

## SUSPENSION NOTICE

### **NOTICE OF SUSPENSION OF LICENCE FOR BROADCASTING MATERIAL LIKELY TO ENCOURAGE OR INCITE CRIME OR TO LEAD TO DISORDER**

#### **PURSUANT TO SECTION 239 OF THE COMMUNICATIONS ACT 2003**

#### **TO KHALSA TELEVISION LIMITED (“THE LICENSEE”)**

#### **IN RESPECT OF LICENCE NUMBERED TLCS 101501BA/2 (THE “TLCS LICENCE”) GRANTED ON 26 MAY 2016 AND PRESENTLY HELD BY KHALSA TELEVISION LIMITED TO PROVIDE A TELEVISION LICENSABLE CONTENT SERVICE UNDER PART I OF THE BROADCASTING ACT 1990**

#### **WHEREAS**

- i. Khalsa Television Limited (“KTV Ltd” or “the Licensee”) holds a TLCS Licence to provide the television service KTV (the “Licensed Service”) under the Broadcasting Act 1990 (the “1990 Act”).
- ii. Section 239(1) of the Communications Act 2003 (the “Communications Act”) provides that Ofcom must serve a notice under section 239 on the Licensee if it is satisfied that –
  - a. the holder of the licence has included in the service one or more programmes containing material likely to encourage or to incite the commission of crime, or lead to disorder;
  - b. in doing so, it has contravened conditions contained by virtue of Chapter 4 of Part 3 of the Communications Act in the licence to provide that service; and
  - c. the contravention is such as to justify the revocation of the licence (“the section 239 Conditions”).
- iii. Section 239(2) of the Communications Act provides that a notice under section 239(2) must –
  - a. state that Ofcom are satisfied as mentioned in subsection (1);
  - b. specify the respects in which, in their opinion, the licence holder has contravened the condition mentioned in paragraph (b) of that subsection;
  - c. state that Ofcom may revoke the licence after the end of the period of twenty-one days beginning with the day on which the notice is served on the licence holder; and
  - d. inform the licence holder of his right to make representations to Ofcom within that period about the matters appearing to Ofcom to provide grounds for revoking the licence.
- iv. Section 293(3) provides that the effect of a notice under subsection (2) is to suspend the licence from the time when the notice is served on the licence holder until either the revocation of the licence takes effect, or Ofcom decides not to revoke the licence.
- v. Condition 29(6) of the TLCS Licence provides that:
  - a. if Ofcom is satisfied that the Licensee has included in the Licensed Service one or more programmes containing material likely to encourage or incite the commission of crime or to lead to disorder such that the Licensee has thereby contravened Condition 6(1)(b), or any other Condition contained in the Licence by virtue of Part 3, Chapter 4 of the

Communications Act, and that the contravention is such as to justify the revocation of the Licence, Ofcom shall serve on the Licensee a notice:

- (i) stating that Ofcom is so satisfied;
- (ii) specifying the respects in which, in the opinion of Ofcom, the Licensee has failed to comply with the Condition 6(1)(b) or any other Condition;
- (iii) stating that Ofcom may revoke the Licence after the end of the period of twenty-one days beginning with the date on which the notice is served on the Licensee;
- (iv) informing the Licensee of his right to make representations to Ofcom within that period about the matters appearing to Ofcom to provide grounds for revoking the Licence; and
- (v) suspending the licence as from the time when the notice is served on the licence holder until the revocation takes effect or Ofcom decide not to revoke the licence.

b. If Ofcom, having considered any representations made within the time period stated above in Condition 29(4)(a)(iii), is satisfied that it is necessary in the public interest to revoke the licence in question, it shall serve on the Licensee a notice revoking the Licence, however, such a revocation notice shall not take effect until the end of the period of twenty-eight days beginning with the day on which the revocation notice was served on the Licensee.

