

Ofcom Broadcast and On Demand Bulletin

Issue 438
8 November 2021

Studio 66 TV

Type of case	Broadcast Standards
Outcome	In Breach
Service	Studio 66
Date & time	1 March 2021, 17:10 21 March 2021, 21:00 4 April 2021, 19:58 7 April 2021, 10:48 18 April 2021, 20:16
Category	Harm & Offence Scheduling of television advertisements
Summary	Several advertising broadcasts featured sexually explicit language and behaviour, which were capable of causing offence and had the potential to harm or distress children. In breach of Rules 23.3, 32.3 and 4.2 of the UK Code of Broadcast Advertising (BCAP Code).

Introduction

Studio 66 TV is interactive chat advertising, broadcast on the service Studio 66, which is available as part of a standard satellite subscription package. The content consists of presenters inviting viewers to contact them via premium rate telephony services (“PRS”). Studio 66 is available without mandatory restricted access and is situated in the ‘adult’ section of the electronic programme guide (“EPG”) on the Sky platform. The licence for the service is held by 965 TV Limited (“965 TV” or “the Licensee”).

Ofcom received complaints about five broadcasts. In four cases, the complainants objected to offensive language by the presenters. In one case, the complainant considered that the behaviour of the presenters was inappropriate for broadcast owing to instances of nudity and offensive language. Having reviewed the material, Ofcom identified that in all these broadcasts, the presenter addressed

the camera direct, in order to encourage viewers to contact them via PRS or communicate with a viewer they had just spoken to by PRS¹. We noted the following:

Pre-watershed content

1 March 2021, 17:10

The presenter said to camera: *“I wanna know how hard that cock is for this tiny little cunt”*, with variations of this phrase being repeated on three further occasions between 17:32 and 17:41.

4 April 2021, 19:58

At 19:58, the presenter said the following to camera *“You can buzz my toy, I always feel good when you buzz my toy”*. The following images implied that the presenter was using a sex toy, although this was not visible on the broadcast: The presenter moaned into the microphone on several occasions, before thanking a number of viewers for remotely activating the sex toy. At 19:59, she said, *“Thank you so much for that buzz, baby”* and at 20:00, she said *“That felt very good right in there, right in my tiny little hole”*. Then at 20:01, the presenter said *“keep wanking your cock over me”* before making further moaning noises into the microphone. At this point the audio was dipped and the camera cut to pre-recorded footage for several minutes.

7 April 2021, 10:48

Whilst talking to camera, the presenter implied that she was using a sex toy in the same manner as described above, and, as above the sex toy was not shown in the broadcast images. We also noted one audible use of the word *“fuck”* before the presenter said, *“Naughty boy, giving me buzzes while I’m on the mic, trying to get me to slip up”*.

18 April 2021, 20:16

The presenter said the following to camera: *“I really enjoyed listening to you wank that hard, big cock. Fucking hell... Call me and let me tell you how wet it is between these legs. My cunt is ready for you guys”*.

Post-watershed content

21 March 2021, 21:00

The presenter exposed either one or both her breasts at 21:01, 21:15 and 21:18. There were also multiple instances of sexually explicit language, for example at 21:03 the presenter said to camera:

“I’ve got a toy in my cunt so why don’t you buzz it? Make me squeal. Watch my reaction, watch my ‘cum’ face on your screen. Buzz my cunt to see my cum face”. At 21:07, the presenter said “I also have a toy in my cunt, why don’t you buzz it? Let’s have a good time. Buzz to see my ‘cum’ face [laughs]”.

At 21:12 the presenter apparently responded to a remote activation of a sex toy, which, as with the examples broadcast on 4 and 7 April 2021, was not shown in the broadcast images, by saying: *“Oh my gosh who was that?”* before moaning into the microphone and saying *“the after feeling of that is*

¹ When the presenters spoke to members of the audience by PRS these conversations were not audible to viewers of the broadcast output of Studio 66.

amazing, thank you so much for that buzz. I'm trying to compose myself on TV but it's really hard when you guys buzz me".

