

Ofcom Broadcast and On Demand Bulletin

Issue 431
19 July 2021

Morning Music Set

Type of case Broadcast Standards

Outcome In Breach

Service Rinse FM

Date & time 12 July 2020, 10:50

Category Hate speech
Abusive treatment
Generally accepted standards

Summary During a music programme, a track was played which included lyrics which amounted to uncontextualised hate speech and derogatory and abusive treatment towards Jewish people. The content was also potentially offensive and not sufficiently justified by the context. Breach of Rules 3.2, 3.3 and 2.3.

Introduction

Rinse FM is an urban music community radio station serving the Inner London area. The Licence for this station is held by Rinse FM (“Rinse FM” or “the Licensee”).

Ofcom received one complaint that this programme included a music track that contained antisemitic lyrics and was highly offensive.

Between 10:00 and 11:00 am on 12 July 2020, Rinse FM broadcast a music programme presented by a regular DJ and which included a playlist of tracks by various Black artists, including Nina Simone, Marvin Gaye, Al Green, and Erykah Badu. The presenter introduced the programme by saying:

“Hello and welcome to Rinse FM... I am going to be with you for the next hour, and going to keep the talking minimal for this one, because this month I want to dedicate the show to the Black Lives Matter movement. Going to highlight my favourite songs from Black artists over the years and music I have grown up listening to. If you haven’t been using this

time to self-reflect to educate yourself and educate others, then make sure you do your research, do some reading, educate yourself as much as you can and support the movement as much as you can but yeah stay tuned for the next hour. Kicking off with Cinematic Orchestra with one of my favourites, the one and only Roots Manuva, hope you enjoy”.

The programme then featured several music tracks from various Black artists interspersed with commercials. At 10:50 am, the presenter introduced the last music track of the programme from American hip hop artist, Jay Electronica:

“I’ll be back same time same place next month, going to leave you with one of my absolute favourites, I had to fit this one in, the one and only Jay Electronica, see you next time and stay safe”.

The music track by hip hop artist Jay Electronica, *“Better in Tune with the Infinite”*, was then played.

The beginning of the track included a sample from an interview with Elijah Muhammad, the former leader of the Nation of Islam¹:

“If one would open up truth, such as the truth of God to the people, I do think that He’s within his rights to stay out of the sight of the people until He has won everything to Himself; as the Bible refers to it like this: He’s something like a king looking for a kingdom. And that He goes and he visits the people, then He leaves the people, goes away and waits until the time when that He can secure the kingdom. Then He returns to the people that He had made Himself manifest to. So I think that’s a pretty good answer”.

This was then followed by an extract of words spoken by Professor Marvel² in the film *The Wizard of Oz*:

“Well, I can’t do anything without consulting my crystal first. Let’s go inside here, just come along, I’ll show you, that’s right, here. Sit down right here, that’s it. This, this is the same genuine, magic, authentic crystal used by the priest of Isis and Osiris in the days of the pharaohs of Egypt. In which, Cleopatra first saw the approach of Julius Caesar and Mark Antony and so on and so on. Now you better close your eyes, my child, for a moment, in order to be better in tune with the infinite”.

Jay Electronica then began his rap as follows:

*“It’s frustratin’ when you just can’t express yourself.
And it’s hard to trust enough to undress yourself.
To stand exposed and naked, in a world full of hatred.*

¹ The Nation of Islam is a Black political and religious group originally founded in the US but with branches worldwide, including in the UK (see: [The Nation of Islam – in the United Kingdom](#)).

