Ofcom Broadcast and On Demand Bulletin

Issue 472
24 April 2023



MTV Cribs US

Type of case	Broadcast Standards
Outcome	In Breach
Service	MTV
Date & time	Various dates and times pre-watershed, December 2022, and January 2023
Category	Offensive language
Summary	Offensive language, including the most offensive language, was broadcast before the watershed, and was not justified by the context. In breach of Rules 1.14 and 1.16 of the Broadcasting Code.

Introduction

MTV is a general entertainment channel available on a variety of digital platforms. The licence for MTV is held by Viacom International Media Networks U.K. Limited ("Viacom" or "the Licensee").

MTV Cribs US is an American documentary television show that features tours of the private homes of celebrities.

Ofcom received a complaint about multiple instances of offensive language during the broadcast of this programme on 31 December 2022 at 20:00. During the programme, two instances of the word *"fuck"* were broadcast, as well as nine instances of the word *"shit"* and one instance of the word *"titties"*.

This episode featured the home of American singer, actor, and TV personality Ray J, who provided commentary as he conducted the tour around his home. The tour started outside his property showing the audience his collection of cars. He said the following:

> *"My favourite part about this car though, all this shit come off, titties come out… just talk shit all day… this shit right here that I'm about to show you…"*.

He then said:

> *"So, MTV you've seen the cars, you've seen my favourite, now I'm gonna take you inside of the crib, but before I do that I'm going to go shit, shower and shave, it's hot in Miami…".*

Ray J continued the tour inside his home, including his games room which contained a green screen. He demonstrated the green screen and said the following:

> *"Ain't nobody fuck with me in the green screen"*.

Ray J later moved into the bathroom, where he said:

> *"Now I'm gonna take you where the big shit happens - big shit. It's a bidet, just in case you wanna take a shit… I cannot take a shit unless I have all my clothes off. Do you guys have that issue? Do you take a shit butt-naked?"*

The tour concluded in the back garden of the property, after which Ray J said:

> *"You saw the cars, you saw the crib, I would tell you to get the fuck out…"*.

Viacom confirmed that, between 26 December 2022 and 7 January 2023, this programme was broadcast seven[1] times before the watershed. The start times of the broadcasts ranged between 19:30 and 20:30.

We considered that these pre-watershed broadcasts of the programme 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 before the watershed (in the case of television)…".

Rule 1.16: "Offensive language must not be broadcast before the watershed (in the case of television)…unless it is justified by the context. In any event, frequent use of such language must be avoided before the watershed".

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, the Licensee provided additional information.

[1] According to the Licensee, the programme was broadcast on the following occasions:

- 26 December 2022, 20:00 to 20:30;
- 29 December 2022, 20:00 to 20:30;
- 31 December 2022, 20:00 to 20:30;
- 2 January 2023, 20:30 to 21:00;
- 3 January 2023, 19:30 to 20:00;
- 5 January 2023, 20:30 to 21:00; and
- 7 January 2023, 20:30 to 21:00.

Viacom said that an incorrect version of the programme was broadcast which contained offensive language. It explained that the programme was broadcast "with only half of the identified edits actioned" and that it "want[s] to take responsibility and apologise for the offence caused to our viewers".

The Licensee said that, since being notified of the complaint, it had re-edited the non-compliant version of the programme. It acknowledged that the content contained "moderate to very strong language which would have been unsuitable for a pre-watershed audience" and said that it "never intended that the content would be seen by any child or family audience with this amount of offensive language present".

Viacom explained that the programme was edited for pre-watershed broadcast and sent to its Operations Team for technical quality checking. However, due to a technical and subsequent human error, it said that the programme file needed to be re-sent to the Operations Team, and a previous version of the content was sent which contained only the edits to the first part of the programme. The Licensee added that, as a result, the second part of the programme was broadcast with the offensive language remaining.

Viacom said that it was a "regrettable mistake" and it apologised to Ofcom for the incident. It added that it "takes its compliance obligations very seriously" and that it has "robust processes in place" for ensuring material complies with scheduled timeslots. It explained that, under its normal processes, all edits are quality checked and a second member of the team will then check the programme before it is exported. In this instance, the second check of the programme was carried out on the original file in early December but was not repeated. The Licensee added that, since the broadcast, it had undertaken a review of its processes, including that "full checks of all edits must now be completed" when asked to re-send a file.

Viacom stated that this was a "one-off incident" and not a "systematic failing" in its processes or compliance standards.

Ofcom prepared a Preliminary View finding the programmes in breach of Rules 1.14 and 1.16 and provided it to the Licensee for its comments. In response, the Licensee said that it did "not accept that the broadcast of the word's "shit" and/or "titties" in a non-aggressive and humorous context after 8pm on MTV will necessarily constitute a breach of Rule 1.16".

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 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 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 two instances of the word "*fuck*" pre-watershed on seven occasions were clear examples of the most offensive language being broadcast before the watershed.

We took into account: the Licensee's apology to Ofcom and explanation of what had occurred; and the steps it said it had put in place to prevent a recurrence.

However, Ofcom's Decision is that the broadcasts were in breach of Rule 1.14.

Rule 1.16

Rule 1.16 states that offensive language must not be broadcast on television before the watershed unless it is justified by the context and that, in any event, frequent use of such language must be avoided before the watershed.

In this case, there were nine instances of the word "*shit*" and one instance of the word "*titties*" broadcast on seven occasions before the watershed. Our 2021 offensive language research classified the words "shit" and "tit"[2] as 'moderate' language, considered by audiences to have greater potential for offence than mild words and requiring a higher level of context.

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.

MTV provides music and entertainment programming aimed at a younger audience. While we accept that the audience may expect some mild or moderately offensive language on this channel in the early evening, we considered the repeated nature of the moderately offensive language in this case was likely to have exceeded audience expectations for this channel at this time of day. Ofcom also took into account that the programme was pre-recorded and there was no apology broadcast after the use of the offensive language. In addition, this programme was broadcast pre-watershed a total of seven times. Ofcom considered that there was insufficient contextual justification for the use of potentially offensive language during the programme.

Rule 1.16 not only requires offensive language broadcast before the watershed to be justified by the context, but also states that "in any event, frequent use of such language must be avoided before the watershed". This is consistent with Ofcom's Guidance on Rule 1.16, which states that "milder language in the early part of the evening may be acceptable, for example, if mitigated by a humorous context. However, in general, viewers and listeners do not wish to hear frequent or regular use of such language, including profanity, before 2100".

[2] We considered viewers would have perceived "*titties*" to have been a variation of "*tit*".

Ofcom noted that, across the 30 minute long programme, there was a total of ten instances of moderately offensive language. In Ofcom's view, this clearly constituted "frequent use" of offensive language before the watershed.

Ofcom acknowledged the Licensee's view that the broadcast of the words "shit" and "titties" on MTV at 20:00 would not necessarily constitute a breach of Rule 1.16. However, in Ofcom's view, the frequent use of moderately offensive language, in a programme broadcast pre-watershed on seven occasions, was not justified by the context and was unlikely to have been within audience expectations of a programme broadcast on this channel at this time of day.

Ofcom's Decision is that the broadcast of repeated moderately offensive language before the watershed was not justified by the context and was also in breach of Rule 1.16.

Breaches of Rules 1.14 and 1.16