Shortly after, the presenter said:

"I know my toy is dripping with these sweet pussy juices right now, so call me guys on option number 7 and let me know how much you want to slide your hard thick cock in me. That's what I'm here for, let me empty out your balls guys. Drain your cock inside me".

At 21:20 the presenter said:

"Oh my god, my clit is throbbing...thank you so much for those buzzes...fuck that was nice...you sexy fucker...one buzz after the other".

Ofcom considered that the pre-watershed material raised potential issues under the following rules of the [UK Code of Broadcast Advertising](#) ("the BCAP Code")¹.

Rule 23.3: "Advertising for telecommunications-based sexual entertainment services must not be broadcast before 9pm or after 5:30am..."

Rule 4.2: "Advertisements must not cause serious or widespread offence against generally accepted moral, social or cultural standards".

For the post-watershed broadcast on 21 March 2021, Ofcom considered that the material raised potential issues under the following rules of the BCAP Code:

Rule 32.3: "Relevant timing restrictions must be applied to advertisements that, through their content, might harm or distress children of particular ages or that are otherwise unsuitable for them".

Rule 4.2: "Advertisements must not cause serious or widespread offence against generally accepted moral, social or cultural standards".

We therefore sought comments from the Licensee on how the material complied with these rules.

Response

965 TV accepted that all of the broadcasts identified by Ofcom raised issues under the specified sections of the BCAP Code and apologised. It stated that four of the instances cited involved "one presenter who acted totally out of line both with our own internal procedures and with Ofcom's published Guidance". The Licensee added that all presenters are "provided with a guidance document and training before they present live on television" so they "would have been well aware that what they were doing was unacceptable".

965 TV also provided comments on the different broadcasts:

1 March 2021, 17:10 and 21 March 2021, 21:00

The Licensee admitted that, as a result of reduced staffing numbers due to the ongoing Coronavirus pandemic, the staff member responsible for monitoring "picked up additional workload and...it appears this meant that on 1 and 21 March 2021 the monitoring of [its] output was not completed as *Issue 438 of Ofcom's Broadcast and On Demand Bulletin*
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normal...The issues on 1 and 21 March should have been, but were not, recorded in the company compliance diary and this unfortunately meant [965 TV was] unaware that they had occurred”.

4 April 2021, 19:58

The Licensee said that this issue had been noted in its compliance diary. The presenter in question was spoken to and reminded that their “language and apparent activation of a sex toy was unacceptable at any time of day” and warned that a repeat of the behaviour would result in them not being able to feature in advertisements carried by 965 TV.

7 April 2021, 10:48

The Licensee told Ofcom that this issue, which involved a different presenter to the above incidents, was also noted in the Licensee’s compliance diary.

18 April 2021, 20:16

The Licensee added that this issue was also noted in the compliance diary and the presenter (who was also the presenter for the 1 March 2021, 21 March 2021 and 4 April 2021 broadcasts) was subsequently “banned from appearing in any further advertisements”.

The Licensee confirmed that following the incidents that occurred on 4, 7 and 18 April 2021, it decided to make “fundamental changes to the format of its daytime output to substantially reduce the risks of non-compliance with the BCAP Code”, including having “a dedicated, full-time producer monitoring the output”.

However, the Licensee added that the likelihood of a child having seen any of the content was very low, citing the placement of the channel within the ‘adult’ section of the Sky EPG and the parental control features available on the service. It also added that “there ought (in our view) to be at least some level of parental (or guardian) responsibility to ensure that parental controls are applied to content that [they] do not wish their children to see”. The Licensee also questioned whether the material broadcast both before and after watershed was capable of causing “serious or widespread offence” when considered against Rule 4.2 of the BCAP Code.

