

Ofcom Broadcast and On Demand Bulletin

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Shamsher Singh Rai Programme

Type of case Broadcast Standards

Outcome In Breach

Service Panjab Radio

Date & time 24 August 2018, 22:00

Category Crime and disorder; harm and offence.

Summary The presenter of this programme expressed views that were likely to encourage or incite the commission of crime or lead to disorder. The potentially highly offensive material was not justified by the context. In breach of Rules 3.1 and 2.3 of the Broadcasting Code.

Introduction

Panjab Radio is a faith and cultural radio station for the UK Asian community, broadcasting in Punjabi. The licence for this service is held by Panjab Radio Limited (“Panjab Radio” or “the Licensee”).

The Shamsher Singh Rai Programme was an occasional show on the station, with around four editions per month. The programme focused on Punjabi poetry and featured live calls from listeners expressing their feelings through poetry.

A listener complained to Ofcom that this programme had the potential to incite crime. Ofcom commissioned a translation of the programme, which we used for the purposes of this investigation. The Licensee disagreed with some parts of the translation and suggested some changes. We therefore asked the translator to review the original translation in light of the Licensee’s comments and provide a revised version to Ofcom.

Ofcom accepted amendments to the translation suggested by the Licensee where we considered it appropriate to do so on the basis of the revised translation. These amendments have been incorporated into the text below and are explained in the footnotes. We have also made clear where we have not accepted the Licensee’s translation and provided our reasoning for this.

During the broadcast the presenter, Shamsher Singh Rai, said:

“But another cheap joke was played with the Sikhs. Disrespect of Guru Granth Sahib¹ has not stopped and our enemies played tricks again. In the village of Bhotne, which is in Sangrur, the Teeyan Fair² was organised within the complex³ of the Gurdwara⁴ in which Gidah, Bhangra⁵, and the dance which our girls do was taking place. They are Sikh. Who were those people who organised it? Our enemy is behind this, testing us and checking our level of patience to see how much we can withstand. Our enemy is testing our level of patience again and again, but we give them this opportunity. The girls who were dancing in the fair were also Punjabi. Someone from there, our mothers or sisters, who were sitting, most of them must be Sikh. Don’t they know the Sikh traditions, or were they brought there by being paid?⁶ Whatever the story, they were brought there. DJ was being played within the complex of Gurdwara. One of our sisters, I guess her name was Nirmal Kaur, stopped them. The women who were spectators kept watching what was going on, as spectators do. But the Sikh code of conduct was breached.⁷ Our enemy is cleverly playing these tricks on us, testing our patience. A fine curse is on those ladies and on those girls who were dancing, jumping, singing folk songs and doing Bhangra within the complex⁸ of the Gurdwara. These ladies should be ashamed, or the person who allowed them to come inside the Gurdwara. The point is, until you take an action, if I may say so, and many of our people will get upset if I should not say such things. Why shouldn’t I do it? When a cow is carried by our Muslim brother or sister, they are surrounded, they are not asked anything, not asked where it is being taken. No questions asked. They are killed there⁹. And with us, these new things are

¹ The religious scripture of the Sikh religion.

² The festival of Teej, celebrated in Punjab, which is dedicated to the onset of the monsoon and focuses on women.

³ “Complex” is the Licensee’s preferred translation.

⁴ A place of worship for Sikhs.

⁵ Gidah and Bhangra are folk dances of Punjab.

⁶ “Paid” is the Licensee’s preferred translation.

⁷ “But the Sikh code of conduct was breached” is the Licensee’s preferred translation of this sentence.

⁸ See footnote 3.

