

# OFCOM BROADCAST AND ON DEMAND BULLETIN

Issue number 334  
7 August 2017



## Contents

Introduction	3
<b>Notice of Revocation</b>	
Iman Media UK Limited	6
Three Programmes – 8 lectures by Anwar al-Awlaki <i>The Breakfast Show, Iman FM, on 5, 10 and 12 June 2017</i>	7
<b>Notice of Sanction</b>	
Pinky Pinky <i>Kanshi Radio Limited, 30 June 2016, 01:59 and 1 September 2016, 00:05</i>	24
<b>Note to Broadcasters</b>	
Rule 2.1 of the Code: health and wealth claims in programmes	26
<b>Broadcast Standards cases</b>	
<b>In Breach</b>	
The Hub <i>Radio Dawn, 26 December 2016, 16:00</i>	30
Keeping Up with the Kardashians <i>E!, 24 May 2017, 17:00</i>	38
Sunrise <i>Sky News, 12 May 2017, 06:00</i>	39
Peter Lee Show <i>TMCR FM, 16 May 2017, 11:00</i>	42
Trending Hits, The Biggest Chart Hits, Breakfast Beat <i>BritAsia TV, 27 February 2017, various times</i>	48
Believers' Voice of Victory <i>TBN UK, 8 February 2017, 08:00 and 13:40</i>	50
Inside Cruise <i>Holiday and Cruise TV, 26 March 2017, 14:00</i> All Aboard <i>Holiday and Cruise TV, 26 March 2017, 17:30</i>	54
Advertising minutage <i>Prime TV, 13 March to 4 April 2017, various times</i>	59

## Tables of cases

Investigations Not in Breach	60
Complaints assessed, not investigated	61
Complaints outside of remit	72
BBC First	74
Investigations List	76

## Introduction

Under the Communications Act 2003 ("the Act"), Ofcom has a duty to set standards for broadcast content to secure the standards objectives<sup>1</sup>. Ofcom also has a duty to ensure that On Demand Programme Services ("ODPS") comply with certain standards requirements set out in the Act<sup>2</sup>.

Ofcom reflects these requirements in its codes and rules. The Broadcast and On Demand Bulletin reports on the outcome of Ofcom's investigations into alleged breaches of its codes and rules, as well as conditions with which broadcasters licensed by Ofcom are required to comply. The codes and rules include:

- a) [Ofcom's Broadcasting Code](#) ("the Code") for content broadcast on television and radio services licensed by Ofcom, and for content on the BBC's licence fee funded television, radio and on demand services.
- b) the [Code on the Scheduling of Television Advertising](#) ("COSTA"), containing rules on how much advertising and teleshopping may be scheduled on commercial television, how many breaks are allowed and when they may be taken.
- c) certain sections of the [BCAP Code: the UK Code of Broadcast Advertising](#), for which Ofcom retains regulatory responsibility for television and radio services. These include:
  - the prohibition on 'political' advertising;
  - 'participation TV' advertising, e.g. long-form advertising predicated on premium rate telephone services – notably chat (including 'adult' chat), 'psychic' readings and dedicated quiz TV (Call TV quiz services); and
  - gambling, dating and 'message board' material where these are broadcast as advertising<sup>3</sup>.
- d) other conditions with which Ofcom licensed services must comply, such as requirements to pay fees and submit information required for Ofcom to carry out its statutory duties. Further information can be found on Ofcom's website for [television](#) and [radio](#) licences.
- e) Ofcom's [Statutory Rules and Non-Binding Guidance for Providers of On-Demand Programme Services](#) for editorial content on ODPS (apart from BBC ODPS). Ofcom considers sanctions for advertising content on ODPS referred to it by the Advertising Standards Authority ("ASA"), the co-regulator of ODPS for advertising, or may do so as a concurrent regulator.

[Other codes and requirements](#) may also apply to broadcasters, depending on their circumstances. These include the requirements in the BBC Agreement, the Code on Television Access Services (which sets out how much subtitling, signing and audio description relevant licensees must provide), the Code on Electronic Programme Guides, the Code on Listed Events, and the Cross Promotion Code.

---

<sup>1</sup> The relevant legislation is set out in detail in Annex 1 of the Code.

<sup>2</sup> The relevant legislation can be found at Part 4A of the Act.

<sup>3</sup> 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.

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

# Notice of Revocation

## Iman Media UK Limited

---

### Introduction

Iman FM is a community radio station broadcasting to the Muslim community in Sheffield and the surrounding areas. The licence for this service is held by Iman Media UK Limited ("the Licensee").

This revocation concerns the broadcast of a number of lectures by Anwar al-Awlaki throughout the holy month of Ramadan. In breach decisions published on 5 July 2017 and 27 July 2017<sup>4</sup>, Ofcom found that the broadcast of the lectures breached a number of rules including Rule 3.1 of the Code:

"Material likely to encourage or incite the commission of crime or to lead to disorder must not be included in television or radio services".

Ofcom considered the breaches of Rule 3.1 to be extremely serious.

Under section 111B of the Broadcasting Act 1990 (as amended), in certain circumstances Ofcom may suspend a licence if the licence holder has broadcast material likely to encourage or incite the commission of a crime or lead to disorder. After considering the Licensee's representations, Ofcom may then revoke the licence if it is satisfied it is necessary in the public interest to do so.

Ofcom served a suspension notice on the Licensee on 4 July 2017.

### Decision

In Ofcom's view the contraventions of the Code and the Licensee's compliance failures were so extremely serious, and the Licensee's conduct was so extremely reckless, that we had no confidence that the Licensee would be capable of complying with its licence conditions or that similar breaches would be prevented in the future. On this basis, in Ofcom's view it was necessary in the public interest to revoke the licence and proportionate to decide that these breaches and failures justified the revocation under section 111B of the Broadcasting Act 1990 (as amended).

Ofcom also considered that the Licensee's failures rendered it unfit to hold a broadcast licence. The revocation will take effect from Thursday 24 August 2017. Until that date, the licence remains suspended pursuant to a suspension notice served on 4 July 2017.

### Revocation of the licence under section 111B of the Broadcasting Act 1990.

---

<sup>4</sup> The breach decision published on 5 July 2017 can be found here:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0017/103940/Breach-Decision-Iman-FM.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0017/103940/Breach-Decision-Iman-FM.pdf). It

was also included in issue 333 of the Bulletin, published here:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0021/104637/Issue-333-of-Ofcoms-Broadcast-and-On-Demand-Bulletin.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0021/104637/Issue-333-of-Ofcoms-Broadcast-and-On-Demand-Bulletin.pdf).

The breach decision published on 27 July 2017 can be found here:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0022/105268/Iman-FM-Breach-Decision.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0022/105268/Iman-FM-Breach-Decision.pdf). It is also included in this issue of the Bulletin, below.

## In Breach

### **Three Programmes<sup>1</sup> – 8 lectures by Anwar al-Awlaki *The Breakfast Show, Iman FM, on 5, 10 and 12 June 2017***

---

**This Decision was originally published on 27 July 2017**

#### **Introduction**

Iman FM is a community radio station broadcasting to the Muslim Community living in Sheffield and the surrounding areas. The licence for this service is held by Iman Media UK Limited ("Iman FM" or "the Licensee").

The station broadcast a series of lectures entitled "The Life of Muhammad (Seerat-un-Nabi<sup>2</sup>)" throughout the holy month of Ramadan<sup>3</sup>. Ofcom received a complaint from a listener regarding two of the lectures. These were the subject of a separate Breach Decision.<sup>4</sup> During the course of its investigation, Ofcom assessed the rest of the series of lectures by Anwar al-Awlaki broadcast on Iman FM. In total 25 hours of lectures were broadcast between 26 May and 16 June 2017. Ofcom reviewed them all and our Decision is that three further programmes of lectures (amounting to eight individual lectures) contained content which was in serious breach of the Broadcasting Code.

Ofcom noted that the lectures were broadcast during Ramadan, a time when Muslims fast, pray and seek spiritual guidance. Ofcom is aware that during this month many Islamic radio and TV channels broadcast material that traditionally focuses on the spiritual life of prophet Muhammad as a religious leader. However, during its assessment of the content broadcast on Iman FM, Ofcom noted that the lectures of Anwar al-Awlaki presented an account of the life of prophet Muhammad purely in terms of his prowess as a military leader. The lectures detailed the preparation and justification for taking military action and the rules governing

---

<sup>1</sup> A previous In Breach Finding relating to Iman FM was published in issue 333 of the Broadcast and On Demand Bulletin: [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0021/104637/Issue-333-of-Ofcoms-Broadcast-and-On-Demand-Bulletin.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0021/104637/Issue-333-of-Ofcoms-Broadcast-and-On-Demand-Bulletin.pdf).

This second In Breach Finding relating to Iman FM was inserted retrospectively into issue 334 of the Broadcast and On Demand Bulletin.

Both In Breach Findings were published on the Ofcom website (on 5 and 27 July 2017, respectively) together with the Revocation Notice (on 27 July 2017): <https://www.ofcom.org.uk/about-ofcom/latest/bulletins/broadcast-bulletins/content-sanctions-adjudications/decision-and-revocation-iman-fm>

<sup>2</sup> Seerat-un- Nabi: Life of the Prophet.

<sup>3</sup> Ramadan in 2017 started on around 26 May 2017.

<sup>4</sup> [https://www.ofcom.org.uk/\\_\\_data/assets/pdf\\_file/0017/103940/Breach-Decision-Iman-FM.pdf](https://www.ofcom.org.uk/__data/assets/pdf_file/0017/103940/Breach-Decision-Iman-FM.pdf)

warfare. This emphasis on warfare differed from traditional *Seerah*<sup>5</sup>, which usually focus on the life of Muhamad as the spiritual and benevolent founder of Islam.

Freely available information on Anwar al-Awlaki indicates that he was an American born radical Muslim cleric of Yemeni descent who was designated a global terrorist by the US Government in 2010. In November 2011, the United Nations Security Council placed al-Awlaki on its UN Security Council Resolution list of individuals associated with al-Qaeda<sup>6</sup>. His overt endorsement of violence as a religious duty in his sermons and on the internet, is believed to have inspired several recruits to Islamic militancy to carry out high profile terrorist attacks. In 2011, President Obama authorised the targeted killing of Anwar al-Awlaki in a drone strike in Yemen. Following his death, his writings and sermons remain available online.

#### First Programme: Two Lectures by Anwar al-Awlaki, 5 June 2017<sup>7</sup>

Iman FM broadcast two lectures by Anwar al-Awlaki on 5 June 2017. Ofcom assessed these lectures which lasted around two hours. At 08:30 the following statements were made:

*"These are some of the verses revealed talking about Al Yahood<sup>8</sup> and this is referring to another problem that the Yahood suffer from, another disease that they suffer from is blasphemy. They would speak ill of the Prophet, they would speak ill about Islam, and speak ill about Allah..."*

\*\*\*\*

*"Jewish prejudice and arrogance towards the Arabs" and "the Jews used to always treat them as if they were a lower class, as if the Jewish religion is only suitable for the elites".*

#### Second Programme: Four Lectures by Anwar al-Awlaki, 10 June 2017<sup>9</sup>

Iman FM broadcast a further four lectures by Anwar al-Awlaki on 10 June. Ofcom assessed this broadcast which lasted around two hours. At 08:57 the following statements were made.

*"So, some lessons from this Sariyyah<sup>10</sup> number one, the enemies of Allah are going to pick on your actions and they are going to try and blow them out of proportion, they might try and twist the truth, and they will try and present you in the worst form they possibly can. To be aware of that we need to be aware of the reality of the situation, just as these verses of Allah put these things in perspective. So if Muslims are ever accused of being*

---

<sup>5</sup> Seerah/Sira/Seerat: A narration of the life of an individual often used in reference to prophet Muhammad.

<sup>6</sup> <http://www.un.org/press/en/2011/sc10468.doc.htm>

<sup>7</sup> "The Life of Muhammad Part 1/15 and Part 2/15"

<sup>8</sup> Al Yahood: Arabic term referring to Jewish people

<sup>9</sup> "The Life of Muhammad Part 3 of 19, Part 1/20, Part 2/20 and Part 3/20"

<sup>10</sup> Sariyyah: An expedition ordered by prophet Muhammad in which he himself did not participate.



*terrorists or that Islam is promoting violence let whoever is saying that remember, that hundreds of thousands of people killed in Iraq, that Palestinians have been suffering for over 50 years, that Muslims in Kashmir and Chechnya and the Philippines and one can go on and on, have been suffering for a very long time – bring these things up...even if the Muslims do something that is not justified – that cannot fall under justifiable resistance - it can never reach to the level of violence and evil that is committed against the Muslims from disbelievers. More than a million killed in sanctions laid upon Iraq. Things need to be put in the right perspective. Don't be gullible and naïve and fall into what the media is saying because the media is not on your side. Muslims need to be aware about the reality of the situation and not just take what is on the radio and TV, but look deep into what is happening and you'll see the evil that is caused by the enemy..." and this is later followed by "Look at what the Quraysh<sup>11</sup> did to Muhammad, the enemies of Allah are doing to Muslims today. Preachers who are preaching the true Islam are being thrown in jail, or killed or subjugated to threats. If Muslims try to present the truth as it is, they are fought against or restricted. Muslim lands are taken as booty and milking cows for the enemies of Allah. Muslim blood has become very cheap. In fact, it has not just become cheap it has become worthless..."*

\*\*\*\*

*"Can we find anything as virtuous as Jihad, and the prophet said I cannot find any. When the Mujahid<sup>12</sup> goes out in the path of Allah, can you enter your mosque and pray continuously without any rest, and fast continuously without breaking your fast, and the man said, and who could do that. Meaning that the reward of the Mujahid is greater than fasting continuously and praying continuously. So, the fighting of disbelievers is more virtuous than Jihad un Nafs<sup>13</sup>, because praying and fasting is part of Jihad un Nafs and the prophet is saying here that if a person is praying continuously then he cannot receive that someone gets who fights in the way of Allah...so the peak of Islam is fighting Jihad fi Sabilillah<sup>14</sup>. The prophet said in a Hadith that paradise lies under the shade of swords. In another it says that whoever finances a fighter in the cause of Allah has fought [Jihad], and whoever takes care of the family of a fighter has fought".<sup>15</sup>*

### Third Programme: Two lectures by Anwar al-Awlaki 12 June 2017<sup>16</sup>

Iman FM broadcast a further two lectures by Anwar al-Awlaki on 12 June 2017. Ofcom made an assessment of this broadcast, which lasted around two hours. At 07:58 the following statement was made:

---

<sup>11</sup> A tribe who historically controlled Mecca. Prophet Muhammad was born into the Banu Hashim clan of the Quraysh tribe.

<sup>12</sup> Mujahid: A fighter who takes part in Jihad

<sup>13</sup> Jihad un Nafs: Orthodox Muslim belief that the Jihad [struggle] against Nafs [self] was greater than violent Jihad, and is referred to as Jihad Akbar i.e the greater Jihad.

<sup>14</sup> Jihad fi Sabilillah: Jihad in the way of Allah

<sup>15</sup> "The Life of Muhammad Part 1/20"

<sup>16</sup> "The Life of Muhammad Part 2/23 and 3/23"

*“Finally, the ruling of POW. The Islamic ruling on prisoners of war. It is up to the leader. It is up to the Muslim Imam to determine the fate of prisoner of wars. He has the choice of executing them. The example is [list of names] who were executed by [name]. Number two, he can free them without ransom as he did with [list of names]. He can free them with ransom like he did with the rest of the prisoner of wars and he has the option of enslaving the prisoner of wars such as the ruling of [list of names] as we will talk about later on. So, these are the rulings of prisoner of wars in Islam. We have our own Geneva convention<sup>17</sup> we don't have to abide by anyone's Geneva convention. Allah has already taught what is right and what is wrong so Muslims have their own rules which part of Sharia of Allah's [they obey] and it has all the Hadiya [guidance] that Muslims would need”.*

We considered the material broadcast in the three different programmes on 5, 10 and 12 June 2017 raised issues under the following rules of the Code:

Rule 3.1: “Material likely to encourage or to incite the commission of crime to lead to disorder must not be included in television or radio services”

Rule 3.2: “Material which contains hate speech must not be included in television and radio programmes except where it is justified by the context”.

Rule 2.3: “In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context. Such material may include...discriminatory treatment or language (for example on the grounds of...religion...)”

## Response

When Ofcom investigated the previous case, regarding two lectures of Anwar al-Awlaki,<sup>18</sup> Iman FM provided Ofcom with both written and oral representations relating to its broadcast of the wider series of lectures.

### *Background to the broadcast of the lectures of Anwar al-Awlaki*

Iman FM said it normally broadcasts a live daily breakfast show from 08:00 to 10:00, but that the regular presenter was not available during the month of Ramadan. Therefore, it decided to broadcast a series of pre-recorded lectures.

In selecting the lectures to be played on air, Iman FM told Ofcom they searched the internet for “lectures on the life of the Prophet Muhammad” and “lectures on Seerah”, adding that the lectures they selected to broadcast were “freely available”.

Iman FM told Ofcom that a total of 20 hours of recordings featuring Anwar al-Awlaki had been broadcast. However, once the Licensee had submitted a breakdown of the hours broadcast, Ofcom calculated the total number of lectures broadcast to be in excess of 25 hours, of which approximately 2 hours were repeats of earlier broadcasts.

---

<sup>17</sup> For further information on the Geneva Convention, see: <https://www.icrc.org/en/war-and-law/treaties-customary-law/geneva-conventions>

<sup>18</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0017/103940/Breach-Decision-Iman-FM.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0017/103940/Breach-Decision-Iman-FM.pdf)

The Licensee said it was “not aware of the background of the preacher and had no knowledge of him being proscribed by the United Nations”. It added that “had this fact been known” they would not have broadcast the lectures.

### *The broadcasts*

In explaining how the material came to be broadcast Iman FM said:

- the first 20 lectures had been selected to be played in chronological order;
- 12 hours of the content was fully listened to and none of that content had raised compliance concerns;
- Ofcom did not find any content in breach in relation to the 12 hours which the Licensee had fully reviewed;
- of the remaining 8 hours that were broadcast, only samples were assessed prior to broadcast;
- the three programmes which are the subject of this Decision belong to the latter category of lectures and were only sample checked before broadcast;
- the lectures had been edited prior to broadcast to insert advertising breaks;
- the material was loaded into an automated schedule to be played out;
- the final decision to broadcast was made by the Station Manager and Production Manager;
- whilst Iman FM sometimes broadcasts disclaimers ahead of external content being played, no disclaimer accompanied these broadcasts;
- normally lectures and sermons would be chosen to fit the station's ethos;
- the speaker was not introduced on air, as the Licensee's staff were rushing to prepare the lectures for broadcast ahead of Ramadan;
- during the broadcasts a volunteer was in the office but may not have been monitoring broadcast output from the studio;
- management did not pick up on the lectures because they thought they had been compliance checked. As they had been observing their religious practices late into the evenings, at the time of the broadcasts they were “probably catching up on sleep”.

Iman FM said the material it had reviewed before broadcast was “judged to be within the parameters” of the Code. The Licensee accepted that it had not fully listened to the recordings prior to broadcast, stating this was due to time constraints, with it being a small radio station and the timing falling within the month of Ramadan. The Licensee also said “this was under the presumption that the events talked about are on the life of the prophet Mohammed, which ordinarily is a historical account, normally not controversial”.

