

Sanction Decision by Ofcom

Sanction: to be imposed on Islam Channel Ltd

For material broadcast on Islam Channel on 22 February 2021 at 21:00¹.

Ofcom's Sanction Decision against: Islam Channel Ltd ("Islam Channel" or "the Licensee") in respect of its service **Islam Channel** (Ofcom TLCS licence TLCS000684BA/1).

For: Breaches of the Ofcom Broadcasting Code (the "Code")² in respect of:

Rule 3.2: "Material which contains hate speech must not be included in television...programmes...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, but is not limited to...discriminatory treatment or language (for example on the grounds of...race, religion or belief...".

Ofcom's Decision: To impose a financial penalty payable to HM Paymaster General) of **£40,000**;

To direct the Licensee not to repeat the programme; and,

To direct the Licensee to broadcast a statement of Ofcom's findings on a date and in a form to be determined by Ofcom.

¹ See [Issue 463 of Ofcom's Broadcast and On Demand Bulletin](#), 5 December 2022 ("the Breach Decision").

² See [Section Two and Three of the Code](#) in force at the time of broadcast, which took effect on 31 December 2020.

Executive Summary

1. Islam Channel is an Islamic-focused, English language satellite television channel broadcasting a range of content to the Muslim community in the UK. Its output includes religious instruction programmes, current affairs, documentaries and entertainment programmes, all from an Islamic perspective.
2. On 22 February 2021 at 21:00, Islam Channel broadcast a one-hour documentary programme, *The Andinia Plan*. It examined a conspiracy theory known as the “Andinia Plan” that alleges there is a secret plan to establish a second Jewish state in Patagonia, the southern region of South America governed by Argentina and Chile. The position taken by the programme was that doubt existed as to whether or not the theory is based on fact or is merely a conspiracy theory.
3. The Andinia Plan theory originated in a neo-Nazi publication and is widely regarded as a manifestation of antisemitism³. Ofcom understands the conspiracy theory gained widespread popularity, especially among right-wing nationalists, and has been used as an instrument of antisemitic propaganda and to incite hatred towards the Jewish population in Argentina⁴.

The Breach Decision

4. In Ofcom’s Decision published on 5 December 2022 in [Issue 463 of Ofcom’s Broadcast and On Demand Bulletin](#) (the “Breach Decision”), Ofcom found that this programme contained hate speech⁵ which was presented without sufficient context and breached Rules 3.2 and 2.3 of the Code.
5. The Breach Decision set out in full the broadcast material that was in breach, along with reasoning as to why the material had breached each rule.
6. Ofcom concluded this broadcast contained potentially very harmful and highly offensive antisemitic hate speech and therefore put the Licensee on notice that it considered these breaches to be serious, and that it would consider them for the imposition of a statutory sanction.

The Sanction Decision

7. In accordance with Ofcom’s Procedures for the consideration of statutory sanctions in breaches of broadcast licences (the “[Sanctions Procedures](#)”), Ofcom considered whether the Code breaches were serious, deliberate, repeated or reckless so as to warrant the imposition of a sanction on Islam Channel. It has reached the Decision that a sanction is merited in this case since the breaches are serious and repeated for the reasons set out in paragraphs 125 to 132 and paragraphs 147 to 149 below.
8. Ofcom’s Preliminary View on sanction (“the Sanction Preliminary View”) was that Ofcom was minded to impose statutory sanctions on the Licensee. Our Sanction Preliminary View took into account representations that Islam Channel had previously made in advance of our breach finding (see paragraphs 53 to 69 below). Ofcom sent a copy of the Sanction Preliminary View to Islam Channel on 11 July 2023 and gave it the opportunity to provide further written and oral representations (“the Representations”). The Licensee provided its written representations to

³ See e.g. A [1976 US Congressional report on human rights in Argentina; Andinia Plan](#), antisem.eu; and [International Religious Freedom Report 2004, Argentina](#), US Department of State.

⁴ [The Final Solution in Argentina](#), New York Times, published on 10 May 1981.

⁵ Section Three of 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, social origin, gender, sex, gender reassignment, nationality, race, religion or belief, sexual orientation, colour, genetic features, language, political or any other opinion, membership of a national minority, property, birth or age”.

Ofcom on 1 August 2023 and oral representations by videoconference on 29 August 2023. The Representations are summarised in paragraphs 71 to 122 below.

9. Having considered the representations made to us, Ofcom has reached the Decision that a sanction is merited for the reasons set out in paragraphs 124 to 133 below.
10. Ofcom's Decision is that the appropriate sanction is to:
 - i. impose a financial penalty of **£40,000**;
 - ii. direct the Licensee not to repeat the programme; and
 - iii. direct the Licensee to broadcast a statement of Ofcom's findings on a date and in a form to be determined by Ofcom.
11. This document sets out the basis for Ofcom's Decision, taking into account all the relevant material in this case and Ofcom's Penalty Guidelines (the "[Penalty Guidelines](#)").