- vi.** Section 13 of the 1990 Act provides that any person who provides any relevant regulated television service without being authorised to do so by or under a licence shall be guilty of a criminal offence which is punishable by an unlimited fine.
- vii.** Under section 6 of the Human Rights Act 1998, Ofcom (as a public authority) has a duty to ensure that it does not act in a way which is incompatible with the European Convention on Human Rights (“the Convention”). In particular, in the context of this case, Ofcom has taken account of Article 10 of the Convention.
- viii.** Article 10 of the Convention provides for the right to freedom of expression. Applied to broadcasting, this right encompasses the broadcaster’s freedom to impart and the audience’s freedom to receive information and ideas without interference by public authority and regardless of frontiers (Article 10(1) of the Convention). The exercise of these freedoms may be subject only to conditions and restrictions which are “prescribed in law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health or morals, for the protection of the reputation or rights of others, for preventing the disclosure of information received in confidence or for maintaining the authority and impartiality of the judiciary” (Article 10(2) of the Convention).
- ix.** On 3 February 2022, Ofcom sent a preliminary view (“the Preliminary View”) to the Licensee in which Ofcom provisionally found that a programme, *Prime Time*, broadcast on KTV on 30 December 2021 at 19:16, breached Rule 3.1 of the Ofcom Broadcasting Code (“the Code”) because the content was likely to encourage or incite the commission of a crime or lead to disorder. In the Preliminary View, Ofcom put the Licensee on notice that Ofcom considered the breach to be serious and would be considering the imposition of a statutory sanction. Ofcom also put the Licensee on notice that, due to this and previous breaches of Rule 3.1 relating to material inciting violence, Ofcom would be considering whether it could continue to be satisfied that the Licensee is fit and proper to hold a broadcast licence.

- x. On 24 February 2022 the Licensee provided its representations on the Preliminary View. KTV Ltd objected to Ofcom’s translation and analysis of the programme in their entirety, without providing any substantive details of the objection. On the same day, Ofcom sought clarification as to which aspects of Ofcom’s translation of the programme and the Preliminary View KTV Ltd considered to be incorrect. Ofcom sent further emails requesting this on 1 and 2 March 2022. Ofcom did not receive a response to these emails.
- xi. On 21 March 2022, Ofcom served the Licensee with a draft Notice of Suspension, which annexed a draft final breach decision in relation to the above programme and invited the Licensee to make representations by 24 March 2022. The Licensee requested an extension to this deadline, which Ofcom granted, and the Licensee provided its representations on 28 March 2022. In its representations, the Licensee reiterated that the programme did not contain an incitement or call to violent action in breach of Rule 3.1 and provided an example of what it said was Ofcom’s ‘misunderstanding’ of the words used by the presenter. It also requested to meet with Ofcom to discuss further points it wished to address. Given the urgency and seriousness of the investigation and the time that the Licensee had already been offered to provide its full written representations, Ofcom did not consider it appropriate to delay matters further. Ofcom noted that the Licensee would have a further opportunity to make written and oral representations should we decide to suspend its licence.

#### **NOW THEREFORE**

1. Ofcom hereby gives notice to the Licensee that pursuant to section 239 of the Communications Act, and for the reasons set out in full below, it is satisfied that the section 239 Conditions are met, namely that –
  - a. the holder of the licence has included in the service one or more programmes containing material likely to encourage or to incite the commission of crime, or to lead to disorder;
  - b. in doing so, he has contravened conditions contained by virtue of Chapter 4 of Part 3 of the Communications Act in the licence to provide that service; and
  - c. the contravention is such as to justify the revocation of the TLCS licence.
2. The effect of this Suspension Notice is to suspend the TLCS Licence from the time when the Suspension Notice is served on the Licensee, i.e. on delivery, until either –
  - a. the revocation of the TLCS Licence takes effect; or
  - b. Ofcom decides not to revoke the TLCS Licence(“the Suspension Period”).
3. During the Suspension Period, the Licensee, KTV Ltd, must not broadcast the KTV service. Pursuant to section 13 of the 1990 Act, failure to comply with this Suspension Notice by broadcasting the KTV service during the Suspension Period would amount to a criminal offence which is punishable by an unlimited fine.
4. Ofcom hereby informs the Licensee of its right to make written and oral representations to Ofcom within 21 days, beginning with the day of service of this Suspension Notice, about the matters that appear to Ofcom to provide grounds for revoking the TLCS Licence (see covering letter).

