

Ofcom Broadcast Bulletin

**Issue number 264
20 October 2014**

Contents

Introduction	4
--------------	---

Note to Broadcasters	6
----------------------	---

Standards cases

In Breach

Property Show <i>Bangla TV, 15 May 2014, 10:00</i>	7
Ami r Ma <i>Bangla TV, 10 June 2014, 17:30</i>	11
Azan-e-Magrib <i>Bangla TV, 7 July 2014, 21:00</i>	15
Studio 66 3 Nights <i>Studio 66 TV3, 4 June 2014, 22:15</i>	18
Studio 66 Nights <i>Studio 66 TV1, 6 June 2014, 01:45</i>	22
Radio 1's Big Weekend <i>BBC Radio 1, 24 May 2014, 17:15 to 18:45</i>	26
World's Craziest Fools <i>BBC3, 30 June 2014, 19:00</i>	30
Jeeto Pakistan <i>ARY Entertainment, 18 May 2014, 21:00</i>	33

Resolved

The Wright Stuff <i>Channel 5, 19 August 2014, 09:15</i>	38
--	----

Broadcast Licence Conditions cases

In Breach

Providing a service in accordance with 'Key Commitments' <i>TCR FM (Tamworth)</i>	41
---	----

Not In Breach

Providing a service in accordance with Format <i>Capital Xtra (Brixton & North London), October 2013 to date</i>	43
--	----

Investigations Not in Breach	49
Complaints Assessed, Not Investigated	50
Investigations List	57

Introduction

Under the Communications Act 2003 (“the Act”), Ofcom has a duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives¹. Ofcom must include these standards in a code or codes. These are listed below. Ofcom also has a duty to secure that every provider of a notifiable On Demand Programme Services (“ODPS”) complies with certain standards requirements as set out in the Act².

The Broadcast Bulletin reports on the outcome of investigations into alleged breaches of those Ofcom codes below, as well as licence conditions with which broadcasters regulated by Ofcom are required to comply. We also report on the outcome of ODPS sanctions referrals made by ATVOD and the ASA on the basis of their rules and guidance for ODPS. These Codes, rules and guidance documents include:

- a) [Ofcom’s Broadcasting Code](#) (“the Code”).
- b) the [Code on the Scheduling of Television Advertising](#) (“COSTA”) which contains rules on how much advertising and teleshopping may be scheduled in programmes, how many breaks are allowed and when they may be taken.
- c) certain sections of the [BCAP Code: the UK Code of Broadcast Advertising](#), which relate to those areas of the BCAP Code for which Ofcom retains regulatory responsibility. These include:
 - the prohibition on ‘political’ advertising;
 - sponsorship and product placement on television (see Rules 9.13, 9.16 and 9.17 of the Code) and all commercial communications in radio programming (see Rules 10.6 to 10.8 of the Code);
 - ‘participation TV’ advertising. This includes long-form advertising predicated on premium rate telephone services – most notably chat (including ‘adult’ chat), ‘psychic’ readings and dedicated quiz TV (Call TV quiz services). Ofcom is also responsible for regulating gambling, dating and ‘message board’ material where these are broadcast as advertising³.
- d) other licence conditions which broadcasters must comply with, such as requirements to pay fees and submit information which enables Ofcom to carry out its statutory duties. Further information can be found on Ofcom’s website for [television](#) and [radio](#) licences.
- e) rules and guidance for both [editorial content and advertising content on ODPS](#). Ofcom considers sanctions in relation to ODPS on referral by the Authority for Television On-Demand (“ATVOD”) or the Advertising Standards Authority (“ASA”), co-regulators of ODPS for editorial content and advertising respectively, or may do so as a concurrent regulator.

[Other codes and requirements](#) may also apply to broadcasters and ODPS, depending on their circumstances. These include the Code on Television Access Services (which sets out how much subtitling, signing and audio description relevant

¹ The relevant legislation is set out in detail in Annex 1 of the Code.

² The relevant legislation can be found at Part 4A of the Act.

³ BCAP and ASA continue to regulate conventional teleshopping content and spot advertising for these types of services where it is permitted. Ofcom remains responsible for statutory sanctions in all advertising cases.

licensees must provide), the Code on Electronic Programme Guides, the Code on Listed Events, and the Cross Promotion Code.

It is Ofcom's policy to describe fully the content in television, radio and on demand content. Some of the language and descriptions used in Ofcom's Broadcast Bulletin may therefore cause offence.

Note to Broadcasters

Broadcasting Code: non-geographic numbers in programming

On 10 October 2014, Ofcom published its consultation on proposed amendments to the Broadcasting Code about the use of non-geographic numbers in programming.

Broadcasters currently use non-geographic numbers for a variety of purposes including for audience interaction in live programmes. In June 2015 certain non-geographic numbers (specifically the 084, 087, 09 and 118 number ranges) will be subject to a new tariff structure ('the unbundled tariff') that requires specific pricing information to be given to audiences.

Accordingly we have proposed amendments to the Broadcasting Code to ensure that call costs continue to be made clear to listeners and viewers.

Our consultation on the proposed amendments to the Broadcasting Code closes on 21 November 2014 and can be found here:

<http://stakeholders.ofcom.org.uk/consultations/ngn-broadcasting>

Broadcasters should note that, until Ofcom has issued the revised rules, the current Code rules remain in force.

Standards cases

In Breach

Property Show

Bangla TV, 15 May 2014, 10:00

Introduction

Bangla TV is a news and general entertainment channel broadcast in Bengali and serving a Bangladeshi audience. The licence for Bangla TV is held by Bangla TV (UK) Ltd (“Bangla TV” or “the Licensee”).

Property Show was a one-hour studio discussion programme, with a presenter and guests answering questions sent in by viewers via a telephone number displayed on screen from time to time.

We received a complaint stating that a representative of the programme’s sponsor, Prime Estate Agents, appeared in the programme. As the programme was in Bengali, we commissioned an independent translation of it and the surrounding broadcast material.

Ofcom noted that, in the lead-up to the programme, an advertisement for Prime Estate Agents was shown. As translated, the advertisement stated:

- On-screen text: *“Prime Estate Agents. Lettings Sales. We don’t have any branches anywhere. Call for your free property valuation. [telephone number and website address given]”.*
- Voiceover: *“Are you a landlord? Then we have good news for you. The service boundary of Prime Estate Agents is now up to the London M25.*
- Prime Estate Agents have professional qualification and client Money Protection Insurance”.*
- 1st Customer: *“We are with Prime Estate Agents for the last 7 years”.*
- On-screen text: *“Prime Estate Agents. Hassle free Rent Guarantee. Even if your property is Empty”.*
- Voiceover: *“We are ARLA members. We have a rent guarantee”.*
- 2nd Customer: *“Excellent service”.*
- 3rd Customer: *“Absolutely”.*
- Voiceover: *“Call free for your FREE property valuation. Prime Estate Agents, [telephone number given]”.*

An advertisement for an unconnected company was then shown, followed by a Bangla TV station ident, a graphic stating “Now – *Property Show*” and, in audio, “*Sponsored by*”. The Prime Estate Agents advertisement was then repeated in the position of a sponsorship credit.

The show itself featured a host and two expert commentators. One of the experts was Mr Kazi Arif of Prime Estate Agents who had featured prominently in the company's advertisement/sponsorship credit shown before the start of the programme.

Section Nine of the Code states that any reference to a sponsor that appears in a sponsored programme (with the exception of the sponsorship credits themselves) as a result of a commercial arrangement with the broadcaster, the programme maker or a connected person will be treated as product placement.¹

We considered the programme and its sponsorship credits to raise potential issues under the following Code rules:

Rule 9.12: "Product placement is not permitted in the following:...

(b) Consumer advice programmes..."

Rule 9.22: "Sponsorship credits must be distinct from advertising. In particular:

(a) Sponsorship credits broadcast **around sponsored programmes** must not contain advertising messages or calls to action. Credits must not encourage the purchase or rental of the products or services of the sponsor or a third party. The focus of the credit must be the sponsorship arrangement itself. Such credits may include explicit reference to the sponsor's products, services or trade marks for the sole purpose of helping to identify the sponsor and/or the sponsorship arrangement".

Ofcom therefore requested comments from the Licensee about how the programme material complied with Rules 9.12(b) and 9.22(a).

Response

The Licensee told us that it accepted that it had breached the Code. The breaches were a mistake on its part, Bangla TV said, brought about by a failure by the person responsible to understand the rules.

The Licensee said that it took this matter very seriously and had arranged a day's compliance training by an experienced external consultant. Those attending the training had included senior members of staff. The Licensee added that this training would be continued.

Bangla TV said that it, "...will make sure no such mistake occurs again".

Decision

Under the Communications Act 2003 ("the Act"), Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure a number of standards objectives.

¹ Product placement is defined as the inclusion in a programme of, or of a reference to, a product, service or trade mark where the inclusion is for a commercial purpose, and is in return for payment or other valuable consideration to the programme maker, the broadcaster or any person connected with either.

One of those objectives is “that the international obligations of the United Kingdom with respect to advertising included in television and radio services are complied with”. These obligations include ensuring compliance with the Audiovisual Media Services (“AVMS”) Directive.

The AVMS Directive limits the amount of advertising a broadcaster can transmit and requires that advertising is kept distinct from other parts of the programme service. Sponsorship credits are treated as part of the sponsored content and do not count towards the amount of airtime a broadcaster is allowed to use for advertising. To prevent credits effectively becoming advertisements, and therefore increasing the amount of advertising transmitted, broadcasters are required to ensure that sponsorship credits do not contain advertising messages. Rule 9.22(a) of the Code, which among other things requires that sponsorship credits broadcast around sponsored programmes must not contain advertising messages or calls to action, reflects this requirement.

A further objective is that “the product placement requirements...are met in relation to programmes included in a television service (other than advertisements)”. The Act prohibits the inclusion of product placement in consumer affairs programmes. This is reflected in Rule 9.12(b) of the Code which prohibits product placement in consumer advice programmes made under UK jurisdiction².

Rule 9.12(b)

Firstly, Ofcom considered whether the appearance of Kazi Arif in *Property Show* amounted to product placement. We noted that Mr Arif works for, and may be the proprietor of, Prime Estate Agents, the company which sponsored the programme. We considered that his inclusion throughout the programme was a reference to the sponsor and therefore amounted to product placement.

We then considered whether *Property Show* was a consumer advice programme. Because the format of the show consisted of a panel including Mr Arif providing advice on property matters – many of them legal in nature – to viewers, we concluded that *Property Show* was a consumer advice programme. This programme was therefore in breach of Rule 9.12(b).

Rule 9.22(a)

As noted above, Rule 9.22(a) of the Code requires that sponsorship credits broadcast around sponsored programmes must not contain advertising messages or calls to action, or encourage the purchase or rental of the products or services of the sponsor or a third party. Instead, the focus of the credit must be the sponsorship arrangement itself and references to the sponsor’s products, services or trade marks should be for the sole purpose of helping identify the sponsor or the sponsorship arrangement or both.

Ofcom’s published Guidance³ on Rule 9.22(a) states that “Credits should therefore fulfil the role of identifying the sponsorship arrangement and not be capable of being confused with advertising by, for example, focusing on the products or services of the sponsor.”

² Details of what constitutes a programme made under UK jurisdiction can be found in Section Nine of the Code at <http://stakeholders.ofcom.org.uk>.

³ See <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section9.pdf>

In this case it was clear to Ofcom that the sponsorship credit was capable of being confused with an advertisement. Indeed the credit in question had just been shown as an advertisement prior to the start of the programme. Among other things we noted that it contained testimonials from customers, calls to action and service claims (e.g. “*Call free for your FREE property valuation*”).

Because the sponsorship credit contained many characteristics of advertising, including claims and calls to action, we concluded it was in breach of Rule 9.22(a) of the Code.

In a Finding published in issue 249 of Ofcom’s Broadcast Bulletin,⁴ we made clear that we expected the Licensee to take steps to improve its compliance in relation to Section Nine of the Code. In light of our concerns about the Licensee’s compliance record, on 9 May 2014 Bangla TV attended a meeting to discuss its processes. Following that meeting it submitted revised compliance procedures to Ofcom on 30 May 2014.

Ofcom is concerned that, following the meeting on 9 May 2014, the Licensee broadcast further material in breach of Section Nine of the Code, particularly as Ofcom had published a number of findings concerning Rules 9.12(b)⁵ and 9.22(a)⁶ that should have already alerted the Licensee to possible compliance issues in *Property Show*.

We noted the compliance training undertaken by the Licensee and the Licensee’s assurance that it would avoid such mistakes in the future.

Nevertheless, in view of the poor compliance record of the Licensee, as noted above and including other cases in this issue of the Broadcast Bulletin, Ofcom puts Bangla TV (UK) Ltd on notice that, in the event of any further similar compliance failures, it may consider further regulatory action.

Breaches of Rules 9.12(b) and 9.22(a)

⁴ See issue 249 of Ofcom’s Broadcast Bulletin (3 March 2014), available to view at: <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb249/obb249.pdf>.

⁵ See issue 253 of Ofcom’s Broadcast Bulletin (6 May 2014), available to view at: <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb2521/obb253.pdf>.

⁶ Ibid and issue 223 of Ofcom’s Broadcast Bulletin (4 February 2013), at <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb223/obb223.pdf>.