Legal Framework

Communications Act 2003

12. Ofcom's principal duty, set out in Section 3(1) of the Communications Act 2003 ("the Act"), is to further the interests of citizens in relation to communications matters and the interests of consumers in relevant markets. In carrying out its functions, Ofcom is required to secure, among other things, the application to all television and radio services, of standards that provide adequate protection to members of the public from the inclusion of offensive and harmful material in such services (section 3(2)(e)).
13. Ofcom has a specific duty under section 319 of the Act to set such standards for the content of programmes in television and radio services as appears to it best calculated to secure the standards objectives set out in section 319(2). These objectives include that generally accepted standards are applied to the contents of television and radio services so as to provide adequate protection for members of the public from the inclusion in such services of offensive and harmful material (section 319(2)(f)). This requirement is reflected in Section Two and Section Three of the Code.
14. In performing its duties, Ofcom is required to have regard to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed, and any other principles representing best regulatory practice (section 3(3)); and, where relevant, to have regard to a number of other considerations including the need to secure that the application in the case of television and radio services of standards relating to harm and offence is in the manner that best guarantees an appropriate level of freedom of expression (section 3(4)(g)).

Human Rights Act 1998

15. Under section 6 of the Human Rights Act 1998, Ofcom (as a public authority) has a duty to ensure that it does not act in a way which is incompatible with the European Convention on Human Rights (the "Convention"). In particular, in the context of this case, Ofcom has taken account of the related rights under Article 10 of the convention.
16. Article 10 of the Convention provides for the right to freedom of expression. Applied to broadcasting, this right encompasses the broadcaster's freedom to impart and the audience's freedom to receive information and ideas without interference by public authority and regardless of frontiers (Article 10(1)). The exercise of these freedoms may be subject only to conditions and restrictions which are "prescribed by law and are necessary in a democratic society, in the interests of national security, territorial integrity or public safety, for the prevention of disorder or crime, for the protection of health and morals, for the protection of

the reputation or rights of others, for preventing the disclosure of information received in confidence or maintaining the authority and impartiality of the judiciary” (Article 10(2)).

17. Ofcom must exercise its duties in light of these rights and not interfere with the exercise of these freedoms in broadcast services unless it is satisfied that the restrictions it seeks to apply are prescribed by law and necessary to achieve a legitimate aim.

Equality Act 2010

18. Under Section 149 of the Equality Act 2010, 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 persons who share a relevant protected characteristic, such as race or religion, and persons who do not share it.

The Ofcom Broadcasting Code

19. Standards set by Ofcom in accordance with section 319 of the Act are set out in the Code.
20. Accompanying Guidance Notes to each section of the Code are published, and from time to time updated, on the Ofcom website. The Guidance Notes are non-binding but assist broadcasters to interpret and apply the Code⁶.
21. The relevant Code rules in this case are set out at the beginning of this Decision.

Remedial action and penalties

22. Under section 325 of the Act, a licence for a programme service issued by Ofcom under the Broadcasting Act 1990 or 1996 must include conditions for securing that the standards set under section 319 are observed by the licensee. In the case of a television licensable content service (“TLCS”) licence, Condition 6 of the licence requires the licensee to ensure that the provisions of any Code made under section 319 are complied with. The licensee in this case holds a TLCS licence.
23. Where Ofcom has identified that a condition of a TLCS licence has been contravened, its powers to take action are set out in sections 236 to 239 of the Act insofar as relevant to the case.
24. Section 236 of the Act provides Ofcom with the power to direct the holder of a TLCS licence to broadcast a correction or a statement of Ofcom’s findings (or both), or not to repeat a programme which was in contravention of a licence condition.
25. Under section 237 of the Act, Ofcom has the power to impose a financial penalty on the holder of a TLCS licence where it is satisfied the licensee has contravened a condition of its licence. The maximum level of a financial penalty that can be imposed on the holder of a TLCS licence in respect of each contravention of a TLCS licence condition is £250,000 or five per cent of the licensee’s qualifying revenue relating to its last complete accounting period for which its licence has been in force, whichever is greater.
26. Section 238 of the Act gives Ofcom a duty to revoke a TLCS licence if the licensee is in contravention of a condition of the licence or is failing to comply with a direction and Ofcom is satisfied that the contravention or failure, if not remedied, would justify the revocation of the licence. It is not relevant in this case, as the breaches are not ongoing and not susceptible to being remedied.
27. Section 239 of the Act gives Ofcom a duty to suspend and then revoke a TLCS licence if satisfied that that the holder of the licence has included in the service one or more programmes

⁶ See Section Two and Section Three of the Code at footnote 2, and Ofcom’s Guidance Notes on them: [Guidance Notes on Section Two: Harm and Offence](#); and [Guidance Notes on Section Three: Crime, Disorder, Hatred and Abuse](#).

containing material likely to encourage or to incite the commission of crime, or to lead to disorder; that, in doing so, it has contravened licence conditions; and that the contravention is such as to justify the revocation of the licence. It is not relevant in this case, as the programme did not contain material likely to encourage or to incite the commission of crime.