5. Ofcom hereby informs the Licensee that Ofcom may revoke the licence after the end of the period of 21 days beginning with the day on which the Suspension Notice is served on the licence holder if, after considering any representations made to them by the licence holder within that period, Ofcom is satisfied that it is necessary in the public interest to revoke the licence.

**Reasons why Ofcom is satisfied that the section 239 Conditions are met**

- A. The holder of the licence has included in the service one or more programmes containing material likely to encourage or to incite the commission of crime, or lead to disorder**
  1. Ofcom is satisfied that this is the case for the reasons set out in **Annex A**.
- B. In doing so, the Licensee has contravened conditions contained in the licence to provide that service by virtue of Chapter 4 of the Communications Act**
  2. Ofcom has a specific duty under section 319 of the Communications Act to set such standards for the content of programmes in television and radio services as appears to it best calculated to secure the standards objectives set out in section 319(2). These objectives include that “material likely to encourage or to incite the commission of crime or to lead to disorder is not included in television and radio services”.
  3. The standards set by Ofcom under this section must be contained in one or more codes. Ofcom’s Broadcasting Code contains the standards Ofcom has set.
  4. Under section 325 of the Communications Act, the regulatory regime for every programme service licensed by a Broadcasting Act licence includes conditions for securing that standards set under section 319 are observed in the provision of that service. Condition 6 of the TLCS Licence states “The Licensee shall ensure that the provisions of the Standards Code are observed in the provision of the Licensed Service”.<sup>1</sup>
  5. As such, the Licensee is required to ensure that the provisions of the Code are observed in the provision of the licensed service. By broadcasting material on the licensed service containing material likely to encourage or incite the commission of crime or to lead to disorder contrary to Rule 3.1 of the Code, the Licensee has failed to comply with Condition 6 of the TLCS Licence.
  6. Based on the above, Ofcom is satisfied that the Licensee contravened conditions contained in the TLCS Licence, namely Condition 6.

---

<sup>1</sup> The Licence states that “‘Standards Code’ means the code or codes governing standards for the content of programmes, including standards and practice in advertising and in the sponsoring of programmes included in television and radio services as drawn up and from time to time revised by Ofcom in accordance with Section 319 of the Communications Act (and in the event that such code or codes has not or have not been drawn up by Ofcom or is not or are not yet in force, ‘Standards Code’ shall be interpreted in accordance with paragraphs 41 and 43 of Schedule 18 to the Communications Act)”.

### C. The contravention is such as to justify the revocation of the licence

*The words used in the content broadcast and the circumstances in which they were spoken*

7. For the reasons set out in Annex A, Ofcom considered that the cumulative effect of statements made in the programme was to present violent action, including murder, as an acceptable and necessary form of action to further the Khalistani cause, and to encourage viewers to travel to Punjab to engage in violent protest. The message was sustained throughout a lengthy programme and was expressed from time to time in a manner which, in Ofcom's view, made it clear that the presenter was aware that the message should not be broadcast.
8. Ofcom regards the broadcast of an incitement to murder as a very serious matter. Ofcom is given a specific statutory duty to ensure broadcasters do not transmit material that is likely to encourage or incite crime or lead to disorder. Where such material is broadcast in contravention of this requirement, the Communications Act recognises the potential for serious harm to be caused to society and that, where justified by the breach, the regulator may be required to act to be able to remove a broadcaster's entitlement to hold a licence. In this case, the potential for serious harm if this material incited others was clear. Members of the pro-Khalistani movement have committed murders in the past, including in the UK<sup>2</sup>, and the programme referred more than once to a recent bombing<sup>3</sup> in India alleged to have been carried out by pro-Khalistani activists.