In Breach

Ami r Ma

Bangla TV, 10 June 2014, 17:30

Introduction

Bangla TV is a news and general entertainment channel broadcast in Bengali and serving a Bangladeshi audience. The licence for Bangla TV is held by Bangla TV (UK) Ltd ("Bangla TV" or "the Licensee").

A complainant alerted Ofcom to an episode of *Ami r Ma*, a talk show in which the presenter talks to a number of mothers and their daughters.

Ofcom viewed the programme, which included full screen shots of the universal neutral product placement logo¹ (a 'P symbol') shown into and out of every advertisement break. We noted that branding for Knorr food products appeared throughout the programme on large boards located around the set. These included boards placed directly behind both the presenter and the guests, which were visible when the camera cut to each participant, as well as to the side of the seating area, making the logo visible during wide shots of the set.

Ofcom requested information from the Licensee to determine whether these references raised any issues under the Code. In particular we asked Bangla TV to provide copies of any contracts or other agreements between the programme producer/Bangla TV (or any person connected to either) and Knorr that related to this broadcast.

Ofcom did not receive a response to our request by the specified deadline. We therefore wrote to the Licensee reminding it of its responsibility to supply us with the material requested. Again, the Licensee did not respond to our request within the deadline we had set, and instead provided what appeared to be another copy of the programme on a DVD². We wrote again to the Licensee, asking Bangla TV to confirm if the requested information had been included on the DVD. The Licensee failed to respond to Ofcom's request.

We then informed the Licensee that, in light of its failure to provide the requested information, we were minded to consider it in breach of its licence obligations to provide information to Ofcom when required to do so. At this point Bangla TV responded and committed to provide the requested information by an agreed deadline. However the Licensee failed to meet that deadline and Ofcom received the information a day later.

Ofcom considered that the matter warranted investigation under Condition 12(1) of Bangla TV (UK) Ltd's Television Licensable Content Service licence ("TLCS"). This states that:

¹ Guidance on the form, size and duration of the logo can be found in Annex 1 of Ofcom's Guidance to Section Nine of the Code at:
<http://stakeholders.ofcom.org.uk/binaries/guidance/831193/section9.pdf>.

² Ofcom was unable to verify the DVD's contents as it arrived in an irreparably damaged state.

“The Licensee shall furnish to Ofcom in such manner and at such times as Ofcom may reasonably require such documents, accounts, returns, estimates, reports, notices or other information as Ofcom may require for the purposes of exercising the functions assigned to it by or under the 1990 Act, the 1996 Act, or the Communications Act...”

Bangla TV confirmed that the inclusion of the branding for Knorr in this programme was subject to a commercial arrangement between Knorr and RTV Bangladesh (the programme producer).

The Code defines product placement as:

“The inclusion in a programme of, or reference to, a product, service or trademark where the inclusion is for a commercial purpose, and is in return for the making of any payment, or the giving of other valuable consideration, to any relevant provider or any other person connected with a relevant provider, and is not product placement”.

The definition of a “relevant provider” in the Code includes both the provider of the television service (Bangla TV) and the producer of the programme (RTV). Because in this instance RTV had a commercial arrangement in place with Knorr, we considered the references to Knorr in the programme met the definition of product placement.

Ofcom therefore considered the programme raised issues warranting investigation under Rule 9.10, which states:

“References to placed products, services and trade marks must not be unduly prominent”.

We therefore requested representations from the Licensee as to how the material complied with this rule.

Response

The Licensee stated that in this case it had transmitted programming sourced from RTV in Bangladesh. The Licensee added that it had displayed the ‘P symbol’ full screen into and out of every advertisement break to alert viewers to the commercial arrangement between RTV and Knorr.

Further, Bangla TV stated that once it had received Ofcom’s request for information it had taken steps to ensure the Knorr branding would be obscured in future episodes of the programme. It apologised unconditionally for the delay in responding to Ofcom’s enquiries, citing “an oversight by the person concern[ed]”.

The Licensee told us that it accepted that it had breached the Code. The breach was a mistake on its part, Bangla TV said, brought about by a failure by the person responsible to understand the rules.

The Licensee said that it took this matter very seriously and had arranged a day’s compliance training by an experienced external consultant. Those attending the training had included senior members of staff. The Licensee said further that this training would be continued. Bangla TV said that it hoped that this will improve compliance standards at the channel and ensure no such mistakes occur again.

Decision

Licence Condition 12(1)

Under the Communications Act 2003, Ofcom has a duty to ensure that in each broadcaster's licence there are conditions requiring the licensee to provide information to Ofcom when such information is necessary to enable Ofcom to exercise its functions. TLCS licences enshrine this obligation in Licence Condition 12(1).

Breaches of Licence Condition 12(1) are significant because they impede Ofcom's ability to assess in a timely way whether a particular broadcast raises potential issues under the relevant codes. This can therefore affect Ofcom's ability to carry out its statutory duties in regulating broadcast content.

In this case, the Licensee did not provide the requested information despite three requests from Ofcom. We noted that the Licensee was eventually able to provide the requested information and apologised for the delay in responding which the Licensee explained had been caused by an oversight by the person concerned. However, Ofcom considered that this did not provide a satisfactory explanation as to why this incident had occurred. Ofcom also noted that Bangla TV's response did not make clear how it would remedy this situation to ensure it would not recur.

Ofcom expects its licensees to have measures in place to ensure information requested by the regulator is provided in a timely manner. In this case, the Licensee did not provide the information requested within the deadlines set by Ofcom. Ofcom has therefore recorded a breach of Licence Condition 12(1).

Rule 9.10

Article 19 of the Audiovisual Media Services Directive (the "AVMS Directive") requires, among other things, that television advertising is kept visually and/or audibly distinct from programming.

The purpose of this rule is to prevent programmes becoming vehicles for advertising and to protect viewers from surreptitious advertising. Further, Article 23 of the AVMS Directive requires that television advertising is limited to a maximum of 12 minutes in any clock hour.

The above requirements are reflected in, among other rules, Rule 9.10 of the Code, which prohibits references to placed products, services or trade marks being given undue prominence in programming.

In this case, Ofcom considered that there was no editorial justification for the Knorr logo to appear throughout a discussion programme. We therefore considered this content was in breach of Rule 9.10.

In a Finding published in issue 249 of Ofcom's Broadcast Bulletin,³ we made clear that we expected the Licensee to take steps to improve its compliance in relation to Section Nine of the Code. In light of our concerns about the Licensee's compliance

³ See issue 249 of Ofcom's Broadcast Bulletin (3 March 2014), available to view at: <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb249/obb249.pdf>.

record, on 9 May 2014 Bangla TV attended a meeting to discuss its processes. Following that meeting it submitted revised compliance procedures to Ofcom on 30 May 2014.

Ofcom is concerned that, despite those steps, the Licensee broadcast further material in breach of Section Nine of the Code, particularly as Ofcom had recently published findings about Rule 9.10⁴ that should have alerted the Licensee to possible compliance issues in *Ami r Ma*.

We noted the compliance training undertaken by the Licensee and the Licensee's assurance that it would avoid such mistakes in the future.

Nevertheless, in view of the poor compliance record of the Licensee, as noted above and including other cases in this issue of the Broadcast Bulletin, Ofcom puts Bangla TV (UK) Ltd on notice that, in the event of any further similar compliance failures, it may consider further regulatory action.

Breaches of TLCS Licence Condition 12(1) and Rule 9.10

⁴ See issues 251 (31 March 2014) and 254 (19 May 2014) of Ofcom's Broadcast Bulletin, available to view at: <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb2501/obb251.pdf> and <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb254/obb254.pdf>

In Breach

Azan-e-Magrib

Bangla TV, 7 July 2014, 21:00

Introduction

Bangla TV is a news and general entertainment channel broadcast in Bengali and serving a Bangladeshi audience. The licence for Bangla TV is held by Bangla TV (UK) Ltd ("Bangla TV" or "the Licensee").

A complainant alerted Ofcom to sponsorship credits broadcast during *Azan-e-Magrib*, a three minute Islamic call to prayer sponsored by JMG Cargo and Travel, Nirala Foods and Holy Makkah Tours.

On nine occasions during the programme, sponsorship credits were shown in the left hand area of the screen, while scenes of pilgrims attending the Sacred Mosque in Mecca were shown on the right side. This visual content was accompanied by the Azan¹.

Section Nine of the Code requires programme sponsorship to be identified clearly by means of sponsorship credits, which must be broadcast at the beginning and/or during and/or end of the sponsored programme. However, sponsorship credits may not be shown during sponsored programmes in which product placement² is prohibited.

Rule 9.12(a) of the Code, prohibits product placement in religious programmes produced under UK jurisdiction³. Ofcom's Guidance to Section Nine of the Code makes clear that a religious programme "is a programme that covers religious acts of worship or whose main focus is religious belief...". As a call to prayer, *Azan-e-Magrib* was a religious programme within the terms of Rule 9.12(a) of the Code.

Ofcom therefore considered the material raised issues warranting investigation under Rule 9.23 of the Code, which states:

"Where a sponsor is prohibited from product placing in the programme it is sponsoring, sponsorship credits may not be shown during the sponsored programme".

¹ An Azan (or Adhan) is an Islamic call to prayer or worship, recited by the muezzin (the appointed person at a mosque to lead such calls) at prescribed times of the day.

² Product placement is defined as the inclusion in a programme of, or of a reference to, a product, service or trade mark where the inclusion is for a commercial purpose, and is in return for payment or other valuable consideration to the programme maker, the broadcaster or any person connected with either.

³ As also set out in Section Nine of the Code, "programmes produced under UK jurisdiction" means any programme produced or commissioned by either: a) the provider of the television programme service or any person connected with that provider (except in the case of a film made for cinema); or b) any other person with a view to its first showing taking place in a television programme service under the jurisdiction of the United Kingdom (for the purposes of the AVMS Directive).

We sought comments from the Licensee as to how the content complied with this rule.

Response

The Licensee said that *Azan-e-Magrib* is not a religious programme but rather “a call for prayers”. It nevertheless conceded that the sponsorship credit may have raised issues with Rule 9.23 of the Code.

The Licensee explained that it normally broadcasts calls for prayers five times per day without sponsorship credits. However, for the Ramadan period, Bangla TV said that it had included sponsorship credits without fully reviewing Rule 9.23 of the Code. The Licensee added that it immediately removed the sponsorship credit as soon as it became aware of the matter.

Bangla TV said that it took this matter very seriously and had arranged a day’s compliance training for its staff – including senior staff members – by an experienced external consultant as part of a programme of training that would be continued. Bangla TV said that it hoped that this will improve compliance standards at the channel and ensure no such mistakes occur again.

Decision

Under the Communications Act 2003 (“the Act”), Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure a number of standards objectives. These include that “the proper degree of responsibility is exercised with respect to the content of programmes which are religious programmes” and “the product placement requirements...are met in relation to programmes included in a television service (other than advertisements)”. The Act prohibits the inclusion of product placement in religious programmes made under UK jurisdiction.

These standards are reflected in, among other rules, Rule 9.12(a) of the Code, which prohibits product placement in religious programmes, and Rule 9.23 of the Code, which prohibits the broadcast of sponsorship credits during programmes in which product placement is prohibited.

In this case, Ofcom noted the Licensee’s view that this was not a religious programme but rather a call to prayer. However, Ofcom obtained an English translation of the material (see below).

*“Allah [God] is greatest, Allah is greatest,
Allah is greatest, Allah is greatest,
I bear witness that there is no god but Allah.
I bear witness that there is no god but Allah,
I bear witness that Muhammad (peace be upon him) is the Messenger of Allah.
I bear witness that Muhammad (peace be upon him) is the Messenger of Allah.
Hasten to the prayer.
Hasten to the prayer.
Hasten to success.
Hasten to success.
Allah is greatest, Allah is greatest,
There is no god but Allah”.*

The following prayer was then broadcast:

*“O Allah, owner of this perfect call and owner of this prayer to be performed,
Bestow upon Muhammad a station in Jannah [Paradise] and a rank above the
rest of creation.
And raise him to the rank you have promised him.
Verily, You never fail in Your promise”.*

Ofcom considered the call to prayer (like the prayer itself) mainly focused on religious belief. Notwithstanding the view of the Licensee, we concluded that *Azan-e-Magrib* was a religious programme under the terms of the Code.

Although sponsorship credits may be broadcast before and/or after religious programmes, Rule 9.23 prohibits them from being shown *during* such programmes.

Ofcom noted the action taken by the Licensee to remove the sponsorship credits once it had been made aware of the issue, as well as the steps it has subsequently undertaken to improve compliance in this area. However, nine sponsorship credits (for JMG Cargo and Travel, Nirala Foods and Holy Makkah Tours) were broadcast during the religious programme, *Azan-e-Magrib*, in breach of Rule 9.23.

In a Finding published in issue 249 of Ofcom’s Broadcast Bulletin,⁴ we made clear that we expected the Licensee to take steps to improve its compliance in relation to Section Nine of the Code. In light of our concerns about the Licensee’s compliance record, on 9 May 2014 Bangla TV attended a meeting to discuss its processes. Following that meeting it submitted revised compliance procedures to Ofcom on 30 May 2014.