### *Further submissions*

In response to this incident, Iman FM said it had taken the following actions:

- the lectures were taken off air;
- it had decided not to broadcast the material again;
- Iman FM accepted their compliance procedures in this instance had not been adequate. Following this breach the Licensee said it had reviewed and enhanced its guidelines for presenters and content policy regarding compliance of lectures and speeches prior to broadcast. Iman FM said it would keep this policy under review;
- it would run due diligence checks in future on the background of speakers before broadcasting their speeches and lectures;
- during the Licensee's "Feedback Show" broadcast on Friday 23 June the lectures by Anwar al-Awlaki were "strongly condemned". An apology was broadcast to listeners for any offence caused. Iman FM told listeners the content "fell below the high standards that Iman FM holds in promoting good programming" and "Iman FM always advances the causes of a united community, regardless of background and such individuals and what they stand for are condemned in the strongest terms". Listeners were told no lectures by Anwar al-Awlaki would be played on Iman FM in future. Iman FM sent Ofcom a recording of this broadcast shortly after transmission;
- a further broadcast was being prepared by the management of Iman FM for Saturday 24 June where the lectures of Anwar al-Awlaki broadcast by Iman FM would be condemned and the "detail of the content that was broadcast" would be discussed in "much more detail".

However, when Ofcom requested a recording of this programme on the morning of Thursday 29 June, Iman FM said it had decided not to broadcast it because of the Eid celebrations. Iman FM said Eid was celebrated at different times in Rotherham and Sheffield and they needed to update the community they served on how and when to observe Eid, with guests. Ofcom was advised that a programme with guests about the Anwar al-Awlaki lectures was scheduled for 1500 on Thursday 29 June. A recording of this programme was provided to Ofcom after transmission.

Iman FM told Ofcom whilst the 12 hours of lectures they listened to prior to broadcast had not initially raised compliance concerns, having listened to them "in hindsight" with knowledge of the background of Anwar al-Awlaki, some of the content may be problematic. However, the Licensee said the "vast majority" of the content was "not controversial".

Ofcom considered Iman FM's submission that management and volunteers were "not aware of the background of the preacher and had no knowledge of him being proscribed by the United Nations" and that "had this fact been known" they would not have broadcast the recordings. The Licensee also argued that it went "against the grain" of the service and the inclusive nature of the work they did in the local community to promote cohesion. The Licensee asked Ofcom to consider that its Station Manager had run several RSL licences to observe Ramadan and had held a good compliance record when holding those licences.

The Licensee stated that the lectures were broadcast “unwittingly” and they “felt strongly the track record of the management and Iman FM” had not been given “sufficient weight” by Ofcom in reaching its first Preliminary View.

In oral representations made to Ofcom on 18 July 2017, Iman FM identified to Ofcom the source of the material for these lectures and provided a link to the YouTube content from where it had downloaded the material it chose to broadcast. Ofcom noted that in the description provided underneath the video, there was a further “show more” tab which, once selected, provided more detail of the content and identified Anwar al-Awlaki as the speaker and detailed his arrest and subsequent death following a drone strike authorised by President Obama. The Licensee argued that the further detail would not have been immediately apparent and would have required a more detailed search. Iman FM restated that the first 12 hours of material was fully listened to and none of that content had raised compliance concerns. The Licensee pointed out that Ofcom had not recorded any breach in that 12 hours of material and that the content it had raised concerns about in the 4 July 2017 Breach Decision and in the present Decision amounted to no more than a few minutes out of the total of 25 hours. In addition, Iman FM submitted that in a context where the preacher of the lectures was not introduced as part of the broadcast, listeners would not have known the identity of the preacher, which would also have limited the impact of the breaches.

The Licensee told Ofcom there is “no challenge from Iman FM, in terms of the breaches. It is fully accepted that the breaches highlighted by Ofcom do exist.” However, it said the breach was due to “recklessness, but not deliberate intent”.

Iman FM also pointed out to Ofcom that it is a community station with a small audience share in comparison to other broadcasters and their limited audience therefore restricted the potential harm caused in this case.

Iman FM confirmed that prior to Ramadan 2017 the station has never broadcast any lectures by Anwar al-Awlaki.

## Decision

Ofcom has a general duty under the Communications Act 2003 to secure 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 in such services, and a duty to set standards to secure that material likely to encourage or to incite the commission of crime or to lead to disorder is not included in television or radio services<sup>19</sup>. These duties are reflected in Sections Two and Three of the Code.

Ofcom has taken account of the audience’s and broadcaster’s right to freedom of expression set out in Article 10 of the European Convention on Human Rights (“ECHR”). We have also had regard to Article 9 of the ECHR, which states that everyone “has the right to freedom of thought, conscience and religion”. Ofcom must seek an appropriate balance between ensuring members of the public are adequately protected from harmful or offensive material and the right to freedom of expression and the right to freedom of thought, conscience and religion.

---

<sup>19</sup> <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

We acknowledge that, at times, offence can be caused not just by the actual content of a programme but by the very fact that people with extreme and very controversial views are given airtime. The Code does not prohibit people from appearing on television and radio services because their views or actions have the potential to cause offence. To do so would, in our view, be a disproportionate restriction of the broadcaster's right to freedom of expression and the audience's right to receive information.

Further, broadcasters should be able to, and can, report on terrorist groups, and individuals linked to such groups, that pose potential terror threats internationally and domestically. This is clearly in the public interest. However, if people or organisations are given the chance to articulate their views on television or radio, broadcasters must ensure they comply with the Code by challenging and placing those views in context, as appropriate.

In this case, Ofcom has serious concerns about the decision by the Licensee to give a platform to Anwar al-Awlaki, a widely named al-Qaeda propagandist and recruiter with controversial views, by broadcasting in excess of 25 hours of his lectures during Ramadan (of which approximately 2 hours were repeats).

Ofcom is aware that during Ramadan many Islamic radio and TV channels broadcast material that traditionally focuses on the spiritual life of prophet Muhammad as a religious leader. However, during its assessment of the content broadcast on Iman FM, Ofcom noted that the lectures of Anwar al-Awlaki presented an account of the life of prophet Muhammad purely in terms of his prowess as a military leader. The lectures detailed the preparation and justification for taking military action and the rules governing warfare. This emphasis on warfare differed from traditional *Seerah*<sup>20</sup>, which usually focus on the life of Muhammad as the spiritual and benevolent founder of Islam. In Ofcom's view, Anwar al-Awlaki's description of prophet Muhammad purely in militaristic terms during the month of Ramadan would have been potentially offensive to the majority of Muslims.

When broadcasting material of this nature, broadcasters must comply with: Rule 3.1 (prohibition on material likely to incite crime); Rule 3.2 (hate speech must be justified by the context); and Rule 2.3 (offence must be justified by the context).

#### First Programme: Two Lectures by Anwar al-Awlaki, 5 June 2017

During two lectures broadcast on 5 June 2017, Anwar al-Awlaki spoke about why the people of Medina converted to Islam rather than Judaism and various reasons were given. He said the people of Medina had been fighting each other for years and yearned for peace. Belief in one God appealed to them as they admired the religion and education of their Jewish neighbours and allies.

At 08:30 Anwar al-Awlaki made the following statements:

"These are some of the verses revealed talking about Al Yahood<sup>21</sup> and this is referring to another problem that the Yahood suffer from, another disease that they suffer from is

---

<sup>20</sup> Seerah/Sira/Seerat: A narration of the life of an individual often used in reference to prophet Muhammad

<sup>21</sup> See footnote 8

blasphemy. They would speak ill of the Prophet, they would speak ill about Islam, and speak ill about Allah...".

He goes on to say that they probably would have adopted the Jewish religion but did not because of "Jewish prejudice and arrogance towards the Arabs" and "the Jews used to always treat them as if they were a lower class, as if the Jewish religion is only suitable for the elites". The rest of the lecture gave an account of prophet Muhammad's trip to Ta'if<sup>22</sup>, and his invitation to the people of Ta'if to accept Islam. It gave an account of prophet Muhammad's meeting with various tribes in Ta'if.

### Rule 3.2

Rule 3.2 of the Code states:

"Material which contains hate speech must not be included in television and radio programmes except where it is justified by the context".

The Code defines "hate speech" as: "all forms of expression which spread, incite, promote or justify hatred based on intolerance on the grounds of disability, ethnicity, gender, gender reassignment, nationality, race, religion, or sexual orientation".

In our view these statements would have been interpreted as justifying intolerance towards Jewish people, based on the argument they suffer from the "disease" of "blasphemy" and the suggestion that Jewish people would denigrate the Muslim religion "*they would speak ill of the Prophet, they would speak ill about Islam*". Anwar al-Awlaki also refers to their "*prejudice and arrogance towards the Arabs*" and goes on to claim that Jewish people in the past had been disrespectful towards Muslim people, the "*Jews used to always treat them as if they were a lower class, as if the Jewish religion is only suitable for the elites*". We considered these statements encouraged a negative view of Jewish people which would have been perceived by listeners as justifying hatred or intolerance towards them. Therefore, it is Ofcom's Preliminary View that this is hate speech as defined by the Code.

Rule 3.2 permits the inclusion of hate speech in programming only when there is sufficient context. Our published Guidance to Rule 3.2 makes clear that there are certain genres of programming such as drama, comedy or satire where there is likely to be editorial justification for including challenging or extreme views in keeping with audience expectations, provided there is sufficient context. However, the greater the risk the material may cause harm or offence, the greater the need for contextual justification.

Ofcom must also take proper account of the broadcaster's and the audience's right to freedom of expression and related right to freedom of thought, conscience and religion. We recognised theological sermons and lectures are an important form of religious expression for some Muslim people. As Iman FM is a community radio station with a strong Islamic ethos broadcasting to a primarily Muslim audience, we accepted that its listeners may well expect and enjoy religious content such as lectures from Imams.

In this case, we did not consider there was editorial justification for including these views given the strength of the message of these two lectures. Further, there was no material broadcast before or after these lectures that provided any challenge to, criticism or explanation of, the intolerance towards Jewish people that it condoned. In our view, the

---

<sup>22</sup> Ta'if: A city in southwest [Saudi] Arabia, close to Mecca.

community radio's audience was unlikely to expect to hear content of this strength broadcast without sufficient context. The contextual factors in this case were not sufficient to justify the broadcast of this example of hate speech, and we therefore considered that it exceeded generally accepted standards.

We considered the Licensee's representations that it had decided to broadcast pre-recorded lectures "on the life of the Prophet Muhammad", adding that the lectures were "freely available" on the internet. We were concerned that the Licensee appeared to consider that the availability of content on the internet meant it was suitable for broadcast. We were particularly concerned that Iman FM told us that it had listened to approximately half of the content featuring Anwar al-Awlaki prior to broadcast, and appeared to have based its decision to broadcast Anwar al-Awlaki's lectures on the "presumption that the events talked about on the life of the prophet Muhammad, which ordinarily is a historical account, are normally not controversial".

We also considered Iman FM's submission that volunteers and management working there were unaware of the background of the speaker Anwar al-Awlaki. The Licensee provided Ofcom with the link they used to access the material on YouTube and information accompanying these lectures on the source site refers to Anwar al-Awlaki's arrest and detention in Yemen in 2006. It also refers to his death in a US drone strike in 2011. Ofcom took into consideration the Licensee's representations that the additional information on the source site was not immediately apparent. However, the information was freely available on the 'show more' tab which would have given clear information on the identity of the speaker and information on his background. In Ofcom's view, it is the responsibility of the licensee to carry out more rigorous checks on the material they intend to broadcast prior to transmission, particularly if that content is to be broadcast at length without context or challenge. Given the notoriety of Anwar al-Awlaki and the information provided at the YouTube source, the Licensee's failure to identify and investigate potential concerns with the source of the material was extremely reckless.

Our Decision is therefore that Rule 3.2 was breached.

### Rule 2.3

Rule 2.3 of the Code states that:

"In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context. Such material may include...discriminatory treatment or language (for example on the grounds of...religion...)".

Context is assessed by reference to a range of factors including the editorial content of the programme, the service in which the material is broadcast, the time of broadcast and the likely expectation of the audience.

We first considered whether this content was potentially offensive. As already discussed above, we considered these lectures amounted to hate speech, as it encouraged intolerance towards Jewish people. In our view, together with the portrayal of the prophet Muhammad in purely militaristic terms, this content had clear potential to be highly offensive.



Ofcom then considered whether the broadcast of these comments was justified by the context. Taking into account the factors set out above under Rules 3.2, we considered this potentially highly offensive material was broadcast without immediate challenge or criticism. In our view, the community radio's audience was unlikely to expect to hear content of this type broadcast without sufficient context.

We considered Iman FM's submission that it is a community station with a small audience share in comparison to other broadcasters. However, it is the responsibility of all licensees to comply with the Broadcasting Code, regardless of the size or audience share of that service. We also considered Iman FM's argument that out of a total of 25 hours of broadcasts, the content in relation to which Ofcom had raised concerns in the 4 July 2017 Breach Decision and in the present Decision amounted to no more than a few minutes, and that as the speaker was not introduced by Iman FM as part of the broadcast, listeners would not have known who the preacher was, so that overall any offence caused to Iman FM's audience would have been limited. While we acknowledge that as a community radio station, Iman FM has a relatively small footprint, broadcasting to the Muslim community in Sheffield, this does not lessen the seriousness of this breach or the potential harm or offence contained within these lectures. We also note that some listeners, as Ofcom was able to, may have been able to identify the preacher, from the content of his lectures which were delivered in English with an American accent.

As in the case of Rule 3.2, we took account of the Licensee's various representations as to why it had broadcast the series of lectures generally. However, we considered that the contextual factors in this case were not sufficient to justify any potential offence.

We considered that the two apology broadcasts provided some, but not sufficient context, to the speaker or his background.

Our Decision is therefore that Rule 2.3 was breached.

#### Second Programme: Four Lectures of Anwar al-Awlaki, 10 June 2017

On 10 June 2017, Iman FM broadcast a further four lectures by Anwar al-Awlaki which lasted two hours in total. During this broadcast, Anwar al-Awlaki discusses the reasons that Muslims at the time of Muhammad broke the convention of not waging war during four sacred months. He explains that Muslims had to make a choice between allowing a war party entering the outskirts of Mecca and defiling the Holy Kaa'ba<sup>23</sup>, or making a pre-emptive strike to avert this advance. After making the arguments for a pre-emptive strike, at 08:57 he goes on to say:

*"So some lessons from this Sariyyah,<sup>24</sup> number one, the enemies of Allah are going to pick on your actions and they are going to try and blow them out of proportion, they might try and twist the truth, and they will try and present you in the worst form they possibly can. To be aware of that we need to be aware of the reality of the situation, just as these verses of Allah put these things in perspective. So if Muslims are ever accused of being terrorists or that Islam is promoting violence let whoever is saying that remember, that hundreds of thousands of people killed in Iraq, that Palestinians have been suffering for*

---

<sup>23</sup> Building at the centre of Islam's most sacred Mosque, Al-Masjid Al Haram in Mecca.

<sup>24</sup> See footnote 10

*over 50 years, that Muslims in Kashmir and Chechnya and the Philippines and one can go on and on, have been suffering for a very long time – bring these things up...even if the Muslims do something that is not justified – that cannot fall under justifiable resistance - it can never reach to the level of violence and evil that is committed against the Muslims from disbelievers. More than a million killed in sanctions laid upon Iraq. Things need to be put in the right perspective. Don't be gullible and naïve and fall into what the media is saying because the media is not on your side. Muslims need to be aware about the reality of the situation and not just take what is on the radio and TV, but look deep into what is happening and you'll see the evil that is caused by the enemy..." and this is later followed by "Look at what the Quraysh<sup>25</sup> did to Muhammad, the enemies of Allah are doing to Muslims today. Preachers who are preaching the true Islam are being thrown in jail, or killed or subjugated to threats. If Muslims try to present the truth as it is, they are fought against or restricted. Muslim lands are taken as booty and milking cows for the enemies of Allah. Muslim blood has become very cheap. In fact it has not just become cheap, it has become worthless..."*

\*\*\*\*

In the second lecture of this programme, Anwar al-Awlaki discusses the eligibility criteria for taking part in Jihad and how early Muslims prepared for warfare and excluded those who were not Muslims, from joining a war party that was undertaking a Ghazwa [Bedouin raid]. At 21:35 the following statement was made:

*"Can we find anything as virtuous as Jihad, and the prophet said I cannot find any. When the Mujahid<sup>26</sup> goes out in the path of Allah, can you enter your mosque and pray continuously without any rest, and fast continuously without breaking your fast, and the man said, and who could do that. Meaning that the reward of the Mujahid is greater than fasting continuously and praying continuously. So the fighting of disbelievers is more virtuous than Jihad un Nafs<sup>27</sup>, because praying and fasting is part of Jihad un Nafs and the prophet is saying here that if a person is praying continuously then he cannot receive that someone gets who fights in the way of Allah...so the peak of Islam is fighting Jihad fi Sabilillah<sup>28</sup>. The prophet said in a Hadith that paradise lies under the shade of swords. In another it says that whoever finances a fighter in the path of Allah has fought [Jihad], and whoever takes care of the family of a fighter has fought".<sup>29</sup>*

Ofcom assessed the further two lectures broadcast during the programme. The lectures spoke at length about the preparation and training by Muslims for battle, and the methods and rules for the establishment of a Muslim army. It stressed the importance of spiritual and practical training being undertaken in tandem while preparing for the commencement of warfare.

---

<sup>25</sup> See footnote 11

<sup>26</sup> See footnote 12

<sup>27</sup> See footnote 13

<sup>28</sup> See footnote 14

<sup>29</sup> The rest of the lecture detailed the rules regarding the preparation of warfare observed by Muslims at the time of prophet Muhammad, and gave details of a number of Ghazwa[t] (battles in which prophet Muhammad participated). The lecture stressed the virtue and importance of military preparation before warfare commenced.

### Rule 3.1

Rule 3.1 of the Code requires that:

“Material likely to encourage or incite the commission of crime or lead to disorder must not be included in television or radio services”.

When considering whether material is in breach of Rule 3.1, Ofcom is required to assess the *likelihood* of it encouraging or inciting the commission of crime or leading to disorder. Ofcom is not required to identify any causal link between the content broadcast and any specific acts of disorder or criminal behaviour. Ofcom takes account of all the relevant circumstances, the nature of the content, its editorial context and its likely effects.

Content may contain a *direct* call to action – for example, an unambiguous, imperative statement calling viewers to take some form of potentially criminal or violent action. Material may also contain an *indirect* call to action if it includes statements that cumulatively amount to an implicit call to act.

In Ofcom's view, the above statements clearly condone acts of terrorism or violence, citing past suffering of Muslim people as justification for such acts. In our view the statement “*So if Muslims are ever accused of being terrorists or that Islam is promoting violence let whoever is saying that remember, that hundreds of thousands of people killed in Iraq, that Palestinians have been suffering for over 50 years, that Muslims in Kashmir and Chechnya and the Philippines and one can go on and on, have been suffering for a very long time*” is clearly and unequivocally intended to give justification to acts of violence or terrorism. Ofcom was particularly concerned by Anwar al-Awlaki's use of examples of modern conflict to condone terrorism, and the legitimising of violence by placing it into a theological context. As a self-styled “Imam”, we considered Anwar al-Awlaki aimed to provide theological justification and spiritual sanction for Muslims to carry out potentially violent acts “*even if the Muslims do something that is not justified – that cannot fall under justifiable resistance*”. The reasoning given by Anwar al-Awlaki is simply “*it can never reach to the level of violence and evil that is committed against the Muslims from disbelievers*”. He goes on to say “*More than a million killed in sanctions laid upon Iraq. Things need to be put in the right perspective*”. It is our view these statements intended to sanction, justify and encourage acts of crime, terror or violent behaviour.

