

Ofcom Broadcast and On Demand Bulletin

Issue 420
8 February 2021

Capital Xtra Reloaded

Type of case	Broadcast Standards
Outcome	In Breach
Service	Capital Xtra Reloaded
Date & time	07 September 2020, 10:06
Category	Generally accepted standards
Summary	A song containing one instance of the most offensive language was broadcast. In breach of Rule 2.3 of the Broadcasting Code.

Introduction

Capital Xtra Reloaded is a radio station which predominantly broadcasts dance, hip hop and RnB music. The licence for Capital Xtra Reloaded is held by Global Radio Limited (“Global” or “the Licensee”).

Ofcom received a complaint about racially offensive language in the music track *I Got 5 On It* by Luniz. The track included the following lyrics: “*Bomb will make a niggy go delirious, like Eddie Murphy*”.

We considered the broadcast of the word “*niggy*” raised potential issues under the following rule of the Code¹:

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...Appropriate information should also be broadcast where it would assist in avoiding or minimising offence”.

¹ We did not consider this material raised issues under Rule 1.16 (“Offensive language must not be broadcast...when children are particularly likely to be listening (in the case of radio)...unless it is justified by the context. In any event, frequent use of such language must be avoided before the watershed”) because this broadcast, at approximately 10:06 on a weekday during term time, fell outside the times indicated in [Ofcom’s guidance](#) as being when children are particularly likely to be listening to radio programming.

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

Response

Global said that, as a result of human error, the word had not been identified during the screening process when the track was uploaded to its system. The Licensee said that the word was “not easily identifiable when listening to the song” and that, given that it was “a derivation of the full ‘n’ word, not the word itself”, it had not been noted and removed from the song. Global said that it did not appear that the word had been intended as a derogatory racial slur “as the songwriters and artists are predominantly African American”, but apologised for any offence that the word may have caused.

The Licensee said that RAJAR figures from Q2 2020 indicated that the average age of listeners to the *Capital Xtra Reloaded* show broadcast on Mondays between 08:00 – 12:00 was 35, which it said demonstrated that there was “only likely to be a small number of children listening” at the time of broadcast.

Global confirmed that the song had been removed from its database following the incident and that it had taken steps to prevent recurrence, including reiterating to its music programming staff “the importance of mandatory language checks” when adding songs to its database. The Licensee also said that it would conduct a full database check and remove any songs which do not adhere to its “strict standards on language and decency”.

Decision

Reflecting our duties under the Communications Act 2003, Section Two of the Code requires that generally accepted standards are applied so as to provide adequate protection for members of the public from the inclusion of harmful or offensive material in programmes.

Ofcom takes account of the audience’s and the broadcaster’s right to freedom of expression set out in Article 10 of the European Convention on Human Rights when considering a broadcaster’s compliance with the Code.

Rule 2.3 requires broadcasters to ensure that the broadcast of potentially offensive material is justified by the context. Context includes, for example, the nature of the content, the service in which the programme is broadcast, its editorial content and the likely expectation of the audience.

We first considered whether the broadcast of the word “niggy” in the track had the potential to cause offence.

While Ofcom’s 2016 [research on offensive language](#) does not include this word, Ofcom considered it is generally recognised as a derivation of the highly offensive word “nigger”. Our research clearly indicates that racist language such as this full term is considered by audiences to be among the most unacceptable words and that it cannot be broadcast without strong contextual justification.

Ofcom therefore considered that the use of this word in this case clearly had the potential to cause offence to listeners. Ofcom therefore went on to consider whether this material was justified by the context.

[Ofcom’s guidance on offensive language on radio](#) states: “In reaching any decision about compliance with the Code, Ofcom will take into account the likely audience expectations of a particular radio

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station at the time of broadcast”. Ofcom’s research on offensive language also states that words considered offensive on the grounds of race and ethnicity should “normally be broadcast only in limited circumstances and in context, for example in news, drama, or documentary programmes to explore or expose prejudice”.

Capital Xtra Reloaded is a music-led radio station which predominantly plays music from dance, hip hop and RnB genres. In this case, this word was broadcast at approximately 10:06 during a track on a Monday morning. We took into account the Licensee’s representations that there would likely be only a small number of children listening at the time of broadcast. However, we considered it unlikely that the majority of adult listeners to Capital Xtra Reloaded would have expected to hear a derivative form of a highly offensive racial term during a music track on a morning programme.

Ofcom’s [research on audience expectations in a digital world published in 2020](#) indicates that audiences have a particular concern about content which is discriminatory towards specific groups, such as on the basis of race. Our 2016 research on offensive language shows that the use of derogatory language to describe ethnic groups carries a widespread potential for offence and that this word, as a derivation of one of the most unacceptable words, requires strong contextualisation.

Ofcom took into account the Licensee’s argument that “it would appear that the word was not intended to be used as a derogatory racial slur” given that “the songwriters and artists are predominantly African American”. However, regardless of intent, in Ofcom’s view this word had the potential to be highly offensive to listeners. Ofcom is clear that it may be legitimate to use racially offensive words in programmes in certain contexts, for example, as part of a discussion about racism and the use of racially charged language. However, in this case we considered the word had been broadcast without warning or any other context and therefore sufficient contextual justification was not provided to listeners for the broadcast of this offensive language.

Ofcom welcomed the Licensee’s apology and the steps it has taken to prevent a recurrence. However, for the reasons given above, Ofcom’s Decision is that the broadcast of offensive language in this programme was in breach of Rule 2.3.

Breach of Rule 2.3