

Ofcom Broadcast and On Demand Bulletin

Issue 470
20 March 2023

Keep Driving

Type of case	Broadcast Standards
Outcome	In Breach
Service	KeeP 106
Date & time	6 January 2023, 16:10
Category	Offensive language
Summary	Offensive language, including the most offensive language, was broadcast at a time when children were likely to be listening and was not justified by the context. In breach of Rules 1.14, 1.16 and 2.3 of the Broadcasting Code.

Introduction

KeeP 106 is a community radio station broadcasting to Dorchester in Dorset and the surrounding area. The service primarily broadcasts a mixture of music, chat and news. The licence for KeeP 106 is held by Ridgeway Community Radio (“Ridgeway” or “the Licensee”).

Keep Driving is a programme broadcast on KeeP 106 between 15:00 and 18:00 on weekdays.

Ofcom received a complaint about the broadcast of offensive language in the song “American Idiot” by Green Day during the programme, broadcast at around 16:10. This song contained one instance of the word “mind-fuck” and one instance of the word “faggot”.

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 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,...discriminatory treatment or language (for example on the grounds of...sexual orientation...)...Appropriate information should also be broadcast where it would assist in avoiding or minimising offence”.

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

Response

When providing a recording of the content to Ofcom, the Licensee said that the song had not been part of the presenter’s playlist for the day and was instead requested by a listener by email during the programme. It added that the presenter had not identified the word “mind-fuck” when it was broadcast.

In response to Ofcom’s request for formal comments on the matter, the Licensee accepted that “the three rules in question were not observed” and said that it was “a regrettable mistake made by a presenter”. It added that the presenter “recognises and fully accepts their error” and “will and wants to apologise on air”. The Licensee apologised to Ofcom and said it would “reinforce advice given to all presenters”.

Ofcom prepared a Preliminary View finding the programme in breach of Rules 1.14, 1.16 and 2.3 and provided it to Ridgeway for its comments. In response, the Licensee confirmed it had no further comments to make.

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 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 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 “mind-fuck”, a variation of the word “fuck”, at 16:10 on a weekday during term time was a clear example of the most offensive language being broadcast at a time when children were particularly likely to be listening.

We took into account the Licensee’s representations that this was a “regrettable mistake” and that it said it would “reinforce advice” given to its presenters. However, Ofcom’s Decision is that the broadcast was in breach of Rule 1.14.

Rule 1.16

Rule 1.16 states that offensive language must not be broadcast when children are particularly likely to be listening unless it is justified by the context.

In this case, the word “faggot” was broadcast at a time when children were likely to be listening. Ofcom’s 2021 offensive language research classified this word as ‘strong’ language, considered by audiences to be highly offensive and unacceptable for broadcast without very strong contextual justification.

We went on to consider whether the use of this potentially offensive language was 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.

Ofcom’s [Guidance on offensive language on radio](#) states that “in reaching any decision about compliance with the Code, Ofcom will take into account the likely audience expectations of a particular radio station at the time of broadcast”.

Ofcom took into account that the song was broadcast at 16:10, a time when children were particularly likely to be listening and when adult listeners would be unlikely to expect stronger content to be broadcast. Ofcom also took into account that the service Keep 106 is a community radio station and does not typically feature potentially offensive content and, although the Licensee said that the song was requested by an audience member, we did not consider that the majority of listeners would have expected to hear a song containing offensive language on this radio station at this time of day. Ofcom also took into account that there were no additional contextual factors which would have alerted the audience to the potentially offensive nature of the content, such as a warning prior to the broadcast of the song, or an apology after the song had been broadcast. Ofcom therefore considered that there was insufficient contextual justification for the use of potentially offensive language during the programme.

We took into account that the Licensee acknowledged its error in its representations to Ofcom and said that it had taken steps to prevent recurrence. However, Ofcom’s Decision is that the broadcast of offensive language in this programme was not justified by the context, 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 expectations of the audience.

Ofcom first considered whether the material broadcast had the potential to cause offence. In Ofcom’s view, the broadcast of the words “mind-fuck”, considered by audiences to be among the most offensive language, and “faggot”, considered by audiences to be highly offensive language, was clearly capable of causing offence to viewers.

Ofcom then considered whether the broadcast of this offensive language was justified by the context. As set out above, Ofcom did not consider that listeners would have expected to hear this level of offensive language on this radio station on a weekday afternoon at a time when children were likely to be listening. There was also no warning ahead of the broadcast of the song, or an apology following the use of the offensive language.

We took into the account the Licensee's apology to Ofcom and the regret it expressed over the broadcast of this song. We also took into account the steps it said it had taken to prevent recurrence of this issue. However, Ofcom’s Decision is that the broadcast of offensive language in this programme was not justified by the context and was in breach of Rule 2.3.

Decision: Breach of Rules 1.14, 1.16 and 2.3