During this lecture, Anwar al-Awlaki also refers to Muslim lands being “*taken as booty*” and “*milking cows for the enemies of Allah*”. Ofcom understands this to be a recognised Arabic colloquialism used to describe exploitation, and in this context, to the exploitation of the wealth and natural resources such as oil by the West. Anwar al-Awlaki also states “*Muslim blood has become very cheap. In fact, it has not just become cheap, it has become worthless*”. It is Ofcom's view that these statements were inflammatory and their cumulative effect could have served to heighten social tensions or encourage violent action. It is clear Anwar al-Awlaki seeks to condone or justify such action by placing these statements within a theological context.

Ofcom understands Orthodox Muslim belief is built on the five pillars of faith (Prayer, Charity, Fasting, Performing Hajj, Belief in Allah). In this lecture, Anwar al-Awlaki argues for supplanting prayer and fasting with violent Jihad as more virtuous than all other Islamic belief. “*the reward of the Mujahid is greater than fasting continuously and praying*”

*continuously. So the fighting of disbelievers is more virtuous than Jihad un Nafs<sup>30</sup>, because praying and fasting is part of Jihad un Nafs and the prophet is saying here that if a person is praying continuously then he cannot receive that someone gets who fights in the way of Allah...so the peak of Islam is fighting Jihad fi Sabilillah<sup>31</sup>.* This is a highly controversial belief and Anwar al-Awlaki does not provide any contextual justification for such a controversial view. It is Ofcom's view that listeners may interpret this as sanctifying the belief and practice of violent Jihad above all other beliefs. Equally contentious and without sufficient contextual justification is the argument expounded by Anwar al-Awlaki that financing and providing support to a "fighter" has fulfilled the Islamic obligation of Jihad; *"whoever finances a fighter in the cause of Allah has fought [Jihad], and whoever takes care of the family of a fighter has fought"*. By speaking in English, it is Ofcom's view that Anwar al-Awlaki is primarily addressing Muslims living in the West rather than Muslims in the Middle East. It is our view that some Muslims living in the West could interpret this as a call to provide financial support to those engaged in violent struggle in the Middle East.

These statements were in our view compounded by the assertion made that the mainstream media was not sympathetic towards Muslim people. *"Don't be gullible and naïve and fall into what the media is saying because the media is not on your side."* We were concerned these statements would serve to promote suspicion of the media among Muslim communities and aimed to undermine social cohesion.

In Ofcom's view the content amounted to material likely to encourage violence or incite the commission of crime.

Ofcom has published Guidance<sup>32</sup> which accompanies Section Three of the Code. This makes clear that, under Rule 3.1, we take into account a range of contextual factors which could increase or decrease the likelihood of content inciting or encouraging crime or disorder. For example, the likelihood could be reduced if sufficient challenge or context is provided. However, in this case, no content was broadcast before or after these lectures that provided any challenge to, or criticism or explanation of, the violent behaviour that Anwar al-Awlaki's statements served to condone. Further, the broadcasts did not appear to provide any other context to mitigate the more potentially harmful messages contained within these lectures.

As with other lectures in this series broadcast by Iman FM, we took into account the Licensee's various representations about why it had broadcast this content and the measures Iman FM said it had taken post broadcast to try to mitigate any offence caused. We considered that the two apology broadcasts provided some, but not sufficient context, to the speaker or his background.

We considered Iman FM's submission that it is a community station with a small audience share in comparison to other broadcasters. However, it is the responsibility of all licensees to comply with the Broadcasting Code, regardless of the size or audience share of that service. We also considered Iman FM's argument that out of a total of 25 hours of broadcasts, the content in relation to which Ofcom had raised concerns in the 4 July 2017 Breach Decision and in the present Decision amounted to no more than a few minutes, and

---

<sup>30</sup> See footnote 13

<sup>31</sup> See footnote 14

<sup>32</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0021/24258/section\\_3\\_2016.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0021/24258/section_3_2016.pdf)

that as the speaker was not introduced by Iman FM as part of the broadcast, listeners would not have known who the preacher was, so that overall any incitement would have been limited. While we acknowledge that as a community radio station, Iman FM has a relatively small footprint, broadcasting to the Muslim community in Sheffield, this does not lessen the seriousness of this breach or the potential harm or offence contained within these lectures. We also note that some listeners, as Ofcom was able to, may have been able to identify the preacher, from the content of his lectures which were delivered in English with an American accent.

Therefore, for the reasons above, we considered this content broadcast was likely to encourage or incite the commission of crime or lead to disorder.

Our Decision therefore is that Rule 3.1 was breached.

### Rule 2.3

We first considered whether this content was potentially offensive. As already discussed above, we considered these lectures served to condone, sanction or justify violent acts and encourage people to carry them out. It is also our view the material condoned and justified that action through theological context.

Ofcom then considered whether the broadcast of these comments was justified by the context. Taking into account the factors set out above under Rule 3.1, we considered this potentially highly offensive material was broadcast without immediate challenge or criticism. In our view, the community radio's audience was unlikely to expect to hear content of this type broadcast without sufficient context.

As in the case of Rule 3.1, we took account of the Licensee's various representations as to why it had broadcast the series of lectures generally. However, we considered that the contextual factors in this case were not sufficient to justify any potential offence.

Our Decision is therefore that Rule 2.3 was breached.

### Third Programme: Two Lectures by Anwar al-Awlaki, 12 June 2017

Iman FM broadcast two further lectures by Anwar al-Awlaki on 12 June 2017. Lasting around two hours in duration, the lectures narrated the importance of loyalty to the Muslim cause at a time of war, and the treatment of prisoners of war by early Muslims. Awlaki gave examples from the Battle of Badr<sup>33</sup> a seminal event in early Islamic history. In addition, Awlaki stressed that Muslims should not be "*bitten twice*" but should learn from their mistakes or gullibility in the past and described this as an important lesson for Muslims.

Around an hour into this broadcast at 07:58 he went on to say:

*"Finally, the ruling of POW. The Islamic ruling on prisoners of war. It is up to the leader. It is up to the Muslim Imam to determine the fate of prisoner of wars. He has the choice of executing them. The example is [list of names] who were executed by [name]. Number two,*

---

<sup>33</sup> Battle of Badr: First battle fought by early Muslims in 624CE, which proved a turning point for Muslims in their struggle against the tribe of Quraysh who opposed them.

*he can free them without ransom as he did with [list of names]. He can free them with ransom like he did with the rest of the prisoner of wars and he has the option of enslaving the prisoner of wars such as the ruling of [list names] as we will talk about later on. So, these are the rulings of prisoner of wars in Islam. We have our own Geneva convention we don't have to abide by anyone's Geneva convention<sup>34</sup>. Allah has already taught what is right and what is wrong so Muslims have their own rules which part of Sharia of Allah's [they obey] and it has all the Hadiya [guidance] that Muslims would need".<sup>35</sup>*

### Rule 3.1

It is Ofcom's view that this material amounted to condoning or sanctioning the mistreatment of prisoners of war. Anwar al-Awlaki clearly says Imams have the power to determine the fate of prisoners of war and do not have to abide by the international law, enshrined in the Geneva Convention. We were particularly concerned by the potential offence caused by the statement's endorsement of disregarding international law on the treatment of prisoners of war.

Ofcom has published Guidance<sup>36</sup> which accompanies Section Three of the Code. This makes clear that, under Rule 3.1, we take into account a range of contextual factors which could increase or decrease the likelihood of content inciting or encouraging crime or disorder. For example, the likelihood could be reduced if sufficient challenge or context is provided. However, in this case, no content was broadcast before or after these lectures that provided any challenge to, or criticism or explanation of, the disregard for the Geneva Convention that Anwar al-Awlaki's statements served to condone. Further, the broadcasts did not appear to provide any other context to mitigate the more potentially harmful messages contained within these lectures.

As with the other lectures in this series, Ofcom took into consideration the Licensee's representations about why they had broadcast this material. However, in this case Ofcom found the breach to be very serious and could not be justified by the context in which it was broadcast.

Therefore, our Decision is Rule 3.1 was breached.

### Rule 2.3

We first considered whether this content was potentially offensive. As already discussed above, when considering Rule 3.1, it is our view these lectures amounted to condoning the mistreatment of prisoners of war and therefore this content had clear potential to be highly offensive.

Ofcom then considered whether the broadcast of these comments was justified by the context. Taking into account the factors set out above under Rules 3.1 we considered this

---

<sup>34</sup> See footnote 17

<sup>35</sup> The rest of the lecture talked of the blessings attained by the Muslim participants in the Battle of Badr. It also talked of the Munafiqeen (Hypocrites) who professed loyalty to Muslims but at the same time spied on Muslims and provided information to the tribe of Qurayash who opposed the early Muslims.

<sup>36</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0021/24258/section\\_3\\_2016.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0021/24258/section_3_2016.pdf)

potentially highly offensive material was broadcast without immediate challenge or criticism. In our view, the community radio's audience was unlikely to expect to hear content of this type broadcast without sufficient context.

As in the case of Rules 3.1, we took account of the Licensee's various representations as to why it had broadcast the series of lectures generally. However, we considered that the contextual factors in this case were not sufficient to justify any potential offence.

Our Decision is therefore that Rule 2.3 was breached.

## **Conclusion**

Overall Ofcom considered the breaches in this case to be extremely serious. Ofcom has already issued a Notice under section 111B Broadcasting Act 1990 suspending the Licence on the basis of the breaches identified in the Breach Decision of 4 July 2017<sup>37</sup>.

**We will consider these additional breaches in the context of Ofcom's decision as to whether to lift the suspension or to revoke the Licence<sup>38</sup> under the section 111B Broadcasting Act 1990 procedure, as well as our ongoing duty to be satisfied that the Licensee is fit and proper to hold a community radio licence.**

## **Breaches of Rules 3.1, 3.2, and 2.3**

---

<sup>37</sup> [https://www.ofcom.org.uk/data/assets/pdf\\_file/0018/103941/Suspension-Notice-Iman-FM.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0018/103941/Suspension-Notice-Iman-FM.pdf).

<sup>38</sup> Ofcom decided subsequently to revoke the licence for Iman FM – see the Notice of Revocation included in this issue of the Bulletin, before this In Breach Finding.

## Notice of Sanction

### Pinky Pinky

***Kanshi Radio Limited, 30 June 2016, 01:59 and 1 September 2016, 00:05***

---

#### Introduction

Kanshi Radio is a satellite radio station providing speech and music programmes for the Asian community in the UK. The licence for Kanshi Radio is held by Kanshi Radio Limited ("KRL").

This sanction was in relation to the broadcast of a song, *Pinky Pinky*, which was in Punjabi and lasted approximately 11 minutes. The song contained highly offensive language and aggressively pejorative references to the Muslim community, and Muslim women in particular. It also contained well known sacred Islamic phrases, interspersed with offensive terms, gunshots and sexualised noises.

Ofcom found that the programme breached Rules 2.1, 2.3 and 3.2 and 3.3 of the Code:

- Rule 2.1: "Generally accepted standards must be applied to the content of television and radio services so as to provide adequate protection for members of the public from the inclusion in such services of harmful and/ or offensive material."
- Rule 2.3: "In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context (...). Such material may include, but is not limited to offensive language, violence, sex, sexual violence, humiliation, distress, violation of human dignity, discriminatory treatment or language (for example on the grounds of age, disability, gender, race, religion, beliefs and sexual orientation). Appropriate information should also be broadcast where it would assist in avoiding or minimising offence."
- Rule 3.2: "Material which contains hate speech must not be included in television and radio programmes except where it is justified by the context."
- Rule 3.3: "Material which contains abusive or derogatory treatment of individuals, groups, religions or communities, must not be included in television and radio services except where it is justified by the context."

Ofcom published its decision on these breaches on 5 December 2016 in issue 318 of the Broadcast and On Demand Bulletin<sup>1</sup>.

In Ofcom's view the breaches were serious and we therefore considered the imposition of a statutory sanction in this case.

---

<sup>1</sup> Please note the breach decision contains highly offensive language.

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0025/95137/Issue-318-of-Ofcoms-Broadcast-and-On-Demand-Bulletin-to-be-published-on-5-December-2016-revision-01.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0025/95137/Issue-318-of-Ofcoms-Broadcast-and-On-Demand-Bulletin-to-be-published-on-5-December-2016-revision-01.pdf)



In accordance with Ofcom's penalty guidelines, Ofcom decided that it was appropriate and proportionate in the circumstances to impose a financial penalty of £17,500 on the Licensee (payable to HM Paymaster General). In addition, KRL are directed to broadcast a statement of Ofcom's findings, on a date and time to be determined by Ofcom.

The full decision was published on 25 July 2017 and is available at:

[https://www.ofcom.org.uk/data/assets/pdf\\_file/0020/105167/kanshi-radio-sanction-decision.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0020/105167/kanshi-radio-sanction-decision.pdf)

**Please note the full decision contains highly offensive language.**

## Note to Broadcasters

### Rule 2.1 of the Code: Health and wealth claims in programmes

---

#### Introduction

Reflecting Ofcom's duties under the Communications Act 2003<sup>1</sup>, Rule 2.1 of the Code states that generally accepted standards must be applied to provide adequate protection for members of the public from the inclusion of harmful and offensive material in programmes.

In previous investigations under Rule 2.1, Ofcom has identified claims or advice in programmes about viewers and listeners' 'health' or 'wealth' as being potentially harmful. These have included, for example, statements that specific products, practices or activities will result in various benefits to health or wealth. This kind of content has also sometimes been accompanied by dismissive or derogatory comments about more conventional treatments or advice. Health or wealth claims could be especially harmful to people who are vulnerable, for example, those who are suffering from serious medical conditions, or are in serious financial difficulty, who may be more susceptible to these messages.

Programmes including health or wealth claims and advice may be broadcast, as long as broadcasters provide adequate protection for viewers or listeners from any potentially harmful content. Ofcom must seek an appropriate balance between ensuring members of the public are adequately protected from potentially harmful material, and the broadcaster's and audience's right to freedom of expression, as set out in Article 10 of the European Convention on Human Rights ("ECHR"). We must also take account, where applicable, of the right to freedom of religion, as set out in Article 9 of the ECHR.

To assist us in carrying out our duties in this area, Ofcom commissioned a qualitative research report into audience attitudes on potentially harmful health and wealth claims in programmes<sup>2</sup>. We have drawn on that research to provide guidance for broadcasters about the kinds of factors we are likely to consider when investigating potential breaches of Rule 2.1. Ofcom will continue to assess each case on its merits, taking into account all relevant circumstances.

#### **What factors should broadcasters consider when complying programmes that include health or wealth claims?**

Our research indicates that there is a hierarchy of factors affecting the level of potential harm arising from health and wealth claims in programmes. These can be divided into primary, secondary and tertiary factors, according to their likely impact and importance.

There are also factors affecting the mitigation of potentially harmful content in programmes, and what might constitute adequate protection in these circumstances.

#### **Factors affecting the level of potential harm**

The primary factors affecting the level of potential harm are as follows:

---

<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

<sup>2</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0016/104650/Health-claims-report.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0016/104650/Health-claims-report.pdf)

- *Severity of situation.* There is a higher level of potential harm where claims are made about the most serious medical conditions (such as cancer or heart disease), or situations of extreme financial hardship. This is because the consequences of acting on advice in such situations could be more significant, for example failing to consult a qualified medical practitioner could be life-threatening.
- *Level of targeted exploitation.* The potential harm increases where content appears to be targeted at vulnerable people, such as the seriously ill, or those who are heavily in debt. These people may be isolated or desperate, and for that reason more susceptible to exploitation. There is a greater risk of harm if they seem to be directly addressed, or if persuasive messages, especially relevant to them, are included in a programme, with either the intention or the likely effect that they will act on that advice, for example by discontinuing existing medical treatment in favour of alternative treatments.
- *Authority of speaker.* If potentially harmful claims about health and wealth are made by a speaker who is perceived by the audience as having authority, then there is more chance of them treating those claims as credible and making decisions based on them. The kinds of figures who might possess such authority will depend on the context, but could include a well-known or popular presenter, a religious preacher or community leader, or anyone presented as an expert.

These are the secondary factors:

- *Absence of a range of information or views.* Where contentious issues are discussed or debated (for example, the efficacy of faith healing), the absence of a range of opinions or sources of information could exacerbate the risk of harm. However, this should not unduly limit freedom of expression or prevent religious and other specialist channels from presenting a particular viewpoint.
- *Discussion vs direction.* The tone of the content affects the level of potential harm arising from it. If potentially harmful claims are presented with a high degree of certainty, or advice is phrased as an explicit call or direction to action, the messages are likely to be more persuasive, with an increased chance that viewers or listeners will make decisions about their health or finances based on the content of the programme.
- *Advice based on limited information.* Broadcasters should bear in mind that advice in programmes is given with limited, or in some case, no knowledge of the circumstances of individual audience members. This is particularly relevant to health-related advice, for example given in a phone-in programme, where viewers or listeners may have different levels of vulnerability, for a variety of reasons including their age and individual medical history, which is likely to affect how potentially harmful the content is for them.

There are also tertiary factors:

- *Personal gain.* Commercial references included alongside health and wealth claims (for example references to products or services that are presented as treating health conditions, or explicit calls for charitable donations from those in financial difficulty) are of particular concern as they may invite or encourage viewers or listeners to take action based on the advice or claims made in the programme.

- *Genre*. There will also be different audience expectations depending on the genre of a programme, so that certain claims may be more justifiable in a religious programme or a documentary reflecting a particular point of view.
- *Audience size*. Where an audience for a programme is larger, as when the content is broadcast on a mainstream channel with popular appeal, the potential for harm is therefore more widespread. However, importantly, this does not enable smaller broadcasters to transmit potentially harmful material without adequate protection for viewers or listeners.
- *Time of broadcast*. The timing of a broadcast may affect the composition of its audience, and therefore the potential harm, for example to children.

Ofcom reminds broadcasters that the requirement to provide adequate protection for members of the public from potentially harmful material applies to all programmes, regardless of their timing, genre, audience size, or the inclusion of commercial references which might give rise to an impression of personal gain<sup>3</sup>.

These factors can serve as a useful guide for broadcasters, but they should not be treated as a checklist and applied without consideration of the wider context of the programme and the content. It is possible that other factors, not identified here, could also be relevant.

### **Providing appropriate protection from potential harm**

There are various methods broadcasters can consider to provide appropriate protection for viewers or listeners from potential harm that might arise from health and wealth advice and claims in programmes. One approach commonly used by broadcasters is the inclusion of a warning, for example advising viewers or listeners to consult a qualified medical practitioner before making decisions based on the programme.

The effectiveness of these kind of warnings will depend on factors such as their frequency and positioning within the programme. For a longer programme, a single message at the beginning or end may not be sufficient. On the other hand, a scrolling message that remains on the screen throughout the programme may lose some of its impact through over-exposure.

Importantly, the effectiveness of a warning is likely to be significantly limited if the programme strongly contradicts the message. For example, if a warning advises viewers to seek advice from a qualified medical professional, and the programme then includes extensive denigration of conventional medicine. Conversely, a warning message which contradicts the content of the programme, for example a warning on a religious programme denying a belief in miracles, may be considered an unnecessary constraint on freedom of religion.

It is for broadcasters to decide how they provide adequate protection for their viewers and listeners from potentially harmful material in programmes.

Ofcom takes its duty to protect viewers and listeners from harm extremely seriously. Broadcasters should be aware that, where appropriate, we may consider the imposition of statutory sanctions in cases of this sort.