⁹ Ofcom understands this to be a reference to reported news events in which squads of Hindu vigilantes have taken action against Muslims who farm cows, which they consider sacred. See [India: suspected vigilantes kill Muslim man transporting cows](#), The Guardian, 21 July 2018

happening. Now, it is all cold, those who used to take cows have been stopped. We also have to do such things. Only then disrespect of Guru Granth Sahib will be stopped. Only then these things will be stopped. If that woman hadn't stopped them in the Gurdwara, then such fairs would have started within the complexes of other Gurdwaras as well. Wake up, Punjabis, wake up! Whoever or whichever person has done this thing, don't hand him over to the police. Get him and cut the idiot's legs and arms.¹⁰ That is it! That is his punishment. He should struggle his whole life like this and understand that one is not allowed to do such things inside the Gurdwara. And the girls who came there, their ponytail¹¹ should be cut off. That is their punishment. We have to do these things. This Ram Rahim¹², we have to teach him a lesson. We will do Kirtan Sohila for him.¹³ Whoever is doing such things, they are doing it on his orders. Now, it is all in front of you who are behind all these things. Until we do, they say that one should not take the law into one's own hands. We cannot survive without taking the law in our hands. Like a crowd, gather a crowd and pull over the car. As it is said, doing things as part of a crowd. So, you should also do the same. Pull the car over from within the crowd. How many will they catch? We have to do these things. Until we do these things, this disrespect and these things will not stop. Earlier, when Guru Granth Sahib was disrespected in Burgari, I said on the radio then that it is just the beginning. Your patience will be tested, it will be tested again and again, with a sharp iron rod¹⁴ and they are doing so. Now, secondly, let us do it in a while. Greetings!"

Mr Rai then took a call from a listener who talked about other occasions when girls had danced in gurdwaras, one of which was in the courtyard of her village gurdwara, and the other was at a gurdwara in Southall. Both agreed that this needed to be stopped and that someone must have allowed the girls to do it, or put them up to it. The caller said she had been told by the management in

¹⁰ "Arms" is the Licensee's preferred translation.

¹¹ "Ponytail" is the Licensee's preferred translation.

¹² Ofcom understands this refers to Gurmeet Ram Rahim Singh, the head of the Indian religious and social group Dera Sacha Sauda. An Indian court sentenced him to life in prison for the murder of a journalist who published a letter about his alleged sexual exploitation of women. He was already serving a 20-year sentence in a separate case involving the rape of two female followers. See [Ram Rahim Singh: Indian court jails spiritual guru for life over journalist murder](#), the Guardian, 18 January 2019.

¹³ The Licensee translated this as "we will do his last prayers", which is described within Sikhism and in Punjabi as the Kirtan Sohila. The Licensee told us that the Kirtan Sohila is the night time prayer recited by observant Sikhs and is also recited before cremation following death. Ofcom understands that the expression is a common Punjabi colloquialism and may be used as a euphemism meaning to kill a person.

¹⁴ "Sharp iron rod" is the Licensee's preferred translation.

Southall that the organiser was a Muslim person and Mr Rai said the girls should be referred to as “harlots” and agreed that people needed “to stand up against these things”.

Following the call Mr Rai thanked people for donations to Panjab Radio and promoted its anniversary celebrations, before speaking to another caller about alternative places to dance and discussing what was behind the violent acts against Muslim farmers. Subsequent callers talked about and recited song lyrics and poetry unrelated to these topics.

Later, Mr Rai spoke about fraud “in the name of religion”, contrasting the wealth of the “saints” running religions to the poverty of their devotees, who the presenter said were the ones to “get killed”¹⁵. He continued as follows:

“You must have seen when Ram Rahim’s¹⁶ case was going on who went there, and why? Those people are disrespecting Guru Granth Sahib. I said it before, and I will say it today. I will keep saying this, I will say it while I am here on air and until I die,¹⁷ if you catch someone who tore apart the parts of the Guru Granth Sahib, don’t take him to police, read them the Kirtan Sohila. Read them the Kirtan Sohila¹⁸, only then will it get better. Otherwise, this will go on. It will keep happening like this. Saint Jarnail Singh Bhindrawale¹⁹ used to say that if someone disrespects the Guru Granth Sahib, ‘Bring him to me’. Today, we don’t have any Jarnail who can do this. If someone is caught disrespecting the Guru Grant Sahib, not the one who is innocent, if someone is caught red-handed, kill that person.²⁰ A lot of people were caught red-handed. Their

¹⁵ The Licensee said that “In line with the theme concerning poverty and wealth, the meaning here is that ‘the person dies a slow death by poverty because they donate their savings to these so-called “self-made gods”’. In Ofcom’s view the meaning of the original language was plainly “get killed”. However, Ofcom accepts that some listeners might have understood that the presenter was using hyperbole.