Background – further information on the Breach Decision

28. In the Breach Decision, Ofcom found that material broadcast on the Islam Channel on 22 February 2021 breached Rules 3.2 and 2.3 of the Code. The Breach Decision set out the reasons for each of these findings.
29. In the representations that Islam Channel made both in advance of our Preliminary View on the breaches and in response to our Preliminary View that the programme had breached the Code, it fully accepted it had breached Rules 2.3 and 3.2 of the Code and “apologised unreservedly” for having broadcast the programme and for any offence caused. Islam Channel broadcast an apology⁷ for the content on Friday 5 March 2021 at 21:16 and Monday 8 March 21:00. Islam Channel added that it did “not endorse any of the opinions expressed in this documentary and [did] not believe that it was fit for broadcast” but to its profound regret, the programme was broadcast “in error” and the circumstances surrounding this (see paragraphs 55 to 57) were “extremely unfortunate”.

Rule 3.2

30. Ofcom’s Breach Decision found that the documentary programme explored the theory that there is a secret plan to establish a second Jewish state in Patagonia, known as the “Andinia Plan”. The position taken by the programme was that doubt existed as to whether or not the theory is based on fact or is merely a conspiracy theory. As set out at paragraph 3, the theory originated in a neo-Nazi publication and is widely regarded as a manifestation of antisemitism. The theory itself touches on common antisemitic tropes: stereotypical allegations about the power of Jewish people as a collective, in particular the myth of a world Jewish conspiracy; the myth about Jewish people secretly controlling international and financial institutions; and the suggestion that Jewish people are more loyal to the state of Israel than to the interests of their own nation⁸.
31. The programme considered several matters, which were presented throughout as if they might amount to a credible case for the existence of a plan for Israel or Jewish people to seize parts of Patagonia or to gain control of it in order to exploit its resources:
 - a short piece of text written by Zionist theorist Theodore Herzl in 1896, in which he suggested either Palestine or Argentina as possible locations for a Jewish state;
 - historical immigration of Jewish people to Argentina;
 - alleged Israeli control over Jewish institutions in Argentina;
 - ownership of land in the Chilean and Argentine regions of Patagonia by prominent businessmen. The first of these was Eduardo Elsztein, who is Jewish. The second was Douglas Tompkins, who was Episcopalian⁹, but whom the narrator described as having

⁷ See paragraph 59 for a transcript of the apology.

⁸ As part of our consideration, we 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”.

⁹ See [‘Welcome to my world’](#), Observer, 15 February 2009.

- links to “international Zionism” because he was said to have financial connections to Elsztain;
- the presence of young Israeli tourists who travel to Patagonia following their compulsory military service.
 - the fact that an Israeli tourist was found guilty of starting a wildfire in Patagonia;
 - the wealth of Patagonia in terms of freshwater resources and oil; and
 - the perceived geopolitical weakness of Israel.
32. Aside from some individuals who were not members of the Jewish community, who were featured rejecting the suggestion that an Israeli tourist deliberately started a fire in Patagonia, all the voices featured in the programme who clearly disputed or rejected the Andinia Plan theory were representatives of Jewish or Israeli organisations. The majority of non-Jewish and non-Israeli voices heard in the programme expressed their belief in the likelihood of some form of plan. Those voices alone were explicitly endorsed by the narrator of the programme who described them once as “*scholars on the subject*” and twice as “*experts*”. The narrator did not provide this endorsement of those who disputed or rejected the theory.
33. The treatment of the Andinia Plan theory by the contributors in the programme who were described in this way drew on common antisemitic tropes. Contributors: made stereotypical allegations about the power of Jewish people as a collective, in particular the myth of Jewish people controlling the media and financial institutions; suggested that Jewish people are more loyal to the state of Israel than to the interests of their own nations; held Jewish people or Israel collectively responsible for the real or imagined wrongdoings of individual Jews, non-Jews and non-Israelis; and attributed motives to conduct by Israelis that was not attributed to people from other nations displaying the same conduct.
34. Overall, we considered that the cumulative effect of the programme was to suggest to the audience that there is credible evidence of a secret plan to establish either a new Jewish state in, or Jewish control of, Patagonia; and that this is being carried out by an international Zionist conspiracy which controls multiple front organisations. It suggested that Jewish people who campaign for closer ties between their home states and Israel do so in order to benefit Israel. We were concerned that, in presenting this conclusion to the audience, the programme relied on evidence that reflected strongly the antisemitic tropes outlined above.
35. We had regard to the fact that the audience for the programme was in the UK and not Argentina or Chile. We recognised that the programme topic was therefore likely to be somewhat less inflammatory for audiences outside those regions than within them. However, we considered that the theme of a world Jewish conspiracy is one which incites, promotes and justifies hatred based on antisemitism and anti-Israeli feeling across the globe, including in the UK. We therefore considered that the programme would, on its face, be likely to spread, incite, promote or justify hatred based on intolerance on the grounds of nationality, race, religion or belief.
36. We considered that the risk of the broadcast material causing harm or offence was particularly high, given the National Socialist origins of the Andinia Plan theory and the marked increase in antisemitic hate crimes recorded in the UK in recent years¹⁰. We therefore considered that the need for contextual justification was particularly important.