² A fictional character in *The Wizard of Oz* who helped Dorothy back “Home”.
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*Where the sick thoughts of mankind control all the sacred.
 I pause, take a step back, record all the setbacks.
 Fast forward towards the stars and the jetpack.
 My feet might fail me, my heart might ail me.
 The synagogues of Satan might accuse or jail me.
 Strip, crown, nail me, brimstone hail me.
 They might defeat the flesh but they could never ever kill me.
 They might can feel the music but could never ever feel me.
 To the lawyers, to the sheriffs, to the judges.
 To the debt holders and the law makers.
 [Bleeped] you, sue me, bill me.
 That name on that birth certificate, that ain't the real me.
 The lies can't conceal me.
 The sunrise and the moon tides and the sky's gon' reveal me.
 My brain pours water out my tear ducts to heal me.
 My Lord's too beneficent.
 The message grab a hold to every ear it get whispered in.
 The waters in the bayous of New Orleans still glistenin'.
 The universe is listenin', be careful what you say in it.
 My grandma told me every bed a [bleeped] make, he lay in it.
 The church you go to pray in it, the work is on the outside.
 Staring out the windows is for love songs and house flies".*

The track then closed with lyrics sung by a different artist:

*"I've got somethin' to say.
 I, I've got somethin' to say.
 Yesterday, yesterday is gone.
 Tomorrow, tomorrow is on the way.
 You don't have time to waste.
 Gotta get it right".*

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

- Rule 3.2: "Material which contains hate speech must not be included in television and radio programmes [...] except where it is justified by the context."
- Rule 3.3: "Material which contains abusive or derogatory treatment of individuals, groups, religions or communities, must not be included in television and radio services [...] except where it is justified by the context."
- 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

Rinse FM argued that it did not believe that “the DJ/Artist/Song or Rinse [FM] have said or done anything with hate”. It said that it was “important that we are seen to represent communities, especially in these difficult times, it is not always possible not to offend someone but sometimes we must do exactly that to make some progress” and that “we are all just trying to help build a better world where being equal is not a privileged but a basic human right”.

The Licensee explained that, following this complaint, it was “reviewing [its] Programme Production processes and policies”, including:

- ensuring that at least two people review any potentially controversial track, commentary or statement;
- reviewing the “frequency and specific advice, messages and reminders that we give to all Presenters” in relation to “unconscious bias and the need... to look at themselves and seek greater awareness of any ‘isms’ of their own”, in particular “in the current climate of heightened community tensions and subjective judgements”; and,
- putting a greater emphasis on the types of issues raised in this complaint in all future training and training material.

Rinse FM said that “as a full-time Community Radio station with limited resources it is not always possible to ‘nip in the bud’ any potentially controversial material”.

The Licensee said that the presenter of the programme is “one of our more experienced presenters and has never before had an internal or external complaint with any aspect of her musical selection or presentation”.

Rinse FM acknowledged that the lyrics “may be seen by some as an antisemitic trope” when taken out of context, but that the wording “*Synagogues of Satan*” was lifted from the Bible and that, therefore, finding it controversial “would ultimately lead to the accusation that the Bible itself is antisemitic which would open up a much wider and controversial debate”.

Rinse FM acknowledged that specific lyrics in the track may have been offensive to one person but disagreed that it was “objectively offensive to our community or to the wider public within the context of Rinse FM as community broadcaster and Jay Electronica as a performance artist”. Nonetheless, the Licensee acknowledged any offence caused and emphasised that as a result, it would ensure that its compliance procedures would be “regularly reviewed and updated with regular reminders to all Presenters and Producers around the need for objectivity and balance”.

The Licensee also provided the presenter’s³ representations.

³ Rinse FM explained that the DJ also acts as the station manager and scheduler on Rinse FM.
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The presenter explained that the premise of her show was to present “some of [her] favourite [B]lack artists” who have inspired her as a DJ and Presenter. She also explained that her show was in the context of the “#BlackLivesMatter movement” and that, as a “worldwide issue” it was “important to talk about [it] freely”. The presenter also stated her belief that this was a “subject that Rinse [FM] does and should be supporting”. She said that Rinse FM “is deeply rooted in Black culture within London and worldwide” and argued that the show “was well-within the acceptable boundaries of encouraging educational exploration of Black music [and] culture”.

The presenter explained that the aim of her show, including the music, “is to explore different opinions and problematic situations worldwide” and provided examples of climate change, religion and Black history. She argued that, “as a community platform, it is important that Rinse [FM] encourages thought provoking content, explores different artist[s] point[s] of [view], but not necessarily presenters/DJs expressing their points of view aggressively”. She added that she “did not enforce any negativity towards religion, culture, the government or any other forms of hate”. The presenter argued that the track “*Better In Tune With The Infinite*” from Jay Electronica did not have “negative connotations towards Jewish people or any particular religion” and that the song was not derogatory and did not spread hatred.