---

<sup>3</sup> Where appropriate, Ofcom will also assess commercial references for their compliance with Section Nine of the Code.

The contents of this Note have now been included in the published Guidance accompanying Section Two of the Code<sup>4</sup>.

Any broadcaster who requires further guidance on the issues raised in this Note to Broadcasters should contact Paul Ingram at [paul.ingram@ofcom.org.uk](mailto:paul.ingram@ofcom.org.uk)

---

<sup>4</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0023/104657/Section-2-Guidance-Notes.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0023/104657/Section-2-Guidance-Notes.pdf)

## Broadcast Standards cases

### In Breach

#### The Hub

**Radio Dawn, 26 December 2016, 16:00**

---

#### Introduction

Radio Dawn is a community radio station broadcasting to the Muslim community in Nottingham and the surrounding areas. The licence for this service is held by Karimia Ltd ("Karimia" or "the Licensee").

The station broadcast a series of three Nasheeds<sup>1</sup>. Ofcom received a complaint from a listener who alleged that one of the Nasheeds encouraged listeners to "pick up the sword for Islam".

Two of the three Nasheeds were in English and raised no issues under the Code. The third Nasheed, lasting about 17 minutes, was broadcast in Urdu and performed by a young boy.

We translated the material and provided an opportunity for the Licensee to comment on the accuracy of the translation. The Licensee did not raise any issues about the accuracy of this translation, so we relied on it for the purposes of this investigation.

*"The steadfastness of the Lion of God<sup>2</sup>,  
He is the Haider I Karar<sup>3</sup>.  
Even today throughout the world there is a need to rise up and embrace this day of  
wondrous light.  
We are obligated to follow in these illustrious footsteps".*

\*\*\*\*

*"If only we could follow our traditions and history,  
we could once again turn our faces from the Kuffaar<sup>4</sup>.  
Had it not been for the warlike attitude of the companions of the Prophet,  
would the world still remember the sword of Muhammad?"*

\*\*\*\*

---

<sup>1</sup> A Nasheed is a piece of devotional vocal music that is sung either acapella or accompanied by percussion instruments.

<sup>2</sup> Lion of God: A reference to Caliph Ali – lauded in Islamic history as a great warrior Caliph.

<sup>3</sup> Haider I Karar: A title given to Caliph Ali by Muhammad for his valour at the Battle of Khayber.

<sup>4</sup> Kuffar [Arabic]/Kaafir [Urdu]: Literal translation meaning disbelievers. Ofcom understands that in modern Arabic and Urdu usage it is commonly used as a pejorative term to describe non-Muslims.

*“Even today if we could only reignite that same passion that existed amongst them, we too could bury the Kaafir I Murdaar<sup>5</sup> today.  
If only we could reawaken the love for Jihad we could [once again] behead lowlifes like Abu Jahal<sup>6</sup>”.*

\*\*\*\*

*“Kufr<sup>7</sup> is spreading despite its [innate] cowardice.  
Is there nobody to pick up the mantle of Khalid e Jarrar<sup>8</sup>?  
The enemies of Islam are emboldened and arising but we must uphold the honour of the sword of Tipu Sultan<sup>9</sup>”.*

\*\*\*\*

*“The man who stands against falsehood desires the death of a Mujahid<sup>10</sup>,  
And we have the glorious example of Qasim's<sup>11</sup> cry...  
...The whole world on one side and the Taliban on the other.  
We are required to salute and honour their display of bravery and steadfastness...  
It must be understood that justice will only be handed out at the point of the sword”.*

We considered this raised issues under the following rules of the Code:

- Rule 3.1: “Material likely to encourage or to incite the commission of crime to lead to disorder must not be included in television or radio services”.
- Rule 3.2: “Material which contains hate speech must not be included in television and radio programmes except where it is justified by the context”.
- Rule 3.3: “Material which contains abusive or derogatory treatment of individuals, groups, religions or communities, must not be included in television and radio services except where it is justified by the context”.
- Rule 2.3: “In applying generally accepted standards broadcasters must ensure that material which may cause offence is justified by the context. Such material may include...discriminatory treatment or language (for example on the grounds of...religion...)”.

---

<sup>5</sup> Kaafir I Murdaar: Filthy Disbeliever.

<sup>6</sup> Abu Jahal: A hate figure in Islam who opposed the Prophet Muhammad.

<sup>7</sup> Kufr: Disbelief.

<sup>8</sup> Khalid e Jarrar: A reference to Khalid bin Walid - an early Muslim General who conquered Syria, Damascus, Jerusalem, Baghdad and most of the Levant.

<sup>9</sup> Tipu Sultan: One of the first Indian kings to be killed on the battlefield fighting British military forces in India.

<sup>10</sup> Mujahid: One who goes on jihad (or holy war).

<sup>11</sup> Muhammad bin Qasim: Arab Muslim General who conquered the Indian sub-continent and brought Islam to the Indian subcontinent.

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

## Response

Karimia said it was "extremely embarrassed by what happened" and that it did "not agree with any of the content". The Licensee assured Ofcom it was "against any type of material, which encourages or promotes such discriminative and negative messages of Islam". It said Radio Dawn's aims were to "build trust among communities"; "develop unity, peace amongst the community"; and, "encourage positive messages, education and information, which are beneficial to our communities". It also provided examples of its "work in the last three months of building bridges to create strong and closely coordinated partnerships between the community, youth, families and governmental organisations".

Karimia explained that staff were away on holiday on the day of broadcast (26 December 2016) and, as a result, Radio Dawn was automatically broadcasting pre-recorded programming. The Licensee said that this particular content had been downloaded from the internet in 2013, "possibly by a volunteer", and had "never been broadcast before". It also said that this Nasheed was from Indian history and "holds a different meaning today to when it was written and needs to be interpreted in that context".

As a result of this incident, Karimia said it had taken the following actions:

- blocked access to YouTube and the USB drives on the PC in its studio;
- rebuilt its library of Nasheeds "from scratch";
- arranged more training for volunteers;
- begun "working on a yearly Ofcom Rules and Regulations Broadcasting Code awareness workshop" that would be "compulsory for all presenters"; and,
- started holding regular meetings with its presenters "to discuss any issues and to reinstate the peaceful message of Radio Dawn".

Finally, Karimia acknowledged the "severity of the matter" and said that it had "tightened [its] procedures for broadcasting to ensure that a similar incident cannot happen again".

## Decision

Under the Communications Act 2003<sup>12</sup>, Ofcom has a statutory duty to set such standards for broadcast content as appear to it best calculated to secure the standards objectives, including that "generally accepted standards are applied so as to provide adequate protection for members of the public from the inclusion of offensive and harmful material" and "material likely to encourage or to incite the commission of crime or to lead to disorder is not included in television or radio services". These duties are reflected in Sections Two and Three of The Code.

Ofcom has taken account of the audience's and broadcaster's right to freedom of expression set out in Article 10 of the European Convention on Human Rights ("ECHR"). We also had

---

<sup>12</sup> <http://www.legislation.gov.uk/ukpga/2003/21/section/319>



regard to Article 9 of the ECHR, which states that everyone “has the right to freedom of thought, conscience and religion”. Ofcom must seek an appropriate balance between ensuring members of the public are adequately protected from harmful or offensive material and the right to freedom of expression and the right to freedom of thought, conscience and religion.

### Rule 3.1

Rule 3.1 of the Code requires that:

“Material likely to encourage or incite the commission of crime or lead to disorder must not be included in television or radio services”.

When considering whether material is in breach of Rule 3.1, Ofcom is required to assess the likelihood of material encouraging or inciting the commission of crime or leading to disorder. Ofcom is not required to identify any causal link between the content broadcast and any specific acts of disorder or criminal behaviour. Ofcom takes account of all the relevant circumstances, the nature of the content, its editorial context and its likely effects.

Content may contain a *direct* call to action – for example, an unambiguous, imperative statement calling viewers to take some form of potentially criminal or violent action. Material may also contain an *indirect* call to action if it includes statements that cumulatively amount to an implicit call to act. For example, material which promotes or encourages criminal acts, or which gives a clear message that viewers or listeners should consider it their duty to commit a criminal act. The Code makes clear that this may include “material promoting or encouraging engagement in terrorism or other forms of criminal activity or disorder”.

Ofcom understands that the singing of Nasheeds is a well-established expression of Islamic faith. Children are often taught Nasheeds at a young age both as an aid in teaching Arabic, and to assist in the learning of Islamic history, practice and beliefs. We understand that a common thread amongst many Nasheeds has been a reference to past Islamic glory and specific heroic figures and significant events in history. In general, such Nasheeds have a religious message, and have no violent overtones. Ofcom recognises that Nasheeds are often opaque, metaphorical or ritualistic in nature.

However, Ofcom also understands that a new type of Nasheed, which has come to be known as the “Jihadi Nasheed”, has started to become more prevalent.<sup>13</sup> These Nasheeds tend to have a more war-like tone and tenor, and can be used to create a common Jihadi narrative. Ofcom understands that some groups, such as the Taliban and ISIL, have adopted Jihadi Nasheeds to highlight their own activities, recruit new members and to encourage violent activities.

In this case, the Nasheed contained lyrics that glorified a number of revered figures in Muslim history, who had been victorious on the battlefield. These included early Caliphs of Islam such as Caliphs Umar and Usman in the seventh century, as well as figures such as Tipu

---

<sup>13</sup> <https://www.theguardian.com/music/2014/nov/09/nasheed-how-isis-got-its-anthem>  
<http://www.euronews.com/2014/10/08/nasheeds-the-soundtrack-of-jihad>  
[https://www.washingtonpost.com/posteverything/wp/2015/01/14/the-religious-chants-the-islamic-state-is-using-to-woo-recruits/?utm\\_term=.f92b7b45476e](https://www.washingtonpost.com/posteverything/wp/2015/01/14/the-religious-chants-the-islamic-state-is-using-to-woo-recruits/?utm_term=.f92b7b45476e)

Sultan who fought against the British military forces in India in the 18<sup>th</sup> century. Showing reverence to historical religious figures in verse and prose is a common feature of many religions that, in principle, is allowed under the Code. However, what was of particular concern to Ofcom in this case, was the suggestion that modern Muslim people might bring honour and glory to Islam by taking inspiration from these historical figures, and potentially carrying out violent acts against non-Muslim people:

*"If only we could follow our traditions and history,  
we could once again turn our faces from the Kuffaar<sup>14</sup>.  
Had it not been for the warlike attitude of the companions of the Prophet,  
would the world still remember the sword of Muhammad?"*

\*\*\*\*

*"Even today if we could only reignite that same passion that existed amongst them, we  
too could bury the Kaafir I Murdaar<sup>15</sup> today.  
If only we could reawaken the love for Jihad we could [once again] behead lowlifes like  
Abu Jahal<sup>16</sup>".*

\*\*\*\*

*"Kufr is spreading despite its [innate] cowardice.  
Is there nobody to pick up the mantle of Khalid e Jarrar?  
The enemies of Islam are emboldened and arising but we must uphold the honour of the  
sword of Tipu Sultan".*

The Nasheed also made references to events and significant people in Islamic history, but focused solely on their battlefield victories. This was particularly the case with positive references to the Taliban's "bravery" and "steadfastness", and the linking of the actions of the Taliban with that of past Islamic military figures and their victories on the battlefield.

*"The man who stands against falsehood desires the death of a Mujahid ,  
And we have the glorious example of Qasim's [war] cry...  
...The whole world on one side and the Taliban on the other.  
We are required to salute and honour their display of bravery and steadfastness.  
It is an injustice to plead before those who are cruel themselves.  
It must be understood justice will only be handed out at the point of the sword".*

In our view, this Nasheed's references to the Taliban in Urdu were likely to have been interpreted by listeners as a reference to the Pakistan-based Taliban (Tehrik-e Taliban Pakistan). Ofcom considered the reference to the Taliban glorified a group which has been proscribed as a terrorist organisation in the UK.

---

<sup>14</sup> Kuffar [Arabic]/Kaafir [Urdu]: Literal translation meaning disbelievers. Ofcom understands that in modern Arabic and Urdu usage it is commonly used as a pejorative term to describe non-Muslims.

<sup>15</sup> Kaafir I Murdaar: Filthy Disbeliever

<sup>16</sup> Abu Jahal: A hate figure in Islam who opposed the Prophet Muhammad.

It is Ofcom's view that, although this third Nasheed did not contain any direct calls to violent action, its cumulative effect was to condone, promote and encourage violent behaviour towards non-Muslim people. The Nasheed appeared to link the violent acts of historical figures with actions that might potentially be taken today. It glorified past violent actions towards non-Muslim people and suggested similar acts committed now would bring honour to a Muslim person. Ofcom took the view that the content therefore amounted to an indirect call to action which could be likely to encourage or incite the commission of crime or lead to disorder.

Ofcom has published Guidance<sup>17</sup> which accompanies Section Three of the Code. This makes clear that, under Rule 3.1, we take into account a range of contextual factors which could increase or decrease the likelihood of content inciting or encouraging crime or disorder. For example, the likelihood could be reduced if sufficient challenge or context is provided.

We also took account of the Licensee's representation that this Nasheed is from Indian history and "holds a different meaning today to when it was written and it needs to be interpreted in that context". In Ofcom's view, however, regardless of when the Nasheed was written, it appeared to promote or encourage violent behaviour which might potentially be taken today, including by reference to a proscribed, modern organisation, namely the Taliban, which continues to operate. Further, no content broadcast before or after this Nasheed provided any challenge to, criticism or explanation of, the violent behaviour that it served to condone.

Finally, although the Nasheed was recited by a young boy rather than an authority figure, Ofcom did not consider that this provided sufficient context to mitigate the more potentially harmful messages contained in this Nasheed.

Therefore, our Decision is that Rule 3.1 was breached.

### Rule 3.2

Rule 3.2 of the Code states:

"Material which contains hate speech must not be included in television and radio programmes except where it is justified by the context".

The Code defines "hate speech" as: "all forms of expression which spread, incite, promote or justify hatred based on intolerance on the grounds of disability, ethnicity, gender, gender reassignment, nationality, race, religion, or sexual orientation".

This Nasheed clearly glorified past violent actions of Muslim people towards non-Muslim people. Furthermore, it encouraged listeners to use these past violent actions as an example of how to engage with non-Muslim people in order to bring glory to Islam.

We were concerned by the repeated references to non-Muslim people with the Arabic term "*kuffaar*" and particularly the use of the Urdu phrase "*Kaafir I Murdaar*". Ofcom understands that in some contexts (such as in the Qur'an) these words are used as a plain descriptor for non-Muslim people, but that in other contexts they are considered highly derogatory. Taking into account the tone of the Nasheed as a whole and the contemporary usage of these words in Arabic and Urdu, we considered that it was likely the repeated use of these terms in

---

<sup>17</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0021/24258/section\\_3\\_2016.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0021/24258/section_3_2016.pdf)

this context would have been perceived by the audience as being highly pejorative towards non-Muslim people.

In our view, some listeners were likely to have interpreted the lyrics of this Nasheed as glorifying a violent and extreme perspective towards those who do not share the same faith. We therefore considered that the song spread and promoted hatred against non-Muslim people and was therefore hate speech, as defined by the Code.

Rule 3.2 permits the inclusion of hate speech in programming only when there is sufficient context. Our published Guidance to Rule 3.2 makes clear that there are certain genres of programming such as drama, comedy or satire where there is likely to be editorial justification for including challenging or extreme views in keeping with audience expectations, provided there is sufficient context. However, the greater the risk the material may cause harm or offence, the greater the need for contextual justification.

Ofcom must also take proper account of the broadcaster's and the audience's right to freedom of expression and related right to freedom of thought, conscience and religion. We recognised that Nasheeds are an important form of religious expression for some Muslim people. As Radio Dawn is a community radio station with a strong Islamic ethos broadcasting to a primarily Muslim audience, we accepted that its listeners may well expect and enjoy religious content such as Nasheeds.

We took into account that Nasheeds are a form of religious expression, however we did not consider that this provided sufficient context given the strength of the cumulative message of the Nasheed in this case. Further, there was no material broadcast before or after this Nasheed that provided any challenge to, criticism or explanation of, the violent interpretation of Islam that it condoned. In our view, a UK audience was unlikely to expect to hear content of this strength broadcast without sufficient context.

The contextual factors in this case were not sufficient to justify the broadcast of this example of hate speech, and we therefore considered that it exceeded generally accepted standards.

Our Decision is therefore that Rule 3.2 was breached.

### Rule 3.3

Rule 3.3 of the Code states:

“Material which contains abusive or derogatory treatment of individuals, groups, religions or communities, must not be included in television and radio services except where it is justified by the context”.

The Code does not prohibit criticism of any religion. However, such criticism must not spill over into pejorative abuse. The Code has been drafted in the light of the Human Rights Act 1998 and the ECHR. In particular, the right to freedom of expression encompasses the broadcaster's and audience's right to receive material, information and ideas without interference, as well as the right to freedom of thought, conscience and religion and the right to enjoyment of human rights without discrimination on grounds such as religion.

In this case, we considered that the lyrics of this Nasheed constituted both abusive and derogatory treatment of non-Muslim people. This was because it not only glorified past violent actions towards non-Muslim people but also suggested similar acts committed now

would bring honour to Islam. The Nasheed also repeatedly referred to non-Muslim people using pejorative terms such as “*Kaafir I Murdaar*” and “*Kufaaar*” and referred to non-Muslim belief as cowardly.

Rule 3.3 states that derogatory treatment of certain groups can only be included in television and radio where it is justified by the context. As previously discussed above, we considered that the strength of this material would have exceeded listeners' expectations and there was insufficient context in this case to justify the derogatory lyrics against non-Muslim people.

Our Decision is therefore that Rule 3.3 was breached.

### Rule 2.3

Under Rule 2.3, broadcasters must ensure that potentially offensive material is justified by context. Context is assessed by reference to a range of factors including the editorial content of the programme, the service in which the material is broadcast, the time of broadcast and the likely expectation of the audience.

As already discussed above, we considered that the lyrics of this Nasheed amounted to hate speech, and was both abusive and derogatory towards non-Muslim people. In our view, the content had clear potential to be highly offensive.

Ofcom then considered whether the broadcast of these comments was justified by the context, taking into account the factors set out above under Rules 3.1, 3.2 and 3.3. This potentially highly offensive material was broadcast without challenge or critique. We were of the view that a UK audience was unlikely to expect to hear content of this type broadcast without sufficient context.

The contextual factors in this case were not sufficient to justify the broadcast. We therefore considered that it exceeded generally accepted standards.

Our Decision is therefore that Rule 2.3 was breached.

### Conclusion

We took into account the Licensee's representations that it was “extremely embarrassed” by what had happened, that it did “not agree with any of the content” and that its aim was to build trust and promote positive messages within the community.

We also took into consideration that the Licensee did not intend to broadcast this Nasheed and that it told us it had taken various steps to ensure that “this kind of episode will not happen again”. However, Ofcom considered the breaches in this case to be serious.

**We are putting the Licensee on notice that we will consider these breaches for the imposition of a statutory sanction.**

**Breaches of Rules 3.1, 3.2, 3.3 and 2.3**

## In Breach

### Keeping Up with the Kardashians *E!, 24 May 2017, 17:00*

---

#### Introduction

E! is a general entertainment channel featuring reality television series. E! is owned and operated by E Entertainment UK Limited ("the Licensee").

*Keeping Up with the Kardashians* is an American reality television series chronicling the everyday lives of a celebrity family. We received a complaint about offensive language broadcast at 17:08.