¹⁰ See, for example page 80 onwards of “[Antisemitism - Overview of data available in the European Union 2009– 2019](#)” published in September 2020 by The European Union Agency for Fundamental Rights. See also “[Antisemitic Incidents Report 2019](#)” by the Jewish charity the Community Security Trust, which shows that the number of antisemitic hate incidents in the UK rose by 7% in 2019.

37. The programme was a documentary and presented itself as featuring “*experts*” and “*scholars*”. It showed extracts of interviews from a range of perspectives. As such, it would be likely to be perceived by its audience as authoritative and objective which in Ofcom’s view was likely to have increased the potentially harmful impact of the hate speech it contained.
38. Taking account of the service Islam Channel provides (see paragraph 1), we considered its viewers may expect to see criticism of Israel and of Zionism. However, we considered they would not have expected a programme to include antisemitic hate speech without careful contextualisation.
39. The programme provided some challenge and context. The far right and antisemitic associations of the theory were acknowledged briefly in the programme by various speakers including the narrator. However, in each case, they were immediately followed by a statement tending to suggest that there is some foundation for the theory.
40. A number of contributors representing the Jewish, Israeli or Zionist perspective were shown in the programme and were given the opportunity to dispute some of the allegations made within it. In particular, in relation to Herzl’s text, Hernando Grosbaum, Honorary Consul of Israel in Patagonia, was shown pointing out how little written evidence there is of any plan. Benny Schneid, Executive Director of the Argentine Zionist Organization, was shown placing the text in its historical context. In addition, the programme gave examples to acknowledge that not all Jewish people are Zionists. As to the Andinia Plan more generally, Hernando Grosbaum, was shown dismissing the suggestion in its entirety.
41. However, all these statements occurred fairly early on in the hour-long programme. At approximately 10 minutes into the programme, the narrator said: “*Experts in the topic are convinced that there are reliable signs showing that Andinia Plan is already underway*”, and Juan Gabriel Labake¹¹ listed “*concrete milestones*” of the plan. From then on during the programme a number of topics were discussed by a series of supporters of the Andinia Plan theory without any challenge or context; and in others such context as was provided was undermined by unchallenged comments.
42. In particular, all of the contributors shown disputing the Andinia Plan theory were representatives of Jewish or Israeli organisations in Argentina and Chile, and the programme’s unchallenged suggestion that all Argentinian Jewish organisations are controlled by Israel profoundly undermined the challenge they provided within the programme.
43. The programme closed with 12 brief appearances by those quoted earlier in the programme, including contributors representing the Jewish, Israeli or Zionist perspective. However, 7 of the 12 were from those asserting the theory without challenge or context. We consider that audiences would have regarded the last spoken words in the programme, of Juan Gabriel Labake, taken together with the presentation of Herzl’s text again, as its implicit conclusion:

“There are objective landmarks. Clear facts that must be taken into account. If you add up all those facts on the current and near future international panorama, the alarm bells should be going off in Argentina”.
44. The right to freedom of expression is applicable not only to “information” or “ideas” that are favourably received or regarded as inoffensive or as a matter of indifference, but also to those that offend, shock or disturb. It is open to broadcasters to include programmes which interrogate the merits of prominent conspiracy theories. However, the greater the risk for the

¹¹ Described in a caption as an “*International Analyst*” and the “*Defence Lawyer in the AMIA bombing case*”. The AMIA bombing was a suicide van bomb attack on the Asociación Mutual Israelita Argentina (AMIA; Argentine Israelite Mutual Association) building in Buenos Aires, Argentina on 18 July 1994, killing 85 people and injuring hundreds: see [Argentina Jewish center bombing still a mystery](#).

material to cause harm and offence, the greater the need for contextual justification and challenge. Hate speech risks causing very significant harm and offence to audiences.