Ofcom is concerned that, despite those steps, the Licensee broadcast further material in breach of Section Nine of the Code, particularly as Ofcom had previously published findings concerning Rule 9.23⁵ that should have already alerted the Licensee to possible compliance issues in *Azan-e-Magrib*.

We noted the compliance training undertaken by the Licensee and the Licensee’s assurance that it would avoid such mistakes in the future.

Nevertheless, in view of the poor compliance record of the Licensee, as noted above and including other cases in this issue of the Broadcast Bulletin, Ofcom puts Bangla TV (UK) Ltd on notice that, in the event of any further similar compliance failures, it may consider further regulatory action.

Breach of Rule 9.23

⁴ See issue 249 of Ofcom’s Broadcast Bulletin (3 March 2014), available to view at: <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb249/obb249.pdf>.

⁵ See issue 244 of Ofcom’s Broadcast Bulletin (16 December 2013), available to view at: <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/2431/obb244.pdf>.

In Breach

Studio 66 3 Nights

Studio 66 TV3, 4 June 2014, 22:15

Introduction

Studio 66 3 Nights was a segment of interactive ‘adult chat’ advertising content broadcast on the service Studio 66 TV3¹. The service, broadcasting on a digital satellite platform, is freely available without mandatory restricted access and is situated in the ‘adult’ section of the electronic programme guide (“EPG”). Viewers are invited to contact on-screen presenters via premium rate telephony services (“PRS”). The female presenters dress and behave in a sexually provocative way while encouraging viewers to contact the PRS numbers.

The licence for Studio 66 TV3 is owned and operated by 965 TV Limited (“965 TV” or “the Licensee”).

Ofcom received a complaint that at 22:30 the on-screen female presenter was rubbing her genitals.

We assessed the material between 22:15 and 22:45 and noted the female presenter was wearing a thong and white vest top pulled down to expose her breasts. During the broadcast, the presenter sat for extended periods of time with her legs apart and repeatedly stroked and rubbed her genital area through her thong. On a further two occasions she moved her hand underneath her underwear and appeared to rub her genital area. The presenter’s thong also failed to adequately cover the area around her genitals and this area was exposed on a number of occasions during the broadcast.

Ofcom considered that this material raised issues warranting investigation under BCAP Code Rule 4.2. This states:

“Advertisements must not cause serious or widespread offence against generally accepted moral, social or cultural standards”.

We therefore requested comments from the Licensee as to how this advertising content complied with this rule.

Response

965 TV acknowledged that, having assessed the content, it “raised some issues” in relation to Ofcom’s published guidance in this area and its own internal guidance. Despite this, the Licensee submitted that in order to breach Rule 4.2, it was necessary for the content to have caused, as opposed to having had the potential to cause, “serious or widespread offence against generally accepted moral, social or cultural standards”.

965 TV pointed out that the content was broadcast well after the watershed in the ‘adult’ section of the EPG. The Licensee argued that at this time of night other channels in the ‘adult’ section of the EPG, which are regulated under the

¹ Studio 66 TV3 was renamed Switch TV on 1 September 2014.

Broadcasting rather than the BCAP Code, “show much stronger content at 10pm [...] than any of our channels would show at any time during the night”.

Nevertheless, as a result of Ofcom bringing this content to its attention, the Licensee said it has discussed the issues with the relevant presenter and producer and reminded them of both Ofcom’s published guidance and its own internal guidance.

965 TV also said that it has created a new role within the company of “Night-time Compliance Manager”. The Licensee said that it hoped this would ensure a more consistent level of compliance across its programming.

Decision

Under the Communications Act 2003 (“the Act”), Ofcom has a statutory duty to require the application, in the case of all television and radio services, of standards that provide adequate protection to members of the public from the inclusion of offensive and harmful material. Ofcom has a duty to set such standards for broadcast content as appear to it best calculated to secure the standards objectives, one of which is that “the inclusion of advertising which may be misleading, harmful or offensive in television and radio services is prevented”. This standards objective is contained in the BCAP Code.

Since 1 September 2010, all PRS-based daytime and ‘adult chat’ television services have been regulated not as editorial content but as long-form advertising i.e. teleshopping. This advertising content must therefore adhere to the BCAP Code rather than the Broadcasting Code.

The BCAP Code contains rules which permit ‘adult chat’ services to be advertised (and so broadcast) within prescribed times and on free-to-air channels that are specifically licensed by Ofcom for that purpose. When setting and applying standards in the BCAP Code to provide adequate protection to members of the public from serious or widespread offence, Ofcom must have regard to the need for standards to be applied in a manner that best guarantees an appropriate level of freedom of expression in accordance with Article 10 of the European Convention of Human Rights, as incorporated in the Human Rights Act 1998. However, broadcasters should note that the advertising content of ‘adult chat’ services has much less latitude than is typically available to editorial material in respect of context and narrative. A primary intent of advertising is to sell products and services, and consideration of acceptable standards will take that context into account.

Rule 4.2 of the BCAP Code states that: “Advertisements must not cause serious or widespread offence against generally accepted moral, social or cultural standards”.

On 15 July 2013, Ofcom published revised guidance² on the advertising of telecommunications-based sexual entertainment services and PRS daytime chat services (the “Guidance”). The Guidance sets out what Ofcom considers to be acceptable to broadcast on these services post-watershed. Ofcom has also made clear in previous decisions³ the kind of material that is unsuitable for broadcast on

² <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/bcap-guidance.pdf>

³ For example most recently: Red Light Central, 31 August 2013, 22:00, in issue 245 of Ofcom’s Broadcast Bulletin, 6 January 2014, <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/245/obb245.pdf>.

‘adult chat’ services available without mandatory restricted access. For example, the guidance explicitly states that adult chat broadcasters should:

- “at no time broadcast anal, labial or genital areas or broadcast images of presenters touching their genital or anal areas whether with their hand or an object”; and
- “ensure that presenters’ clothing adequately covers their anal, labial or genital areas”.

As described above in the ‘Introduction’, in this case the female presenter repeatedly touched her genital area both through and under her thong, which failed to adequately cover the area around her genitals.

Ofcom took account of whether appropriate scheduling restrictions were applied to this material. We noted that this material was broadcast well after the 21:00 watershed, when viewers of all channels have a higher expectation that stronger material will be shown. We also noted that this channel was positioned in the ‘adult’ section of the EPG and that viewers naturally expect the broadcast of stronger sexual material on channels in his section of the EPG rather than on channels in other sections.

However, in this case, the material was clearly at odds with the Guidance. The location of the channel within the ‘adult’ section of the EPG and the time of broadcast were not sufficient mitigating factors to ensure serious or widespread offence against generally accepted moral, social or cultural standards by the broadcast of this material on an advertising-based service was avoided. Rule 4.2 was therefore breached.

We noted the Licensee’s comments that in order for the content described above to have breached Rule 4.2, it would be necessary for the content to have in fact caused, as opposed to just having the potential to cause, offence. Under the Act, Ofcom is required to ensure that “the inclusion of advertising that **may** be...harmful or offensive...is prevented” [emphasis added]. There is therefore no requirement for Ofcom to demonstrate actual harm and offence caused by broadcast advertising content before reaching a decision that the BCAP Code has been breached.

However, Ofcom conducted research in 2005⁴ and 2009⁵ which indicated that a number of viewers do find stronger sexual imagery offensive when broadcast in the context of interactive, free-to-air ‘chat’ or ‘adult chat’ services and expect appropriate limits on language and nudity. Therefore, to help ‘adult chat’ broadcasters in defining content that may cause offence against “generally accepted moral, social or cultural standards”, Ofcom has repeatedly, both in the form of guidance and in past decisions, made it explicitly clear what type of content is not suitable for broadcast on this kind of service. In this case, as admitted by the Licensee, the Guidance was not adhered to and the content described above went beyond generally accepted standards.

We also noted the Licensee’s assertion that certain non-PRS ‘adult’ channels (regulated under the Broadcasting Code) broadcast much stronger material by way

⁴ <http://stakeholders.ofcom.org.uk/binaries/research/radio-research/language.pdf>

⁵ <http://stakeholders.ofcom.org.uk/binaries/consultations/participationtv3/research.pdf>

of free-to-air and unencrypted promotional clips than the Licensee's channels. Ofcom noted that these kinds of promotions for 'adult' services are typically very short in length, and consist of a rolling series of very brief, tightly cut clips shown on editorial services which are specifically licensed to broadcast 'adult sex material'⁶, subject to various restrictions⁷. The content which is the subject of this Decision was of a significant duration and consisted of a series of long, lingering shots. It was also broadcast on a service specifically licensed only to broadcast advertising content. Further, the content was at odds with both the Guidance and, according to the Licensee, its own internal guidance. We therefore considered that the two kinds of broadcast material were not comparable, either in terms of their content or audience expectations.

Ofcom has noted the various measures taken by the Licensee to improve compliance after being alerted by Ofcom to the broadcast of this material. Nonetheless, Ofcom puts 965 TV on notice that should similar breaches of the BCAP Code occur on this Licensee's 'chat' or 'adult chat' services it will consider further regulatory action.

Breach of BCAP Rule 4.2

⁶ 'Adult sex material' is defined by the Broadcasting Code as material that contains images and/or language of a strong sexual nature which is broadcast for the primary purpose of sexual arousal or stimulation.

⁷ The Code states that 'adult sex material' may only be broadcast between 2200 and 0530 on premium subscription services and pay per view/night services which operate with mandatory restricted access (i.e. PIN protection).

In Breach

Studio 66 Nights

Studio 66 TV1, 6 June 2014, 01:45

Introduction

Studio 66 Nights is a segment of interactive ‘adult chat’ advertising content broadcast on the service Studio 66 TV1. The service, broadcasting on a digital satellite platform, is freely available without mandatory restricted access and is situated in the ‘adult’ section of the electronic programme guide (“EPG”). Viewers are invited to contact on-screen presenters via premium rate telephony services (“PRS”). The female presenters dress and behave in a sexually provocative way while encouraging viewers to contact the PRS numbers.

The licence for Studio 66 TV1 is owned and operated by 914 TV Limited (“914 TV” or “the Licensee”).

Ofcom received a complaint about inappropriate content broadcast at 01:55.

We assessed the material broadcast between 01:45 and 02:15 and noted that the female presenter was wearing a one piece swimming costume which failed to adequately cover her genital area. From approximately 01:55 she pulled down the top of the costume from time to time to expose her breasts. She sat with her legs apart and, on numerous occasions, rubbed her genital area through the swimming costume. We also noted, between 01:58 and 02:02, extended full screen close-up shots of the presenter sucking and licking one of her nipples. Later in the broadcast, the presenter positioned herself on all fours and at this time her swimming costume inadequately covered her anal and genital areas.

Ofcom considered that this material raised issues warranting investigation under BCAP Code Rule 4.2. This states:

“Advertisements must not cause serious or widespread offence against generally accepted moral, social or cultural standards”.

We therefore requested comments from the Licensee as to how this advertising content complied with this rule.

Response

914 TV stated that, having assessed the content, it “raised some issues” in relation to Ofcom’s published guidance in this area and its own internal guidance. Despite this, the Licensee submitted that in order to breach Rule 4.2, it was necessary for the content to have caused, as opposed to having had the potential to cause “serious or widespread offence against generally accepted moral, social or cultural standards”.

914 TV pointed out that the content was broadcast well after the watershed in the ‘adult’ section of the EPG. The Licensee argued that at this time of night, other channels in the adult section of the EPG, which are regulated under the Broadcasting rather than the BCAP Code, “show much stronger content at 10pm [...] than any of our channels would show at any time during the night”.

Nevertheless, as a result of Ofcom bringing this content to its attention, the Licensee said it has discussed the issues with the relevant presenter and producer and reminded them of both Ofcom's published guidance and its own internal guidance.

914 TV also said that it has created a new role within the company of "Night-time Compliance Manager". The Licensee said that it hoped this would ensure a more consistent level of compliance across its programming.

Decision

Under the Communications Act 2003 ("the Act"), Ofcom has a statutory duty to require the application, in the case of all television and radio services, of standards that provide adequate protection to members of the public from the inclusion of offensive and harmful material. Ofcom has a duty to set such standards for broadcast content as appear to it best calculated to secure the standards objectives, one of which is that "the inclusion of advertising which may be misleading, harmful or offensive in television and radio services is prevented". This standards objective is contained in the BCAP Code.

Since 1 September 2010, all PRS-based daytime and 'adult chat' television services have been regulated not as editorial content but as long-form advertising i.e. teleshopping. This advertising content must therefore adhere to the BCAP Code rather than the Broadcasting Code.

The BCAP Code contains rules which permit 'adult chat' services to be advertised (and so broadcast) within prescribed times and on free-to-air channels that are specifically licensed by Ofcom for that purpose. When setting and applying standards in the BCAP Code to provide adequate protection to members of the public from serious or widespread offence, Ofcom must have regard to the need for standards to be applied in a manner that best guarantees an appropriate level of freedom of expression in accordance with Article 10 of the European Convention of Human Rights, as incorporated in the Human Rights Act 1998. However, broadcasters should note that the advertising content of 'adult chat' services has much less latitude than is typically available to editorial material in respect of context and narrative. A primary intent of advertising is to sell products and services, and consideration of acceptable standards will take that context into account.

Rule 4.2 of the BCAP Code states that: "Advertisements must not cause serious or widespread offence against generally accepted moral, social or cultural standards".