The presenter provided Ofcom with what she described as “further research” into the artist and the meaning of the lyrics of this particular track, which she believed were “a fair and accurate representation of his intent and meaning”. She explained that, in his lyrics, the artist talks of “his struggles within the music industry as an artist”, including “people questioning his artistry, his lack of online presence, consistency of releasing music, and the integrity of his religion”. The presenter also explained that the artist was “very religious” and “feels that sometimes the agendas of the government and the world do not favour religion”. More specifically, the presenter said that the lyrics “*Synagogues of Satan*” made “biblical references” to the Book of Revelation “speaking about some Jewish people that were dubbed as non-believers of Christ”. She explained that the use of that phrase, along with “*Strip, crown, nail me, brimstone, hail me, they might defeat the flesh but they could never kill me*”, were statements that: were the artist’s metaphorical reference to those not believing in him as an artist, and “who may question or doubt his faith in religion or his commitment to music, but no one on earth can taint his work/legacy”; and show “he will prove his faith and show his musicality prowess throughout his future music come back”. The presenter said the references demonstrated the artist’s “in depth knowledge and belief in the Bible”. Specifically, the presenter referred to the following lyrics:

*“They might can feel the music but could never ever feel me.
To the lawyers, to the sheriffs, to the judges.
To the debt holders and the law makers.
[Bleeped] you, sue me, bill me.
That name on that birth certificate, that ain't the real me.
The lies can't conceal me”.*

The presenter argued that the artist was referring to the fact that “he may have been persecuted metaphorically or physically for the same reasons discussed previously, but the persecutors do not know the real him, he has made himself new as a man and musically as Jay Electronica”.

In response to Ofcom’s Preliminary View that this programme was in breach of Rules 3.2, 3.3 and 2.3, Rinse FM said it “wholeheartedly” rejected the Preliminary View but that it did not have either the time or resources to challenge it.

The Licensee acknowledged the controversy around this track in the USA, referencing a section on the Wikipedia page for Jay Electronica that references this specific issue. However, it said that it believed the issues raised in the complaint were “bigger than our tiny radio platform”. It explained that it “sought to gain the advice of a variety of experts on this issue, however, due to the pandemic and our extremely limited resources, we have been unable assemble a team, within the timeframe”, adding that “providing a response that effectively challenges your misconceptions and misinterpretations of this show and track is clearly beyond our capability and capacity at this time”.

Further, the Licensee said it felt that Ofcom’s Preliminary View was seeking to “justify what we believe is an inaccurate and unfair representation” of what it wanted to do with the show which was “to explore and support the Black Lives Matter proposition”. Rinse FM said, “we strongly believe that support for Black lives does not make us even remotely racist”. It argued that the presenter had applied due care and “had placed into an appropriate context what she was attempting to do”.

Upon receiving its representations on the Preliminary View, Ofcom contacted Rinse FM to acknowledge the difficulties it expressed in relation to responding in the current pandemic and offered to consider an extension of time to review the Preliminary View if the Licensee wished to request one. Ofcom received no further response from the Licensee.

Ofcom also sought to give the artist, Jay Electronica, the opportunity to provide representations on our Preliminary View. On 18 March 2021, we contacted representatives of the artist’s management company, who indicated that they had forwarded our request to Jay Electronica’s legal representative. Despite numerous attempts to follow up with our contact and attempting to contact the lawyer directly by telephone and email, we did not receive any response. On 12 May 2021, we informed the artist’s management company that in the absence of any response from it or from Jay Electronica’s legal representative, we would proceed to our Decision in this case. We did not receive a response to this email.

Decision

Reflecting our duties under section 319 of the Communications Act 2003, Sections Two and Three of the Code require 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 in programmes including material containing hatred, abusive and derogatory treatment of individuals, groups, religions or communities.