The licensee made further representations in response to Ofcom’s Preliminary View which was to record breaches of Rules 4.2, 23.3 and 32.3 of the BCAP Code and also consider these breaches for the imposition of a statutory sanction. In respect of Ofcom’s provisional findings about the links between the Licensee and the previous licensed provider of the Studio 66 service, the licensee said: “although it is correct that [the same individual] is the sole director of 965 TV Limited and was the sole director of 914 TV Limited, they are different corporate entities with separate legal personality”. In respect of Ofcom’s provisional findings about the breaches recorded against 914 TV Limited, the Licensee said that the majority of the issues raised previously by Ofcom in relation to 914 TV Limited differed from those in the current case as the former had related to primarily issues of inappropriate clothing and sexualised actions by presenters rather than primarily sexually explicit language, as in the current case.

The Licensee also stated that “in the interests of fairness, it should be made clear that the majority of the complaints were made by one individual”.

Decision

Pre-watershed broadcasts

Reflecting our duties under Section 319 of the Communications Act 2003, Rule 23.3 of the BCAP Code requires that advertising for telecommunications-based sexual entertainment services is not broadcast before 9pm. Rule 4.2 of the BCAP Code requires broadcasters to ensure that advertisements do not cause serious or widespread offence against generally accepted moral, social or cultural standards.

We noted the comments made by the Licensee regarding the number of individuals who had made complaints to Ofcom about the content described above. In fact, Ofcom received complaints from more than one individual. In any event, in line with our [Procedures](#), and our general duty under section 3 of the Communications Act 2003 to secure in respect of all television and radio services, the application of standards to provide adequate protection from harm and offence,² Ofcom assesses each complaint that it receives in relation to licensed television and radio broadcasts.

Ofcom's [published guidance](#) on the advertising of PRS 'chat' services ("the Chat Service Guidance") sets out what Ofcom considers to be acceptable to broadcast on these services. The Chat Service Guidance requires 'daytime chat' services to be placed within the 'adult' or similarly identified section of EPG listings. It reflects that the "presentation of daytime chat should always be suitable for wide audiences, that is for audiences including children and young persons...should they come across it unawares". In relation to the broadcast of 'daytime chat' advertising, the guidance states:

"Such services should not suggest that sex chat of any sort is available by using the numbers being advertised or otherwise, nor seek to suggest that the channel will be offering sexual entertainment services at a later time. All dress and behaviour should be non-sexual in tone and apparent intent".

Rule 23.3 requires that: "Advertising for telecommunications-based sexual entertainment services must not be broadcast before 9pm or after 5:30am". The relevant Guidance confirms that this rule prohibits adult chat being advertised (and so broadcast) other than within prescribed times on channels that are specifically licensed by Ofcom for that purpose. For cable and satellite platforms the acceptable hours are between 9pm and 5.30am.

The Guidance also clearly states that Licensees should:

- at no time broadcast sexually explicit language; and
- ensure any sexual language broadcast is restrained, and avoid its use altogether before midnight.

Ofcom considers that the material presented across the four pre-watershed broadcasts (as detailed above) did not comply with these elements of the Chat Service Guidance. It featured a range of presenters using sexually explicit language and contained several examples of viewers engaging in sexual practices with the presenters (i.e. via the remote activation of sex toys) outside of the permitted hours.

² See section 3(2)(e) Communications Act 2003.
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We took into account the Licensee's comments that in its view, parents and guardians should have some responsibility for ensuring they use parental controls to restrict access to material unsuitable for their children. However, in Ofcom's view, audiences – and in particular parents and carers – would not expect material of this nature to be broadcast before the watershed. Therefore, Ofcom's Decision is that the broadcasts were in breach of Rule 23.3 of the BCAP Code.

Rule 4.2 of the BCAP Code requires that advertisements must not cause "serious or widespread offence against generally accepted moral, social or cultural standards". The BCAP Code permits 'adult chat' services to be advertised within prescribed times and on unencrypted channels (i.e. without mandatory restricted access) that are specifically licensed by Ofcom for that purpose, provided content is restricted to exclude inappropriate material.