*Repeated nature of breaches*

9. Ofcom was particularly concerned that this breach was the third occasion in less than four years on which this Licensee has broadcast an incitement to murder, and the second involving this presenter, and that on two occasions the breach has been related to a pro-Khalistani message.
10. Ofcom has previously made the following Rule 3.1 breach findings in relation to KTV Ltd:
  - In our decision on **Bagga and Shera** (KTV, 4 July 2018, 22:56; 7 July 2018, 21:26; 9 July 2018, 14:30; Broadcast and On Demand Bulletin ("Broadcast Bulletin") 373<sup>4</sup>), Ofcom found that KTV Ltd had broadcast a music video which constituted an indirect call to action for Sikhs to commit violence, up to and including murder. The broadcasts of the music video were in breach of Rules 3.1, 2.3, and 2.11.
  - In our decision on **Panthak Masle** (KTV, 30 March 2019, 15:00; Broadcast Bulletin 391<sup>5</sup>), Ofcom found that the live discussion programme, presented by Jagjit Singh Jeeta, provided a platform for several guests to express views which amounted to indirect calls to action and were likely to encourage or incite the commission of crime, up to and including murder, or lead to disorder. Consequently, the programme was in breach of Rules 3.1, 2.1, and 2.3.
11. As a consequence of these two breaches Ofcom investigated whether or not the Licensee remained fit and proper to hold a licence, a process which would have led to the revocation of its licence had

---

<sup>2</sup> Rajinder Singh and Manjit Singh carried out the murder of Sikh leader Darshan Das and two others in Southall in 1987. They were both sentenced to life imprisonment in the UK.

<sup>3</sup> A bomb explosion at Ludhiana courthouse, which has been linked to Sikh militant groups and also Pakistan's intelligence agency the ISI. See [Ludhiana Blast, A 'Terrorist Attack'](https://www.arabnews.com/node/304622), Arab News 16 October 2007 (<https://www.arabnews.com/node/304622>) and [Ludhiana blast accused had links with Pakistan's ISI says Punjab DGP](https://www.tribuneindia.com/news/punjab/ludhiana-blast-accused-had-links-with-paks-isi-says-punjab-dgp-354495), The Tribune (<https://www.tribuneindia.com/news/punjab/ludhiana-blast-accused-had-links-with-paks-isi-says-punjab-dgp-354495>).

<sup>4</sup> See [Broadcast Bulletin 373](#).

<sup>5</sup> See [Broadcast Bulletin 391](#).

the Licensee failed to satisfy Ofcom. The Licensee made assurances to Ofcom about the measures it had taken to improve its compliance processes, which informed Ofcom's decision at the time that the Licensee was fit and proper. Ofcom said that it may review this decision if KTV Ltd did not maintain these measures effectively, leading to further compliance failures. Ultimately, Ofcom imposed statutory sanctions on the Licensee, requiring it to pay financial penalties of £20,000 and £30,000 in relation to the two breaches, broadcast a statement of Ofcom's findings and not repeat the material concerned.

12. This most recent breach therefore took place in a context where the Licensee was already well aware both of the seriousness of breaches of this nature and of the risks posed by this presenter in particular (in the light of the previous breach involving this presenter). The previous enforcement proceedings by Ofcom did not secure compliance with Rule 3.1. As a result of the repeated breaches of Rule 3.1 of the Code which have occurred, Ofcom considers that the Licensee lacks the ability to comply with the conditions of its TLCS Licence.

*Compliance history and the likelihood of further breaches*

13. We consider this conclusion to be supported by KTV Ltd's compliance record in other respects.

14. In addition to the above two Rule 3.1 breaches, Ofcom has also made the following other breach findings in relation to KTV Ltd:

- In our Fairness and Privacy decision on **Sri Guru Singh Sabha Southall Elections Debate** (KTV, 27 September 2017; Broadcast Bulletin 380<sup>6</sup>), Ofcom found that this programme, presented by Jagjit Singh Jeeta, contained unjust or unfair treatment of the complainant, the Sher Group<sup>7</sup>, by giving a misleading impression that the complainant had been given the opportunity to participate in the programme but had chosen not to do so. Ofcom also found that KTV Ltd did not take reasonable care to satisfy itself that material facts had not been presented, disregarded, or omitted in a way that was unfair to the complainant, and had failed to provide the complainant with an appropriate and timely opportunity to respond.
- In our Fairness and Privacy decision on **Programming** (KTV, 30 September 2017; Broadcast Bulletin 380<sup>8</sup>), Ofcom found that KTV Ltd did not take reasonable care to satisfy itself that material facts had not been presented, disregarded, or omitted in a way that was unfair to the complainants, Mr Malhi and the Sher Group, the comments in the programme had amounted to significant allegations about the complainants, and that KTV Ltd had failed to provide the complainants with an appropriate and timely opportunity to respond. Again, this programme was presented by Jagjit Singh Jeeta.
- In Broadcast Bulletin 342<sup>9</sup>, published 20 November 2017, Ofcom recorded that KTV Ltd had failed to submit its Relevant Turnover returns by the original deadline in accordance with Licence Condition 12(1) of its TLCS Licence, but subsequently submitted a late return. We therefore considered the matter resolved.