During a telephone conversation with her mother's friend Kourtney Kardashian said:

*"What the fuck?"*

Ofcom considered this raised issues under Rule 1.14 of the Code which states:

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

The Licensee provided comments under this rule.

#### Response

The Licensee stated that it regretted any offence caused by the inclusion of this single instance of offensive language. It had not been noted before broadcast because it was "partially masked" by the second person shouting in the same scene. E Entertainment UK acknowledged however that it should have been removed from the pre-watershed version of the programme.

The Licensee said that as soon as the issue had been brought to its attention it was corrected immediately and it had reviewed its work practices to minimise the likelihood of similar incidents.

#### Decision

Reflecting our duties under the Communications Act 2003<sup>1</sup>, Section One of the Code requires that people under eighteen are protected from unsuitable material in programmes.

Rule 1.14 states that the most offensive language must not be broadcast on television before the watershed. Ofcom's 2016 research on offensive language<sup>2</sup> clearly indicates that the word "fuck" is considered by audiences to be amongst the most offensive language.

In this case the word "fuck" was broadcast before the watershed. Our Decision is that this material was therefore a clear breach of Rule 1.14.

#### Breach of Rule 1.14

---

<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

<sup>2</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0022/91624/OfcomOffensiveLanguage.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0022/91624/OfcomOffensiveLanguage.pdf)

## In Breach

### Sunrise

**Sky News, 12 May 2017, 06:00**

---

#### Introduction

Ofcom received a complaint about a report on tactical voting during Sky News' morning news programme *Sunrise* which featured the candidates standing in the Vauxhall constituency in the 2017 General Election. Those participating in the report represented the Conservative Party, the Labour Party and the Liberal Democrats<sup>1</sup>.

The report featured a discussion about candidates agreeing not to stand against each other in an attempt to encourage tactical voting. Participants spoke about issues affecting the Vauxhall constituency, and their efforts to win the seat during the election campaign.

Presenter: *"...the Lib Dems are exploiting the fact that this is one of the most Remain supporting areas in the UK".*

George Turner (Liberal Democrat candidate):

*"I see this as an election we have to win. This is not just a question about can we win – we have to win, because if we don't win, about 80% of people in this constituency will be left disenfranchised".*

Presenter: *"Kate Hoey has a 12,000 majority here, and says she's always been clear with voters over her stance on Brexit".*

Kate Hoey (Labour Party candidate):

*"I'm not being hypocritical, you know some of my opponents have said some things before general elections, and then when they got in they completely went against it. Like the Lib Dems did on tuition fees for example, I've never been hypocritical".*

Presenter: *"By rights, Labour's only threat here in Vauxhall should come from the Conservatives who were second place here in 2015".*

Dolly Theis (Conservative Party candidate):

*"Any vote for any other party other than Theresa May will get Jeremy Corbyn elected, and I think people need to be very very clear about that. It doesn't matter if it's not necessarily for Kate, if it's not for the Conservative party, if it's not for Theresa May, if it's not for me as Theresa May's candidate here in Vauxhall, we are going to have Jeremy Corbyn sitting around that negotiating table".*

---

<sup>1</sup> The other candidates contesting the Vauxhall constituency in the June 2017 General Election were: Gulnar Hasnain (Green Party candidate), Harini Iyengar (Women's Equality Party candidate) and Mark Chapman (Pirate Party candidate).

At no point in this item was there a list of all the candidates contesting the Vauxhall constituency.

The rules in Section Six of the Code apply to programmes broadcast during the designated period (known as the "election period"<sup>2</sup>) running up to the date of the elections in the UK. Ofcom considered that this report on Vauxhall was a constituency report or discussion on the 2017 General Election. Therefore Rules 6.8 to 6.12 of the Code were engaged.

We considered this item raised an issue under the following Code rule:

Rule 6.10: "Any constituency or electoral area report or discussion after the close of nominations must include a list of all candidates standing, giving first names, surnames and the name of the party they represent or, if they are standing independently, the fact that they are an independent candidate. This must be conveyed in sound and/or vision..."

Ofcom requested comments from Sky UK Limited ("Sky" or "the Licensee") on how the report complied with this rule.

### Response

The Licensee said it was "entirely aware" of the need to carry a full list of candidates in any constituency report, and that it had done so on numerous occasions throughout the election campaign. It said that this case was an "aberration rather than regular practice" which it argued had not come about due to lack of guidance. Sky accepted there should have been a list of candidates carried in the case of the report, and said "on this rare occasion" the candidate list had been omitted in error.

The Licensee explained that in the ensuing election, the three candidates interviewed in the report took 97% of the vote between them, and that the lead candidate, Kate Hoey, obtained a 20,000 majority. The Licensee submitted that the remaining candidates "had no real track record of support, taking around 3% between them" and that, in its view, its "rare error would have had no impact on the outcome".

The Licensee said that it took its responsibilities regarding Section Six of the Code extremely seriously, adding that it had issued "comprehensive guidance" to all staff the day before the election campaign began, and again once it was underway. It said an additional reminder had been sent out to staff after the Vauxhall constituency report, to ensure future compliance with the Code.

### Decision

---

<sup>2</sup> For the 2017 general election, the election period began on 3 May 2017.



Reflecting our duties under the Communications Act 2003<sup>3</sup> and the Representation of the People Act 1983 (as amended)<sup>4</sup>, Section Six of the Code details the specific requirements relating to broadcasters covering elections.

Ofcom's Guidance on Section Six of the Code<sup>5</sup> ("the Guidance") makes clear that "if a broadcaster transmits a report or discussion featuring candidates standing in a constituency or electoral area, this may qualify as a 'constituency report or discussion'". Rules 6.8 to 6.12 of the Code then apply. Ofcom considers these rules to be particularly important because they reflect a statutory duty that Ofcom should have in place a code of practice on the participation of candidates in broadcast items at various elections. It is a fundamental requirement for Ofcom licensees to comply with Rules 6.8 to 6.12 if featuring candidates in broadcast items during elections.

The Guidance explains that a constituency report or discussion may take the form of a "segment; report; or interview, which raises or covers issues about a candidate's electoral area, or raises the profile of the candidate in connection with his/her electoral area".

Ofcom considered the Vauxhall report met the definition of a constituency report and discussion. Three candidates (representing the Conservative Party, the Labour Party and the Liberal Democrats) standing in the Vauxhall constituency in the 2017 General Election were given the opportunity to discuss their candidacy and issues affecting the constituency. As such, the candidates were given the opportunity to appeal to voters and promote themselves by emphasising their position on issues affecting the constituency in which they were seeking election.

Rule 6.10 requires that any constituency report or discussion after the close of nominations must include a list of all the candidates standing. This list must be conveyed in sound and/or vision.

In this case, no full list of candidates in sound and/or vision was included in this item. We acknowledged that Sky had: accepted there should have been a list of candidates carried in the case of the report, said "on this rare occasion" the list had been omitted in error; and sent an additional reminder to staff after the Vauxhall constituency report, to ensure future compliance with the Code. Sky also pointed to the fact that the three candidates who had not featured in the news item "had no real track record of support, taking around 3% between them" in the subsequent June 2017 General Election. Therefore, in the Licensee's view, its "rare error would have had no impact on the outcome". However, we consider that Rule 6.10 is a basic requirement, in the interests of fairness to all relevant candidates, to ensure that audiences, including any relevant voters, are made fully aware of all candidates contesting a particular constituency.

Given all the above, our Decision is that the programme was in breach of Rule 6.10.

### **Breach of Rule 6.10**

---

<sup>3</sup> <http://www.legislation.gov.uk/ukpga/2003/21/section/319> and <http://www.legislation.gov.uk/ukpga/2003/21/section/320>

<sup>4</sup> <http://www.legislation.gov.uk/ukpga/1983/2>

<sup>5</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0034/99178/broadcast-code-guidance-section-6-march-2017.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0034/99178/broadcast-code-guidance-section-6-march-2017.pdf)

## In Breach

### Peter Lee Show

**TMCR FM, 16 May 2017, 11:00**

---

#### Introduction

TMCR FM is a community radio station broadcasting to North-East Doncaster. The licence for TMCR FM is held by TMCRFM Limited ("TMCRFM Ltd" or "the Licensee").

Ofcom received a complaint that a 25-minute interview during the *Peter Lee Show* between the presenter Peter Lee ("PL") and the Labour candidate and incumbent for the *Doncaster North* constituency in the 2017 General Election, Ed Miliband ("EM") was "one-sided".

During the interview, Mr Miliband discussed topics such as hosting the local bingo and a lookalike of him he had met campaigning, in addition to answering several quick-fire non-political questions such as what his favourite film is. He also made a series of comments about the constituency of Doncaster North and his credentials as a candidate there. For example:

EM: *"...it wasn't really until 2005, shortly before I became an MP, when I came up to Doncaster and I met the party members. It was quite a big step to go and try and be an MP and to try and get selected by the members and then the electorate, and I wasn't sure whether I want to carry on being a backroom person or be a front person but you know in the end I thought I care about making change, I care about the people I've met in Doncaster, the people who I wanted to help. So, that's really why I decided to do it".*

PL: *"OK, well you answered that one pretty good, that's a good start. So, I gather you were born in London, how did it come about then that you actually got the constituency, or you was going for the constituency down here in Doncaster?"*

EM: *"I'd spent four and a half years in Leeds between the ages of three and seven so I actually, obviously with my parents, so I'd spent time in London, I'd spent time in Leeds. And then my predecessor Kevin Hughes who sadly died shortly after he got a terminal illness, so he left at the last minute and a number of people threw their hat in the ring. I knew Rosie Winterton obviously well who's the MP for Doncaster Central and so I had to take a chance and to be honest I didn't know whether I'd get it, there were people who had been born in Doncaster who were going for the seat as well but I kind of, I said look I'm gonna go round, spend three or four weeks putting my name forward, getting to know people and they can decide whether they want me or somebody else. My argument to people was, you want the person who's going to do the best job and if get selected I'm gonna endeavour to do the best job for this community and in the end it was the Labour party members who chose me, so they democratically all vote, and as I say there were five or six candidates. So, they chose me and then obviously the electorate chose me in 2005 and again in 2010, 2015".*

\*\*\*\*

EM: *"...I've done this now with as much enthusiasm and hopefully a bit more wisdom than I had in 2005 and you know it's quite interesting for me this election campaign because obviously the last election campaign I was leader of the Labour party, I was on the campaign bus, I was constantly doing lots of media and, you know, pulled this way and that. This campaign has been different for me I've been able to spend the vast majority of my time meeting my constituents, and to be honest I'm enjoying it, because I'm enjoying the chance of just going about this in a very down to earth, normal backbench MP way, knocking on doors, which I'm doing twice a day with other people from the Labour party, trying to seek people's support and really talking to them about the community and how we can improve things".*

PL: *"I think that's brilliant".*

\*\*\*\*

EM: *"...it's important to be out in the community because I think if people see you, and you know I think in Thorne and Moorends we're very lucky to have very good local borough councillors, Susan Durrant, Mark Houlbrook and Joe Blackman because they try and work hard for the community and I think you know in a way politics gets built up from the grassroots and that's where it's got to start, you know what I mean?"*

PL: *"I have quite an involvement with the community with all different things and the response when I've been saying that you're coming in here to do an interview, a lot of them have said, well you're the only one they've actually seen around the area canvassing, they don't even know who the other parties are".*

EM: *"Well my conservative opponent is a lady who's from 170 miles away and is a sitting councillor in Buckinghamshire. Now, you know, she hasn't been seen here or anything, I don't quite know why the Conservatives didn't pick a local, somebody who actually knows the area and wants to fight for the area, rather than somebody serving a long way away. But look that's their decision. I think the most important thing for me is you take no vote for granted and no person for granted. If there's one thing that people are fed up with in politics it's the notion that their votes can be taken for granted and that's why I'm out there, that's why I'm knocking on doors, that's why as you know I'll be calling the bingo tomorrow night, taking my life in my hands. I think I will lose a lot of votes as a result of that. But it's important to be seen to be in the community".*

PL: *"Yeah, I think so definitely".*

\*\*\*\*

PL: *"Favourite MP?"*

EM: *"Oh my goodness, there are so many good MPs. I'll give a shout to Rosie Winterton and Caroline Flint – my two Doncaster colleagues who do a really hard job for Doncaster".*

PL: *"We're hoping to get Caroline in here".*

EM: "Good".

The interview also included some discussion and criticism of the Government and Theresa May, including:

EM: *"...I think it's regrettable that Theresa May is refusing to do the television debates this time, I think, you know, I think they were a good thing and, you know, I think it's bad that she sort of says she's a strong leader but then doesn't want to do the debates".*

PL: *"I can see that, yeah definitely. Right, I had a question from a lady who come in here yesterday and she said that she's worked over 30 years for her to be told she can't retire at 60, it's now 66, and has been told to sign a petition on the Martin Lewis money programme to air their views. Why are people that have worked all their lives having to continue, when they have paid in more than their fair share into the pension system and is the age gonna keep going up?"*

EM: *"Well I think that lady is right. The government introduced these changes to the women's pension so there's a big issue about people in general when they're allowed to retire, but what they did with women pensioners was that they suddenly moved the goal posts and changed the retirement age from 60 and then that was gonna change but they accelerated it very quickly, you know as you will appreciate the thing about pensions is I don't think you can say they'll never change, you've got to give people proper notice. So, you can't shift and say to somebody, well you were going to retire in six or seven years and now it's gonna be eight or nine or ten years or 11 years, and that's what's happened to people. And we've actually said, and it'll be in Labour's manifesto today, the details of this, we've said that we will reverse some of those changes that have been made to the women's pension and compensate the people because, and I meet a lot of people who are in this position, they feel very, very upset and I think with justification, there was an independent report that came out a few years back and it said if you're gonna make changes to the pension age give people at least fifteen years notice, which seems to me to be fair enough. So, you should be told it's ok for me I'm 47, you know tell me that the pension age is going to change in 20 years' time or 15 years' time, well that's one thing. But if you're gonna tell somebody when they've made plans, you know, that in six years' time it's gonna change for them, then I think that's wrong and I think we should try and do something about it and we would if there was a Labour government".*

PL: *"Well I think you answered that one fantastic".*

The rules in Section Six of the Code apply to programmes broadcast during the designated period (known as the "election period"<sup>1</sup>) running up to the date of elections in the UK. For the reasons explained in this Decision, we considered that this programme was a constituency report and discussion about the Doncaster North constituency in the 2017 general election. Rules 6.8 to 6.13 of the Code were therefore engaged.

---

<sup>1</sup> For the 2017 general election, the election period began on 3 May 2017.

We considered the material raised potential issues under the following Code rules:

- Rule 6.8 "Due impartiality must be strictly maintained in a constituency report or discussion and in an electoral area report or discussion".
- Rule 6.9 "If a candidate takes part in an item about his/her particular constituency, or electoral area, then broadcasters must offer the opportunity to take part in such items to all candidates within the constituency or electoral area representing parties with previous significant electoral support or where there is evidence of significant current support. This also applies to independent candidates. However, if a candidate refuses or is unable to participate, the item may nevertheless go ahead".
- Rule 6.10 "Any constituency or electoral area report or discussion after the close of nominations must include a list of all candidates standing, giving first names, surnames and the name of the party they represent or, if they are standing independently, the fact that they are an independent candidate. This must be conveyed in sound and/or vision. Where a constituency report on a radio service is repeated on several occasions in the same day, the full list need only be broadcast on one occasion. If, in subsequent repeats on that day, the constituency report does not give the full list of candidates, the audience should be directed to an appropriate website or other information source listing all candidates and giving the information set out above".

We therefore asked TMCRFM Ltd how the material complied with these rules.

## Response

The Licensee considered that the interview was "impartial, friendly and relaxed". It also stated that the interview "was not intended to be a formal constituency report, election report, political broadcast or controversial interview" but rather an informal interview about Mr Miliband's life in general. The Licensee apologised if the interview was construed as a political broadcast.

The Licensee said that "a genuine invitation was extended out on air for any other local candidates to be interviewed in a similar fashion to Ed Miliband" but "nobody came forward to take up the invitation". However, the Licensee told Ofcom that as the station is run by volunteers it "did not have the man hours" to go through all its recordings to check the dates and times at which this happened.

The Licensee also told Ofcom that it was "not aware that such an invitation had to be made in advance of the interview when the arrangements were in place before other local candidates were confirmed". However, the Licensee said it had subsequently sent out emails to the other candidates to offer them "the same opportunity". The Licensee claimed that this could not have been done before the interview with Mr Miliband was broadcast as "the interview was so close" to the close of nominations in the General Election.<sup>2</sup>

The Licensee said that following this issue being brought to its attention it now sends invitations to appear on programmes by email so there is "an improved audit trail".

---

<sup>2</sup> Nominations for the 2017 General Election closed on 11 May 2017.

## Decision

Reflecting our duties under the Communications Act 2003<sup>3</sup> and the Representation of the People Act 1983 (as amended)<sup>4</sup>, Section Six of the Code details the specific requirements relating to broadcasters covering elections.

Ofcom's Guidance on Section Six of the Code<sup>5</sup> ("the Guidance") makes clear that "if a broadcaster transmits a report or discussion featuring candidates standing in a constituency or electoral area, this may qualify as a 'constituency report or discussion'". Rules 6.8 to 6.13 of the Code then apply. Ofcom considers these rules to be particularly important because they reflect a statutory duty that Ofcom should have in place a code of practice on the participation of candidates in broadcast items at various elections. As such, we consider it a fundamental requirement upon Ofcom licensees that they should comply with Rules 6.8 to 6.13 if featuring candidates in broadcast items during elections.

The Guidance explains that a constituency report or discussion may take the form of an "interview, which raises or covers issues about a candidate's electoral area, or raises the profile of the candidate in connection with his/her electoral area". The Licensee said that the interview was not intended to be a constituency report. However, as paragraph 1.36 of the Guidance states:

"In cases where a broadcaster is not intending to broadcast a constituency/electoral area report or discussion, broadcasters should take care that whenever a candidate is featured in programming, that by virtue of that candidate's contribution, the content does not unintentionally become an electoral area report or discussion".

Ofcom considered that this interview with Mr Miliband met the definition of a constituency report and discussion. This was because Mr Miliband, the Labour candidate in the Doncaster North constituency, was given the opportunity to discuss issues about his constituency and his candidacy. These included his experience as an MP, his involvement in the local community and his knowledge of local issues compared to the Conservative candidate in this constituency.

We considered that the interview acted to raise the profile of Mr Miliband in connection with his constituency. He was given the opportunity to appeal to voters and promote himself by emphasising his presence in the community and his desire to help people in the constituency.

### Rule 6.8

Rule 6.8 requires that due impartiality is strictly maintained in a constituency report or discussion and in an electoral area report or discussion.

---

<sup>3</sup> <http://www.legislation.gov.uk/ukpga/2003/21/section/319> and <http://www.legislation.gov.uk/ukpga/2003/21/section/320>

<sup>4</sup> <http://www.legislation.gov.uk/ukpga/1983/2>

<sup>5</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0034/99178/broadcast-code-guidance-section-6-march-2017.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0034/99178/broadcast-code-guidance-section-6-march-2017.pdf)

The Licensee said in its representations that the interview was impartial. However as detailed above, as the only candidate for Doncaster North featured in the programme, Mr Miliband was allowed to make unchallenged points in favour of his own candidacy and against the Conservative candidate for the Doncaster North constituency in the 2017 General Election. He also criticised Theresa May's decision to not take part in televised election debates. Further, he was critical of the Government about changes made to the retirement age for women. In our view, these criticisms emphasise the fact that Ed Miliband was standing as a candidate for the Labour Party in opposition to the Conservative Party.