Ofcom has taken account of the audience’s and broadcaster’s right to freedom of expression set out in Article 10 of the European Convention on Human Rights (“ECHR”). Ofcom considers that freedom of expression is particularly important in the context of artistic works. However, the right to freedom of expression is not absolute and Ofcom must seek to balance broadcasters’ freedom of expression and compliance with the Code. We have also had regard to Article 9 of the ECHR, which states that everyone “has the right to freedom of thought, conscience and religion”.

In the exercise of its functions, Ofcom must also have due regard to the need to eliminate unlawful discrimination, to advance equality of opportunity and to foster good relations between those who share a relevant protected characteristic, such as religion or belief, and those who do not⁴.

We recognise it is legitimate for artists and performers to respond to and reflect challenging issues as part of their artistic expression, and that audiences have a right to receive such expression in accordance with their Article 10 rights. The Code does not prohibit the inclusion of individual tracks in music programmes because the views or language expressed within those tracks have the potential to cause offence. To do so would, in our view, be a disproportionate restriction on the broadcaster's right to freedom of expression and the audience's right to receive information and ideas. Potentially offensive language or content in the lyrics of a track can be broadcast, provided that broadcasters comply with all relevant rules of the Code and ensure that the lyrics do not contain hate speech, derogatory treatment of individuals, groups, religions or communities, and/or offensive material that is not justified by the context.

Ofcom also recognises that there are certain genres of music, such as hip hop, where the featuring of challenging views or offensive language is in keeping with audience expectations, and therefore there is likely to be editorial justification for including this in music programming, provided there is sufficient context. However, the greater the risk the material may cause harm or offence, the greater the need for contextual justification.

Rule 3.2

Rule 3.2 of the Code states:

“Material which contains hate speech must not be included in television and radio programmes except where it is justified by the context”.

The Code defines “hate speech” as “all forms of expression which spread, incite, promote or justify hatred based on intolerance on the grounds of disability, ethnicity, gender, gender reassignment, nationality, race, religion, or sexual orientation”⁵.

In coming to our Decision in this case, Ofcom had regard to the International Holocaust Remembrance Alliance's (“IHRA”) working definition of antisemitism, which states:

“Antisemitism is a certain perception of Jews, which may be expressed as hatred toward Jews. Rhetorical and physical manifestations of antisemitism are directed toward Jewish or non-Jewish individuals and/or their property, toward Jewish community institutions and religious facilities”⁶.

⁴ Under section 149 of the Equality Act 2010.

⁵ The programme is covered by the version of the Code which was in force at the time of broadcast, which took effect in January 2019.

⁶ See the [IHRA's working definition of antisemitism](#). The UK Government agreed to adopt the IHRA's working definition in December 2016.

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We first considered whether the material included in the programme constituted hate speech. The track “Better in Tune with the Infinite” included the following lyrics, which were sung once and not repeated later in the track:

*“The synagogues of Satan might accuse or jail me.
Strip, crown, nail me, brimstone hail me.
...
To the lawyers, to the sheriffs, to the judges.
To the debt holders and the law makers.
[Bleeped] you, sue me, bill me”.*

In our view, the UK listeners would be likely to understand the phrase “*synagogues of Satan*” to be a reference to the Jewish place of worship, and that it makes an explicit association between Jewish place of worship and Satan. We considered that UK listeners would have understood this association to suggest that Jewish people are evil or worship the Devil, which is a well-established antisemitic trope⁷.

Immediately following the reference to the “*synagogues of Satan*” were the lyrics “*Strip, crown, nail me, brimstone hail me*” which we considered to be a reference to the crucifixion of Jesus Christ. In our view, the juxtaposition of the lyrics may have evoked for UK listeners the antisemitic allegation that Jewish people are collectively responsible for the crucifixion of Jesus Christ⁸.

These words were later followed by the lyrics “*To the lawyers, to the sheriffs, to the judges. To the debt holders and the law makers*”, whom the artist addresses with “[Bleep] *you, sue me, bill me*”. In the context of the preceding lines and in particular, reference to the phrase “*synagogues of Satan*”, we considered that some UK listeners may have interpreted these references to be references to the Jewish community.