---

<sup>6</sup> See [Broadcast Bulletin 380](#).

<sup>7</sup> One of three groups who were standing for election to form the new management committee of Sri Guru Singh Sabha Gurdwara, Southall.

<sup>8</sup> See footnote 6.

<sup>9</sup> See [Broadcast Bulletin 342](#).

- In our decision on **Free Jaggi Now** (KTV, 6 January 2018, 21:30; Broadcast Bulletin 358<sup>10</sup>), Ofcom found that the Licensee had failed to preserve due impartiality in breach of Rule 5.5. It did not adequately reflect the view of the Indian Government in this current affairs programme on the arrest and detention of Jagtar Singh Johal (referred to as “Jaggi”) by Indian authorities.
- In our decision on **Indian Law** (KTV, 14 January 2018, 19:30; Broadcast Bulletin 357<sup>11</sup>), Ofcom found that KTV Ltd had promoted and given undue prominence to the services of a guest to the programme in breach of Rules 9.4 and 9.5.
- In our decision on **Good Morning KTV** (KTV, 20 February 2018, 09:00; Broadcast Bulletin 373<sup>12</sup>), Ofcom found that KTV Ltd had broadcast a documentary about violence and showed reconstructions of scenes involving images and graphic descriptions of abuse and sexual violence, at a time before the watershed and following a segment on the Punjab water issue, and therefore audiences were unlikely to have expected to encounter such distressing material. Consequently, the programme was in breach of Rules 1.3, 1.11, and 2.3.
- In our decision on **Acupressure Show** (KTV, 12 March 2018, 21:30; Broadcast Bulletin 373<sup>13</sup>), Ofcom found that the programme had included potentially harmful medical advice as the presenter and guest: dismissed, without challenge, the effectiveness of some conventional medical treatment; implied that acupressure was more effective as a treatment than conventional medical treatments; and referred to acupressure as a cure for certain ailments. Viewers were also encouraged to use the treatment advised by the guest and to make appointments to see him, and numerous references were made to the guest’s profession, his success rate in treatments, and his business. Consequently, the programme was in breach of Rules 2.1, 9.4, and 9.5.
- In our decision on **Homeopathic Clinic** (KTV, 8 June 2018, 16:00; Broadcast Bulletin 373<sup>14</sup>), Ofcom found that the programme had included potentially harmful medical advice as the guest: claimed to be able to treat several serious illnesses and conditions using homeopathic remedies, such as diabetes and asthma; dismissed the effectiveness of some conventional licensed medicines without challenge; and encouraged viewers to make appointments to see him. Consequently, the programme was in breach of Rules 2.1, 9.4, and 9.5.
- In our decision on **Sangeen Mamlay** (KTV, 20 September 2018, 16:00; Broadcast Bulletin 378<sup>15</sup>), Ofcom found that the programme, which discussed the reasons why some parties to marital disputes in India were resorting to violence, showed footage which contained the use of offensive language and scenes of violence. The programme was also broadcast before the watershed, and immediately prior to *Children’s Hour* and cartoons. Consequently, the programme was in breach of Rules 1.11, 1.14, and 2.3.

---

<sup>10</sup> See [Broadcast Bulletin 358](#).

<sup>11</sup> See [Broadcast Bulletin 357](#).

<sup>12</sup> See footnote 4.

<sup>13</sup> See footnote 4.