On 15 July 2013, Ofcom published revised guidance¹ on the advertising of telecommunications-based sexual entertainment services and PRS daytime chat services (the "Guidance"). The Guidance sets out what Ofcom considers to be acceptable to broadcast on these services post-watershed. Ofcom has also made clear in previous decisions² the kind of material that is unsuitable for broadcast on 'adult chat' services which are available without mandatory restricted access. For example, the guidance explicitly states that 'adult chat' broadcasters should:

¹ <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/bcap-guidance.pdf>

² For example most recently: Red Light Central, 31 August 2013, 22:00, in issue 245 of Ofcom's Broadcast Bulletin, 6 January 2014, <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/245/obb245.pdf>.

- “at no time broadcast invasive shots of presenters’ bodies. Ofcom cautions against physically intrusive, intimate shots of any duration; and against less intrusive shots that may become unacceptable by virtue of being prolonged”; and
- “at no time broadcast anal, labial or genital areas or broadcast images of presenters touching their genital or anal areas whether with their hand or an object”; and
- “ensure that presenters’ clothing adequately covers their anal, labial or genital areas.”

As described in the ‘Introduction’, in this case the female presenter repeatedly rubbed her genital area and extended full-screen close-up shots of the presenter licking and sucking her nipple were broadcast. When she adopted certain sexual positions, her swimming costume failed to adequately cover her genital and anal areas.

Ofcom took account of whether appropriate scheduling restrictions were applied to this material. We noted that this material was broadcast well after the 21:00 watershed, when viewers of all channels have a higher expectation that stronger material will be shown. We also noted that this channel was positioned in the ‘adult’ section of the EPG and that viewers naturally expect the broadcast of stronger sexual material on channels in this section of the EPG rather than on channels in other sections.

However, in this case, the material was at odds with the Guidance. The location of the channel within the ‘adult’ section of the EPG and the time of broadcast were not sufficient mitigating factors to ensure serious or widespread offence against generally accepted moral, social or cultural standards by the broadcast of this material on an advertising-based service was avoided. Rule 4.2 was therefore breached.

We noted the Licensee’s comments that in order for the content described above to have breached Rule 4.2, it would be necessary for the content to have in fact caused, as opposed to just having the potential to cause, offence. Under the Act, Ofcom is required to ensure that “the inclusion of advertising that **may** be...harmful or offensive...is prevented” [emphasis added]. There is therefore no requirement for Ofcom to demonstrate actual harm and offence caused by broadcast advertising content before reaching a decision that the BCAP Code has been breached.

However, Ofcom conducted research in 2005³ and 2009⁴ which indicated that a number of viewers do find stronger sexual imagery offensive when broadcast in the context of interactive, free-to-air ‘chat’ or ‘adult chat’ services and expect appropriate limits on language and nudity. Therefore, to help ‘adult chat’ broadcasters in defining content that may cause offence against “generally accepted moral, social or cultural standards”, Ofcom has repeatedly, both in the form of guidance and in past decisions, made it explicitly clear what type of content is not suitable for broadcast on this kind of service. In this case, as admitted by the Licensee, the Guidance was not adhered to and the content described above went beyond generally accepted standards.

³ <http://stakeholders.ofcom.org.uk/binaries/research/radio-research/language.pdf>

⁴ <http://stakeholders.ofcom.org.uk/binaries/consultations/participationtv3/research.pdf>

We also noted the Licensee's assertion that certain non-PRS 'adult' channels (regulated under the Broadcasting Code) broadcast much stronger material by way of free-to-air and unencrypted promotional clips than the Licensee's channels. Ofcom noted that these kinds of promotions for 'adult' services are typically very short in length, and consist of a rolling series of very brief, tightly cut clips shown on editorial services which are specifically licensed to broadcast 'adult sex material'⁵, subject to various restrictions⁶. The content which is the subject of this Decision was of a significant duration and consisted of a series of long, lingering shots. It was also broadcast on a service specifically licensed only to broadcast advertising content. Further, the content was at odds with both the Guidance and, according to the Licensee, its own internal guidance. We therefore considered that the two kinds of broadcast material were not comparable, either in terms of their content or audience expectations.

Ofcom has noted the various measures taken by the Licensee to improve compliance after being alerted by Ofcom to the broadcast of this material. Nonetheless, Ofcom puts 914 TV on notice that should similar breaches of the BCAP Code occur on this Licensee's 'chat' or 'adult chat' services it will consider further regulatory action.

Breach of BCAP Rule 4.2

⁵ 'Adult sex material' is defined by the Broadcasting Code as material that contains images and/or language of a strong sexual nature which is broadcast for the primary purpose of sexual arousal or stimulation.

⁶ The Code states that 'adult sex material' may only be broadcast between 2200 and 0530 on premium subscription services and pay per view/night services which operate with mandatory restricted access (i.e. PIN protection).

In Breach

Radio 1's Big Weekend

BBC Radio 1, 24 May 2014, 17:15 to 18:45

Introduction

On Saturday 24 and Sunday 25 May 2014 BBC Radio 1 hosted an annual live music event in Glasgow called *Radio 1's Big Weekend*, with segments of the event broadcast across the weekend.

Three complainants alerted Ofcom to the use of offensive language during the event's live broadcasts. Two of the complaints related specifically to Lily Allen's set aired between 17:30 and 18:15 on 24 May 2014 and one complaint was made about offensive language across the whole weekend.

Ofcom noted that there were six instances of "fuck" during Lily Allen's 45 minute performance.

At 17:27, immediately prior to Lily Allen going on stage, the on-air presenter, Scott Mills, broadcast the following warning:

"Now don't forget this set may contain some strong language, it is live on Radio 1's Big Weekend. We're about to see Lily Allen. If you're easily offended please go to the website and check out some other performance".

Lily Allen's set contained 11 songs in total, three of which included "fuck" (three instances in the first song at 17:32, one instance in the fourth song at 17:43 and two instances in the ninth song at 18:04). Following the first instance of "fuck" in each song the broadcast was immediately interrupted with an apology from the on-air presenter, with these apologies repeated at the end of the tracks.

Ofcom also noted one instance of Ed Sheeran using the word "*fucking*" during his performance at approximately 18:45.

Ed Sheeran's set was preceded by the following warning from the on-air presenter at approximately 18:39:

"As with all these performances today it is live from Radio 1's Big Weekend so there may be some bad language, so if you're easily offended got to the website and check out some of the other content from the festival".

Immediately after the offensive language was used by Ed Sheeran, the on-air presenter broadcast an apology, with a second apology after the end of the track.

We considered that this material raised issues warranting investigation under Rule 1.14. This states that:

"The most offensive language must not be broadcast...when children are particularly likely to be listening..."

We therefore asked the BBC how the material complied with this rule.

Response

The BBC said that *Radio 1's Big Weekend* is an established feature of that service's calendar attracting a huge demand for tickets for this live event. As a result the broadcaster believed there was a strong argument for providing listeners unable to attend in person with the opportunity to enjoy an "as-live" atmosphere that mirrored the experience of actually being at the event as closely as possible.

The BBC assured Ofcom that it takes issues of offensive language extremely seriously. It explained that for *Radio 1's Big Weekend* it had undertaken a comprehensive risk assessment and had compliance processes in place both before and during the performances, with a senior editorial figure present during all live sets at the *Big Weekend* event.

The broadcaster said that in advance of the event all main stage performers were told, initially through their record company representatives, that their performance would be broadcast live on Radio 1 and reminded that they should not swear. This message was repeated in guidelines sent out to artists in the week prior to the event, and signs were also placed in dressing rooms that read: *"Please remember there can be no swearing during your set as your performance is being broadcast live"*.

The BBC explained that it sought to provide adequate warnings across the coverage to ensure that audiences were aware of the risk of inappropriate offensive language being broadcast. It added that on a number of occasions the singers "self-edited" themselves during live performance, and that on the relatively rare occasions that there was an incident of swearing an immediate apology was offered.

The BBC pointed to the warning for strong language before Lily Allen's set began, and the multiple apologies broadcast during and after songs which included "fuck". The BBC said that at two points during Lily Allen's performance it considered whether to cut away from her set because of the repeated use of the word "fuck". However the senior producer decided on balance to continue for various reasons. These included the producer's view that few children would be listening, the very clear signposting and apologies already given.

However the BBC stated that in retrospect it believed Radio 1 should have stopped broadcasting live Lily Allen's set after the second song when she used offensive language, and only broadcast the remainder of her performance once it had been edited.

The BBC said it regretted the offensive language during Ed Sheeran's set. It stated however that this was an isolated incident that occurred relatively late when younger children would be less likely to be listening, especially as Ed Sheeran's music generally appealed to older age groups.

Decision

Under the Communications Act 2003, Ofcom has a duty to set standards for broadcast content as to ensure the standards objective, including that "persons under the age of eighteen are protected". The objective is reflected in Section One of the Code.

Rule 1.14 states that the most offensive language must not be broadcast on radio when children are particularly likely to be listening. Ofcom's research on offensive

language¹ clearly notes that the word “fuck” and its derivatives are considered by audiences to be amongst the most offensive language.

Ofcom’s guidance on offensive language on radio² states that:

“For the purpose of determining when children are particularly likely to be listening, Ofcom will take account of all relevant information available to it. However, based on Ofcom’s analysis of audience listening data, and previous Ofcom decisions, radio broadcasters should have particular regard to broadcasting content at the following times:...

- Between 06:00 and 19:00 at weekends all year around...”.

Lily Allen used the word “*fuck*” on several occasions, and Ed Sheeran “*fucking*” once, during their live performances on 24 May 2014 between 17:30 and 19:00 on a weekend. The most offensive language was therefore broadcast at a time when children were particularly likely to be listening and Rule 1.14 was breached.

Ofcom noted: that all these incidents of the most offensive language occurred during live performances; the various compliance measures taken by the BBC before the broadcast to reduce the risk of performers using inappropriate offensive language; and, the various warnings and apologies about offensive language broadcast during the programme.

As noted in a previous Ofcom decision³ concerning Radio 1’s Big Weekend in 2011, Ofcom recognises that it is important that broadcasters are able to exercise the editorial freedom to transmit material live that has an element of risk attached. There could be a disproportionate restriction on broadcasters’ and audiences’ freedom of expression if broadcasters were required, when transmitting live, only to interview individuals or broadcast material where there was perceived to be absolutely no risk of offensive language being used. However, when broadcasting live, a careful balance needs to be struck between a programme’s editorial freedom to feature material where there is an acceptable risk it might potentially contain offensive content, and a requirement to take all appropriate measures to ensure people under eighteen are protected and generally accepted standards are applied. Broadcasters should note that, as well as taking steps in advance to avoid offensive language during live performances, they must also be vigilant during the broadcast itself for any potential breaches of the Code and, where necessary, take timely action during the broadcast to address them.

In this case the BBC clearly had prior experience with this live event from 2011. It is also important to note that in this case BBC Radio 1 was both the event promoter and broadcaster. It therefore had greater control over this event, and for example the order and content of the performances, than if it was one for which it had negotiated the rights to broadcast. Also as Lily Allen’s material was well known, and her use of

¹ Audience attitudes towards offensive language on television and radio, August 2010 (<http://stakeholders.ofcom.org.uk/binaries/research/tv-research/offensive-lang.pdf>) .

² Ofcom Guidance, Offensive language on radio, December 2011 (<http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/offensive-language.pdf>).

³ This Resolved decision was published in issue 189 of Ofcom’s Broadcast Bulletin: <http://stakeholders.ofcom.org.uk/binaries/enforcement/broadcast-bulletins/obb189/obb189.pdf>

strong language in performance well established, it was reasonably predictable that her set could contain the most offensive language during a live broadcast of *Radio 1's Big Weekend*. In light of Ofcom's decision in 2011, we considered that the BBC should have been more aware of this risk when broadcasting the same event in 2014. We are concerned that it did not take more measures both before and during the broadcast to ensure compliance with Section One of the Code taking into account that the event was to be broadcast at a time when children were particularly likely to be listening. Ofcom noted, for example, that in addition to consideration of the scheduling of the acts, the BBC also had the option of cutting away from Lily Allen's set after the first occasion when she used the most offensive language but failed to do so.

Therefore, in light of all the above factors, Rule 1.14 of the Code was breached.

Breach of Rule 1.14

In Breach

World's Craziest Fools

BBC3, 30 June 2014, 19:00

Introduction

World's Craziest Fools is a series of programmes presented by actor and professional wrestler Mr T. Video clips of people acting foolishly are shown accompanied by humorous voiceovers from the presenter.

A complainant alerted Ofcom to the use of offensive language during an episode shown on 30 June 2014 at 19:00. About five minutes into the programme the song "Move Bitch" by the rapper Ludacris was used as background music to accompany a montage of clips showing car drivers behaving in various stupid or dangerous ways. Ofcom noted 25 instances of "bitch" which were clearly audible while the song was played. The duration of the montage using the music was about two minutes.

We considered that this material raised issues warranting investigation under Rule 1.16, which states that:

"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".

We therefore asked the BBC how the material complied with this rule.