In their representations to Ofcom, the presenter argued that the words “*Synagogues of Satan*” were “biblical references” meaning “non-believers of Christ” and therefore these lyrics as a whole were a metaphor for the artist’s “struggles within the music industry” and a reference to those not believing in him as an artist or who “may question or doubt his faith in religion or his commitment to music”. The presenter also argued that the artist was referring to the fact that “he may have been persecuted metaphorically or physically... but the persecutors do not know the real him, he has made himself new as a man and musically as Jay Electronica”. We acknowledged that the lyrics supported this possible interpretation. However, we considered that, in light of the earlier reference to “*the synagogues of Satan*”, some listeners could reasonably interpret these lyrics as attributing the artist’s frustration and difficulties in his life and work to the actions of Jewish people in positions of control and authority and that these lyrics therefore potentially evoked a common derogatory stereotype about Jewish people being disproportionately in control of businesses, economic systems and other influential institutions.

⁷ The antisemitic trope of Jewish people worshipping the devil is explained in Antisemitism Policy Trust, [Antisemitic Imagery and Caricatures – The Devil and the Devil Worshipper](#) (page 12).

⁸ This allegation is explained in Antisemitism Policy Trust, [Myths and Misconceptions about Jews – Myth: Jews killed Jesus](#) (page 6).

In this context, we took into account that one of the contemporary examples of antisemitism which accompany the IHRA working definition of antisemitism is as follows:

“Making mendacious, dehumanizing, demonizing, or stereotypical allegations about Jews as such or the power of Jews as collective — such as, especially but not exclusively, the myth about a world Jewish conspiracy or of Jews controlling the media, economy, government or other societal institutions”.

Overall, although we recognised that the references were brief and not repeated, taking the above into consideration, it was our view that the lyrics described above would more likely than not to be interpreted by some listeners to be antisemitic and expressions of hatred based on intolerance of Jewish people, and that their broadcast had the potential to promote, encourage and incite such intolerance among listeners.

It was therefore Ofcom’s Decision that the lyrics set out above amounted to antisemitic “hate speech” within the meaning of the Code.

We next considered whether there was sufficient context to justify the broadcast of antisemitic hate speech in this case.

We considered that the risk of the material broadcast causing harm or offence was particularly high, given that the lyrics had the clear potential to promote, encourage and incite intolerance towards Jewish people among listeners. As such, this content would require a correspondingly high level of contextual justification. Our [published Guidance](#) to Rule 3.2 makes clear that there are certain genres of programming such as drama, comedy, news or current affairs where there is likely to be editorial justification to include challenging or extreme views in keeping with audience expectations, provided there is sufficient context.

In assessing whether there was contextual justification in this case, 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 without interference.

The Code states that contextual factors relevant to Rules 3.2 and 3.3 of the Code include, but are not limited to:

- the genre and editorial content of the programme;
- the extent to which sufficient challenge is provided;
- the status of anyone featured in the material; and,
- the service on which the programme is broadcast and the likely size and expectations of the audience.

We therefore considered whether these or any other contextual factors were relevant to this case.

We recognise that, as a community radio station “deeply rooted in Black culture within London and worldwide”, Rinse FM’s listeners may expect and enjoy content such as music programming exploring “different opinions and problematic situations worldwide”. We also acknowledge the Licensee’s

argument that, as a community radio station, it is important that Rinse FM “encourages thought provoking content [and] explores different artist[s] point[s] of [view]”.

In this case, we took into account that this programme was broadcast in the context of the heightened awareness and discussion of issues related to race and racism following the recent worldwide anti-racism protests following the death of George Floyd⁹. In that context, the premise of the show was for the presenter to showcase some of her “favourite Black artists” who have inspired her as a DJ and presenter. Ofcom considers that freedom of expression is particularly important in a creative context, and that it was legitimate for a community radio station specialising in urban music to broadcast a playlist highlighting Black music.