<sup>14</sup> See footnote 4.

<sup>15</sup> See [Broadcast Bulletin 378](#).

- In Broadcast Bulletin 370<sup>16</sup>, published 14 January 2019, Ofcom found KTV Ltd to be in breach of Licence Condition 4(3) of its TLCS Licence for failure to submit its annual relevant turnover statement when required.
- In Broadcast Bulletin 373<sup>17</sup>, published 25 February 2019, Ofcom found KTV Ltd in breach of Licence Conditions 13, 17(2) and 20(1) of its TLCS Licence:
  - Licence Condition 13 requires that licensees provide Ofcom with information relating to a change of control, which the Licensee failed to do so following a change of directorship in June 2018.
  - Licence Condition 17(2) requires, amongst other things, that licensees adopt procedures to ensure their programmes comply in all respects with their licence conditions, and ensure that such procedures are observed. In particular, it obliges the licensee to ensure there are enough sufficiently qualified or trained people to ensure compliance, and that they have sufficient seniority to ensure the licensed service complies “in all respects” with the Code. In the context of Ofcom’s investigation of two fairness and privacy complaints, the Licensee had acknowledged that it had no members of staff with responsibility for ensuring compliance between 9 July 2018 and January 2019, but it nonetheless appeared to have continued to broadcast during this period. Ofcom considered that the Licensee was in breach of Condition 17 during this period.
  - Licence Condition 20(1) requires that licensees comply with Ofcom directions and requests for information in relation to Fairness and Privacy complaints, which the Licensee failed to do for the two Fairness and Privacy cases listed above, specifically **Sri Guru Singh Sabha Southall Elections Debate** (KTV, 27 September 2017; Broadcast Bulletin 380) and **Programming** (KTV, 30 September 2017; Broadcast Bulletin 380).
- In our decision on **Homeopathic Clinic** (KTV, 15 March 2019, 16:00; Broadcast Bulletin 382<sup>18</sup>), Ofcom found that the guest and the presenter on the programme had made a number of references to the guest’s business, and the guest appeared to be using the programme to solicit business as a homeopathic practitioner and encouraged viewers to contact him off-air. Consequently, the programme was in breach of Rules 9.4 and 9.5.
- In our decision on **Vadhiyan Ji** (KTV, 9 March 2020; Broadcast Bulletin 398<sup>19</sup>) Ofcom found that references to the services of a guest of the programme were unduly prominent, in breach of Rule 9.5.
- In Broadcast Bulletin 413<sup>20</sup>, published 26 October 2020, Ofcom found KTV Ltd in breach of:
  - Licence Condition 12(1) for failing to provide qualifying revenue information when requested by Ofcom.

---

<sup>16</sup> See [Broadcast Bulletin 370](#).

<sup>17</sup> See [Broadcast Bulletin 373](#).

<sup>18</sup> See [Broadcast Bulletin 382](#).

<sup>19</sup> See [Broadcast Bulletin 398](#).

<sup>20</sup> See [Broadcast Bulletin 413](#).



- Licence Condition 20(1)(a) of its TLCS Licence for failing to provide recordings of requested content until four weeks after Ofcom's deadline.

15. The Licensee was granted its licence on 26 May 2016. Ofcom has recorded 33 breaches of licence conditions and Code rules, in 17 separate decisions, since then. Ofcom considers that this is a very significant number of breaches in a relatively short period of time.
16. As set out in paragraph 11 above, Ofcom had previously made it clear to the Licensee that it may review its earlier decision that it was fit and proper to hold a licence if it did not maintain effective compliance measures, leading to further compliance failures. Overall, Ofcom considers that the Licensee's previous compliance history can give it no confidence that the Licensee is capable of avoiding further serious breaches of the Code.

