



Nicky Horne

Type of case	Broadcast Standards
Outcome	In Breach
Service	Boom Radio
Date & time	28 February 2024, 16:15
Category	Offensive language
Summary	The most offensive language was broadcast at a time when children were particularly likely to be listening. In breach of Rule 1.14 of the Broadcasting Code.

Introduction

Boom Radio is an independent radio station which predominantly broadcasts music targeted towards the “baby boomer” generation. The licence for Boom Radio is held by Boom Radio Limited (“Boom Radio” or “the Licensee”).

Ofcom received two complaints about the broadcast of offensive language during the music track *You Oughta Know* by Alanis Morissette at approximately 16:15. The track contained one use of the word “*fuck*”. One of the complainants objected to this content being broadcast at this time because it was “on the school run”.

We considered this raised potential issues under the following rule 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)...”.

Ofcom requested comments from the Licensee on how the programme complied with this rule.

Response

Boom Radio said that it had not intended for the song to be broadcast “in the form it was”. It said it was “aware there were alternate versions” and that it had “downloaded the one which was marked appropriately, but it had been incorrectly labelled”. The Licensee said, “in that respect, we agree with the complainants in that we would not have chosen to air the version we did”.

In relation to Rule 1.14 specifically, the Licensee stated that it does “not feel that children are likely to be listening to Boom Radio” as it “proudly target[s] those aged 60-74, and 94% of Boom listening is from those aged 55+”. It added that its “under 18 audience registers at zero” and that its “music and chat is highly unlikely to be of any appeal to children”. Boom Radio said that it does “not feel, therefore, that it can be said that children are particularly likely to be listening to Boom Radio at this - or any other time”.

Boom Radio added that “whilst some listeners may have been surprised to hear the word and we would have chosen not to air the version we did, we are not of the view that the broadcast is likely to have caused appreciable offence to Boom’s largely 55+ audience who, like most adults, are highly likely to encounter the word frequently in life nowadays”.

The Licensee said that it receives “a huge amount of interaction” from its listeners and that it believes it has “a good grasp of what offends and what is unlikely to”. It added that, in ongoing research, it “asked some questions to help educate us in making the increasingly challenging decisions on playing oldies which might be received rather differently in today’s world”. It said that it had received “only one email from one correspondent pointing out this song – and their very legitimate note seemed to be more about debating the issue than a suggestion that offence had been caused to them personally”.

Boom Radio said that it “apologise[s] to the complainants” and added that “the offending track has been changed” and that it has “reviewed processes”.

Response to Preliminary View

Ofcom prepared a Preliminary View finding the programme in breach of Rule 1.14 and provided it Boom Radio for its comments. In response, the Licensee said that “the current case was an inadvertent error for which we apologise” but that it “cannot agree that children were particularly likely to be listening” and asked Ofcom to “review [its] findings”.

Boom Radio said that “whilst Ofcom might assert that children are *likely* to be listening to the radio because of the time of day”, there is “no evidence that they are **particularly likely**, given the context of our station, the content and the audience delivered” (emphasis added by the Licensee). It said that Boom Radio makes clear that it is “proudly targeted at older adults” and that RAJAR¹ indicates that its “child audience is nil”.

The Licensee said that the Code “requires that the **volume** of audience impacted is a consideration” and that it refers to “**the likely number** and age range of children in the audience, taking into account school time, weekends and holidays” (emphasis added by the Licensee). Boom Radio added that Ofcom’s definition of “appropriate scheduling” in the Code also “states that it must take into account “**the nature of the channel or station and the particular programme**””, as well as

¹ Radio Joint Audience Research

“**expectations of the channel**” (emphasis added by the Licensee), and that Ofcom’s Preliminary View had not taken this into account.

The Licensee referred to a previous complaint about content broadcast on Boom Radio, in which a presenter had used offensive language during the programme. It stated that Ofcom “sensibly did not uphold a complaint regarding the very same word at the very same time of day on the very same programme”, despite the word having been “mentioned three times inadvertently – and not even in the midst of a song”. The Licensee said that “whilst the circumstances are different, the potential of that word to offend and Ofcom’s duty to protect under the clauses to which you refer is exactly the same” and that the two cases “do not hang together”.

The Licensee cited several extracts from Ofcom’s 2021 research into [Public attitudes towards offensive language on TV and radio](#), including that “participants described offensive language as being generally more acceptable if it matched the expectations for a programme based on a range of factors including the time, type and reputation of the programme, and channel”.

It added that Ofcom’s research indicated that the word “fuck” was “rated less strongly – even mild – by younger demographics”. Boom Radio also said that Ofcom’s Preliminary View had not taken into account the frequency of the offensive language, despite the “issue of repetition” being cited as a relevant factor in the research, and that a “single lyric buried in a song may be noticed by fewer people”.

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.

Ofcom takes account of the audience’s and the broadcaster’s rights 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 prohibits the broadcast of the most offensive language on radio when children are particularly likely to be listening.

When considering this case, Ofcom took into account our 2021 research into [Public attitudes towards offensive language on TV and radio](#). 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 after the watershed. 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. The Code makes clear that this refers to the school run and breakfast time, but might include other times.

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 around, and in addition, during the same times from Monday to Fridays during school holidays.

In this case, the broadcast of the word “*fuck*” at 16:15 was a clear example of the most offensive language being broadcast at a time when children were particularly likely to be listening.

We took into account the Licensee’s representations that its “under 18 audience registers at zero” and that it does not consider children to be particularly likely to be listening to Boom Radio at any

time. We also took into account the Licensee’s representations on Ofcom’s Preliminary View, in which it stated that the Code requires a range of contextual factors to be taken into account when considering a broadcaster’s compliance with the Code, including: the likely number and age range of children in the audience, taking into account school time, weekends and holidays; the nature of the channel or station and the particular programme; and the likely expectations of the audience for a particular channel or station at a particular time and on a particular day.

However, as also recognised by the Licensee, these contextual factors are set out in the Code as being relevant to Ofcom’s consideration of “appropriate scheduling”. Ofcom therefore takes these factors into account when considering a broadcaster’s compliance with Rule 1.3 of the Code, which requires children to be protected by appropriate scheduling from material that is unsuitable for them. Rule 1.14 of the Code instead prohibits the broadcast of the most offensive language at times that Ofcom has determined children are particularly likely to be listening (as set out above), on the basis that there is a higher likelihood of children and their parents/carers being in the audience at these times and potentially coming across content unawares. In this case we noted that one of the complainants had objected to this content being broadcast at this time because it was “on the school run”.

We considered the Licensee’s reference to a previous complaint about offensive language which Ofcom did not pursue. However, Ofcom also noted the differences in the circumstances of the two cases, specifically that the previous case had involved the accidental use of offensive language in live programming which had been followed by a sincere apology. Ofcom’s decision not to pursue this case was in line with Ofcom’s 2021 offensive language research, which found that participants considered the accidental use of the offensive language in live programming that was clearly a mistake to be more acceptable, particularly if it was followed by a timely apology. By contrast, in the present case, Boom Radio admitted that it had broadcast a version of a song that “had been incorrectly labelled”. We therefore considered that it could – and should – have known the nature of the content prior to broadcast.

We took into account that the Licensee had not intended for this version of the song to be broadcast and that it said it had “reviewed processes” since becoming aware of the incident.

However, Ofcom’s Decision is that the most offensive language was broadcast at a time when children were particularly likely to be listening and that, therefore, the programme was in breach of Rule 1.14 of the Code.

Breach of Rule 1.14