We acknowledged that the Licensee said it considered Ofcom’s Preliminary View was seeking to “justify what we believe is an inaccurate and unfair representation” of the premise of the programme which was “to explore and support the Black Lives Matter proposition”, adding “we strongly believe that support for Black lives does not make us even remotely racist”. As set out above, Ofcom considers that Rinse FM’s decision to broadcast a programme increasing awareness and debate around the issue of race in response to the Black Lives Matter protests was clearly legitimate. However, in coming to our Decision, Ofcom is required to consider whether the antisemitic lyrics contained in this music track were sufficiently contextualised so as to protect audiences from potential harm. Despite the legitimate focus of the programme on racial equality in relation to the Black Lives Matter movement, we did not consider that this broader editorial context provided any direct challenge to the antisemitic lyrics included in the track, or place these in context.

We also considered the genre of the song featured on the programme. Hip hop is a music genre which has a long tradition of including challenging lyrics, including speaking out for social justice and against inequalities and police brutality. Given that the Licensee’s intended audience are young people interested in urban and dance music¹⁰, we therefore considered it likely that it would have been in line with audience expectations to feature hip hop music which contained challenging and provocative content and language. However, in this case, given that the lyrics featured in this particular music track amounted to expressions of antisemitism, as referred to above, we considered it would have required strong contextualisation to be included in the broadcast programme. We did not consider that Rinse FM’s audience would expect to hear uncontextualised antisemitic hate speech in music broadcast on the channel, or that the audience would consider inclusion of this song without adequate context to be within “acceptable boundaries of encouraging educational exploration of Black music [and] culture”.

By way of context, the Licensee acknowledged that whilst the lyrics “*synagogues of Satan*” could be “seen by some as an antisemitic trope” when taken outside context, the phrase was drawn from the Bible and that therefore, the lyrics contained no “negative connotations towards Jewish people or any particular religion”. Ofcom acknowledges that the phrase “synagogue of Satan” (in the singular) appears in two verses in the Book of Revelation in the New Testament and that, in that context the

⁹ George Floyd was a Black American man who was killed in police custody on 25 May 2020 outside a shop in Minneapolis, Minnesota.

¹⁰ See [Key Commitments](#), CR000225, Rinse FM.

Bible refers to people who “say they are Jews, and are not”¹¹. However, Ofcom considered that it was unlikely that UK audiences would be familiar with this context and the programme did not explain it.

Ofcom also considered that the references in the track to “*lawyers, to the sheriffs, to the judges. To the debt holders and the law makers*”, when considered in the context alongside the reference to “synagogues of Satan” in the track, may have been understood by some listeners as drawing on common derogatory stereotypes about Jewish people, even if those listeners were aware of the biblical source of the phrase “*synagogues of Satan*”.

Ofcom understands that in the course of history, the phrase “synagogue of Satan” has often been taken out of its original biblical context and used as a form of abuse of Jewish people and Judaism, contributing to their demonisation¹². More recently, the use of the phrase “synagogues of Satan” has been reported in an antisemitic incident in the UK¹³, and has been tied to antisemitic allegations of Jewish control of institutions¹⁴. In the context of the lyrics outlined above, we therefore did not accept that the biblical origins of the phrase would mitigate the antisemitic content included in the lyrics.

We took into account the Licensee’s argument that the lyrics were a metaphor for the artist expressing his “struggles” and personal challenges encountered in his life and career in the music industry, and its representation that our Preliminary View exhibited “misconceptions and misinterpretations” of the track. The presenter clarified this further in her representations, stating that the lyrics “*strip, crown, nail me, brimstone, hail me*” were intended to “speak to non-believers of [the artist]” and “cross-references a biblical story of ‘non-believers’ within a religious group, to [show] how [the artist] feels he is treated within his life and the music industry”. Whilst we accept that a personal account of struggle would be a legitimate subject for the artist’s creative expression, we did not consider that it would have mitigated the antisemitic content in the lyrics.