¹⁶ See footnote 12.

¹⁷ “Until I die” is Ofcom’s translation. The Licensee’s preferred translation was “until I am gagged”. The translator we asked to compare the two versions said that the latter was a more literal translation but that “until I die” is how the phrase is commonly understood. Ofcom considered the surrounding context in which the expression was used by the presenter and considered that listeners were likely to have understood the meaning to have been “until I die”.

¹⁸ See footnote 13.

¹⁹ In 1983, Sant Jarnail Singh Bhindranwale, a Sikh religious leader who was accused of leading a militant secessionist movement against India, in favour of an independent Sikh state, occupied and fortified the Sikh shrine Akal Takht (the Golden Temple complex) to avoid arrest. In June 1984 the Indian Army carried out a military operation, “Operation Bluestar”, to remove Sant Jarnail Singh Bhindranwale and his supporters from the temple. It led to many deaths, including that of Sant Jarnail Singh. Bhindranwale has since been declared a twentieth century martyr by the Sikhs’ highest temporal authority, the Akal Takht

²⁰ “Kill that person” is Ofcom’s translation. The Licensee’s preferred translation was “put him in a car”. The translator we asked to compare the two versions said that the former made better sense in this context. Ofcom considered the surrounding context in which this expression was used and considered that listeners were likely

cases are going on, but nothing will happen to them. Nothing will happen to them. People caught them, but no action was taken against them. Police took them away, filed a report and the matter was finished right there. Nothing else will happen. Guru Granth Sahib will be disrespected until we take their heads off. It will keep happening. We have to take their heads off. Only then will it become better. To take their heads, come in masses. Come in a crowd just like other religions do, like they do in the case of cows²¹, a mass comes and kills the people. Then who will the police catch? You should also do the same. Do so! If I catch someone, I will do that. We will go in the crowd, catch that person, and read them the Kirtan Sohila. Until we have read them the Kirtan Sohila it will keep happening. In Bhutane and Sangrur, the fair was organised within the limits of the Gurdwara, people danced, and sang, and celebrated Teeyan Festival, and the girls who had the audacity to dance within the boundary of the Gurdwara, their ponytail²² should be cut off. They wouldn't go then. But where is our Sikh community? They are sleeping. I said this before as well, your enemy is looking at you cautiously and testing your level of patience 'How much can they take? How much pain can they take?'. And that is why you are being poked. You have to wake up Punjabis. Until you wake up, you won't be able to do anything. Our governments are sleeping. What will we do?"

The presenter went on to take other calls and play songs, without referring to the above topics.

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

- Rule 3.1: "Material likely to encourage or incite the commission of crime or to lead to disorder must not be included in television or radio services."
- 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 [...] offensive language, [...] discriminatory treatment or language (for example on the grounds of [...] religion or belief [...]). Appropriate information should also be broadcast where it would assist in avoiding or minimising offence."

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

Response

In its initial written representations to Ofcom, Panjab Radio said it takes compliance "extremely seriously" and emphasised that it had a good compliance history, having never been found in breach

to have understood this to be a common Punjabi colloquialism used in this specific context as a metaphor for killing a person.

²¹ See footnote 9.

²² See footnote 11.

of the Code. It added, it does not tolerate any content that would be viewed as extreme or could be interpreted as material likely to incite violence or the commission of crime.

The Licensee explained that the presenter Shamsher Singh Rai had volunteered at the station for 18 years and typically presented around eight hours of programming each month. It said that Mr Rai was not a religious scholar, preacher or an authority on religious matters and had not previously discussed religious issues on air. The Licensee said that it was not aware of Mr Rai expressing any extreme or fundamentalist views either privately or publicly. Panjab Radio said that the Shamsher Singh Rai Programme was essentially a poetry call-in show which was not expected to cover current affairs or religious matters and suggested that his comments about festivities in gurdwaras were best described as an “aberration”. It said it had no reason up to this point to believe that he might air anything problematic and it was extremely surprised and shocked by the comments.