45. A conspiracy theory which first appeared in an openly National Socialist publication, in relation to which no credible evidence was offered within the programme, and which reflected multiple well known antisemitic tropes, was presented as credible throughout the programme.
46. Key elements of the theory were presented without any substantive challenge or contextualisation, including in particular the suggestions that:
 - immigration since the 20th century has been a part of a Zionist colonisation movement;
 - all Jewish organisations in Argentina are controlled by Israel;
 - the media in the United States was pressing for Argentina to cede land (based on a manifestly false description of the article concerned);
 - land purchases made by Eduardo Sergio Elsztain, who is Jewish, and organisations he controls, and persons other than Douglas Tompkins, were made on behalf of the Zionist movement;
 - Israel is a state which cannot be expected to survive; and,
 - the Zionist movement is among those who “rule the world”.

No content broadcast before or after the programme provided any further context or challenge.

47. Only those endorsing the Andinia Plan theory in the programme were explicitly endorsed by the narrator as “*scholars*” and as “*experts*”, and key elements of the theory were expressed by the narrator. By contrast, almost all those shown disputing the theory were either representatives of Israel directly, or representatives of organisations which were the subject of the unchallenged and uncontextualised suggestion that they were controlled by Israel.
48. Notwithstanding that alternative points of view were included at various points in the programme, we did not consider that overall, sufficient context was provided to justify the broadcast of antisemitic hate speech in this programme.
49. Taking account of all the above factors, it was Ofcom’s Decision that this content breached Rule 3.2.

Rule 2.3

50. For the reasons set out above under Rule 3.2, we considered that the content amounted to antisemitic hate speech towards Jewish people. We took the view therefore that this content would have been highly offensive to most people who do not share the antisemitic views expressed as well as highly offensive to Jewish people and the Jewish community in the UK.
51. Also, for the reasons set out above, we considered that the offensive statements relating to Jewish people were broadcast without appropriate information, such as a warning, explanation, challenge or context, that would have assisted in avoiding or minimising the level of potential offence.
52. Ofcom therefore considered that there was insufficient context to justify the material causing offence in this broadcast and it was our view that it was likely to have exceeded audience expectations. Ofcom therefore found this content breached Rule 2.3.

Minded to consider the imposition of a statutory sanction

53. Our Preliminary View on the breaches notified Islam Channel that we were minded to consider the imposition of a statutory sanction. Both in representations before and in response to our

Preliminary View, the Licensee set out why it considered a statutory sanction would be disproportionate.

54. The Licensee said that as part of the fundamental structural change which it had previously highlighted to Ofcom in representations in September 2020¹², it had implemented a policy of employing staff who had a broader experience of the television industry and, therefore, greater awareness of regulatory matters. As part of this exercise to strengthen its compliance framework, it had employed a full-time scheduler with “many years of [compliance] experience [X] This scheduler [X] received “full training” in the Licensee’s “robust compliance procedures and...comprehensive system of marking programmes, which were considered to be not fit for broadcast, of which *The Andinia Plan* was one”.
55. Islam Channel said that the personal circumstances of a particular individual had caused them to make a mistake. [X].
56. The Licensee added, “We believe that the extensive compliance procedures, which are in place, were and are robust and that we had taken appropriate steps to prevent the broadcast of this programme. The Licensee said it had had a “comprehensive system in place covering end-to-end compliance for all live and pre-recorded programming including training (from both internal and external experts), monitoring, reviewing and vetting”. It said it was only due to the extraordinary circumstances and [X] that this error was able to occur”.
57. Islam Channel provided and quoted from [X]. Following this, the Licensee said it immediately checked the programme schedules and cleared all programmes for broadcast, “however, by this time the programme in question had, unfortunately, already been broadcast”.
58. The Licensee said, “as soon as we were made aware of the complaint about the nature of this programme, by Ofcom [on 23 February 2021¹³], we immediately issued the apology”. It said the apology was broadcast on Friday 5 March at 21:16 “during peak viewing time” and on Monday 8 March at 21:00, “to mirror the time and day when the programme was originally shown”.
59. For the apology, the following text was shown and narrated:

“An Apology from Islam Channel: On 22nd February at 9pm a documentary entitled The Andinia Plan was broadcast. It was an old documentary which was produced by a third party. This was shown due to an error by a new member of staff and should not have been broadcast. It contained material which would be considered offensive to Jewish people. We apologise unreservedly for any offence caused and would like to make it clear that Islam Channel profoundly regrets that this programme was broadcast and does not endorse any of the opinions expressed in this documentary. Islam Channel aims to promote mutual respect between different communities, faiths and cultures and would not wish to do anything to undermine this aim”.
60. The Licensee said that while it “regret[s the circumstances surrounding the broadcast] immensely, [it did] not believe they could have been foreseen”. It asked that Ofcom take account of “the unusual nature of these difficult circumstances” and accept its “unreserved apology and...assurances that this was a genuine one-off error and not in any way a reflection of [its] values, team, systems or procedures”. It said it was “an isolated error by one individual, acting in an uncharacteristic and unforeseeable manner, [X]. It added it was particularly upsetting “that a genuine mistake made by one individual should have resulted in this breach”

¹² See [Sanction 130 \(19\) Islam Channel Ltd](#) for a summary of the representations, and in particular paragraphs 47 to 51, which refer to the structural changes.

¹³ On 23 February 2021, we asked Islam Channel to supply a recording of the content for us to “assess a complaint about religious offence”.

and said it believed that “the imposition of any sanction would be out of proportion to the circumstances of the breach”.

61. Islam Channel said that it hoped the fact it had classified this programme as not fit for broadcast, accepted from the start that the programme was in breach of Rules 3.2 and 2.3 of the Code and the apology it broadcast showed its understanding of the Rules and how seriously it took its responsibilities under the Code.
62. The Licensee said it had taken “all possible remedial actions available to [it], including issuing a full apology and renewing [its] commitment not to broadcast this programme ever again”. It noted that [X] and the “unique and unforeseeable circumstances” that lead to the breaches. Given these factors, it asked Ofcom to “conclude that it is neither necessary nor reasonable for any sanctions to be imposed”. It added that its systems are “subject to continuous review” to ensure full compliance across the channel’s output. “In direct response to this breach, and in addition to the stringent processes already in place, [it had] now tightened things even further by holding a weekly EPG review meeting, which brings together senior members of our production team, as a final check to review the upcoming week’s EPG, to minimise the risk of individual human error”.
63. Islam Channel assured that, as a “responsible community broadcaster” it was “dedicated and committed” to complying with its responsibilities and it took the breaches “extremely seriously”. It said that an integral part of its mission was to counter racism and hate in all its forms and to promote inter-faith dialogue and community cohesion. Islam Channel said that as part of its Vision Statement it “champion[ed] inclusivity to promote mutual respect between different communities, faiths and cultures”, adding, “all of us stand firmly behind this vision and strive to implement it in our daily work for the channel. We would never knowingly do anything to undermine this aim”.
64. Islam Channel provided further information about its work in its community. This included information about its work to “deliver critical messages to the community, such as public health messages on behalf of the NHS”. It gave Ofcom details about its role during the Covid pandemic when it said it played “an important role in informing the Muslim community about the importance of the government’s vaccination programme through advertising campaigns” and in various programmes. It said that Islam Channel is “relied on to play a similar role” for various public bodies it listed. It said the need for a responsible channel, such as Islam Channel to broadcast content which addresses the essential needs of the British Muslim community has never been greater and that this provision falls under section 3(2)(c) and (d) of the...Act¹⁴.
65. The Licensee said that it not only takes its responsibility towards the Muslim community seriously “but also its responsibility to share accurate information about Islam and Muslims with the wider community” given negative attitudes that exist towards Muslims¹⁵. It explained that it is “fully committed to promoting harmonious relations between diverse ethnic and faith communities” through its work both on and off air.
66. Islam Channel said, “the media landscape is such that we do inevitably attract a disproportionate amount of negative media coverage whenever there is an announcement from Ofcom regarding our output. The public and the press rarely look at the detail of bulletins or sanctions and the circumstances under which they arise, instead preferring to use such

¹⁴ This states that Ofcom is required to secure in the carrying out of its functions “(c) the availability throughout the United Kingdom of a wide range of television and radio services which (taken as a whole) are both of high quality and calculated to appeal to a variety of tastes and interests” and “(d) the maintenance of a sufficient plurality of providers of different television and radio services”.