Response

The BBC said that the episode in question had been broadcast on 12 separate occasions before the broadcast on 30 June 2014, and that four of these previous transmissions were at or close to 19:00. The broadcaster stated that it had received only four complaints about the use of "Move Bitch" as background music in relation to these broadcasts. The BBC felt that this low number of complaints suggested that the use of "bitch" in the sequence in question was not perceived by viewers as offensive to women, and may instead have been understood as not specific to any gender, because at least one person in the sequence the music accompanied was clearly male.

The BBC also pointed out that BBC3 is targeted at younger adults, which the broadcaster considered was the group likeliest to be familiar with rap music. The broadcaster reasoned that BBC3's audience would have been likely to view the soundtrack in question as "a humorously apt application of a widely-known lyric."

The BBC also argued that, in its view, the formulaic repetition of the word "bitch" meant "its capacity for offence was blunted, rather than intensified." The broadcaster added that the background music was played at a relatively low volume and was accompanied by light-hearted comments from Mr T, which the BBC felt underlined the comedic effect of the song.

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, one of which is that “persons under the age of eighteen are protected”. This objective is reflected in Section One of the Code.

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

Ofcom’s guidance on Rule 1.16 makes clear 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”.

Our research on offensive language noted that the word “bitch” is considered by audiences to be offensive language of “medium acceptability” which they group with other words considered to be ‘stronger’ swear words¹. This research said that, although some thought there were contexts where it was acceptable to use this word pre-watershed, audiences considered that “care needed to be taken”, particularly where children were likely to be listening or watching and where programmes were intended to be family viewing.

Ofcom noted that there were 25 audible uses of the word “bitch” in this one item in the programme over a period of two minutes. In our view it was therefore clear that in this pre-watershed programme there was frequent use of offensive language.

We took account of the various points made by the BBC which it suggested helped to mitigate the offence caused by this repeated use of offensive language. These included that the use of this song in conjunction with a montage of traffic and parking clips made clear that in this context the song was intended to be comedic, rather than offensive towards women. Nonetheless we noted that the programme was pre-recorded, and there was therefore an opportunity for the producers to research and reflect on this choice of music for a pre-watershed programme. The BBC also argued that any potential offence was mitigated by the humorous nature of the programme in general, and “blunted, rather than intensified” by its repetition. However, Rule 1.16 requires that the frequent use of offensive language must be avoided before the watershed. Ofcom’s research on offensive language² indicates that some audiences feel that the frequent use of a word can increase its offensiveness. In Ofcom’s view, therefore, the repeated use of the word “bitch” in this song did not blunt the potential offence caused.

Ofcom noted that the BBC said that the programme had previously been shown in similar time slots without attracting substantial numbers of complaints. However, the number of complaints, whether to the broadcaster concerned or to Ofcom, does not determine whether particular broadcast material raises potential issues under the

¹ Audience attitudes towards offensive language on television and radio, August 2010, page 91 (<http://stakeholders.ofcom.org.uk/binaries/research/tv-research/offensive-lang.pdf>).

² Audience attitudes towards offensive language on television and radio, August 2010, page 13 (<http://stakeholders.ofcom.org.uk/binaries/research/tv-research/offensive-lang.pdf>).

Code. In this case, the Code and accompanying Guidance state clearly that frequent use of offensive language should be avoided before the watershed.

Further we noted in this case that, although BBC3 may be targeted at young adults, a fairly large number of children watched this programme. Audience figures showed that of a total audience of 162,000 viewers, 17% were children – 18,000 were ten to 15 year olds and 9,000 were four to nine year olds.

For these reasons Ofcom's decision is that this content was in breach of Rule 1.16 of the Code.

Breach of Rule 1.16

In Breach

Jeeto Pakistan

ARY Entertainment, 18 May 2014, 21:00

Introduction

ARY Entertainment is a general entertainment channel broadcast in Urdu on a digital satellite platform. The licence for ARY Entertainment is held by ARY Network Limited¹ ("ARY Network" or "the Licensee").

A complainant alerted Ofcom to commercial references in an episode of *Jeeto Pakistan*, a light entertainment programme originally shown in Pakistan.

Ofcom viewed the programme and noted a number of commercial references as well as the presence of the universal neutral product placement logo² (a 'P symbol') throughout. As the programme was predominantly in Urdu with some English, we commissioned an independent translation of the material.

The programme was in a magazine format with a variety of different elements such as a cookery segment, a drawing competition, a quiz and a prize giveaway. We were concerned by the prominence given to commercial references during the programmes. For example, we noted that:

- throughout the programme, prominently placed brand references were shown on-screen. For example, the bonnet, doors and roof of a car had large signs for Voice Mobile and approximately seven motorbikes which were also visible had smaller Voice Mobile signs attached. This brand name also appeared on a large screen behind the contestants and on several smaller TV screens in the studio at various points throughout the programme.
- at several points during the programme, the presenter discussed the merits of placed brands and branded goods. For example: a cooking segment contained repeated visual and audio references to Manpasand Vanaspati cooking products. Later the presenter made reference to the benefits of Manpasand Vanaspati in cookery.

Ofcom requested information from the Licensee to determine whether these references constituted product placement. In particular we requested ARY Network to provide copies of any contracts or other agreements between the programme producer/ARY Network (or any person connected to either) and the brands which appeared in this broadcast.

The Licensee confirmed the programme was produced in Pakistan by ARY Films and TV Production. ARY Network also confirmed that the inclusion of the brands in this

¹ ARY Network is a Pakistani television network available in Pakistan, the Middle East, North America and Europe. ARY Network is composed of several channels, five of which are Ofcom licensed services (ARY Digital, ARY Entertainment, ARY News, ARY QTV and ARY World News).

² Guidance on the form, size and duration of the logo can be found in Annex 1 of Ofcom's Guidance to Section Nine of the Code at:
<http://stakeholders.ofcom.org.uk/binaries/guidance/831193/section9.pdf>.

programme were subject to commercial arrangements between the brand owners and ARY Films and TV Production, although it emphasised that there was no financial arrangement between any of the brands and the UK-licensed service, ARY Entertainment.

The Code defines product placement as:

“The inclusion in a programme of, or reference to, a product, service or trademark where the inclusion is for a commercial purpose, and is in return for the making of any payment, or the giving of other valuable consideration, to any relevant provider or any other person connected with a relevant provider, and is not product placement”.

The definition of a “relevant provider” in the Code includes both the provider of the television service (ARY Entertainment) and the producer of the programme (ARY Films and TV Production). Because in this instance ARY Films and TV Production had a commercial arrangement in place with the relevant brands, the references to those brands in the programme met the definition of product placement.

Ofcom therefore considered that the prominent commercial references raised issues warranting investigation under the following Code rules:

Rule 9.9: “References to placed products, services and trade marks must not be promotional”.

Rule 9.10: “References to placed products, services and trade marks must not be unduly prominent”.

We therefore asked the Licensee for its comments on how the material complied with these rules.

Response

The Licensee confirmed the content was produced for broadcast in Pakistan by ARY Films and TV Production and that the programme was primarily aimed at viewers in that country.

ARY Network said that it had reviewed the Code guidance on acquired programming and had broadcast the ‘P symbol’ to inform UK viewers that the show included product placement. The Licensee considered that it was an independent distributor only and confirmed that it received no financial benefit from any arrangement between ARY Films and TV Production and any third party. However, the Licensee accepted that it ought to have edited the show to limit the exposure given to the brands.

ARY Network informed Ofcom that it was arranging compliance training for its Programme team to improve understanding of the Code and associated guidance.

Decision

Under the Communications Act 2003 (“the Act”), Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure a number of standards objectives, one of which is “that the international obligations of the United Kingdom with respect to advertising included in television and radio services are

complied with". These obligations include ensuring compliance with the Audiovisual Media Services ("AVMS") Directive.

The AVMS Directive contains a number of provisions designed to help maintain a distinction between advertising and editorial content, including a requirement that television advertising is kept visually and/or audibly distinct from programming in order to prevent programmes becoming vehicles for advertising. The AVMS Directive and the Act also prohibit product placement where, among other things, such placement:

- directly encourages the purchase or rental of goods or services, whether by making promotional reference to those goods or services or otherwise; and
- gives undue prominence to the products, services or trade marks concerned.

The requirements of the AVMS Directive and the Act are reflected in Section Nine of the Code, including Rules 9.9 and 9.10 among others.

Ofcom's Guidance accompanying Section Nine of the Code³ makes clear that a breach of the product placement rules is likely to occur not only when clear promotional statements are made but also "where repeated implicit promotional content is broadcast (e.g. multiple references to a product that cannot be justified by the editorial requirements of the programme)". The Guidance also states that the level of prominence given to a product, service or trade mark will be judged against the editorial context in which it appears. Consequently, while a product that is integral to a scene may justify a greater degree of product exposure, "where a product is used as a set prop, care should be taken to avoid close-up or lingering shots".

In this case, we noted that branded signs had been placed throughout the set. For example, in addition to a verbal reference to a 'Voice Mobile' dual-core phone given away as a prize, the set was filled with 'Voice by United Mobile' signs, including: on the bonnet, doors and roof of a car; on several motorbikes; and on televisions located throughout the set during particular segments of the programme. The two cooking stations also had clear and prominent branding for Manpasand Vanispati and were routinely visible throughout the programme. Further, smaller signs were placed around the set for brands such as Crown Motorcycles, ARY Sahulat Bazar, CRLF and The Raymond Shop.

We also noted that during the cooking segment of the programme the large screen behind the kitchen workstations had a Manpasand logo visible throughout and the presenter repeatedly referred to Manpasand Vanaspati, stating for example:

"Manpasand fills your meals with flavour. If your food is tasteless it spoils the fun. But it's guaranteed that if you cook your meals in Manpasand Vanispati, your meals will be wonderful".

"Does your wife cook well? Today it will be tastier because it's being cooked in Manpasand".

³ <http://stakeholders.ofcom.org.uk/binaries/broadcast/guidance/831193/section9.pdf>

We noted also that at one stage the presenter gathered together children from the audience:

Presenter: *"All of you say Manpasand".*

Children: *"Manpasand".*

Presenter: *"Manpasand Vanispati".*

Children: *"Manpasand Vanispati".*

[The presenter selects a child from the audience]

Presenter: *"He seems to me a Manpasand child".*

[Presenter speaks to camera]

Presenter: *"Cook in your homes with Manpasand Vanaspati; cook karahi; pilaf; biryani; and make your children as good as this one".*

"Let's go to Manpasand. We're going to taste the Manpasand karahi. Come over here. We'll taste the Manpasand karahi together".

We also noted the presenter and guests during the programme made references to other brands, including a mobile phone manufacturer and an online retail website connected to the programme producer⁴:

Presenter: *"I will give away 30,000 Rupees worth of a Voice mobile phone. It is an expensive phone, a dual core Voice mobile phone".*

Presenter: [Several models of boxed mobiles phones are shown]. *"It is the sound of Voice".*

Presenter: *"I am giving you gift vouchers of 5000 Rupees. Now tell everyone to go on ARY Sahulat Bazar website and buy lots of things".*

Prize Winner: *"Visit ARY Sahulat Bazar website and buy lots of things".*

Presenter: *"The ARY Sahulat Bazar website has been officially launched today".*

Further, we noted a number of references to a motorbike manufacturer, whose products were placed in the programme. At one point, a representative from that company, invited on stage to give away a motorbike stated:

"On behalf of Crown Motor Company Private Limited... I congratulate ARY for arranging this beautifully embellished programme. This programme benefits

⁴ ARY Saluhat Bazar is part of the ARY Group.

those who come here and brings happiness to people across Pakistan and it also benefits the company”.

In our view both the amount and nature of the references to these brands served a promotional rather than editorial purpose. We considered that such detailed references to placed products and the benefits to customers of using those products could not be justified. In particular, the nature and extent of promotion and exposure for the companies was such that Ofcom considered the programmes promoted and gave undue prominence to the featured brands.

Where a placed product is referred to in a programme, the licensee is under an obligation to ensure that the reference does not serve to promote the product itself rather than contributing to the narrative of the programme. In this case we considered the amount and detail of the explicit and implicit references to placed products were both promotional and unduly prominent.

Although we noted the steps subsequently taken by the Licensee to improve compliance, we concluded that the programme was in breach of Rules 9.9 and 9.10 of the Code.

Breaches of Rules 9.9 and 9.10

Resolved

The Wright Stuff

Channel 5, 19 August 2014, 09:15

Introduction

The Wright Stuff is a weekday morning topical magazine programme broadcast live on Channel 5. The programme is presented by Matthew Wright and includes a panel of guests discussing various news items. Viewers are also invited to participate in the discussions via telephone, email, text and Twitter.

Three viewers alerted Ofcom to offensive language in the episode broadcast on 19 August 2014 during a discussion on the subject of *"Lending a partner to a pal"*. At 10:52 a telephone caller identified as "Jason" was put to air and the following exchange took place:

Jason: *"...my wife's best friend had a works do, an award presentation, and her friend had no one to go with, and encouraged me to go. We were quite a close group, we all know each other, and I kind of went to this dinner with my friend".*

Matthew Wright: *"Yep".*

Jason: *"And then I fucked her in the pussy".*

Matthew Wright: *"You then what?"*

Jason: *"I fucked her in the pussy".*

At this point Jason's call was terminated and Mr Wright said:

"Oh no, I didn't hear, oh you – Jason, you know, I've had this wonderful run of good luck with callers, going on for years, and you've just spoilt it for me, what an idiot, what a moron, go off to ITV with your friends".