To comply with Rule 6.8, TMCRFM Ltd had to reflect the viewpoints of other candidates as appropriate. At no point during this programme were the viewpoints of candidates other than Mr Miliband reflected and, as a result, due impartiality was not maintained. Therefore, our Decision is that the programme breached Rule 6.8 of the Code.

#### Rule 6.9

Rule 6.9 makes clear that if a candidate is given an opportunity to discuss matters relating to their constituency, then broadcasters must ensure that all candidates within the constituency representing parties with previous significant electoral support, or where there is evidence of significant current support, must also be offered the opportunity to take part in such items.

The Licensee told Ofcom that it had extended invitations on air to other candidates in the Doncaster North constituency to be interviewed in a similar way. However, no reference was made to any such invitations during the programme featuring Mr Miliband, and the Licensee could not inform Ofcom as to when these invitations had been broadcast. In addition, broadcasters cannot fulfil their duty to offer relevant candidates the opportunity to take part in a constituency item or discussion solely by broadcasting an invitation on air. Ofcom expects broadcasters to contact candidates and/or their representatives directly in advance of the relevant broadcast.

The Licensee told Ofcom that it had not been possible to contact other candidates before the broadcast of this interview with Mr Miliband as it occurred so close to the close of nominations. However, as nominations closed on 11 May 2017 there was a clear opportunity for the Licensee to have contacted other candidates in the Doncaster North constituency during the four-day period ahead of the interview with Mr Miliband. In addition, Rule 6.9 is absolute and makes no exceptions for instances where a constituency report is broadcast shortly after the close of nominations.

In light of the above, our Decision is therefore that the programme breached Rule 6.9.

#### Rule 6.10

Rule 6.10 requires that any constituency report or discussion after the close of nominations must include a list of all the candidates standing.

As previously established, Ofcom's Decision is that the interview constituted a constituency report and discussion. It was broadcast after the close of nominations on 11 May 2017. As it did not contain a list of candidates standing in the Doncaster North constituency, our Decision is that the programme was in breach of Rule 6.10.

#### **Breaches of Rules 6.8, 6.9 and 6.10.**

## In Breach

### **Trending Hits, The Biggest Chart Hits, Breakfast Beat BritAsia TV, 27 February 2017, various times**

---

#### **Introduction**

BritAsia TV is a general entertainment channel aimed at young British Asian people. The licence for the service is held by BritAsia TV Limited ("BritAsia").

*Trending Hits, The Biggest Chart Hits and Breakfast Beat* are music programmes.

Ofcom received a complaint about a graphic that appeared in the top corner of the screen throughout these programmes. It referred to an event run by BritAsia, the "*BritAsia TV World Music Awards 2017*", and to the date of that event, "*4<sup>th</sup> March 2017*".

We requested information from the Licensee about any commercial arrangements relating to the inclusion of the graphic in the programming. Based on the information provided, Ofcom considered that the material raised potential issues under the following rule of the Code:

- Rule 9.5 "No undue prominence may be given in programming to a product, service or trade mark. Undue prominence may result from:
- the presence of, or reference to, a product, service or trade mark in programming where there is no editorial justification; or
  - the manner in which a product, service or trade mark appears or is referred to in programming".

We requested comments from BritAsia on how the content complied with this rule.

#### **Response**

BritAsia said it was confident that the content was compliant and in line with guidance from Ofcom. The Licensee stated: "The awards ceremony is our own event which relates to the music content we showcase. The graphic was only on screen during music programming which relates to the awards ceremony". It added: "The graphic was not promoting any sales activity of any kind or any other commercial activity".

BritAsia told Ofcom that, as had been the case in previous years, coverage of the event was not broadcast live but transmitted at a later date.

#### **Decision**

Reflecting our duties under the Communications Act 2003<sup>1</sup>, Section Nine of the Code limits the extent to which commercial references can feature within editorial content. The rules in this section help ensure there is a distinction between advertising and programming.

---

<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2003/21/section/319>



The rules also support Ofcom's Code on the Scheduling of Television Advertising, which limits the amount of advertising that a broadcaster can transmit. Certain announcements, such as those referring to upcoming programmes and to programme-related material, are exempt from these restrictions.

In this case, the graphic referred to the live event, rather than to the programme coverage of that event. BritAsia argued that the graphic was editorially justified because it appeared only during music programming which was related to the event. We did not accept that this met the Code's definition of programme-related material<sup>2</sup> which stipulates that such material must be directly derived from a specific programme. The graphic was referring to a self-standing event which was not directly derived from the music programming in which it appeared. Ofcom's published guidance<sup>3</sup> makes clear that similarity, in terms of genre or theme(s), between a programme and a product or service is not in itself sufficient to establish that the product or service is directly derived from the programme.

We therefore did not consider that there was sufficient editorial justification for the inclusion of the graphic referring to the event, especially given the fact that it remained on-screen throughout the programmes.

The programme therefore gave undue prominence to the event, and was in breach of Rule 9.5 of the Code.

#### **Breach of Rule 9.5**

---

<sup>2</sup> The Code defines programme-related material as follows: "Programme-related material consists of products or services that are both directly derived from a programme and specifically intended to allow viewers to benefit fully from, or to interact with, that programme".

<sup>3</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0014/33611/section9\\_may16.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0014/33611/section9_may16.pdf)

## In Breach

### Believers' Voice of Victory

**TBN UK, 8 February 2017, 08:00 and 13:40**

---

#### Introduction

TBN UK is a religious channel available on satellite and digital terrestrial platforms. The Licensee for this service is Governance Ministries (or "the Licensee").

During routine monitoring, Ofcom identified a programme, presented by Kenneth Copeland, which provided teaching on religious matters. It contained references to a 'Salvation Package' which consisted of a book on Christian lifestyle advice and a pamphlet on how to interpret the Bible.

Towards the end of the programme, a caption appeared with a phone number and website address for Kenneth Copeland Ministries ("KCM"). It was accompanied by Kenneth Copeland saying:

*"Now if you prayed with Brother Bill and me here's what I want you to do. I want you to use the information on your screen, go online whatever it takes you do it. I want to send you this little book [shows viewers a book titled 'He did it all for you'], free and post-paid 'He did it all for you'. This will help you begin studying your Bible. Now the Bible is not a book to struggle with. I'll tell you how easy it is [unfolds leaflet] 'How to study your Bible' [shows viewers the limited amount of text on the leaflet]. I mean that's how easy it is and it's had a bad reputation about being so hard. So, we want to get you started [caption showing an email address and phone number for KCM] and we want to hear your testimony and we gotta, and we gotta bunch of people here at KCM, I get these, they get these testimonies from you, you get born again, I mean they just, all of heaven rejoices, all the angels rejoice. Amen. We'll see you tomorrow. Until then this is Bill Winston and Kenneth Copeland reminding you that Jesus. Is. Lord".*

The image then cut to a full screen graphic which included: a phone number; PO Box number; website address for KCM; and images of the book and pamphlet that comprise the Salvation Package. The following voiceover accompanied the graphic:

*"Jesus did it all for you. Request your free Salvation Package today at [KCM website address] and learn more about your new life in Christ. Expect the fabulous outpourings from heaven, this year".*

At the end of the programme, the following caption was shown: *"This program was brought to you by the Partners of Kenneth Copeland Ministries".*

Ofcom requested information from the Licensee about any commercial arrangements associated with the references to KCM and the Salvation Package. Based on the information provided we considered this that the content raised potential issues under the following rules of the Code:

Rule 9.4: "Products, services and trade marks must not be promoted in programming".

Rule 9.5 “No undue prominence may be given in programming to a product, service or trade mark. Undue prominence may result from:

- the presence of, or reference to, a product, service or trade mark in programming where there is no editorial justification; or
- the manner in which a product, service or trade mark appears or is referred to in programming”.

Ofcom requested comments from the Licensee on how the programme complied these Rules.

### Response

Governance Ministries explained that the Salvation Package was provided to viewers at no charge, a fact that was made clear in the programme. The Licensee emphasised that *Believers' Voice of Victory* is a religious programme, and argued that the references to the Salvation Package were relevant to the discussion of scripture contained in the programme. It said the package was “linked to the presenter (Kenneth Copeland) and his ministry, but more importantly, as Mr Copeland explains, it is intended to help viewers [of this programme] to begin studying their Bible”. It said the package contained material “that we would consider essential to having a successful Christian life” and the discussion in the programme focused “on the need for salvation (which is one of the central objectives of this channel) and a demonstration of how to become a Christian. The package is intended to call people to salvation in Jesus Christ which is in keeping with the purpose of that part of the programme”.

Governance Ministries emphasised that the package is important for new converts to the Christian faith as it allows them to become more familiar with the scripture and “enables them to benefit from and to appreciate more, the discussions Kenneth Copeland has with his guests” and even go on to “contact the programme with their own testimony”. It pointed to a graphic which “explains to viewers how to request their (free) copy of the Package so they can *‘learn more about your new life and Christ’*”, and to a sequence in which Kenneth Copeland invited viewers to contact the programme with their own testimony, thereby encouraging viewer interaction. It also argued that the package helped viewers to benefit fully from the programme by making its study of the Bible “more readily understandable”. The Licensee therefore considered the Salvation Package constituted programme-related material (“PRM”)<sup>1</sup>.

Referring to Ofcom's Guidance on Section Nine of the Code<sup>2</sup>, the Licensee said that the references to the Salvation Package were neither promotional nor unduly prominent. It said the language used was “restrained” and “not excessive”, because the presenters did not make any superlative or unduly positive comments about the package other than its intended purpose and how it can help viewers study the Bible. Governance Ministries considered that the positive statements made by Kenneth Copeland related to the Bible,

---

<sup>1</sup> The Code defines “programme-related material” as follows: “Programme-related material consists of products or services that are both directly derived from a programme and specifically intended to allow viewers to benefit fully from, or to interact with, that programme”.

<sup>2</sup> [http://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0014/33611/section9\\_may16.pdf](http://www.ofcom.org.uk/_data/assets/pdf_file/0014/33611/section9_may16.pdf).

rather than the Salvation Package: “[T]he point being that it takes very little to make the Bible easy to read, despite its reputation for being hard”. It also considered the references to the Salvation Package were editorially justified, given the theme of the programme and the context of the discussion, and its view that “only a limited time [is spent] discussing it, which is no more than necessary”. The Licensee argued that viewers “needed to be provided with KCM’s contact details so that they could request a copy of the Salvation Package”, pointing out that it did not usually include this information in episodes of *Believers’ Voice of Victory*, and only did so on this occasion for to serve this purpose. It added that displaying these contact details for 35 seconds during the discussion, and for another 15 seconds in a graphic, was in its view reasonable, being “enough time for the viewer to pick up a pen and take a note of the website address and/or phone number but no more”.

Governance Ministries also referred to the principles underpinning Section Nine of the Code. It argued that it would have been clear to viewers that they were watching editorial rather than advertising content, and emphasised that “there is no suggestion at all that viewers have been misled in any way or that the inclusion of the reference to the Salvation Package in the programme may result in them making a decision which they would not otherwise have made”. Given that the package was “provided free of charge”, the Licensee said that in its view there was “no possible risk of financial harm to viewers”. Therefore, it could see how any viewer would have “suffered any detriment from a technical contravention of the Code”.

## Decision

Reflecting our duties under the Communications Act 2003<sup>3</sup>, Section Nine of the Code limits the extent to which commercial references can feature within editorial content. The rules in this Section help ensure there is a distinction between advertising and programming. They also prevent broadcasters from using editorial airtime for advertising purposes.

### Rule 9.4

This rule requires that products, services and trade marks must not be promoted in programming. Ofcom’s Guidance to Section Nine of the Code makes clear that in general, products or services should not be referred to in programmes using favourable or superlative language and prices and availability should not be discussed.

Towards the end of the programme Kenneth Copeland explicitly encouraged viewers to contact KCM, via the phone number or website address provided, to receive a Salvation Package. The Licensee argued that the language used was “restrained” and “not excessive”, and referred positively to the Bible rather than the Salvation Package. In our view, these references, highlighted above, focused on the positive attributes of the Salvation Package, which was described as making it easier to study the Bible, and associated with receiving “*fabulous outpourings from Heaven*”. There were also references to prices and availability, focusing on the fact that package was free, and instructing viewers on how to obtain it, which were clearly promotional.

The Licensee argued that the Salvation Package met the definition of PRM. The Code makes clear that for a product or service to qualify as PRM it must be both directly derived from the programme it is promoted during or around, and specifically intended to allow viewers to benefit fully from, or to interact with, that programme. Ofcom’s Guidance to Section Nine of the Code explains that “similarity, in terms of genre or theme(s), between a programme and

---

<sup>3</sup> <http://www.legislation.gov.uk/ukpga/2003/21/section/319>

a product or service...is not in itself sufficient to establish that the product or service is directly derived from the programme”.

Ofcom disagreed that the Salvation Package met the definition of PRM, because in our view the product was not directly derived from the programme itself, but from the wider work of KCM. We also considered that the Salvation Package was intended to improve viewers' spiritual well-being more generally (i.e. by having a “successful Christian life” and helping viewers study the Bible) instead of being specifically focused on allowing viewers to fully benefit from or interact with the programme. As a result, we did not accept the Licensee's argument regarding PRM.

In our view the contact details which appeared during the programme when viewers were told how to obtain a Salvation Package were not specific to the programme or channel, but were in fact methods of contacting KCM directly. Ofcom considered that the explicit invitations to viewers to contact KCM to receive the Salvation Package also indirectly promoted a third party (i.e. KCM).

We therefore decided that the references to the Salvation Package and KCM were in breach of Rule 9.4 of the Code.

#### Rule 9.5

Ofcom's Guidance to Section Nine of the Code makes clear that the level of prominence given to a product, service or trade mark will be judged against the editorial context in which it appears.

The Licensee argued that the references to the Salvation Package and KCM were editorially justified given the nature of the programme and the context of the discussion. There may be editorial reasons to refer to religious materials in programmes of a religious nature. However, Ofcom did not consider that in this instance the extent and nature of the references were editorially justified. In our view, the programme gave undue prominence to promoting KCM and its Salvation Package, rather than focusing on purely religious themes.

Ofcom accepts that broadcasters may wish to provide methods for viewers to contact a programme. However, broadcasters are reminded that programming should not be used to promote the contact details of third parties unless there is clear editorial justification. The fact that ministries may wish to use television programming to promote themselves or their activities does not, in itself, provide editorial justification for doing so.

We therefore decided that this programme was in breach of Rule 9.5 of the Code.

#### **Breaches of Rules 9.4 and 9.5**

## In Breach

### Inside Cruise

***Holiday and Cruise TV, 26 March 2017, 14:00***

### All Aboard

***Holiday and Cruise TV, 26 March 2017, 17:30***

---

#### Introduction

Holiday and Cruise TV broadcasts a variety of holiday related programming and telesshopping. The licence for Holiday and Cruise Channel is held by JAN Media Limited ("JAN Media" or "the Licensee").

Ofcom received a complaint from a viewer about the prominence of products within the following programmes on Holiday and Cruise TV.

#### *Inside Cruise, 26 March 2017, 14:00*

*Inside Cruise* is a half hour programme about cruise holidays.

A short item during *Inside Cruise* showed footage of an exfoliator cream with the packaging and branding visible, together with the product's website and price. The programme presenter stated:

*"On to our travel 'must have', now, or as we like to call it, your 'Cruise Companion'. Whether you are sailing off in search of sun or facing the elements on an exploration cruise, getting your skin prepped ahead of time is equally as important as looking after it on your holiday. This rosehip and jojoba exfoliator will lightly polish the skin with the cleansing action of the jojoba beans and coconut oil. It will lift away any impurities and leave your skin glowing. Organic essential oils of lavender and frankincense offer wonderful antibacterial and anti-inflammatory properties so skin feels totally renewed and vibrant. Aloe vera ensures skin is soothed and almond oil has a wonderful affinity with the skin and ensure that the exfoliation is smooth and comfortable. Resulting in a gorgeous even-toned and fresher-looking complexion. Top Inside Cruise tip, remember good holiday skin starts at home".*

#### *All Aboard, 26 March 2017, 17:30*

*All Aboard* is a half hour programme that gives viewers an in-depth look at current cruise ships. This episode featured a behind the scenes look at the P&O ship Britannia and the Celebrity Cruises ship Celebrity Silhouette.

The programme featured positive comments about the ships throughout.

For example, an item about the Britannia, which featured four celebrity chefs and a food and wine expert (all of whom are P&O Cruises 'Food Heroes'<sup>1</sup>) included the following:

---

<sup>1</sup> <http://www.pocruises.com/foodheroes/>

- Reporter: *"One of the standout features is the Britannia Cookery Club which has been especially designed by celebrity chef James Martin who regularly comes on board the ship to host his own classes. These classes are an extra charge but after saying that, how often do you get the chance to cook with some of the UK's top chefs? James Martin and the rest of the P&O Cruise food heroes including Atul Kochhar, Eric Lanlard, Marco Pierre White and Olly Smith tell me what they liked about Britannia".*
- James Martin: *"What I like about Britannia is that it's not a cruise ship if that makes sense?"*
- Atul Kochhar: *"I just want to stand there and watch, it was so cool".*
- Eric Lanlard: *"For me to be a part of this amazing project that the Britannia is, obviously I'm very proud to be a part of it".*
- Marco Pierre White: *"What was amazing about the Britannia, when I first walked onto Britannia, it was like walking into a five star hotel in London. It was like walking through the doors of Claridges".*
- James Martin: *"This reminds me of a five star hotel and I think everybody that I have, certainly that I've known that have come on here has sat in a certain restaurant, has sat in a certain bar or reception area and just gone "this isn't a cruise ship is it?" It feels like the finest five star hotel".*
- Atul Kochhar: *"I have not seen a ship of this size before and also when I came in going to each and every minor detail, there's attention to detail in everything on this ship. It's walking into a seven star hotel".*
- Olly Smith: *"My favourite feature of Britannia is the overall design, she's seamlessly elegant. When I first walked in I thought, you know what it kind of makes me feel like those really classy...you know Indiana Jones when he's walking into those great restaurants, great bars or he might be up in a hot air balloon or something but it always looks amazing. It's that kind of feeling of adventure, class, elegance. Everywhere feels comfortable".*
- James Martin: *"There's nothing else like this".*
- Marco Pierre White: *"It's no longer a ship with ship design. It's a ship with a hotel feel".*
- Eric Lanlard: *"One of the best looking cruise ships in the world".*
- Olly Smith: *"Now here's a corridor, everywhere's a destination, and of course the biggest destination on board is The Glasshouse!"*
- Atul Kochhar: *"This is luxurious. That's what it is".*
- James Martin: *"This is something else".*

The programme also featured a reporter demonstrating the Britannia's on-board touch screen excursion booking system. He said:

*"One of the best parts of any P&O Cruises holiday are the excursions because there's so many of them and it really brings the port to life. The destinations come to you as well, and now they've got a new touch screen booking system".*

There were five instances during *All Aboard* when the reporters mentioned products or services that incurred an extra cost. For example, the reporter onboard the ship *Celebrity Silhouette*:

*"And for just a small cover charge you can come here to the Lawn Club and have your own picnic blanket where you can even eat your lunch on top deck. Imagine doing that whilst you're enjoying some great, warm sunshine".*

Ofcom requested information from the Licensee about any commercial arrangements associated with the references to the exfoliator cream and the ships. Based on the information provided, we considered that the content raised issues under the following Code rules.