¹⁵ In this regard, the Licensee referred to: [University of Birmingham survey reveals Islamophobia is the posh person's prejudice](#), University of Birmingham, 24 January 2022.

instances to air anti-Muslim and Islamophobic views". It said that following the previous sanction imposed on Islam Channel, a question was asked in Parliament on 4 November 2020 at Prime Minister's Questions expressing concern about "UK-based TV channels like Islam [Channel], which...was just fined by Ofcom for giving airtime to extremist preachers who justify antisemitism, wife-beating and FGM". It said the full question¹⁶ related to recent terrorist attacks in Paris and Vienna and "used parliamentary privilege to try to link Islam Channel to them, a circumstance which was completely abhorrent to us and entirely at odds with reality". It said the sanction of 4 November 2022 had "no connection whatsoever with 'extremist preachers' 'wife-beating' or 'FGM'¹⁷ and yet there was nothing we could do to prevent this question being asked, or subsequently reported". It said this was "one small example of the ways in which Ofcom's decisions relating to Islam Channel are given disproportionate weight and used to peddle negative tropes about Muslims, undermining community cohesion", adding, "Even without the weight of a sanction, we are much more likely to suffer from negative press coverage than other TV channels in a similar position".

67. The Licensee also stated how Islam Channel has been impacted financially by the cost-of-living crisis. It said that despite "a downturn in advertising revenue" it was continuing with plans to launch a third channel to serve "the marginalised community of Bengali-speaking Muslims"¹⁸. It said it also plans to relaunch the Global Peace & Unity Festival ("GPU Festival") for 2023¹⁹. It said that a fine could "seriously impact [its] ability to maintain a full recovery following covid", adding that it would "in any case, be penalised by the fact that any negative publicity, relating to this breach, would inevitably have an adverse effect on [its business] relationships...resulting in financial loss and damage to our standing as a respected community broadcaster".
68. The factors set out above (the circumstances in which the breaches arose, the Licensee's compliance processes, the remedial action it has taken and the proportionality of a sanction) are relevant to the question of whether or not Ofcom ought to impose a sanction and, if so, how much. In providing information about its qualifying revenue, the Licensee also pointed to the representations it had previously made (and which are set out above). It said, while it appreciated that Ofcom requires the level of any penalty to act as a deterrent, it wished to emphasise that it already took the breaches "extremely seriously and sincerely regret[ted] that it took place at all". It added, "we have apologised unreservedly for it and have not sought to defend it any way other than to highlight that it should not be considered by Ofcom to be anything other than an isolated error [X]".

¹⁶ "With the UK terror threat level now at severe following the horrific attacks in Paris and Vienna by cowardly Islamic State terrorists, the whole House joins the Prime Minister in heartfelt solidarity with our French and Austrian allies. Does he agree that here in the UK we must redouble our support for anti-extremism programmes such as Prevent, and does he share my concerns about UK-based TV channels such as the Islam Channel, which just this week was fined by Ofcom for giving airtime to extremist preachers who justify antisemitism, wife-beating and female genital mutilation? (908159)", [UK Parliament, Hansard, Commons Chamber, Volume 683: debated on Wednesday 4 November 2020](#).

¹⁷ The sanction related to antisemitic hate speech (see paragraph 168) and took into account the Licensee's compliance history, which included a breach of Rule 2.3 in relation to a broadcast of *IslamiQa* on 18 May 2008, in which the presenter advised viewers that it was permissible for a husband to physically punish his wife; and a breach of Rule 2.3 in relation to a broadcast of *Muslimah Dilemma* on 12 April 2009, where potential harm and offence arose from a lack of clarity surrounding statements in relation to marital rape, where the broadcast lacked clear condemnation of forced sexual relations within marriage and contextual justification for statements made.

¹⁸ Islam Channel Bangla launched on 17 October 2022.

¹⁹ In the Representations, Islam Channel said it is now scheduled to be relaunched in 2024 and that it was first launched in 2005 "with the aspiration of spreading greater peace and fostering unity between like-minded progressive representatives of diverse communities in the UK and throughout the world".

69. We therefore went on to consider these early representations together with the Representations below.

The Representations

70. Ofcom provided the Licensee with the Sanctions Preliminary view and the opportunity to make both written and oral representations on it (paragraph 8). We have summarised these representations below.

Written representations

Islam Channel's community standing and ethos

71. Islam Channel set out its standing as a broadcaster "established [in 2004 and] at the heart of, and...in many ways synonymous with, the British and global Muslim community". It attached and pointed to its Mission Statement, listing the ways in which it pledged to serve the Muslim community and its commitment to: "Championing inclusivity and bringing people together to promote mutual respect between different communities, faiths and cultures"²⁰. It said these values were fundamental to it and that it had "zero tolerance for any content or behaviour, which discriminates in any way whatsoever".
72. The Licensee said that it uses its platforms for its charity partners to raise millions of pounds for good causes each year and that it holds "many multi-faith events and broadcasts" to promote "mutual respect". It said, "foremost amongst these is the [GPU Festival]".
73. Islam Channel welcomed the recognition that the Sanction Preliminary View gave to its standing in the community and "the important work we do for and to represent the Muslim Community" (paragraphs 64 and 65).