Mr Wright then took a call from a viewer named David. Approximately one minute into this call Mr Wright said:

"David you sound like a thoroughly decent bloke, unlike the previous idiot, so thank you very much for the call. Apologies once again for the terrible language because I couldn't hear it the first time round so I do apologise for that".

Ofcom considered that the broadcast raised issues under Rule 1.14, which states:

"The most offensive language must not be broadcast before the watershed..."

We therefore asked Channel 5 (or "the Licensee") for its comments on how the broadcast of offensive language complied with this rule.

Response

Channel 5 explained that *The Wright Stuff* follows a “strict protocol” when choosing viewers to put to air and that “this case was no different”.

The Licensee said that Jason phoned the programme and recounted to a researcher a story of how he had once been “lent” to his wife’s friend for an awards dinner and as a result, the two had started a relationship and eventually married. As his story was apt for the programme’s phone-in discussion topic, Channel 5 said Jason was selected to be put through to the studio.

Channel 5 said Jason was later phoned back by a researcher and asked if he would be happy to share his story with the presenter and the panel. Channel 5 also said that Jason was “clearly warned” by the researcher not to swear or use any other offensive language.

The Licensee told Ofcom that the editor and producer of the programme were then briefed on Jason’s call and a summary of his story was given to the presenter on his autocue. Jason was then put through to the studio and his conversation broadcast on air.

The Licensee said that although all standard procedures were followed in this case and there was no reason to suggest such conduct was likely, Jason “unpredictably went on to use highly offensive language that Matthew [Wright] did not properly hear or register when first spoken, given the very unexpected nature of the words”.

Channel 5 said that in the fast-paced environment of a live television gallery it had taken the editor a “split-second” to realise what had been said. Upon realising, the editor stated “very firmly into Matthew’s earpiece that Jason had sworn and the audience should not hear it again, while simultaneously trying to convey to the director that the caller should be lost”. The Licensee explained that “[i]t all happened very quickly, mere seconds, but it was too late, as Jason quickly repeated the statement”.

The Licensee told Ofcom that following the broadcast the offensive material was removed from the programme before it was shown an hour later on Channel 5+1. In addition, the Licensee said it ensured that an edited version of the programme was created before it was uploaded to the online ‘Demand 5’ service.

The Licensee said there had been very few incidents like this during the programme’s history but, due to its live nature, Channel 5 said it was “acutely aware” of the issues that surround live broadcasts. The Licensee said it holds regular compliance meetings with *The Wright Stuff*’s production team to ensure: “that procedures are constantly reviewed and updated”. The Licensee also said an independent solicitor it employs to ensure regulatory compliance was viewing the programme and ensured that an apology went to air and that further issues with repeats or online programming did not occur.

The Licensee said that following the broadcast a review had taken place and, as a result, it had reminded the production team to terminate immediately any calls in which the caller used offensive language, whether or not the presenter was sure of what had happened. Channel 5 added that it had again stressed to the production team that “the need to avoid harm and offence is more crucial than a smooth production” and that “the presenter should not move on from any incident...without immediately addressing the issue and apologising...[T]he need for Matthew [Wright]

to offer an immediate apology was critical". Going forward Channel 5 said that the presenter will now have an approved text of an apology in hard copy and on the autocue system ready for immediate use should a similar event occur.

Decision

Under the Communications Act 2003, Ofcom has a statutory duty to set standards for broadcast content as appear to it best calculated to secure the standards objectives, one of which is that "persons under the age of eighteen are protected". This objective is reflected in Section One of the Code.

Rule 1.14 states that the most offensive language must not be broadcast before the watershed. Ofcom research on offensive language clearly notes that the words "fuck" and its derivatives, and "pussy" (when used to mean a woman's genitals), are considered by audiences to be among the most offensive language¹.

The use of the phrase "*fucked her in the pussy*" twice in this programme at 10:52 was therefore a clear example of the most offensive language being broadcast before the watershed and so in breach of Rule 1.14.

Programmes that feature live interaction with viewers clearly carry an increased risk of incidents such as this occurring. Therefore Ofcom expects broadcasters to have procedures in place to minimise the risk, as far as practicable, of offensive or harmful material being broadcast.

It was unfortunate in this case that the caller was given an opportunity to repeat the highly offensive phrase on air before he was cut off, and that the incident was not followed by an immediate apology (although Mr Wright did apologise to viewers approximately one minute later).

Nonetheless we noted Channel 5's representations in which the Licensee set out its formal procedure for vetting all callers to *The Wright Stuff* before they are allowed on air. This includes a researcher warning every caller not to use offensive language. Channel 5 said it had followed the procedure in this case. We also took into account that: this incident may well have occurred as a result of a caller deliberately misleading the programme makers about his intention not to use the most offensive language; the incident happened unexpectedly during a fast-moving, live broadcast; the offensive language was removed from the version of the programme broadcast on Channel 5+1 and the version uploaded to Channel 5's on demand service; and, following the incident Channel 5 conducted a review of this case, resulting in it making various improvements to its compliance arrangements for live programming of this type.

In light of these factors, Ofcom considered the matter resolved.

Resolved

¹ <http://stakeholders.ofcom.org.uk/binaries/research/tv-research/offensive-lang.pdf>

Broadcast Licence Conditions cases

In Breach

Providing a service in accordance with ‘Key Commitments’

TCR FM (Tamworth)

Introduction

TCR FM is a community radio station licensed to provide a service for the population of Tamworth in Staffordshire. The licence is held by Tamworth Radio Broadcasting CIC (“TRB” or “the Licensee”).

Like other community radio stations, TCR FM is required to deliver the “Key Commitments” which form part of its licence.¹ These set out how the station will serve its target community and include a description of the programme service.

Ofcom received a complaint about TCR FM’s compliance with its Key Commitments.

We asked TRB for a copy of its weekly programme schedule so we could assess the complaint. The information provided raised an issue with regard to TCR FM’s music to speech ratio, which is set out in the following Key Commitment:

“Daytime output will typically comprise 80% music and 20% speech (‘speech’ excludes advertising, programme/promotional trails and sponsor credits). (Some programmes may contain a higher proportion of speech output)”.

The programme schedule supplied by TRB appeared to show that speech levels were below the required 20% on at least three of the days in the schedule (all of which were weekdays).

Ofcom considered that the issue warranted investigation under Conditions 2(1) and 2(4) in Part 2 of the Schedule to TCR FM’s licence. These state, respectively:

“The Licensee shall provide the Licensed Service specified in the Annex for the licence period”. (Section 106(2) of the Broadcasting Act 1990); and

“The Licensee shall ensure that the Licensed Service accords with the proposals set out in the Annex so as to maintain the character of the Licensed Service throughout the licence period”. (Section 106(1) of the Broadcasting Act 1990).

We therefore requested TRB’s comments on how it was complying with these conditions, with reference to the specific Key Commitment set out above.

Response

The Licensee explained that the station’s intention was to deliver the most speech at the times when volunteer resource was at its greatest – that is, evenings and weekends, as reflected in the TCR FM’s programme schedule. It believed this to be compliant with the licence’s Key Commitments, as it had always understood

¹ The Key Commitments are contained in an annex to TCR FM’s licence. They can be viewed in full at:
<http://www.ofcom.org.uk/static/radiolicensing/Community/commitments/cr000173.pdf>.

“daytime” to mean 06:00 to midnight. TRB added: “The figures...were set against a target of a week, rather than per day. Some days were slightly lower, and some slightly higher and achieved a weekly figure of 21% in line with the commitment”.

Following receipt of these representations, we informed TRB that our standard definition of daytime (unless specified otherwise in the Key Commitments) is 06:00 to 19:00, and we had based our analysis of its programme schedule on this approach. We also clarified that the speech requirement needed to be met on a daily basis, rather than a weekly average.

In response, the Licensee accepted Ofcom’s definitions and supplied a revised programme schedule, explaining that this was now operational and included content that would “meet or exceed” the 20% speech requirement across daytime. The Licensee said that it had also made further changes to its schedule to address this issue which would take effect in the coming months.

Decision

Ofcom has a number of duties in relation to radio broadcasting, including securing a diverse range of local radio services which are calculated to appeal to a variety of tastes and interests, along with the optimal use of the radio spectrum. These matters are reflected in the licence condition requiring the provision of the specified licensed service. Provision by a licensee of its licensed service on the frequency assigned to it is the fundamental purpose for which a community radio licence is granted.

Ofcom acknowledged and welcomed the steps taken by the Licensee to ensure that speech levels during daytime are now compliant with those required by its Key Commitments. We accepted that there appeared to have been a genuine misunderstanding of the regulation in this area on the part of TRB’s management.

However, it is clear that TCR FM had been failing to deliver for some time the speech levels during daytime hours that are required by the station’s Key Commitments, and so Ofcom concluded that a breach of licence conditions had occurred.

Breaches of Licence Conditions 2(1) and 2(4) in Part 2 of the Schedule to the community radio licence held by Tamworth Radio Broadcasting CIC (licence number CR000173BA)

Not in Breach

Providing a service in accordance with Format

Capital Xtra (Brixton & North London), October 2013 to date

Introduction

Soul Media Ltd (or “the Licensee”) holds the local commercial radio FM licences for Brixton (the transmission area for which covers a significant proportion of south London) and North London.

Launched in 1990 (Brixton) and 2000 (North London), the services were both formerly broadcast as Choice FM, and for a number of years all programming output has been shared across the two licences. In October 2013, parent company Global Radio (“Global”) re-branded the two services as ‘Capital Xtra’. The move coincided with Global launching Capital Xtra as a UK-wide digital radio service on the Digital One DAB multiplex. Since output is shared, we refer to Capital Xtra as “the service” below, albeit noting that there are two licences, and that the Licensee must comply with the terms of both.

Under the Communications Act 2003, Ofcom has a statutory duty to ensure “a wide range of television and radio services which (taken as a whole) are both of high quality and calculated to appeal to a variety of tastes and interests”. In local commercial radio, Ofcom secures this by including a condition (Condition 2(4)) in Broadcasting Act licences requiring licensees to maintain the character of the service. Condition 2(4) refers to a document which is annexed to each licence and which we refer to here as the “Format”¹.

The Format sets out a description of the output which the licensee is required to provide, based on the commitments originally made in its licence application. Formats are rarely highly prescriptive, but are intended to secure that the essential character of the service is maintained over time. The Format itself may be varied from time to time, with Ofcom’s consent. Global did not seek any change to the Formats of the Brixton or North London licences prior to (or since) the re-brand.

The published Formats for the Capital Xtra licences include the following wording regarding the character of each service:

Brixton licence²:

“A targeted music, news and information service primarily for listeners of African and Afro-Caribbean origin in the Brixton area but with crossover appeal to other listeners who appreciate urban contemporary black music. The service includes 21 hours per week of complementary specialist music”.

¹ Condition 2(4), contained in Part 2 of the Schedule to Capital Xtra’s FM licences, requires that: “The Licensee shall ensure that the Licensed Service accords with the proposals set out in the Annex so as to maintain the character of the Licensed Service throughout the licence period”. (Section 106(1) of the Broadcasting Act 1990).

²

<http://www.ofcom.org.uk/static/radiolicensing/html/radiostations/analogue/al000041ba3capitalxtra.htm>

North London licence³:

“A music, news, community news and information service primarily for listeners of African and Afro-Caribbean origin in the North London area but with crossover appeal to other listeners who appreciate urban contemporary black music. The service includes 21 hours per week of complementary specialist music”.

Following the re-launch of Choice FM as Capital Xtra, Ofcom received 19 complaints about the station’s compliance with various different aspects of the published Formats. All of the complainants commented on what they perceived to be a significant change in music policy at the station, while some of the complainants were also concerned that Capital Xtra was no longer delivering the speech content required by the Formats. There was concern among many of the complainants that Capital Xtra was no longer a service “primarily for listeners of African and Afro-Caribbean origin”.

Ofcom undertook a detailed programme of monitoring and assessment of the station’s output. Initially, we monitored output over three days (Saturday 19, Monday 21 and Tuesday 22 October 2013).

As a result of this monitoring, we agreed with the complainants that a change to the output had taken place in the transition from Choice FM to Capital Xtra. We also noted the wholesale alterations to the station’s presenter line-up (including specialist music DJs).

In assessing the music output of Capital Xtra, we considered both the station’s general daytime (06:00 to 19:00) music output and its specialist music output, which is broadcast mainly in the evenings and overnight.

Daytime music output

We were content that at least two-thirds of the total tracks aired by the station (including repeat plays) were compatible with the Format’s requirement for “urban contemporary black music”. We considered that the remaining third of music broadcast by Capital Xtra during the daytime was comprised almost entirely of electronic dance music. While we considered – based upon our experience of Choice FM’s previous output – that the proportion of these type of tracks appeared to have increased since the re-brand, we also noted that the lines between urban and electronic dance genres have become increasingly blurred in more recent years, and that many of the electronic dance tracks aired by Capital Xtra either sample urban genres, or are significantly influenced by them.

Specialist music output

Complainants referred to the loss of a number of particular specialist music shows that were previously broadcast by Choice FM, showcasing genres such as reggae, soul, soca and gospel.