The Licensee accepted that some of the content should not have been broadcast and was likely to be seen as inflammatory. It said that Panjab Radio’s mission was “to bring the Panjabi and Asian community together” and it wanted to apologise unreservedly to all its listeners and Ofcom. Panjab Radio said that Mr Rai was extremely apologetic and accepted that what he said was totally inappropriate and should not have been aired.

Action taken by Panjab Radio

The Licensee said that since the broadcast, it had taken the following actions:

- Mr Rai had been taken off air, removed from Panjab Radio’s website list of presenters and would not be returning to the station;
- entry locks to the building and studio had been changed and staff had been instructed not to permit Mr Rai entry into the premises;
- “with some limited exceptions”, telephone call-ins had been suspended;
- all presenters had been re-issued with the Code and had had individual meetings with the Managing Editor to ensure they understood its requirements. They were also asked to sign a new side-contract confirming this and their obligations as a presenter;
- extra compliance training for all staff was being implemented;
- the Managing Editor of the station had taken over responsibility for compliance issues and the station was sourcing an external compliance expert to provide further training;
- pre-broadcast checks would be made with presenters to ensure the editorial content of their programmes was compliant; and,
- the matter was to be discussed at board level.

Panjab Radio also said that it had broadcast an apology on 17 and 18 September 2018, after the news at 22:00, in order to capture the same audience who was likely to have heard Mr Rai’s programme on 24 August 2018 at 22:00. The apology, broadcast in Punjabi, said:

“Now, an apology from us at Panjab Radio. Last month, on the 24 August, one of our former presenters, Shamsher Singh Rai, talked about girls holding festivals within the confines of a gurdwara in Sangroor district. Shamsher Singh Rai spoke in terms that were totally unacceptable and used intolerant and inflammatory language. We would like to apologise – unreservedly – for this and assure listeners that Panjab Radio do not, in any way, share or endorse such views of Shamsher Singh Rai. Panjab Radio believe in peace and tolerance and our mission is to unite and not to divide the Asian community. Once again an apology from Panjab Radio and its entire team for this mistake made by Shamsher Singh Rai”.

Ofcom’s Preliminary View was that this programme breached Rules 3.1 and 2.3. In it we said that in light of the seriousness of the breaches we were minded to impose a statutory sanction. In response, the licensee made the following further representations.

Rule 3.1

The Licensee, stating that it did not wish to diminish what the presenter had said, questioned whether the material would have “literally” encouraged or incited someone to commit a crime. It said, “The [material] revolved around events in Panjab, India. [It] did not concern matters in the UK and [it] was not available in India”. It recognised that the presenter’s words were “likely to be seen as inflammatory”. However, it said that Ofcom had not given weight to the time of broadcast and the likely size of the audience, which it said would have been extremely small. The Licensee said these were important contextual factors in considering the potential harm that may arise from the content and any proposal to sanction. It argued that the fact that Ofcom’s Preliminary View contained a proposed finding that the breaches had been committed and that they were serious meant that Ofcom had closed its mind to the possibility that there was no breach. It submitted that delays to the progress of the investigation had hampered its ability to defend itself, in that it had had to spend time getting up to speed on the issues again between responding to Ofcom’s request for comments and making its representations on Ofcom’s Preliminary View.

Minded to consider statutory sanction

In addition to the above point about the time of broadcast and the likely size of the audience, the Licensee said that it was “surprised” and “perplexed” that Ofcom was minded to consider the imposition of a statutory sanction. Panjab Radio said that it had not sought to defend the “problematic” material, been fully transparent with Ofcom and taken “swift action” (see above). It added that it had “recognised the issues” and that it had broadcast two apologies targeted at the same audience as the original broadcast. It said these actions were “extremely important in mitigating any potential sanction”. It added that given its “impeccable compliance record” Ofcom risked being disproportionate and intervening needlessly. It indicated that delays to the progress of the investigation had had a significant chilling effect on its editorial output and had impacted on the business. It argued that the fact that Ofcom’s Preliminary View contained a proposed finding that the breaches had been committed and that Ofcom would consider a statutory sanction meant that Ofcom had closed its mind in relation to whether or not it would impose a statutory sanction.