#### *Convention rights*

17. Ofcom had regard to the Licensee's right to freedom of expression as enshrined in Article 10 of the ECHR. Any limitation on the right to freedom of expression, particularly political freedom of expression, must be strictly considered. Any limitation must be prescribed by law, pursue a legitimate aim and be necessary in a democratic society. In order to establish that a limitation is "necessary", relevant and sufficient reasons must be provided to justify the restriction, the restriction must correspond to a pressing social need, and it must be proportionate to the aim pursued.
18. We recognise that suspension and possible revocation is a major interference with freedom of speech, as it prevents the broadcaster from broadcasting and restricts the number of voices being heard and the range of programming available to audiences. Ofcom considers that the threshold for suspending and revoking a broadcaster's licence is, therefore, high.
19. In particular, Ofcom took into account that the relevant material was broadcast on a channel providing a variety of programming to the Sikh community living in the UK and that if the TLCS Licence was revoked, its viewers would be deprived of the service.
20. However, while we note that this constitutes a significant interference with the Licensee's and its audience's Article 10 rights, we consider that this meets the requirements of Article 10(2) as being prescribed by law, in the pursuit of a legitimate aim and necessary in a democratic society.
21. The Communications Act and Code as set out above are the applicable law for the purposes of Article 10(2). All Ofcom licensees must comply with the Code, and are aware of these obligations. The legitimate aim pursued by the Act and the Code is to protect the rights of others i.e. to protect audiences from harm by ensuring that content which is likely to incite crime and disorder is not broadcast. We consider that legitimate aim to be particularly acute in circumstances where the crime and disorder concerned represent a risk to public health, safety and security.
22. We consider that in the current circumstances, where we have immediate and significant repeated concerns about content broadcast that we consider incites crime and disorder, which has taken place despite previous enforcement action by Ofcom, this interference is proportionate and necessary in our democratic society in pursuance of a legitimate aim, ie to protect broadcast audiences from content which incites crime and disorder.

#### **D. Conclusion**

23. Ofcom is satisfied that –

- a. the Licensee has included in the Licensed Service one or more programmes containing material likely to encourage or incite the commission of crime or lead to disorder;
- b. in doing so the Licensee has contravened conditions contained by virtue of Chapter 4 and Part 3 of the Communications Act in the licence to provide that service, namely Conditions 6 and 17(2) of the TLCS Licence; and
- c. the failure justifies the revocation of the TLCS Licence.

**SIGNED FOR AND ON BEHALF OF OFCOM ON 31 MARCH 2022**



**Alison Marsden**

A person duly authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002

## Explanatory Notes

Your attention is drawn to section 239 of the 2003 Act:

### **“239 Action against licence holders who incite crime or disorder**

- (1) *OFCOM must serve a notice under subsection (2) on the holder of a licence to provide a television licensable content service if they are satisfied—*
  - (a) *that the holder of the licence has included in the service one or more programmes containing material likely to encourage or to incite the commission of crime, or to lead to disorder;*
  - (b) *that, in doing so, he has contravened conditions contained by virtue of Chapter 4 of this Part in the licence to provide that service; and*
  - (c) *that the contravention is such as to justify the revocation of the licence.*
- (2) *A notice under this subsection must—*
  - (a) *state that OFCOM are satisfied as mentioned in subsection (1);*
  - (b) *specify the respects in which, in their opinion, the licence holder has contravened the condition mentioned in paragraph (b) of that subsection;*
  - (c) *state that OFCOM may revoke the licence after the end of the period of twenty-one days beginning with the day on which the notice is served on the licence holder; and*
  - (d) *inform the licence holder of his right to make representations to OFCOM within that period about the matters appearing to OFCOM to provide grounds for revoking the licence.*
- (3) *The effect of a notice under subsection (2) shall be to suspend the licence as from the time when the notice is served on the licence holder until either—*
  - (a) *the revocation of the licence takes effect; or*
  - (b) *OFCOM decide not to revoke the licence.*
- (4) *If, after considering any representations made to them by the licence holder within the period specified for the purposes of subsection (2)(c), OFCOM are satisfied that it is necessary in the public interest to revoke the licence, they shall serve a notice of revocation on the licence holder.*
- (5) *The revocation of a licence by a notice under subsection (4) takes effect from such time as may be specified in the notice.*
- (6) *A notice of revocation under subsection (4) must not specify a time for it to take effect that falls before the end of the period of twenty-eight days beginning with the day on which the notice is served on the licence holder.”*