process has been in place for two years and “has so far been secure”, but that, in this case, “a piece of audio that had not been fully vetted was incorrectly chosen and played from the studio machine”. It added that the presenter had not been aware of this mistake when cueing the voice note and therefore apologised straight after the incident and again at the end of the segment. Bauer Radio said that its investigation after the incident had concluded that the mistake was a result of “human error by the producer in the studio due to the nature of live radio and trying to achieve a turnaround in a tight time frame”.

The Licensee said that, as a result of this incident, it has added “an extra layer of security where the audio is always loaded into a separate player” to ensure that only vetted content is available for the presenter to select for broadcast. It added that both the presenter and producer “are fully aware of the significance of this issue and are very apologetic”.

Ofcom prepared a Preliminary View finding the programme in breach of Rules 1.14 and 2.3 and provided it to Bauer Radio for its comments. In response, the Licensee said that its employees receive regular training on the Code and that it will ensure that ongoing training makes clear Bauer Radio’s responsibilities with regard to the times children are most likely to be listening and ensuring wherever possible that content is vetted before broadcast.

## **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 content so as to provide adequate

protection for members of the public from the inclusion of harmful or 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 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 "cunt" 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 on television before the watershed or on radio at times when children are particularly likely to be listening.

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 "cunt" at 08:40 on a Wednesday was a clear example of the most offensive language being broadcast at a time when children were particularly likely to be listening. We also took into account that the voice note was pre-recorded and the incident was not the result of a listener calling in live.

We took into account: that the Licensee accepted that it had made an error in broadcasting highly offensive language at this time of day; the apologies that were made directly following the incident; and the steps it said it has taken to avoid a recurrence in future. However, Ofcom's Decision is that the broadcast 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.

In Ofcom's view, the broadcast of the most offensive language at 08:40 on a Wednesday morning was clearly capable of causing offence to viewers. Ofcom then considered whether the broadcast of this offensive language was justified by the context.

With regard to the editorial content of the programme, we took into account that the offensive language occurred in a pre-recorded voice note which the Licensee would have had the opportunity to vet prior to broadcast. Ofcom also took into account that the service Rock FM does not typically feature potentially offensive content, and that the offensive language was broadcast at a time of day when children were likely to be listening. We considered that, as a result of each of these factors, the

majority of listeners to this station at this time of day would not have expected to hear this level of offensive language.

As above, Ofcom took into account the Licensee's explanation of the circumstances that resulted in this broadcast and the steps it said it has taken to avoid a recurrence in future. We also took into account that the presenter apologised immediately following the incident and again at the end of the segment, which may have mitigated potential offence to an extent.

However, taking into account all the above, Ofcom's Decision is that the broadcast of the most offensive language in this programme was not justified by the context and, therefore, the broadcast was also in breach of Rule 2.3 of the Code.

### **Breaches of Rules 1.14 and 2.3**