Decision

When investigating a potential breach of the Broadcasting Code, Ofcom prepares a Preliminary View which contains Ofcom's preliminary assessment of whether any breaches have occurred and the reasons for that assessment, in order for the Licensee to make representations on them. As set out in paragraph 1.29 of Ofcom's [Procedures for investigating breaches of content standards for television and radio](#), this Preliminary View is only provisional and may be subject to change in the light of subsequent representations/material provided by the broadcaster. As such, inclusion of a proposed finding in a Preliminary View does not mean that Ofcom has closed its mind to any alternative finding.

Ofcom did not consider that delays to the investigation had impacted on the Licensee's substantive ability to consider the case or to make full representations. The issues arising did not depend on individuals' recollections.

Reflecting our duties under the Communications Act 2003, Section Three of the Code requires that material which is likely to encourage or incite the commission of crime or lead to disorder must not be included in television and radio services. Section Two of the Code requires that generally accepted standards are applied to the content of television and radio services to provide adequate protection for members of the public from the inclusion of harmful and/or offensive material.

Ofcom must have regard to the audience's and the broadcaster's right to freedom of expression set out in Article 10 of the European Convention on Human Rights ("ECHR"). We must also have regard to Article 9 of the ECHR, which states that everyone "has the right to freedom of thought, conscience and religion". Ofcom has taken account of these rights when considering the Licensee's compliance with the Code.

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 potentially 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.

We also accept that broadcasters can, and should be able to, make programmes on highly controversial subjects. However, in dealing with such topics, broadcasters must ensure they comply with the Code.

Rule 3.1

This rule 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 a programme is in breach of Rule 3.1, Ofcom must assess the likelihood of the content encouraging or inciting the commission of crime or leading to disorder, rather than identifying any causal link between the content broadcast and any specific acts of disorder or criminal behaviour. In carrying out this assessment 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 for listeners 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.

Ofcom considered that the presenter's statements as set out above amounted to a direct call to action to members of the Sikh community to carry out violent action against people the presenter considered to be disrespecting the Sikh faith. The presenter drew on the example of attacks by members of the Hindu community on Muslim people who farm cows: *"they are surrounded, they are not asked anything, not asked where it is being taken. No questions asked. They are killed there"*. He also spoke of the need to take similar action against those who in his view disrespect the Sikh place of worship by allowing women and girls to dance there *"We also have to do such things. Only then disrespect of Guru Granth Sahib will be stopped. Only then these things will be stopped"*. We were particularly concerned by the call to kill or behead people whom the presenter considered to have acted in a sacrilegious way. We were also concerned by the presenter's call for people not to go to the police but to take the law into their own hands by carrying out violent attacks instead. Ofcom was also concerned by:

- the repeated justification made for such action, for example:
 - *"Read them the Kirtan Sohila, only then will it get better"*;
 - *"if someone is caught red-handed, kill that person. A lot of people were caught red-handed. Their cases are going on, but nothing will happen to them"*;
 - *"Guru Granth Sahib will be disrespected until we take their heads off. It will keep happening"*;
 - *"Our governments are sleeping. What will we do?"*;
 - *"Why shouldn't I do it? When a cow is carried by our Muslim brother or sister, they are surrounded...No questions asked. They are killed there...Now...those who used to take cows have been stopped. We also have to do such things. Only then disrespect of Guru Granth Sahib will be stopped"*; and
 - *"We cannot survive without taking the law in our hands"*;
- and the repeated instruction to act as part of a crowd to avoid arrest, for example:
 - *"To take their heads, come in masses...Then who will the police catch? You should also do the same"*; and,
 - *"Like a crowd, gather a crowd and pull over the car. As it is said, doing things as part of a crowd. So, you should also do the same. Pull the car over from within the crowd. How many will they catch?"*