In considering the overall context of the lyrics, we took into account that the track opened with a sample from an interview with the former leader of the Nation of Islam (“NOI”), Elijah Muhammad. The NOI is a Black nationalist group in the United States which has been criticised for using antisemitic rhetoric in their preaching, and such rhetoric has been attributed to Elijah Muhammad¹⁵. Whilst

¹¹ The phrase appears in [Revelation 2:9](#) and [Revelation 3:9](#) (the links go to the King James version of the Bible but the same site also reproduces other editions of the Bible. Ofcom does not consider the differences between the translations to be material to this case).

¹² For example, see: See Antisemitism Policy Trust, [Antisemitic Imagery and Caricatures](#) (page 12); CBS News, [“Jews are the children of Satan” and the danger of taking biblical passages out of context](#); Gilman, S & Katz, S, [Anti-Semitism in Times of Crisis](#) (page 45).

¹³ According to the [Community Security Trust’s 2017 Report on Antisemitic Incidents](#), an incident was recorded in London in which “[t]wo men were standing in the street holding a poster that read, ‘Dictators of today: Rothschild’ and a book with a red Star of David titled, ‘Synagogues of Satan’”. Ofcom understands that this book was possibly “*The Synagogue of Satan: The Secret History of Jewish World Domination*” by Andrew Carrington Hitchcock, which features a red Star of David dripping blood on the cover of one of its editions.

¹⁴ Antisemitism Policy Trust, [A guide to the IHRA working definition of antisemitism](#) (page 6); See USA Today, [In Nixon tapes, Billy Graham refers to ‘synagogue of Satan’; ‘Louis Farrakhan loses Twitter verification after ‘Satanic Jew’ rant’, Jerusalem Post, 12 June 2018.](#)

¹⁵ See The Southern Poverty Law Center, [‘Nation of Islam’](#).
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Ofcom recognised that the content sampled does not itself contain any antisemitic rhetoric, and that most UK audiences would be unlikely to recognise the sample or its source, we were concerned that the inclusion of the words of an authoritative figure within the NOI would further signal an antisemitic intention and meaning of the lyrics to any listeners who might be familiar with the NOI and its rhetoric.

In reaching our Decision in this case, we considered the Licensee's contention that the presenter had applied due care and "had placed into an appropriate context what she was attempting to do". Ofcom disagreed. In our view, there was no warning or information given before, during or after the broadcast of the music track that the language could offend, or to set the lyrics in context. There was also no challenge to, criticism, or explanation of the antisemitic lyrics that the music track contained and, as outlined above, the broader intention of the programme to support Black music in the context of worldwide anti-racism protests did not in itself serve to contextualise these lyrics. We were concerned that the introduction to the track, which described it as one of the presenter's "*absolute favourites*" and referred to the artist as "*the one and only Jay Electronica*", served as a broad endorsement of the song by the editorial voice of the programme.

The Licensee argued that "as a full-time Community Radio station with limited resources it is not always possible to 'nip in the bud' any potentially controversial material". We acknowledge the practical and logistical challenges faced by community radio licensees. However, it is a fundamental requirement of holding an Ofcom licence that all licensees have adequate processes in place to ensure compliance with the Code. It is an editorial decision for the broadcaster as to how it complies with the Code. However, in our view, having in place arrangements to ensure that both live and pre-recorded content complies with the Code would enable a broadcaster to take swift and robust action if the most harmful content is broadcast, including uncontextualised hate speech.

We welcome the steps taken by the Licensee to improve its processes and policies since Ofcom made it aware of the content, including: ensuring that at least two people review any potentially controversial track, commentary and statement; reviewing the advice to presenters in recognising unconscious biases; and, reviewing training material to reflect the issues raised under the Code by the programme.

However, taking each of the above factors into account, in our view, there was insufficient context to justify the inclusion of hate speech in the music programming broadcast on Rinse FM.

Therefore, our Decision was that the content breached Rule 3.2 of the Code.

Rule 3.3

Rule 3.3 of the Code states:

"Material which contains abusive or derogatory treatment of individuals, groups, religions or communities, must not be included in television and radio services except where it is justified by the context".