3

<http://www.ofcom.org.uk/static/radiolicensing/html/radiostations/analogue/al000255ba2capitalxtra.htm>

Until 2008, the Formats required 21 hours per week of “specialist music programmes which complement the main music streams”. This programming was required to include reggae, soca and gospel (and not more than eight hours of house/garage).

However, in February 2008, commercial radio formats were relaxed. As a result, Choice FM’s Formats no longer specifically required reggae, soca and gospel to be included within the 21 hours. This relaxation was in line with the conclusions of Ofcom’s “Future of Radio” review⁴. This change gave the Licensee greater flexibility than was available before 2008 on the mix of genres included within the requirement to provide 21 hours of “complementary specialist music”.

Nevertheless, such programming must still be “complementary” so that it is distinctive from the main daytime music output, but remains likely to be of appeal to the target audience (namely London listeners of African and Afro-Caribbean origin). It must also be “specialist” in the sense of being different from, and often less commercial or mainstream than, tracks on the station’s main daytime playlist. We would expect specialist music often to be presented by a DJ who is a particular authority on the type of music in question.

Taking this into account, following our monitoring, we were satisfied that Capital Xtra remained compliant with the Format requirement to deliver at least 21 hours per week of “complementary specialist music”. Examples during our monitoring period included ‘Afrobeats’ and shows from DJ Woody, Firin’ Squad, Tim Westwood, Craig David and DJ Charlesy. We considered that this and other programming counting towards the requirement was both distinctive from daytime music output and would be likely to be of appeal to the target audience.

News, community news and information

However, we did have concerns about the extent to which the Licensee was delivering a satisfactory news, community news and information service for listeners of African and Afro-Caribbean origin in the Brixton and North London areas.

We considered this raised issues warranting investigation under Licence Condition 2(4) contained in Part 2 of the Schedule to Capital Xtra’s FM licences, which requires that:

“The Licensee shall ensure that the Licensed Service accords with the proposals set out in the Annex so as to maintain the character of the Licensed Service throughout the licence period”. (Section 106(1) of the Broadcasting Act 1990).

We sought the Licensee’s representations on how it had complied with this requirement.

Response

Global responded on behalf of the Licensee. It argued that Capital Xtra “has fully complied with all known aspects of the Character of Services,” and that Ofcom’s concerns about the news, community news and information service requirements

⁴ See statement and further consultation dated 22 November 2007:
<http://stakeholders.ofcom.org.uk/binaries/consultations/futureradio07/summary/nextphase.pdf>

resulted from “...a series of assumptions, unsupported by the stations’ Character of Services, targeted research, precedent or published guidance”.

With regard to news and community news provision, Global submitted that Capital Xtra’s news bulletins had a local feel “and contained stories designed to appeal to the tastes of the station’s demographic – a younger, urban, London audience who will appreciate a punchier ‘Twitter’ style delivery – and the bulletins demonstrate a clear understanding of the audience”.

Responding to Ofcom’s concerns about the provision of information on Capital Xtra, Global noted that the Character of Service does not require a specific quantity of information, nor does it specify the type of information that must be aired (provided it is of relevance and interest to the target audience). It also highlighted what it considered to be the importance of off-air initiatives and events which it felt could contribute to an overall listener “feel” for a station, but which may not necessarily be captured during three days of output.

Global suggested that the monitoring period may not have been representative as it took place only three weeks after the station’s re-launch as Capital Xtra, arguing that “Licensees should be given a reasonable period to ‘bed in’, research their audience’s needs and develop community partnerships and a voice for the station.” Global also noted that during the monitoring period Capital Xtra’s dedicated local journalist and news reader, Andre Morgan (who had previously performed the same role at Choice FM), was absent due to sickness during the monitoring period, and his bulletins were compiled and presented by a cover presenter.

Having considered Global’s representations, we acknowledged that the monitoring period may have been unrepresentative of the station’s output, on the basis that the dedicated local journalist was away and that the Capital Xtra service (which also included a new national DAB service) had only recently been launched at the time of our initial monitoring. We therefore undertook further monitoring on Monday 3, Tuesday 4 and Wednesday 5 March 2014. We carefully considered all this material – the two periods of monitoring and Global’s representations – in arriving at our decision in this case.

Decision

Ofcom has a number of duties in relation to radio broadcasting, including securing a diverse range of local radio services which are calculated to appeal to a variety of tastes and interests, along with the optimal use of the radio spectrum. These matters are reflected in the licence condition requiring the provision of the specified licensed service.

In this case, we recognised that there had been some changes to the output of Choice FM following its re-launch as Capital Xtra, and that aspects of these have upset some listeners, in particular due to the sudden disappearance a number of presenters and shows, some of which had been on the station for a number of years.

With regard to the station’s music policy, as set out above, we acknowledged that a greater ‘dance’ component had been injected into the station’s music mix. However, taking an overall view of the music output across both monitoring periods, and also taking into account the increasing overlaps between urban and dance music, it was our view that Capital Xtra’s music output remained compliant with the requirements of the Format. Nevertheless, we have reminded the Licensee that the Formats continue to refer explicitly to, “urban contemporary black music”. We consider that

such music, including genres such as rap, hip hop and R&B, must remain the station's core music offer.

The Formats of the licences require Capital Xtra to broadcast news and information primarily for listeners of African and Afro-Caribbean origin in the Brixton area (which is centred on Brixton but covers a wider area) and North London area. The North London licence also explicitly refers to community news.

In terms of local and community news, we noted that a separate London news feed is provided for the two FM licences which is different from the news bulletins broadcast on the (national) Capital Xtra DAB service. Consequently, a range of local London stories were aired, including some that would have been of particular interest to the African and Afro-Caribbean community. We noted that the local news bulletins broadcast by Capital Xtra were also compliant with the Format requirement to provide local news bulletins at least hourly at peak-times (which Ofcom defines as being weekday breakfast and drivetime, and weekend late breakfast).

With regard to the Format requirement for information, we took the view that, as a more specialist music service, the Licensee was entitled to regard provision of music news (and particularly gig information) as a significant and relevant contribution to delivering this requirement. Nevertheless, we also noted the provision of some non-music-related information during our monitoring periods, such as an appeal for bone marrow donors from the Afro-Caribbean Leukaemia Trust.

We recognised that, in sharing most of the output with the national Capital Xtra DAB service, some of the previous local 'feel' of Choice FM has inevitably been lost. However, it was ultimately our view that the station's news and information provision was sufficient to remain compliant with the requirements of the two London FM Formats, and was consistent with Ofcom's localness guidelines⁵.

In reaching our decision in this case, we noted official RAJAR audience figures⁶ which show that, while audience numbers for the two London FM licences have declined since the change to Capital Xtra⁷, the ethnic composition of the audience remains similar to when the station broadcast as Choice FM⁸. This suggests that, while changes to established presenters and shows may have contributed to an overall decline in listening, the changes have not reduced the service's appeal to the target audience compared with other listeners.

The output of Capital Xtra has changed in some respects in comparison to that of the former Choice FM, and we acknowledged complainants' concerns about these changes. However, on balance, we did not consider that the changes meant that the station had ceased to be targeted primarily at listeners of African and Afro-Caribbean

⁵ Ofcom's localness guidelines are published at:
<http://stakeholders.ofcom.org.uk/broadcasting/radio/localness/localness-guidelines>.

⁶ RAJAR analysis was based on Q1 and Q2 2013 (Choice FM) compared with Q1 and Q2 2014 (Capital Xtra).

⁷ 621,000 weekly adult (aged 15+) listeners for Choice FM compared to 383,000 weekly listeners for Capital Xtra, based on the RAJAR periods listed above.

⁸ For the periods listed above, both Choice FM's audience and Capital Xtra's audience was categorised by RAJAR as being 40% 'black' (including Caribbean, African, black British, other black).

origin in the areas of London stated (as the Formats require). We therefore concluded that Licence Condition 2(4) had not been breached.

Not in Breach

Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 23 September and 6 October 2014 and decided that the broadcaster did not breach Ofcom's codes, licence conditions or other regulatory requirements.

Investigations conducted under the Procedures for investigating breaches of content standards for television and radio¹

Programme	Broadcaster	Transmission date	Categories
Betrayed	Channel 5	11/07/2014	Violence and dangerous behaviour
Programming	Sangat TV	18/04/2014	Due impartiality/bias

For more information about how Ofcom conducts investigations about content standards, go to: <http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/>.

¹ This table was amended after publication to correct a factual inaccuracy.

Complaints Assessed, Not Investigated

Here are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 23 September and 6 October 2014 because they did not raise issues warranting investigation.¹

Complaints assessed under the Procedures for investigating breaches of content standards for television and radio

For more information about how Ofcom assesses conducts investigations about content standards, go to:

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/>.

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
999: What's Your Emergency?	4seven	26/09/2014	Outside of remit	1
The Cross Dressing Cannibal	5 USA	23/09/2014	Transgender discrimination/offence	1
Inside Broadmoor	5*	21/09/2014	Generally accepted standards	1
Police Interceptors	5*	26/09/2014	Offensive language	1
Sunday Breakfast	Absolute Radio	21/09/2014	Animal welfare	1
The Frank Skinner Show	Absolute Radio	20/09/2014	Generally accepted standards	1
Babestation Blue	Babestation Blue	25/09/2014	Materially misleading	1
BBC News	BBC 1	11/09/2014	Elections/Referendums	1
BBC News	BBC 1	Various	Due accuracy	1
BBC News	BBC 1	Various	Elections/Referendums	1
BBC News at Six	BBC 1	23/09/2014	Due impartiality/bias	1
BBC News at Six	BBC 1	23/09/2014	Generally accepted standards	1
BBC News at Six	BBC 1	02/10/2014	Promotion of products/services	1
BBC News at Ten	BBC 1	03/10/2014	Due impartiality/bias	1
Breakfast	BBC 1	24/09/2014	Due impartiality/bias	1
Breakfast	BBC 1	01/10/2014	Generally accepted standards	1
Casualty	BBC 1	27/09/2014	Due impartiality/bias	1
Cat Wars	BBC 1	22/09/2014	Animal welfare	1
Doctor Who	BBC 1	13/09/2014	Scheduling	2
Doctor Who	BBC 1	27/09/2014	Gender discrimination/offence	3
Doctor Who	BBC 1	27/09/2014	Generally accepted standards	2
Doctor Who	BBC 1	27/09/2014	Scheduling	1
EastEnders	BBC 1	25/08/2014	Religious/Beliefs discrimination/offence	1

¹ This table was amended after publication to correct a factual inaccuracy caused by an administrative error.

EastEnders	BBC 1	26/09/2014	Offensive language	1
EastEnders	BBC 1	30/09/2014	Sexual orientation discrimination/offence	1
EastEnders	BBC 1	30/09/2014	Violence and dangerous behaviour	1
EastEnders	BBC 1	02/10/2014	Animal welfare	1
EastEnders	BBC 1	03/10/2014	Animal welfare	1
Have I Got News for You	BBC 1	03/10/2014	Generally accepted standards	2
Holby City	BBC 1	16/09/2014	Materially misleading	1
Match of the Day	BBC 1	27/09/2014	Offensive language	1
Regional News and Weather	BBC 1	29/08/2014	Generally accepted standards	1
Strictly Come Dancing	BBC 1	07/09/2014	Race discrimination/offence	1
Strictly Come Dancing	BBC 1	27/09/2014	Outside of remit	1
Sunday Politics	BBC 1	28/09/2014	Generally accepted standards	1
The Driver	BBC 1	30/09/2014	Generally accepted standards	1
The One Show	BBC 1	22/09/2014	Generally accepted standards	1
Reporting Scotland	BBC 1 Scotland	16/09/2014	Due impartiality/bias	1
Mock the Week	BBC 2	21/09/2014	Race discrimination/offence	1
Newsnight	BBC 2	28/07/2014	Race discrimination/offence	1
Newsnight	BBC 2	19/09/2014	Due impartiality/bias	1
Rwanda's Untold Story	BBC 2	01/10/2014	Due impartiality/bias	1
Strictly Come Dancing: It Takes Two	BBC 2	30/09/2014	Gender discrimination/offence	1
Strictly Come Dancing: It Takes Two	BBC 2	02/10/2014	Offensive language	1
Top Gear	BBC 2	n/a	Outside of remit	2
Bad Education	BBC 3	30/09/2014	Sexual orientation discrimination/offence	1
Bad Education	BBC 3	04/10/2014	Sexual orientation discrimination/offence	1
Family Guy	BBC 3	01/10/2014	Race discrimination/offence	1
Greg and Jen @ Reading	BBC 3	22/08/2014	Sexual material	1
BBC News	BBC Channels	Various	Due impartiality/bias	1
Alice Levine	BBC Radio 1	21/09/2014	Scheduling	1
Gemma Cairney	BBC Radio 1	01/10/2014	Outside of remit	1
Greg James	BBC Radio 1	28/08/2014	Generally accepted standards	1
Newsbeat	BBC Radio 1	29/09/2014	Scheduling	1
The Radio 1 Breakfast Show with Nick Grimshaw	BBC Radio 1	02/10/2014	Offensive language	1