The Licensee submitted a different translation for the expression *"Kirtan Sohila"* used by the presenter when describing the actions needed to be taken by Sikhs when faced with examples of acts he considered to be sacrilegious. The Licensee described the term as referring to the night time prayer and also said that it is recited before a cremation following a death. Ofcom accepts that the term can refer to the night time prayer. However, from the context we consider the presenter was using a well-

known Punjabi colloquialism in which “*Kirtan Sohila*” is used in the sense of the cremation prayer and as a popular metaphor for killing someone. In Ofcom’s view, considering the surrounding context of the presenter’s comments which advocated violent retribution including murder against those he considered to be acting in a sacrilegious way, the meaning derived from the expression by listeners would be killing.

In Ofcom’s view the cumulative effect of the above statements was to condone, promote and encourage violent behaviour towards people who were considered to have disrespected the Sikh religion.

Ofcom has published Guidance²³ 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 that provided any challenge to the violent behaviour that Mr Rai’s statements served to condone, or any criticism or explanation of those statements.

We also carefully considered the Licensee’s reasons for questioning whether the material would have been likely to encourage or incite someone to commit a crime. The licensee contended this broadcast “did not concern matters in the UK”. We did not accept this. During the broadcast Mr Rai made a direct call for listeners to take violent action against those he considered to have behaved in a sacrilegious way “*You should also do the same. Do so! If I catch someone, I will do that. We will go in the crowd, catch that person, and read them the Kirtan Sohila*”; “*You have to wake up Punjabis...Our governments are sleeping. What will we do?*”. Mr Rai and a caller also talked about when girls had danced in a gurdwara in Southall, (West London), and said that this needed to be stopped. After the caller referred to enquiries to the management of the gurdwara revealing that the organiser of the dance was a Muslim person, Mr Rai said that the girls were “*harlots*” and that people needed to “*stand up against these things*”. He did not retract his earlier comments that listeners should cut the arms and legs of the person responsible for such dancing in gurdwaras and cut off the ponytails of girls who dance in gurdwaras, in Punjab. Since protests have taken place against interfaith marriages in gurdwaras in the UK in which the wedding participants have felt “*terrorised*”²⁴, it is clear that there have been sections of the Sikh community in the UK who have taken directly disruptive and sometimes violent action in the name of preserving the sanctity of gurdwaras and/or their faith.

In any event, Panjab Radio’s target audience is the Punjabi community in the UK. These listeners are likely to have close connections to Punjab, to travel there and to have a continuing interest in the expression of their faith there.

We took into consideration the licensee’s representations that this programme was broadcast late at night and therefore the size of the potential audience exposed to any risk of harm was small. However, given the strength and nature of the statements, the target audience and the evidence that some sections of the Sikh community in the UK are prepared to take violent action where they

²³ See [Ofcom Guidance Notes; Section 3: Crime, Disorder, Hatred and Abuse](#), May 2016.

²⁴ See e.g. “[The British Sikh men trying to stop women marrying outside their religion](#)”, The Independent, 4 October 2015 and “[I never thought I’d be terrorised by my fellow Sikhs at a wedding](#)”, The Guardian, 3 November 2016.

perceive a threat to their religion and beliefs, we considered that the content was such that it was likely to incite crime or disorder.

We took into account Panjab Radio's acknowledgement that "some of this content should not have been broadcast and is likely to be seen as inflammatory" and that the Licensee told Ofcom the statements broadcast were "totally inappropriate and should not have been aired". We acknowledged Panjab Radio's representations that it did not tolerate any content that would be viewed as extreme or could be interpreted as material likely to incite violence or the commission of crime. We also considered the steps Panjab Radio said it had taken since the broadcast had aired, including taking Mr Rai off air and the extra measures it had put in place to ensure compliance with the Code.