The Code does not prohibit criticism of groups, religions or communities. However, such criticism must not spill over into pejorative abuse. The Code has been drafted in light of the Human Rights Act 1998 and the ECHR, and seeks to strike an appropriate balance where broadcast content engages

competing rights. In the context of Rule 3.3, it does so in particular in relation to the right to freedom of expression, which encompasses the broadcaster's and audience's right to broadcast and receive material, information and ideas without unnecessary interference, as well as the right to freedom of thought, conscience and religion and the right to enjoyment of human rights without discrimination on grounds such as ethnicity or religion.

We first considered whether this programme contained abusive or derogatory treatment of individuals, groups, religions or communities. For the reasons set out above, although the references were brief and not repeated, we considered that the lyrics in the track constituted antisemitic hate speech and therefore contained abusive or derogatory treatment of Jewish people.

As described above, we considered that the reference in the lyrics to *"The synagogues of Satan"* was antisemitic and would have been understood by some listeners as suggesting that Jewish people are evil or worship the Devil. We therefore considered that this lyric was abusive and derogatory of Jewish people.

In the context of that phrase having been used, we considered that the lyrics *"To the lawyers, to the sheriffs, to the judges. To the debt holders and the law makers"*, followed by "[Bleep] you, sue me, bill me" cumulatively contributed to a narrative that may also have been understood by a UK audience to be derogatory and abusive towards Jewish people, because it characterised Jewish people and Judaism in a negative and stereotypical light.

Therefore, it was our view that the broadcast contained material which amounted to abusive or derogatory treatment of Jewish people on the basis of their religion.

We next considered whether there was sufficient context to justify the broadcast of this abusive and derogatory treatment. As set out above, we considered the particular importance of freedom of expression in a creative context, and that hip hop is a music genre which has a long tradition of including challenging lyrics in terms of the views expressed and language use. In Ofcom's view, whilst it is legitimate and in line with freedom of expression to broadcast music tracks with challenging and potentially offensive lyrics, Rule 3.3 is clear that individuals, groups, religions or communities must not be subject to uncontextualised abusive or derogatory treatment. For the reasons already discussed above under Rule 3.2, we considered that the music track containing lyrics amounting to abusive and derogatory treatment of Jewish people was broadcast in the programme without sufficient contextualisation, and that this was likely to have exceeded the expectations of Rinse FM's audience.

Therefore, our Decision was that there was insufficient context to justify the broadcast of these abusive and derogatory statements, in breach of Rule 3.3 of the Code.

Rule 2.3

Rule 2.3 of the Code 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.”

We first considered whether the content had the potential to cause offence.

As discussed under Rules 3.2 and 3.3, the music programme contained a track with lyrics which, although they were sung once and not repeated, amounted to antisemitic hate speech, and were abusive and derogatory towards Jewish people. Our Decision was therefore that the programme had the potential to cause significant offence.

We considered whether the broadcast of this potentially offensive material was justified by the context. Section Two of the Code provides that “context” can be assessed by reference to a range of factors including: the editorial content of the programme; the service on which the material was broadcast; the likely size, composition and expectations of the audience; and the time of broadcast.

For the reasons set out above under Rules 3.2 and 3.3, we considered that the offensive lyrics relating to Jewish people were broadcast without appropriate information, such as a warning, explanation or challenge, that would assist in avoiding or minimising the level of potential offence.

The Licensee argued that the lyrics were not “objectively offensive” to its community or the wider public given the original biblical context of the words “synagogues of Satan”. Ofcom disagreed. In our view, the specific lyrics within this track had the potential to be highly offensive to a UK audience and we did not consider that the biblical context justified the inclusion of the lyrics in the music programme without adequate contextualisation.

We therefore considered that the broadcast of the song without sufficient contextualisation would have exceeded the expectations of Rinse FM’s audience.

Our Decision was therefore that the programme was also in breach of Rule 2.3 of the Code.

Conclusion:

In Ofcom’s view, the track contained antisemitic hate speech, abusive, derogatory and potentially offensive lyrics which were not justified by the context.

Our Decision was that these breaches were serious and we are therefore minded to consider these breaches for the imposition of a statutory sanction.

Breaches of Rules 3.2, 3.3 and 2.3 of the Code.