The Now Show	BBC Radio 4	26/09/2014	Offensive language	1
The Now Show	BBC Radio 4	27/09/2014	Generally accepted standards	1
Listen Against	BBC Radio 4 Extra	21/08/2014	Generally accepted standards	1
5 Live Sport (Interactive Service)	BBC Radio 5 Live	01/09/2014	Generally accepted standards	1
Stephen Nolan	BBC Radio 5 Live	20/09/2014	Offensive language	1
Drivetime	BBC Radio Cambridgeshire	14/08/2014	Offensive language	1
BBC World News	BBC World News	01/09/2014	Generally accepted standards	1
Bob's Breakfast	BOB FM Home Counties	10/09/2014	Elections/Referendums	2
Bob's Breakfast	BOB FM Home Counties	10/09/2014	Race discrimination/offence	45
Advertising	Capital FM	23/09/2014	Advertising content	1
Capital Breakfast	Capital FM (North East)	11/09/2014	Scheduling	1
Capital Breakfast with Dave Berry and Lisa Snowden	Capital FM London	29/08/2014	Generally accepted standards	1
Capital Breakfast	Capital Xtra	16/09/2014	Offensive language	1
TNA	Challenge	21/09/2014	Disability discrimination/offence	1
Various programme trailers	Challenge	20/09/2014	Scheduling	1
4OD	Channel 4	n/a	Outside of remit	1
8 Out of 10 Cats Does Countdown	Channel 4	19/09/2014	Generally accepted standards	4
8 Out of 10 Cats Does Countdown	Channel 4	23/09/2014	Violence and dangerous behaviour	1
Channel 4 News	Channel 4	16/09/2014	Due impartiality/bias	1
Channel 4 News	Channel 4	23/09/2014	Harm	1
Channel 4 News	Channel 4	24/09/2014	Due impartiality/bias	1
Channel 4 News	Channel 4	30/09/2014	Due impartiality/bias	1
Channel 4 News	Channel 4	Various	Due impartiality/bias	1
Come Dine with Me	Channel 4	29/08/2014	Transgender discrimination/offence	1
Countdown	Channel 4	28/08/2014	Materially misleading	1
Gogglebox	Channel 4	26/09/2014	Generally accepted standards	3
Grand Designs	Channel 4	24/09/2014	Generally accepted standards	1
Hollyoaks	Channel 4	30/09/2014	Scheduling	1
The Gypsy Matchmaker	Channel 4	03/09/2014	Generally accepted standards	1
5 News at 5	Channel 5	02/10/2014	Due accuracy	1
Advertising	Channel 5	24/09/2014	Generally accepted standards	1
Advertising	Channel 5	30/09/2014	Advertising content	1
Can't Pay? We'll Take it Away!	Channel 5	24/09/2014	Violence and dangerous behaviour	1

Dallas	Channel 5	18/09/2014	Advertising minutage	1
Gotham (trailer)	Channel 5	01/10/2014	Scheduling	1
Maria sponsorship of Can't Pay We'll Take It Away	Channel 5	24/09/2014	Generally accepted standards	1
Never Teach Your Wife to Drive	Channel 5	27/09/2014	Gender discrimination/offence	1
The Long Ships	Channel 5	27/09/2014	Animal welfare	1
The Nightmare Neighbour Next Door	Channel 5	24/09/2014	Offensive language	3
The Wright Stuff	Channel 5	18/09/2014	Elections/Referendums	1
The Wright Stuff	Channel 5	26/09/2014	Generally accepted standards	1
Classic FM App promotion	Classic FM	27/08/2014	Materially misleading	1
Advertising	Dave	21/09/2014	Advertising content	1
Top Gear	Dave	29/09/2014	Offensive language	1
Wheeler Dealers	Discovery Channel	28/08/2014	Crime	1
Forbidden (trailer)	DMAX	19/09/2014	Scheduling	1
The Bill	Drama	29/09/2014	Offensive language	1
Non-Stop Fire	Fire Radio	26/09/2014	Offensive language	1
American Horror Story: Freak Show (trailer)	Fox	25/09/2014	Scheduling	1
Andy Goulding	Free Radio (Coventry and Warwickshire)	25/09/2014	Race discrimination/offence	1
Iftar Transmission	HUM Europe	02/07/2014	Promotion of products/services	1
Programming	Iqra Bangla	23/08/2014	Advertising/editorial distinction	1
Advertising	ITV	20/09/2014	Advertising content	1
Advertising	ITV	21/09/2014	Advertising content	1
Aunt Bessie's sponsorship of The Chase	ITV	01/10/2014	Generally accepted standards	1
Celebrity Squares	ITV	24/09/2014	Generally accepted standards	1
Chasing Shadows	ITV	04/09/2014	Suicide and self harm	1
Cilla	ITV	22/09/2014	Disability discrimination/offence	1
Cilla	ITV	22/09/2014	Generally accepted standards	7
Competitions	ITV	Various	Competitions	1
Coronation Street	ITV	12/09/2014	Generally accepted standards	1
Coronation Street	ITV	12/09/2014	Scheduling	1
Coronation Street	ITV	26/09/2014	Violence and dangerous behaviour	1
Emmerdale	ITV	18/08/2014	Scheduling	1
Emmerdale	ITV	12/09/2014	Scheduling	1
Emmerdale	ITV	29/09/2014	Materially misleading	1

Field of Dreams	ITV	27/09/2014	Offensive language	1
ITV News at Ten and Weather	ITV	01/10/2014	Due impartiality/bias	1
Loose Women	ITV	29/09/2014	Generally accepted standards	2
Off Their Rockers	ITV	27/09/2014	Scheduling	1
Scott and Bailey	ITV	n/a	Offensive language	1
The Alan Titchmarsh Show	ITV	17/09/2014	Gender discrimination/offence	8
The Chase: Celebrity Special	ITV	13/09/2014	Transgender discrimination/offence	1
The Jeremy Kyle Show	ITV	24/09/2014	Outside of remit	1
The Undriveables	ITV	22/09/2014	Materially misleading	1
The X Factor (trailer)	ITV	06/09/2014	Hypnotic and other techniques	1
The X Factor (trailer)	ITV	07/09/2014	Hypnotic and other techniques	1
The X Factor (trailer)	ITV	05/10/2014	Hypnotic and other techniques	1
This Morning	ITV	08/09/2014	Gender discrimination/offence	1
This Morning	ITV	22/09/2014	Sexual orientation discrimination/offence	1
This Morning	ITV	03/10/2014	Animal welfare	1
UEFA Champions League	ITV	30/09/2014	Generally accepted standards	1
You've Been Framed!	ITV	20/09/2014	Age discrimination/offence	1
Keith Lemon: The Film	ITV2	23/09/2014	Generally accepted standards	1
The Jeremy Kyle Show	ITV2	25/09/2014	Generally accepted standards	1
The Xtra Factor	ITV2	28/09/2014	Generally accepted standards	1
Totally You've Been Framed!	ITV2	02/10/2014	Religious/Beliefs discrimination/offence	1
You've Been Framed!	ITV2	01/10/2014	Religious/Beliefs discrimination/offence	1
Midsomer Murders	ITV3	20/09/2014	Advertisements	1
FIA Formula E Championship Preview	ITV4	07/09/2014	Materially misleading	1
Station ident	Jack FM (Oxfordshire)	03/09/2014	Religious/Beliefs discrimination/offence	1
Bastuklubben	Kanal 5	27/08/2014	Generally accepted standards	4
Bastuklubben	Kanal 5	10/09/2014	Generally accepted standards	1
Nick Ferarri	LBC 97.3 FM	15/09/2014	Generally accepted standards	1
All Creatures Great and Stuffed (trailer)	More4	03/09/2014	Generally accepted standards	1
Operation Maneater (trailer)	More4	20/09/2014	Animal welfare	1
Programming	MTV	21/09/2014	Scheduling	1

20 Hip Hop & RnB Beats	MTV Base	20/09/2014	Race discrimination/offence	1
Super Base Beats	MTV Base	05/09/2014	Race discrimination/offence	1
The Official UK Urban Chart	MTV Hits	11/09/2014	Violence and dangerous behaviour	1
Ben and Holly's Little Kingdom	Nick Jr	24/09/2014	Scheduling	1
Channel 8 Debate	NottsTV	30/08/2014	Due impartiality/bias	1
Programming	Panjab Radio	21/07/2014	Offensive language	1
Obese: A Year to Save My Life	Pick	07/09/2014	Nudity	1
Iftar Transmission	Prime TV	03/07/2014	Advertising/editorial distinction	1
Bollywood Dance Mix	Radio Asian Fever	06/09/2014	Due impartiality/bias	1
Iftaar Programme	Radio Asian Fever	24/07/2014	Materially misleading	1
Moulana Ifran	Radio Asian Fever	25/07/2014	Religious/Beliefs discrimination/offence	1
Programming	Radio Asian Fever	27/07/2014	Materially misleading	1
Special Report	Sikh Channel	07/07/2014	Crime	1
Sky Playlister	Sky Movies	Various	Gender discrimination/offence	1
Decision Time: Scotland	Sky News	19/09/2014	Due impartiality/bias	2
PMQ's	Sky News	17/09/2014	Offensive language	1
Programming	Sky News	22/09/2014	Due impartiality/bias	1
Sky News	Sky News	09/08/2014	Due accuracy	1
Sky News	Sky News	27/08/2014	Due impartiality/bias	1
Sky News	Sky News	17/09/2014	Elections/Referendums	1
Sky News	Sky News	19/09/2014	Generally accepted standards	1
Sky News with Dermot Murnaghan	Sky News	02/09/2014	Due impartiality/bias	1
Sky News with Kay Burley	Sky News	19/09/2014	Generally accepted standards	1
Sunrise	Sky News	18/09/2014	Elections/Referendums	1
Goals on Sunday	Sky Sports 1	14/09/2014	Race discrimination/offence	1
Soccer AM	Sky Sports 1	20/09/2014	Scheduling	1
Super Sunday	Sky Sports 1	21/09/2014	Offensive language	1
The Knick (trailer)	Sky Sports 5	27/09/2014	Scheduling	1
Deadline Day	Sky Sports News HQ	01/09/2014	Generally accepted standards	16
A League of Their Own	Sky1	03/10/2014	Generally accepted standards	1
Legends (trailer)	Sky1	16/09/2014	Scheduling	1
The Last Ship	Sky1	26/09/2014	Violence and dangerous behaviour	1
Diya Aur Bati Hum	Star Plus	19/08/2014	Under 18s in programmes	1
Ek Hasina Thi	Star Plus	27/08/2014	Generally accepted standards	1

Coronation Street	STV	22/09/2014	Race discrimination/offence	1
Programming	STV	17/08/2014	Political advertising	1
STV News at Six	STV	10/09/2014	Due impartiality/bias	1
STV News at Six	STV	12/09/2014	Due impartiality/bias	1
STV News at Six	STV	15/09/2014	Due impartiality/bias	1
STV Player promotion	STV	03/09/2014	Due impartiality/bias	1
Advertising	Talksport	27/09/2014	Advertising content	1
Lynne Hoggan	Tay FM 96.4	16/09/2014	Due impartiality/bias	1
Most Haunted (trailer)	Travel Channel	31/08/2014	Scheduling	1
Eid	Ummah Channel	29/07/2014	Religious/Beliefs discrimination/offence	3
UTV Player promotion	UTV	25/09/2014	Violence and dangerous behaviour	1
News general	Various	Various	Due impartiality/bias	1
New Music Thursdays	Viva	04/09/2014	Race discrimination/offence	1
Programming	Viva	20/09/2014	Scheduling	1
The Fight Club: History of Violence	Yesterday	18/09/2014	Scheduling	1

Complaints assessed under the General Procedures for investigating breaches of broadcast licences

For more information about how Ofcom conducts investigations about broadcast licences, go to: <http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/general-procedures/>.

Licensee	Categories
Latest TV Limited	Programme Commitments

Investigations List

If Ofcom considers that a broadcaster may have breached its codes, a condition of its licence or other regulatory requirements, it will start an investigation.

It is important to note that an investigation by Ofcom does not necessarily mean the broadcaster has done anything wrong. Not all investigations result in breaches of the licence or other regulatory requirements being recorded.

Here are alphabetical lists of new investigations launched between 25 September and 8 October 2014.

Investigations launched under the Procedures for investigating breaches of content standards for television and radio

Programme	Broadcaster	Transmission date
Advertising minutage	BT Sport 1	various
Advertising minutage	SAB	31 August 2014
Advertising minutage	Samaa	11 August 2014
Advertising minutage	Travel Channel	04 August 2014
Scotland Tonight	STV Glasgow	18 September 2014
Wanted	Resonance FM (Community Station)	18 September 2014

For more information about how Ofcom assesses complaints and conducts investigations about content standards, go to:

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/standards/>.

Investigations launched under the Procedures for the consideration and adjudication of Fairness and Privacy complaints

Programme	Broadcaster	Transmission date
News report Radio Scilly	Radio Scilly	15 August 2014

For more information about how Ofcom considers and adjudicates upon Fairness and Privacy complaints, go to:

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/fairness/>.

Investigations launched under the General Procedures for investigating breaches of broadcast licences

Licensee/Broadcaster	Service
DM Global Media Limited	DM News Plus
Llandudno Community Radio Limited	Tudno FM
Channel 5 Broadcasting Limited	Channel 5
Nickelodeon UK Limited	Nickelodeon
S4C	S4C

For more information about how Ofcom assesses complaints and conducts investigations about broadcast licences, go to:

<http://stakeholders.ofcom.org.uk/broadcasting/guidance/complaints-sanctions/general-procedures/>.