Ofcom has made clear in a number of published decisions the type of material that is unsuitable to be broadcast in 'adult chat' advertising content which is available both pre- and post-watershed without mandatory restricted access. Our published guidance specifically states that Licensees must "at no time broadcast images of any real or simulated sex acts".

The content broadcast on all of the dates specified above included the presenters simulating sex acts and/or encouraging the viewer to engage in sexual practices. In a number of cases, this included viewers remotely activating a sex toy being used by the presenters. In addition, explicit sexual language was used during each broadcast, including the words "fuck" and "cunt". In Ofcom's view, this material was clearly capable of causing offence.

Ofcom acknowledges that Studio 66 is situated in the 'adult' section of the Sky EPG and that, as the Licensee said in its comments above, the likelihood of children watching the channel was therefore likely to be low. However, this material was broadcast without mandatory restricted access.

We acknowledged the steps the Licensee said it has taken to improve its compliance of this service with the rules of the BCAP Code in future, for example: no longer employing a particular presenter who had repeatedly behaved inappropriately; and having a producer dedicated to monitoring the service's output.

However, the material broadcast was of a type which Ofcom's Chat Service Guidance identifies as being unacceptable on 'adult chat' services. Ofcom did not consider the positioning of the channel in the 'adult' section of the EPG sufficient to prevent the material from causing widespread offence against generally accepted standards. Therefore, Ofcom's Decision is that the pre-watershed broadcasts were in breach of Rule 4.2 of the BCAP Code.

Post-watershed broadcast

Rule 32.3 of the BCAP Code requires timing restrictions to be applied to advertisements that might harm or distress children, or that are otherwise unsuitable for them. Rule 4.2 of the BCAP Code requires broadcasters to ensure that advertisements do not cause serious or widespread offence against generally accepted moral, social or cultural standards.

The Chat Service Guidance states that broadcasters should "not broadcast shots of bare breasts before 22:00". As described above, in the 21 March 2021 broadcast, the presenter exposed her breasts on

three separate occasions before 22:00 as well as using sexually explicit language. Therefore, our Decision is that the broadcast breached Rule 32.3 of the BCAP Code.

Again, we took into account that Studio 66 is positioned in the 'adult' section of the EPG and that viewers tend to expect the broadcast of stronger sexual material on channels in this section compared to channels in other sections of the EPG. However, the content was of a type which Ofcom's Chat Service Guidance clearly indicates as being unacceptable on 'adult chat' services. Ofcom did not consider that the 21:00 time of broadcast (or its placement within the adult section of the EPG) was sufficient to prevent the material from causing widespread offence against generally accepted standards. Therefore, Ofcom's decision is that this broadcast was also in breach of Rule 4.2 of the BCAP Code.

Breaches of Rules 4.2 and 23.3 of the BCAP Code

1 March 2021

4 April 2021

10 April 2021

18 April 2021

Breaches of Rules 4.2 and 32.3 of the BCAP Code

21 March 2021

Next Steps: Ofcom is minded to consider these breaches for statutory sanction

As set out above, our Decision is that there have been a number of similar and repeated breaches of the BCAP Code. Taken together, we consider these breaches to be serious. In reaching this preliminary view, we have also taken into account that breach findings were published in April 2019, October 2019 and February 2020 in relation to Studio 66 when the service was provided by 914 TV Limited, a company controlled by the same individual as the Licensee. **We are therefore minded to consider these breaches for the imposition of a statutory sanction.**

The representations made by the Licensee on whether it is appropriate to take account of the breaches recorded against 914 TV Limited will be considered as part of our process for considering the imposition of statutory sanctions under the [relevant procedures](#). The Licensee will also be given the opportunity to make written and oral representations during this process.