However, we considered the content contained in this broadcast was a direct call to action and that, for the reasons explained above, it was likely to encourage or incite the commission of crime or lead to disorder, up to and including murder.

Our Decision therefore is that Rule 3.1 was breached.

Rule 2.3

This rule 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 [...] offensive language, [...] discriminatory treatment or language (for example on the grounds of [...] religion or belief [...]). Appropriate information should also be broadcast where it would assist in avoiding or minimising offence."

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 likely size, composition and expectation of the audience; and the time of broadcast.

In assessing whether there is a contextual justification, Ofcom must take proper account of the broadcaster's and the audience's right to freedom of expression, which includes the right to receive information, and related rights to freedom of thought, conscience and religion. As set out above, the Code does not prohibit discussions about controversial topics or the broadcasting of opinions that some viewers may find offensive and it does not prohibit followers of one religion from being able to express views rejecting or criticising people of differing beliefs or who practice a different interpretation of beliefs. To do so would, in our view, be a disproportionate restriction of the broadcaster's rights to freedom of expression, thought, conscience and religion and the audience's right to receive information. However, when broadcasting material of this nature, broadcasters must comply with all relevant rules of the Code to ensure that any such content does not cause unjustifiable offence.

We first considered whether this content was potentially offensive. As detailed above in relation to Rule 3.1, we considered Mr Rai's comments a direct call to action to members of the Sikh community to carry out violent acts against other people who, in the presenter's view, disrespected Sikh places of worship. For the reasons set out under Rule 3.1, in our view the presenter of this programme

condoned, provided justification for and encouraged violent acts up to and including murder. We considered the advocacy of such acts of violence had the clear potential to be highly offensive.

In going on to consider whether the inclusion of this content was justified by the context we took into account the nature of the programme, which was a mixture of commentary including live calls from listeners, combined with poetry and music. We acknowledged the Licensee's point that it was not expected to cover current affairs or religious matters. We recognised that Panjab Radio is a radio station delivering content focusing on Punjabi Sikh related issues as well as the Licensee's self-stated mission to bring the Punjabi and Asian community together. We also acknowledged the Licensee's submission that it does not tolerate any content that would be viewed as extreme or could be interpreted as material likely to incite violence or the commission of crime. The Licensee also explained that the presenter had not previously discussed such issues on air.

Taking all these factors into account we considered the radio station's audience was unlikely to have expected the presenter's advocacy, justification and support for violent retributive action against those he considered to have shown disrespect towards Sikh places of worship without any challenge or other sufficient contextual justification. We considered that this would have been the case no matter what the time of broadcast. In our view, this would have exceeded the expectations of listeners of Panjab Radio, however small the audience, and would have caused unjustifiable offence. While a few callers rang in to agree in general terms that acts of desecration or disrespect were condemnable, none said anything which mitigated or challenged the statements made by the presenter. The lack of challenge or context to the presenter's highly offensive views in this programme, in our view, meant there was insufficient contextual justification for their broadcast.

We took into account that the Licensee acknowledged some of this content should not have been broadcast and transmitted an apology twice following the programme. We acknowledged that this was a positive attempt to redress the potential offence. However, the content was potentially highly offensive. Further, three weeks elapsed between the broadcast of the programme and the transmission of the apologies. For these reasons, we considered that the apologies were insufficient to mitigate the potential offence or justify the broadcast of the potentially offensive content in this programme.

Our Decision is therefore that Rule 2.3 was breached.

Breaches of Rules 3.1 and 2.3

Ofcom considers the breaches in this case to be extremely serious. We are putting the Licensee on notice that we will consider these breaches for the imposition of a statutory sanction.

We noted the Licensee's representations on its compliance record, its acceptance that the content should not have been broadcast, its transparency with Ofcom and the action it took and apologies it made following the broadcast. We noted the Licensee's comments on the time of broadcast and the likely size of the audience. We also noted its submissions in relation to the effect on its business of the time taken. We will consider these as part of the sanctions process²⁵.

²⁵ See: [Procedures for the consideration of statutory sanctions in breaches of broadcast licences](#).