Rule 9.4: "Products, services and trademarks must not be promoted in programming".

Rule 9.5: "No undue prominence may be given in programming to a product, service or trademark. Undue prominence may result from:

- The presence of, or reference to, a product, service or trademark in programming where there is no editorial justification; or
- The manner in which a product, service or trade mark appears or is referred to in programming".

Ofcom requested the Licensee's comments on how the items complied with these rules.

## **Response**

### *Inside Cruise, 26 March 2017, 14:00*

JAN Media said the item shown in this programme was a new feature called 'Cruise Companion', which was intended to highlight what would be useful on a cruise holiday, such as gadgets that keep you updated with time zones, ports about to be visited, or making packing simple.

The Licensee said a member of staff had chosen the exfoliator cream, but had not been given permission to broadcast a price and a website address, and had been reprimanded. JAN Media assured Ofcom that this error would not recur.

In response to Ofcom's Preliminary View the Licensee added that the feature had been removed from all future editions of the programme.

### *All Aboard, 26 March 2017, 17:30*



The Licensee said *All Aboard* focused too heavily on services that incurred extra charges for the customer. JAN Media added that the report had now been re-edited and re-voiced, taking these references out. The Licensee said that, "as ships and cruise lines do overall have a very good product, it is difficult not to be 'gushing'", adding that "all [its] presenters are 'Cruise Lovers'". JAN Media said that it had, however, given its presenters guidelines on how to make their reports more balanced.

In response to Ofcom's Preliminary View the Licensee added that it had retrained its staff to ensure future episodes do not feature commercial aspects of cruise holidays.

JAN Media apologised for the unintended breaches of the Code.

## Decision

Reflecting our duties under the Communications Act 2003<sup>2</sup> ("the Act"), Section Nine of the Code requires that there is distinction between editorial content and advertising, and that audiences are protected from surreptitious advertising. This is to prevent viewers being confused or misled about the status and purpose of the material they are watching. It also prevents editorial content from being used to circumvent restrictions on advertising minutage.

Rule 9.4 requires that products, services and trademarks are not promoted in programming. Ofcom's published Guidance<sup>3</sup> on Rule 9.4 states that "products or services should not be referred to using favourable or superlative language and prices and availability should not be discussed".

Rule 9.5 states that undue prominence must not be given to products, services and trade marks in programmes. It makes clear that undue prominence may result from either their presence, or reference to them, where there is no editorial justification, or the manner in which they are referred to. Ofcom's published Guidance<sup>4</sup> on Rule 9.5 states that "The level of prominence given to a product, service or trade mark will be judged against the editorial context in which the reference appears".

### Inside Cruise, 26 March 2017, 14:00

Ofcom recognises that there may be legitimate editorial grounds for programmes to include references to products and services. However, when doing so, care is needed to ensure that editorial content is not used, or is likely to be viewed as being used, as a platform to promote those products and services.

In this programme, the item focused on an exfoliator cream's ingredients and positive attributes, its price and provided details of where it could be purchased. In Ofcom's view, the way in which the item was presented, was similar to advertising. A product was therefore promoted in the programme, in breach of Rule 9.4 of the Code.

---

<sup>2</sup> <http://www.legislation.gov.uk/ukpga/2003/21/section/319> and <http://www.legislation.gov.uk/ukpga/2003/21/section/320>

<sup>3</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0014/33611/section9\\_may16.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0014/33611/section9_may16.pdf)

<sup>4</sup> [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0014/33611/section9\\_may16.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0014/33611/section9_may16.pdf)

We recognise that cruise holiday programmes may feature cruise related products and services. However, we did not consider that the editorial premise of the programme supported an item that focussed solely on a cosmetic cream, its attributes, price and availability. Given the lack of editorial justification for the item, the programme gave undue prominence to the product, in breach of Rule 9.5 of the Code.

Ofcom took into account the action taken by the Licensee to avoid recurrence. However, we reminded JAN Media that the absence of a price and website address would, alone, have been insufficient to prevent the item raising issues under Rules 9.4 and 9.5 of the Code in this instance.

*All Aboard, 26 March 2017, 17:30*

Ofcom recognises that cruise holiday programmes are likely to feature stories about cruise companies, cruise ships and their various features, services and facilities. However, care must be taken to ensure a clear distinction is maintained between advertising and editorial content.

This programme included detailed information on the range and quality of services available on the featured ships and used almost exclusively favourable and superlative language to discuss these.

We took into account the Licensee's admission that the programme focused too heavily on services that incurred extra charges for the customer; that it had re-edited and re-voiced the item; and had provided guidance to its presenters to help make reports more balanced. Nevertheless, products and services were promoted in the programme, in breach of Rule 9.4 of the Code.

Further, we considered the emphasis and repeated focus on the cruise ships' services was not editorially justified and was therefore unduly prominent. The promotional manner in which the ships, and their services, were referred to, further contributed to the undue prominence of products and services in the programme.

Products and services were also given undue prominence in the programme, in breach of Rule 9.5 of the Code.

**Breaches of Rules 9.4 and 9.5**

## In Breach

### Advertising minutage

#### *Prime TV, 13 March to 4 April 2017, various times*

---

#### Introduction

Prime TV is a general entertainment satellite channel aimed at the Pakistani community. The licence for this service is held by Express TV UK Limited ("the Licensee").

Rule 2 of the Code on the Scheduling of Television Advertising ("COSTA") states:

"Time devoted to television advertising and teleshopping spots on any channel in any clock hour must not exceed 12 minutes".

During routine monitoring, Ofcom identified 15 incidents on Prime TV where the amount of advertising in a clock hour exceeded the permitted allowance. The overruns varied in length, the most significant being four minutes and 54 seconds.

Ofcom considered the matter raised issues warranting investigation under Rule 2 of COSTA and therefore sought comments from the Licensee as to how the material complied with this rule.

#### Response

Express TV explained that the software used for its advertising break patterns had experienced some calculation errors but had since been replaced. It added that, since taking over the licence for Prime TV in April 2016, this is the first time it had been investigated for breaches of COSTA rules. The Licensee expressed regret for the breaches of Rule 2 of COSTA in this instance.

In response to the preliminary view the Licensee apologised and outlined the actions it had taken to ensure no recurrence.

#### Decision

Reflecting our duties under the Communications Act 2003<sup>1</sup>, COSTA sets limits on the amount of advertising than can be broadcast.

In this case, the amount of advertising permitted in a clock hour was exceeded on 15 occasions. The Licensee therefore breached Rule 2 of COSTA.

We will continue to monitor the Licensee's compliance with COSTA.

#### Breaches of Rule 2 of COSTA

---

<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2003/21/section/322>

## Investigations Not in Breach

Here are alphabetical lists of investigations that Ofcom has completed between 10 and 31 July 2017 and decided that the broadcaster or service provider did not breach Ofcom's codes, rules, licence conditions or other regulatory requirements.

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

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission date</b>	<b>Categories</b>
Botched	Kanal 5 (Sweden)	07/03/2017	Gender discrimination/offence
Polisskolan (Police Academy)	Kanal 9 (Sweden)	14/04/2017	Scheduling
Rise of the Warrior Apes	Discovery	05/03/2017	Advertising placement
Coronation Street	ITV2	03/06/2017	Violence
Programming	Sikh Channel	23/03/2017	Violence

For more information about how Ofcom conducts investigations about content standards on television and radio programmes, go to:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0020/55109/breaches-content-standards.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf)

## Complaints assessed, not investigated

Here are alphabetical lists of complaints that, after careful assessment, Ofcom has decided not to pursue between 10 and 31 July 2017 because they did not raise issues warranting investigation.

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

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
8 Out of 10 Cats	4Music	02/06/2017	Race discrimination/offence	1
Naked Attraction	4Seven	19/07/2017	Nudity	1
Can't Pay? We'll Take It Away!	5Star	24/07/2017	Offensive language	1
Sarah Payne: A Mother's Story (trailer)	5Star	13/07/2017	Scheduling	1
The Christian O'Connell Breakfast Show	Absolute Radio	07/07/2017	Race discrimination/offence	1
Broadcast competition	Air 107.2	Various	Competitions	1
Programming	All Stations	16/07/2017	Drugs, smoking, solvents or alcohol	1
BT Showcase Preview	BT Showcase	17/07/2017	Generally accepted standards	1
Breakfast Show	Capital FM (Greater London)	17/07/2017	Sexual material	1
Key of David	CBS Action	24/06/2017	Sexual orientation discrimination/offence	1
24 Hours in A&E	Channel 4	12/07/2017	Materially misleading	1
24 Hours in Police Custody	Channel 4	04/07/2017	Race discrimination/offence	2
50 Shades of Gay (trailer)	Channel 4	29/06/2017	Sexual material	1
50 Shades of Gay (trailer)	Channel 4	04/07/2017	Sexual orientation discrimination/offence	1
50 Shades of Gay (trailer)	Channel 4	06/07/2017	Sexual material	1
999: What's Your Emergency?	Channel 4	24/07/2017	Materially misleading	1
Ackley Bridge	Channel 4	05/07/2017	Other	1
Channel 4 News	Channel 4	22/05/2017	Race discrimination/offence	1
Channel 4 News	Channel 4	16/06/2017	Due impartiality/bias	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Channel 4 News	Channel 4	24/06/2017	Due impartiality/bias	1
Channel 4 News	Channel 4	28/06/2017	Due impartiality/bias	4
Channel 4 News	Channel 4	10/07/2017	Under 18s in programmes	1
Channel 4 News	Channel 4	15/07/2017	Due impartiality/bias	1
Channel 4 News	Channel 4	24/07/2017	Generally accepted standards	1
Channel 4 News	Channel 4	Various	Other	1
Channel 4 News	Channel 4	Various	Religious/Beliefs discrimination/offence	1
Hollyoaks	Channel 4	13/06/2017	Sexual orientation discrimination/offence	1
Hollyoaks	Channel 4	21/06/2017	Generally accepted standards	1
Is Love Racist?	Channel 4	17/07/2017	Race discrimination/offence	1
Naked Attraction	Channel 4	29/06/2017	Generally accepted standards	1
Naked Attraction	Channel 4	29/06/2017	Nudity	13
Naked Attraction	Channel 4	30/06/2017	Nudity	1
Naked Attraction	Channel 4	04/07/2017	Gender discrimination/offence	1
Naked Attraction	Channel 4	06/07/2017	Generally accepted standards	9
Naked Attraction	Channel 4	07/07/2017	Generally accepted standards	1
Naked Attraction	Channel 4	13/07/2017	Nudity	17
Naked Attraction	Channel 4	18/07/2017	Generally accepted standards	1
Naked Attraction	Channel 4	20/07/2017	Generally accepted standards	1
Naked Attraction	Channel 4	21/07/2017	Generally accepted standards	2
Programming	Channel 4	12/07/2017	Outside of remit	1
Raised by Queers	Channel 4	22/06/2017	Sexual orientation discrimination/offence	1
Raised by Queers	Channel 4	07/07/2017	Sexual orientation discrimination/offence	1
Raised by Queers	Channel 4	09/07/2017	Sexual orientation discrimination/offence	1
Raised by Queers (trailer)	Channel 4	13/07/2017	Sexual orientation discrimination/offence	1
Rise of The Planet of The Apes	Channel 4	08/07/2017	Offensive language	1
The Crystal Maze	Channel 4	07/07/2017	Gender discrimination/offence	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
The Last Leg	Channel 4	23/06/2017	Due impartiality/bias	2
The Last Leg	Channel 4	23/06/2017	Generally accepted standards	2
The Last Leg	Channel 4	07/07/2017	Disability discrimination/offence	1
The Last Leg	Channel 4	07/07/2017	Gender discrimination/offence	1
The Last Leg	Channel 4	07/07/2017	Race discrimination/offence	1
The Last Leg	Channel 4	21/07/2017	Disability discrimination/offence	1
The State (trailer)	Channel 4	22/07/2017	Crime and disorder	1
The Supervet	Channel 4	29/06/2017	Offensive language	1
The Windsors	Channel 4	05/07/2017	Race discrimination/offence	1
Wife Swap: Brexit Special	Channel 4	15/06/2017	Due impartiality/bias	1
Women's Euro 2017	Channel 4	19/07/2017	Due impartiality/bias	1
World Para Athletics Championships	Channel 4	21/07/2017	Other	1
Ace Ventura: Pet Detective	Channel 5	23/07/2017	Offensive language	1
Big Brother	Channel 5	03/07/2017	Generally accepted standards	1
Big Brother	Channel 5	04/07/2017	Drugs, smoking, solvents or alcohol	1
Big Brother	Channel 5	05/07/2017	Generally accepted standards	4
Big Brother	Channel 5	06/07/2017	Animal welfare	7
Big Brother	Channel 5	06/07/2017	Disability discrimination/offence	1
Big Brother	Channel 5	06/07/2017	Generally accepted standards	2
Big Brother	Channel 5	06/07/2017	Nudity	2
Big Brother	Channel 5	06/07/2017	Race discrimination/offence	1
Big Brother	Channel 5	07/07/2017	Generally accepted standards	1
Big Brother	Channel 5	08/07/2017	Generally accepted standards	1
Big Brother	Channel 5	09/07/2017	Generally accepted standards	1
Big Brother	Channel 5	10/07/2017	Generally accepted standards	1
Big Brother	Channel 5	11/07/2017	Generally accepted standards	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Big Brother	Channel 5	12/07/2017	Generally accepted standards	1
Big Brother	Channel 5	12/07/2017	Race discrimination/offence	3
Big Brother	Channel 5	14/07/2017	Generally accepted standards	1
Big Brother	Channel 5	17/07/2017	Sexual material	1
Big Brother	Channel 5	18/07/2017	Generally accepted standards	6
Big Brother	Channel 5	18/07/2017	Sexual material	1
Big Brother's Bit on the Side	Channel 5	10/07/2017	Disability discrimination/offence	1
Big Brother's Bit on the Side	Channel 5	17/07/2017	Sexual material	1
Blind Date	Channel 5	15/07/2017	Sexual material	2
Cats Make You Laugh Out Loud	Channel 5	16/07/2017	Offensive language	2
Channel 5 News	Channel 5	11/07/2017	Due accuracy	1
Little Nicky	Channel 5	23/07/2017	Offensive language	3
Made of Honor	Channel 5	25/06/2017	Offensive language	3
Made of Honor	Channel 5	02/07/2017	Offensive language	1
That's So 1994	Channel 5	25/06/2017	Scheduling	1
The Bubble Wrap Boy	Channel 5	12/07/2017	Generally accepted standards	1
The Hotel Inspector	Channel 5	04/07/2017	Competitions	1
The Wright Stuff	Channel 5	Various	Due impartiality/bias	1
The Wright Suff	Channel 5	26/07/2017	Offensive language	1
Ace Ventura: Pet Detective	Channel 5+1	23/07/2017	Offensive language	1
Programming	Channel i	02/06/2017	Elections/Referendums	1
Reginald D Hunter: Live	Dave	08/07/2017	Religious/Beliefs discrimination/offence	1
Kevin McNally	Downtown Radio	03/06/2017	Commercial communications on radio	1
Kevin McNally	Downtown Radio	04/06/2017	Commercial communications on radio	1
Kevin McNally	Downtown Radio	10/06/2017	Commercial communications on radio	1
Kevin McNally	Downtown Radio	11/06/2017	Commercial communications on radio	1



Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Silent Witness	Drama	27/06/2017	Generally accepted standards	1
Keeping Up with the Kardashians	E!	30/06/2017	Promotion of products/services	1
50 Shades of Gay (trailer)	E4	30/06/2017	Nudity	1
Hollyoaks	E4	09/06/2017	Sexual orientation discrimination/offence	7
A Thousand Words	Film4	09/07/2017	Offensive language	1
Advertisements	Film4	19/07/2017	Advertising content	1
Advertisements	Film4	19/07/2017	Advertising placement	1
The Treatment	Film4	23/05/2017	Generally accepted standards	1
Advertisements	Food Network	13/07/2017	Advertising content	1
Advertisements	Fox	20/07/2017	Advertising content	1
Programming	Fox News	26/07/2017	Due accuracy	1
The Fox News Specialists	Fox News	12/07/2017	Due impartiality/bias	19
Advertisements	Gold	23/07/2017	Advertising content	1
James Stewart	Heart (Greater London)	08/07/2017	Commercial communications on radio	1
Benecol's sponsorship of Joanna Lumley's India	ITV	13/07/2017	Sponsorship credits	1
Confederations Cup Football Live	ITV	25/06/2017	Race discrimination/offence	1
Coronation Street	ITV	10/07/2017	Materially misleading	2
Coronation Street	ITV	17/07/2017	Generally accepted standards	1
Coronation Street	ITV	26/07/2017	Religious/Beliefs discrimination/offence	2
Coronation Street	ITV	Various	Generally accepted standards	2
Emmerdale	ITV	30/06/2017	Generally accepted standards	1
Emmerdale	ITV	04/07/2017	Generally accepted standards	10
Emmerdale	ITV	07/07/2017	Dangerous behaviour	1
Emmerdale	ITV	10/07/2017	Generally accepted standards	1
Emmerdale	ITV	11/07/2017	Suicide and self harm	1
Emmerdale	ITV	11/07/2017	Violence	2
Emmerdale	ITV	18/07/2017	Drugs, smoking, solvents or alcohol	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
Emmerdale	ITV	18/07/2017	Sexual material	7
Emmerdale	ITV	18/07/2017	Violence	1
Good Morning Britain	ITV	20/06/2017	Hatred and abuse	110
Good Morning Britain	ITV	10/07/2017	Generally accepted standards	1
Good Morning Britain	ITV	10/07/2017	Transgender discrimination/offence	2
Good Morning Britain	ITV	11/07/2017	Generally accepted standards	1
Good Morning Britain	ITV	11/07/2017	Sexual material	1
Good Morning Britain	ITV	12/07/2017	Disability discrimination/offence	1
Good Morning Britain	ITV	17/07/2017	Transgender discrimination/offence	2
Good Morning Britain	ITV	20/07/2017	Generally accepted standards	1
ITV News	ITV	19/06/2017	Due accuracy	7
ITV News	ITV	26/06/2017	Due accuracy	1
ITV News	ITV	27/06/2017	Violence	1
ITV News	ITV	13/07/2017	Due impartiality/bias	1
ITV News	ITV	18/07/2017	Gender discrimination/offence	1
ITV News	ITV	20/07/2017	Generally accepted standards	1
Jackpot 247	ITV	13/07/2017	Participation TV - Gambling	1
Judge Rinder	ITV	03/07/2017	Race discrimination/offence	1
Killer Women with Piers Morgan	ITV	13/07/2017	Gender discrimination/offence	1
Little Big Shots	ITV	15/07/2017	Animal welfare	3
Loose Women	ITV	12/06/2017	Generally accepted standards	1
Loose Women	ITV	29/06/2017	Sexual material	1
Loose Women	ITV	10/07/2017	Generally accepted standards	1
Loose Women	ITV	12/07/2017	Generally accepted standards	1
Loose Women	ITV	27/07/2017	Gender discrimination/offence	1
Lorraine	ITV	10/07/2017	Scheduling	1
Love Island	ITV	13/07/2017	Generally accepted standards	1
Love Island (trailer)	ITV	24/06/2017	Scheduling	1
Love Island (trailer)	ITV	09/07/2017	Sexual material	1

