

Ofcom Broadcast and On Demand Bulletin

Issue 470
20 March 2023

AM2PM

Type of case	Broadcast Standards
Outcome	In Breach
Service	Waves Radio
Date & time	25 October 2022, 11:06 and 13:55
Category	Offensive language
Summary	The most offensive language was broadcast at a time when children were likely to be listening. In breach of Rules 1.14 and 2.3 of the Broadcasting Code.

Introduction

Waves Radio is an independent local radio station based in Peterhead, Aberdeenshire which plays a variety of music interspersed with local news, weather and travel updates. The licence is held by Waves Radio Limited (“Waves Radio” or “the Licensee”).

The programme *AM2PM* is broadcast between 10:00 and 14:00 every weekday. Ofcom received a complaint about the use of offensive language in the song “I’m Good (Blue)” by David Guetta and Bebe Rexha. During the edition of *AM2PM* broadcast on 25 October 2022, the song was first broadcast at 11:06 and featured four uses of the word “*fucking*”. At 13:55, it was repeated and featured two uses of the word “*fucking*” before a Waves Radio jingle was mixed in and another song commenced.

We considered this raised potential issues under the following rules of the Ofcom Broadcasting Code (“the Code”):

- Rule 1.14: “The most offensive language must not be broadcast...when children are particularly likely to be listening (in the case of radio)...”.
- 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”.

Response

Ofcom did not consider it necessary to request comments from the Licensee before reaching its Preliminary View. However, when providing background information to assist with Ofcom's assessment of the complaint, Waves Radio acknowledged that it was "a very unfortunate error" and that it "fully understand[s] the seriousness of this incident", adding that the radio station did not receive any complaints directly about the incident.

The Licensee said that the track had been loaded in to the playout system earlier on 25 October 2022, the day of the broadcast in question, and had been supplied to the station by a "usually reliable music source" who would "normally flag (in the filename of the track) whether a song is 'explicit' or 'clean'". Waves Radio added that, on this occasion, there was no label and it was only supplied with the title and artist of the song. It further added that "[a]ll tracks are usually listened to ahead of being added to our playout system" but that, on this occasion, this procedure was not followed and the song was "taken at 'face value' and presumed to be clean" which was an "unfortunate human error".

The Licensee said that the presenter was "relatively new to broadcasting and the station" and played the song "in good faith", failing to notice the offensive language while the song in question was broadcast the first time during this programme at 11:06, as he was "busy lining up the next track and focusing on the content of his next 'link'". Waves Radio said that the presenter was unaware of the offensive language until the second time the song was broadcast at 13:55, and that "[a]s soon as it was heard this time it was taken off air immediately".

The Licensee said that, in a later meeting, the presenter explained his "regret at the situation". It also argued that, due to the time of broadcast, there would have been "a minimal chance of exposure to anyone of school age".

Waves Radio said that, in light of this incident:

- it had reiterated to the Head of Music that each track should be listened to before it is loaded into the playout system and that "this process must ALWAYS be followed without exception" (emphasis added by Licensee);
- the presenter had attended a private meeting at which he said that he understood that it is "unacceptable to play tracks with explicit lyrics"; and
- it had undertaken a "thorough audit" of the current playout system to ensure that only clean edits of any songs are available in the database.

Representations from the Licensee on Ofcom's Preliminary View

Ofcom prepared a Preliminary View finding the programme in breach of Rules 1.14 and 2.3 and provided it to Waves Radio for its comments. In response, the Licensee apologised again to Ofcom, adding that "all the team were completely disappointed that we let this happen" and had "worked hard to ensure this does not happen again".

Representations from the presenter on Ofcom's Preliminary View

Ofcom recognises that there may be persons/bodies who may be directly affected by the outcome of Ofcom's investigation and determination of a complaint. Our procedures encourage broadcasters to

seek to take account of and include such representations. In this case, Ofcom considered it was appropriate to ask the Licensee to invite the presenter to make representations on the Preliminary View if he wished to.

The presenter provided his representations via the Licensee and added his “sincere apologies” for the incident. The presenter explained that he “didn’t immediately pick up on the lyrics”, and particularly the “offensiveness” of the lyrics, during the broadcast of the song as he was “busy lining up the next song and focussed on what I was going to say next”. The presenter said that, because it was a newly released song, he decided to play it again towards the end of the show, and upon hearing the lyric the presenter said he “immediately took the decision to fade it and move on to something else”. The presenter confirmed that he had since undergone training “to ensure it doesn’t happen again”.

Decision

Reflecting our duties under the Communications Act 2003, Section One of the Code requires that people under eighteen are protected from unsuitable material in programmes. Section Two of the Code requires that generally accepted standards are applied to content 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 as set out in Article 10 of the European Convention on Human Rights when considering a broadcaster’s compliance with the Code.

Rule 1.14

Rule 1.14 requires that the most offensive language must not be broadcast on radio when children are particularly likely to be listening.

When considering this case, Ofcom took into account our research into [Public attitudes towards offensive language on TV and radio](#), which was published in September 2021. This research found that the word “*fuck*” was considered by audiences to be among the most offensive language and required clear and strong contextual justification. It also found that audiences consider that, in order to protect children, this word should not be aired on radio at times when children are particularly likely to be listening.

According to [Ofcom’s Guidance on offensive language on radio](#), radio broadcasters should have particular regard to broadcasting content at the following times: between 06:00 and 09:00 and 15:00 and 19:00 Monday to Friday during term time; and between 06:00 and 19:00 at weekends all year round, and in addition, during the same times from Monday to Fridays during school holidays. We considered the Licensee’s argument that the programme was broadcast at a time of day when there was “a minimal chance of exposure to anyone of school age”. However, Ofcom took into account that this broadcast took place during half term and therefore the likelihood of children being exposed to this language was significantly increased.

In this case, the multiple broadcasts of the word “*fucking*” at 11:06 and again at 13:55 on a Tuesday during school holidays were clear examples of the most offensive language being broadcast at a time when children were particularly likely to be listening.

We acknowledged the Licensee's representations that the song was played in error and the steps it said it was taking as a result of the broadcast to improve its compliance. Nevertheless, Ofcom's Decision is that the broadcast was in breach of Rule 1.14.

Rule 2.3

Rule 2.3 requires that broadcasters must ensure that the broadcast of potentially offensive content is justified by the context. Context includes, for example: the nature of the content; the service on which it is broadcast; the time of broadcast; and the likely expectation of the audience.

In Ofcom's view, the repeated broadcast of the most offensive language during the day was clearly capable of causing offence to listeners. Ofcom then considered whether the broadcast of this offensive language was justified by the context.

We took into account that Waves Radio is a local music radio station aimed at a wide audience and that the offensive language was included in a song which the Licensee had the opportunity to check prior to broadcast. Further, we considered that the song was broadcast in the middle of the day during the school holidays, which would have increased the likelihood of children being in the audience. Taking these factors into account, we considered that the majority of listeners to this station, and in particular parents and carers, would not have expected to hear the broadcast of a song containing highly offensive language at this time of day. We also took account of the fact that the song was repeated and, although the track was taken off air when the offensive language was noticed by the presenter, no apology was broadcast, or other remedial steps taken, to mitigate the potential offence.

Ofcom acknowledged that Waves Radio said it had broadcast this song in error and has taken a number of steps to avoid a recurrence of this issue. However, Ofcom's Decision is that the broadcast of the most offensive language in the programme was not justified by the context and, therefore, the programme was also in breach of Rule 2.3 of the Code.

Breaches of Rules 1.14 and 2.3