

Ofcom Broadcast and On Demand Bulletin

Issue 470
20 March 2023

The Real Country Music Show

Type of case	Broadcast Standards
Outcome	In Breach
Service	Abbey 104
Date & time	8 November 2022, 19:00; 22 November 2022, 19:00; and 29 November 2022, 19:00
Category	Elections and Referendums
Summary	A community radio station broadcast multiple programmes presented by a candidate during the election period in a local authority by-election. In breach of Rule 6.6 of the Broadcasting Code.

Introduction

Abbey 104 is a community radio station broadcasting in the Sherborne area. The licence for Abbey 104 is held by Radio Sherborne Community Interest Company (“Radio Sherborne” or “the Licensee”). The two-hour *Real Country Music Show* broadcasts every Tuesday at 7pm.

Ofcom received two complaints from listeners who raised concerns that this radio station broadcast multiple programmes presented by a candidate standing in local authority by-election for Sherborne Town Council in Dorset, during the election period for that by-election.

Ofcom considered that the election period for the Sherborne Town Council local elections on 1 December 2022 started when the Notice of Election was published on 27 October 2022. The Licensee confirmed to us that the presenter in question presented editions of *The Real Country Music Show* on 1, 8, 22 and 29 November 2022, all of which fell within the election period. The latter three programmes were broadcast after the closing date for nominations on 4 November 2022, and, as we explain in our Decision below, the presenter was therefore standing nominated as a candidate for the 1 December 2022 by-election.

We considered the programmes broadcast on 8, 22 and 29 November 2022 raised potential issues under the following rule of the Code:

Rule 6.6: “Candidates in UK elections, and representatives of permitted participants in UK referendums, must not act as news presenters, interviewers or presenters of any type of programme during this election period”.

Response

Ofcom did not consider it necessary to request comments from the Licensee before reaching its Preliminary View. However, when providing Ofcom with background information about the programme, Radio Sherborne confirmed that the Notice of Election was published on 27 October 2022, the closing date for nominations was 4 November 2022 and a list of candidates was published on 7 November 2022.

The Licensee said that the presenter did not recall the exact date on which they submitted nomination papers but understood that it was likely to have been between 27 October 2022 and 4 November 2022.

Radio Sherborne confirmed that the presenter appeared in shows broadcast on 1, 8, 22 and 29 November 2022.

Ofcom prepared a Preliminary View that the programmes were in breach of Rule 6.6 and provided it to Radio Sherborne for its comments. In response, the Licensee said that it is “primarily a community-based music radio station”, is “not political in any way” and does not have “any news-based shows”. However, Radio Sherborne accepted that it “unknowingly” breached Rule 6.6 given that the presenter involved submitted his nomination to stand for election between 27 October 2022 and 4 November 2022 and then presented shows broadcast on 8, 22 and 29 November. The Licensee apologised for the “oversight” as well as for the “brief reference” to the election in the show on 29 November.

Radio Sherborne also outlined several steps it has taken to ensure the station is compliant with the Ofcom Broadcasting Code in the future, including improved information for its staff.

Decision

Reflecting our duties under the Communications Act 2003, [Section Six of the Code](#) requires that special impartiality requirements and other legislation must be applied at the time of elections and referendums.

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 6.6

This Rule prohibits candidates in UK elections from presenting any type of programme during an election period.

Section Six of the Code defines a “candidate” as follows:

“Candidates has the meaning given to it in section 93 of the Representation of the People Act 1983¹ (as amended) and means a candidate standing nominated at the election or included in a list of candidates submitted in connection with it”.

Ofcom therefore considers a “candidate standing nominated at the election” refers to someone who has made an administrative commitment to becoming a candidate. This involves submitting to the relevant returning officer, within the period for delivery of the nominations, the formal nomination paperwork (demonstrating that person’s eligibility and consent to be nominated); and paying the necessary fee²).

We took into account that the Licensee broadcast four editions of *The Real Country Music Show* during the election period for the by-election taking place on 1 December 2022 in Sherborne, on 1, 8, 22 and 29 November 2022. Based on the information provided by Radio Sherborne, it was unclear whether the presenter was a nominated candidate when they presented the programme broadcast on 1 November 2022. However, we considered that the presenter was clearly a nominated candidate when they presented the three editions of the *Real Country Music Show* (on 8, 22 and 29 November 2022) after the closing date for nominations on 4 November 2022: This is because these three programmes were broadcast after the presenter had made an administrative commitment to becoming a candidate by submitting their nomination papers before 4 November 2022 and after the list of candidates was published on 7 November 2022. We therefore considered the presenter met the criteria for being a candidate “standing nominated” in the forthcoming local authority by-election that subsequently took place on 1 December 2022 before acting as a programme presenter.

We noted that Abbey 104 is “not political in any way”, that *The Real Country Music Radio Show* is not a political programme and that the presenter’s candidacy was not mentioned in the programme on 22 November 2022. However, the programme on 29 November 2022 did contain references to the local election. Ofcom’s [Guidance to Section Six](#)³ makes it clear that Rule 6.6 is concerned not just with preventing electoral issues from being reported in a partial manner. The rule is designed to help secure the integrity of the democratic process, and the public’s trust in that integrity, by preventing any unfair electoral advantage being afforded to a particular candidate through their appearance as a news presenter, interviewer or presenter on a licensed service. Rule 6.6 therefore applies to all genres of programme and the fact that these programmes were not political programmes was not material in this case.

Ofcom took into account that the Licensee said the presenter had appeared while a candidate in an election due to an “oversight”, and that it had taken steps to prevent a recurrence in the future. However, Ofcom’s Decision is that the content was in breach of Rule 6.6.

¹ See section 93 of the [Representation of the People Act 1983](#).

² On 11 January 2021, Ofcom published a [Note to Broadcasters](#) providing, among other things, information on how a candidate is defined under the Code: ([Note to broadcasters - Election programming May 2021 elections \(ofcom.org.uk\)](#))

³ See Paragraph 1.32.

Breach of Rule 6.6