<b>Programme</b>	<b>Broadcaster</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
Tenable	ITV	25/07/2017	Materially misleading	1
The Jeremy Kyle Show	ITV	11/07/2016	Generally accepted standards	1
The Jeremy Kyle Show	ITV	23/06/2017	Generally accepted standards	2
The Jeremy Kyle Show	ITV	05/07/2017	Gender discrimination/offence	1
The Jeremy Kyle Show	ITV	11/07/2017	Generally accepted standards	1
The Loch	ITV	16/07/2017	Offensive language	1
The Voice Kids	ITV	15/07/2017	Generally accepted standards	1
This Morning	ITV	08/06/2017	Race discrimination/offence	1
This Morning	ITV	10/07/2017	Generally accepted standards	3
This Morning	ITV	11/07/2017	Generally accepted standards	1
This Morning	ITV	19/07/2017	Generally accepted standards	1
ITV News Central	ITV Central	03/07/2017	Generally accepted standards	19
Advertisements	ITV Encore	22/07/2017	Advertising content	1
ITV News Granada Reports	ITV Granada	13/07/2017	Outside of remit	1
ITV News Meridian	ITV Meridian	19/06/2017	Due impartiality/bias	1
ITV News West Country	ITV West Country	10/07/2017	Other	1
Coronation Street	ITV2	25/07/2017	Gender discrimination/offence	1
Love Island	ITV2	21/04/2017	Generally accepted standards	1
Love Island	ITV2	21/04/2017	Sexual material	1
Love Island	ITV2	05/06/2017	Generally accepted standards	1
Love Island	ITV2	26/06/2017	Generally accepted standards	1
Love Island	ITV2	29/06/2017	Generally accepted standards	1
Love Island	ITV2	30/06/2017	Generally accepted standards	1
Love Island	ITV2	04/07/2017	Sexual material	1
Love Island	ITV2	05/07/2017	Generally accepted standards	3
Love Island	ITV2	05/07/2017	Sexual orientation discrimination/offence	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Love Island	ITV2	08/07/2017	Generally accepted standards	1
Love Island	ITV2	08/07/2017	Sexual material	1
Love Island	ITV2	12/07/2017	Generally accepted standards	3
Love Island	ITV2	13/07/2017	Offensive language	1
Love Island	ITV2	15/07/2017	Generally accepted standards	2
Love Island	ITV2	15/07/2017	Sexual material	1
Love Island	ITV2	16/07/2017	Generally accepted standards	2
Love Island	ITV2	17/07/2017	Generally accepted standards	3
Love Island	ITV2	17/07/2017	Sexual material	1
Love Island	ITV2	18/07/2017	Generally accepted standards	3
Love Island	ITV2	20/07/2017	Sexual material	1
Love Island	ITV2	21/07/2017	Disability discrimination/offence	1
Love Island: Aftersun	ITV2	23/07/2017	Generally accepted standards	7
Totally Bonkers Guinness World Records	ITV2	16/06/2017	Generally accepted standards	1
Vanderpump Rules	ITV2	19/07/2017	Offensive language	1
Kate: The Making of a Modern Queen	ITV3	22/08/2017	Due impartiality/bias	1
Killer Women with Piers Morgan (trailer)	ITV3	27/06/2017	Generally accepted standards	1
Law and Order UK	ITV3	12/07/2017	Race discrimination/offence	1
Specsavers audiologists' sponsorship of ITV3 Mornings	ITV3	03/07/2017	Sponsorship credits	1
Specsavers audiologists' sponsorship of ITV3 Mornings	ITV3	Various	Sponsorship credits	1
Trustatrader.com's sponsorship of afternoons on ITV3	ITV3	05/07/2017	Sponsorship credits	1
Tour de France	ITV4	05/07/2017	Advertising minutage	1
Tour De France Highlights	ITV4	06/07/2017	Advertising placement	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Tour De France Highlights	ITV4	09/07/2017	Generally accepted standards	1
Tour de France Highlights	ITV4	21/07/2017	Materially misleading	1
Dinner Date	ITVBe	11/07/2017	Animal welfare	1
Botched	Kanal 11 (Sweden)	20/06/2017	Gender discrimination/offence	1
Botched	Kanal 11 (Sweden)	21/06/2017	Gender discrimination/offence	1
Botched	Kanal 11 (Sweden)	03/07/2017	Gender discrimination/offence	1
Botched	Kanal 11 (Sweden)	10/07/2017	Gender discrimination/offence	1
The Frozen Ground	Kanal 9 (Sweden)	07/07/2017	Gender discrimination/offence	1
Tom i Bollen (Caddyshack)	Kanal 9 (Sweden)	19/07/2017	Gender discrimination/offence	1
Steve Allen	LBC 97.3	20/07/2017	Sexual orientation discrimination/offence	3
James O'Brien	LBC 97.3 FM	28/06/2017	Generally accepted standards	1
James O'Brien	LBC 97.3 FM	06/07/2017	Due impartiality/bias	1
Maajid Nawaz	LBC 97.3 FM	18/06/2017	Hatred and abuse	1
Nick Ferrari	LBC 97.3 FM	30/06/2017	Generally accepted standards	1
Drag Queens of London	London Live	08/07/2017	Sexual material	1
News	Made in North Wales	09/06/2017	Promotion of products/services	1
Women's Euro 2017	More4	23/07/2017	Race discrimination/offence	1
The Random Radio Show	Peterborough Community Radio	25/07/2017	Offensive language	1
Programming	Pick	10/07/2017	Other	1
Request Show	Polish Radio London (PRL)	30/05/2017	Offensive language	1
Johnny Vaughan	Radio X	12/07/2017	Generally accepted standards	1
Russell Brand	Radio X	09/07/2017	Religious/Beliefs discrimination/offence	1
The Force: Essex	Real Lives	11/07/2017	Animal welfare	2
RT Today	RT	14/07/2017	Due impartiality/bias	1
Mum's Life	Secklow Sounds 105.5	08/06/2017	Generally accepted standards	1
Programming	Sheppey FM 92.2	05/04/2017	Offensive language	1
Fish Town	Sky Atlantic	14/07/2017	Offensive language	1

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
Game of Thrones	Sky Atlantic	24/07/2017	Nudity	1
Riviera	Sky Atlantic	13/07/2017	Offensive language	1
Press Review	Sky News	12/07/2017	Due impartiality/bias	1
Sky News	Sky News	11/07/2017	Generally accepted standards	1
Sky News	Sky News	13/07/2017	Due impartiality/bias	1
Sunrise	Sky News	21/07/2017	Under 18s in programmes	1
The Pledge	Sky News	06/07/2017	Due impartiality/bias	1
The Pledge	Sky News	20/07/2017	Generally accepted standards	1
Live T20 Blast	Sky Sports 2	08/07/2017	Generally accepted standards	1
Ross Kemp: Extreme World (trailer)	Sky Sports 2	09/07/2017	Other	1
20/20 Notts vs Northants	Sky Sports Cricket	22/07/2017	Generally accepted standards	1
A League of Their Own	Sky1	17/07/2017	Dangerous behaviour	1
Jamestown	Sky1	16/06/2017	Generally accepted standards	3
Supergirl	Sky2	Various	Other	1
Meet Joe Black	Sony Movie Mix	29/05/2017	Scheduling	1
Irish Spectrum	Spectrum Radio	17/07/2017	Generally accepted standards	1
Studio 66 Days	Studio 66 TV	24/06/2017	Participation TV - Offence	1
Swindon Breakfast	Swindon 105.5	18/07/2017	Sexual material	1
iNews	Takbeer TV	18/06/2017	Advertising minutage	1
Drive	Talksport	12/07/2017	Race discrimination/offence	1
Sports Bar	Talksport	15/06/2017	Generally accepted standards	1
Weightwatcher's sponsorship of Say Yes to the Dress: The Big Day	TLC	20/07/2017	Sponsorship credits	1
The Mechanic	TV6 Sweden	16/06/2017	Gender discrimination/offence	1
Chemsex	Viceland	07/07/2017	Generally accepted standards	1
Mark Collins at Breakfast	Wave 105	06/07/2017	Sexual orientation discrimination/offence	1
Friday Night Zest	Zest Liverpool	07/07/2017	Offensive language	2

For more information about how Ofcom assesses complaints about content standards on television and radio programmes, go to:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0020/55109/breaches-content-standards.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf)

### Complaints assessed under the Procedures for investigating breaches of content standards on BBC broadcasting services and BBC ODPS.

Programme	Broadcaster	Transmission Date	Categories	Number of complaints
BBC Election Debate 2017	BBC 1	31/05/2017	Elections/Referendums	1
BBC News	BBC 1	29/01/2017	Due accuracy	1
General Election 2017	BBC 1	08/06/2017	Due impartiality/bias	1
The Witness for the Prosecution	BBC 1	26/12/2016	Offensive language	1
Reporting Scotland	BBC 1 Scotland	04/04/2017	Due impartiality/bias	1
Scottish Leaders' Debate	BBC 1 Scotland	21/05/2017	Due impartiality/bias	1
Clean Eating: The Dirty Truth	BBC 2	19/01/2017	Materially misleading	1
Daily Politics	BBC 2	05/06/2017	Due impartiality/bias	1
Victoria Derbyshire	BBC News Channel	10/04/2017	Due impartiality/bias	1
Jeremy Vine	BBC Radio 2	Various	Elections/Referendums	1
Today	BBC Radio 4	27/04/2017	Due impartiality/bias	1
The Playlist	CBBC	08/07/2017	Offensive language	1
BBC News	Various	22/03/2017	Due impartiality/bias	1

For more information about how Ofcom assesses complaints about content standards on BBC broadcasting services and BBC ODPS, go to:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0002/100100/Procedures-for-investigating-breaches-of-content-standards-on-BBC-broadcasting-services-and-BBC-on-demand-programme-services.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0002/100100/Procedures-for-investigating-breaches-of-content-standards-on-BBC-broadcasting-services-and-BBC-on-demand-programme-services.pdf)

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

Licensee	Licensed service	Categories
Galaxy Radio Manchester Limited	Capital 102 Manchester	Format
Northern Group Media Limited	Various	Format

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

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0019/31942/general-procedures.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0019/31942/general-procedures.pdf)

## Complaints outside of remit

Here are alphabetical lists of complaints received by Ofcom that fell outside of our remit. This is because Ofcom is not responsible for regulating the issue complained about. For example, the complaints were about the content of television, radio or on demand adverts or an on demand service does not fall within the scope of regulation.

For more information about what Ofcom's rules cover, go to: <https://www.ofcom.org.uk/tv-radio-and-on-demand/how-to-report-a-complaint/what-does-ofcom-cover>

## Complaints about television or radio programmes

For more information about how Ofcom assesses complaints about television and radio programmes, go to:

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0020/55109/breaches-content-standards.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf)

Programme	Service	Transmission Date	Categories	Number of complaints
Advertisements	Channel 4	16/07/2017	Advertising content	1
Advertisements	Channel 4	19/07/2017	Advertising content	1
Advertisements	Channel 4	20/07/2017	Advertising content	1
Advertisements	Channel 4	21/07/2017	Advertising content	2
Advertisements	Channel 4	27/07/2017	Advertising content	1
Advertisements	Channel 5	15/07/2017	Advertising content	1
Advertisements	Channel 5	19/07/2017	Advertising content	2
Advertisements	Channel 5	20/07/2017	Advertising content	53
Advertisements	Channel 5	21/07/2017	Advertising content	1
Advertisements	Channel 5	22/07/2017	Advertising content	1
Advertisements	Channel 5	26/07/2017	Advertising content	1
Advertisements	Film4	19/07/2017	Advertising content	1
Advertisements	Food Network	13/07/2017	Advertising content	1
Advertisements	Fox	20/07/2017	Advertising content	1
Advertisements	Gold	23/07/2017	Advertising content	1
Advertisements	ITV	19/07/2017	Advertising content	1
Advertisements	ITV	11/07/2017	Advertising content	1
Advertisements	ITV	17/07/2017	Advertising content	1
Advertisements	ITV	18/07/2017	Advertising content	1
Advertisements	ITV	19/07/2017	Advertising content	5
Advertisements	ITV	20/07/2017	Advertising content	3
Advertisements	ITV	21/07/2017	Advertising content	1
Advertisements	ITV	22/07/2017	Advertising content	1
Advertisements	ITV	23/07/2017	Advertising content	1
Advertisements	ITV Encore	22/07/2017	Advertising content	1
Advertisements	ITV2	09/07/2017	Advertising content	1
Advertisements	ITV2	18/07/2017	Advertising content	1
Advertisements	ITV2	19/07/2017	Advertising content	1
Advertisements	ITV2	20/07/2017	Advertising content	1



<b>Programme</b>	<b>Service</b>	<b>Transmission Date</b>	<b>Categories</b>	<b>Number of complaints</b>
Advertisements	ITV2	24/07/2017	Advertising content	1
Advertisements	ITV3	18/07/2017	Advertising content	1
Advertisements	LBC 97.3 FM	28/06/2017	Advertising content	1
Advertisements	Lifetime	20/07/2017	Advertising content	1
Advertisements	Magic Chilled	25/07/2017	Advertising content	1
Advertisements	More4	26/07/2017	Advertising content	1
Advertisements	Planet Rock	28/07/2017	Advertising content	1
Advertisements	Really	19/07/2017	Advertising content	2
Advertisements	Sky Sports News	13/07/2017	Advertising content	1
Advertisements	Various	11/07/2017	Advertising content	1
Advertisements	Various	15/07/2017	Advertising content	1
Advertisements	Various	17/07/2017	Advertising content	1
Advertisements	Various	22/07/2017	Advertising content	1
Advertisements	Various	24/07/2017	Advertising content	1
Advertisements	W	19/07/2017	Advertising content	1
Programming	Channel 4	12/07/2017	Outside of remit	1
ITV News Granada Reports	ITV Granada	13/07/2017	Outside of remit	1

## BBC First

A new BBC Royal Charter and Agreement was published in December 2016, which made Ofcom the new independent regulator of the BBC.

Under the BBC Agreement, Ofcom can normally only consider complaints about BBC programmes where the complainant has already complained to the BBC and the BBC has reached its final decision (the 'BBC First' approach).

The complaints in this table had been made to Ofcom before completing the BBC's complaints process.

### Complaints about BBC television, radio or on demand programmes

Programme	Service	Transmission or Accessed Date	Categories	Number of Complaints
BBC News	BBC	10/07/2017	Due impartiality/bias	1
BBC News	BBC	Various	Due impartiality/bias	1
BBC News	BBC	Various	Other	1
News	BBC	23/07/2017	Due accuracy	1
Programming	BBC	Various	Due impartiality/bias	2
Various	BBC	Various	Due impartiality/bias	1
BBC Election Debate 2017	BBC 1	31/05/2017	Elections/Referendums	1
BBC News	BBC 1	15/02/2017	Due accuracy	1
BBC News	BBC 1	13/03/2017	Due impartiality/bias	1
BBC News	BBC 1	09/06/2017	Due impartiality/bias	1
BBC News	BBC 1	24/06/2017	Due impartiality/bias	1
BBC News	BBC 1	26/06/2017	Due impartiality/bias	2
BBC News	BBC 1	01/07/2017	Race discrimination/offence	1
BBC News	BBC 1	12/07/2017	Generally accepted standards	1
BBC News	BBC 1	19/07/2017	Harm	1
BBC News	BBC 1	Various	Due impartiality/bias	1
BBC News at Ten	BBC 1	23/07/2017	Due impartiality/bias	1
BBC Spotlight	BBC 1	15/07/2017	Due impartiality/bias	1
Britain's Food and Farming: the Brexit Effect – Panorama	BBC 1	10/07/2017	Due accuracy	1
EastEnders	BBC 1	03/06/2017	Generally accepted standards	1
EastEnders	BBC 1	14/07/2017	Generally accepted standards	4
EastEnders	BBC 1	17/07/2017	Generally accepted standards	7
EastEnders	BBC 1	18/07/2017	Generally accepted standards	1

Programme	Service	Transmission or Accessed Date	Categories	Number of Complaints
EastEnders	BBC 1	19/07/2017	Generally accepted standards	1
Newsnight	BBC 1	23/06/2017	Due impartiality/bias	1
Panorama / Watchdog	BBC 1	Various	Other	1
Question Time	BBC 1	06/07/2017	Materially misleading	1
The Betrayed Girls	BBC 1	03/07/2017	Race discrimination/offence	1
Tracey Breaks the News	BBC 1	23/06/2017	Race discrimination/offence	2
Various	BBC 1	Various	Due impartiality/bias	1
BBC Midlands Today	BBC 1 (Midlands)	26/07/2017	Nudity	1
Reporting Scotland	BBC 1 Scotland	31/05/2017	Other	1
South East Today	BBC 1 South East	20/06/2017	Due impartiality/bias	1
Wimbledon 2017	BBC 1/2	03/07/2017	Other	1
Daily Politics	BBC 2	20/07/2017	Generally accepted standards	1
Frankie Boyle's New World Order	BBC 2	30/06/2017	Due impartiality/bias	2
Victoria Derbyshire	BBC 2	28/06/2017	Gender discrimination/offence	1
Department Q: A Conspiracy of Faith	BBC 4	22/04/2017	Violence	1
BBC News	BBC Channels	Various	Due impartiality/bias	2
Wimbledon 2017	BBC Channels	14/07/2017	Materially misleading	1
The Andrew Neil Interviews	BBC iPlayer	01/06/2017	Due impartiality/bias	1
BBC News	BBC News Channel	05/06/2017	Due impartiality/bias	1
BBC News	BBC News Channel	11/07/2017	Due impartiality/bias	1
The Radio 1 Breakfast Show	BBC Radio 1	28/06/2017	Scheduling	1
Ed Miliband	BBC Radio 2	22/06/2017	Offensive language	1
BBC News	BBC Radio 4 and BBC TV	Various	Due impartiality/bias	1
5 Live Breakfast	BBC Radio 5 Live	01/05/2017	Race discrimination/offence	1
Talkback	BBC Radio Ulster	09/03/2017	Due impartiality/bias	1
BBC News	Various	15/06/2017	Due impartiality/bias	1
BBC News	Various	28/06/2017	Due impartiality/bias	1
BBC News	Various	Various	Due impartiality/bias	1
Wimbledon 2017	Various	10/07/2017	Other	2

## Investigations List

If Ofcom considers that a broadcaster or service provider may have breached its codes, rules, licence condition 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 or service provider has done anything wrong. Not all investigations result in breaches of the codes, rules, licence conditions or other regulatory requirements being recorded.**

Here are alphabetical lists of new investigations launched between 10 and 31 July 2017.

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

Programme	Service	Transmission date
CSI: NY	5USA	18/06/2017
Programming	BT Sport 2	25/06/2017
OMG: Painted, Pierced & Proud	Channel 5	02/07/2017
News	Cool FM/Downtown Radio	18/06/2017
Kevin McNally	Downtown Radio	Various
James O'Brien	LBC 97.3 FM	28/06/2017
DW News	My Channel	08/06/2017
Programming	New Style Radio 98.7 FM	29/06/2017
The Spoken Word	Notts TV	13/06/2017
Aaron Outram's Morning Show	RedRoad FM	06/07/2017
Programming	TGRT EU	20/02/2017

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

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0020/55109/breaches-content-standards.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0020/55109/breaches-content-standards.pdf)

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

<b>Programme</b>	<b>Service</b>	<b>Transmission date</b>
Inside the Gang: Young Blood	Channel 5	8 May 2017

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

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0031/57388/fairness-privacy-complaints.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0031/57388/fairness-privacy-complaints.pdf)

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

<b>Licensee</b>	<b>Licensed Service</b>
Radio Elwy Point FM Ltd	Point FM

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

[https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0019/31942/general-procedures.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0019/31942/general-procedures.pdf)