The seriousness of the breaches and Islam Channel's response to them

74. Islam Channel said it had been extremely clear throughout its communications with Ofcom that it profoundly regretted the broadcast of *The Andinia Plan* and that it agreed that its broadcast was in breach of Rules 3.2 and 2.3 of the Code. It added that it had twice issued full apologies to its audience to this effect, and that it had not contested at any point any of Ofcom's observations regarding the breaches. It welcomed the recognition the Sanction Preliminary View had given to these factors.
75. The Licensee said that it had already committed to not repeating the programme and that it was happy to renew this commitment and to broadcast a statement of Ofcom's findings as required.

The repeated nature of the breaches

76. Islam Channel disagreed, however, that the breaches were "repeated", on the basis that, in its view, there was a "vast" difference in the circumstances in which they occurred and in its response to them (paragraph 74), as compared to when it had previously breached Rule 3.2 (paragraph 168).
77. It said its response to the breaches showed "a huge difference in our understanding and application of the broadcast code, and the overall positive trajectory of our compliance procedures, showing sustained and continuous improvement". It said it had immediately investigated and identified the nature and cause of the breaches; broadcast a full apology within a very short time frame, on days and at times calculated to reach as many of the original viewers as possible; and admitted and apologised to Ofcom for the breaches.

²⁰ See "Our Vision" in [About Us](#), Islam Channel website.

Compliance arrangements in 2018, post March 2020 and at time of breaches

78. The Licensee said that in 2018 a junior employee was able to schedule a programme however, when *The Andinia Plan* was broadcast, only the scheduler could do so. It added that in 2018, “the scheduling or transmission team had to go into the archives to access programmes”; from 2020 it was “in the process of transferring over all programmes from our archives to our new transmission drive”, in a “drive for compliance and the digitisation of our back catalogue”. It said, “[o]nly programmes which had been cleared for broadcast were transferred to the new system”.
79. Referring to its fundamental structural change, drive for even more stringent compliance and the hiring and training of the scheduler (paragraph 54), Islam Channel said that the scheduler was an experienced professional, specifically hired for the role.
80. Quoting from the Sanction Preliminary View, Islam Channel said that, in its view, the events leading to the breaches were not a “normal business risk” [X].
81. Islam Channel said that, at the oral hearing for its previous breach of Rule 3.2 (paragraph 168), it had set out “significant, far-reaching and comprehensive changes to our compliance procedures and implementation”, which were in the final stages of implementation when the breaches occurred. Quoting the Sanction Preliminary View, it said the scheduler was “not simply ‘an employee acting in isolation’ but was in fact the only employee...who had access to the archives at that time and was, therefore, able to schedule this broadcast in error...Ironically, one of the reasons for her to have been given such access was in order to check that there were no copies remaining of any programmes which should have been deleted”. The Licensee said, “[n]o employee now has access to any programmes which have not been cleared as any old programmes declared unfit for broadcast have not been transferred to the new drive, and no new programmes are uploaded without first being cleared”. It said, “[i]n the unusual situation that a programme status changes, it is immediately deleted”, adding, “[t]his is a very significant change which has, therefore, effectively meant that it is not possible for the same error to happen in the future, thereby demonstrating that we have, in fact, taken adequate steps to manage potential human error”.

Financial penalty

82. The Licensee said the proposed financial penalty was: not “proportionate”, “consistent” or “targeted at a case in which action is needed”, as is required by the Communications Act 2003; nor an “appropriate and proportionate amount”, as required by Ofcom’s Penalty Guidelines.
83. Islam Channel contested Ofcom’s Sanction Preliminary View that a financial penalty was necessary “to act as an effective incentive to comply with the Code” and that “the imposition of a £20,000 penalty in the case of *The Rightly Guided Khalifas* did not deter the Licensee from committing a similar contravention within a relatively short timeframe”. It said, “nothing could be further from the truth, as we have continued to move forward with even more stringent compliance procedures as detailed above”.
84. The Licensee said it needed no further incentive, in the form of a financial penalty, to comply with the Code, as it had shown it “could not be taking compliance more seriously” and as “evidenced by the fact there have been no further [breaches] since 2021”.
85. The Licensee said that it “sincerely doubt[ed] that there are many other licensees who would have a question asked about them in parliament following a sanction” (paragraph 66). It added that the negative press coverage it received as a Muslim institution whenever it had any dealings with Ofcom was “a very heavy additional penalty”, on its credibility and finances, “from the willingness of advertisers to commit their budgets to advertising with us, to event sponsors and even to our ability to attract the best talent to work at Islam Channel”. It said, “[t]his is the

worst possible punishment for us and we would like Ofcom to take this into account under the terms of the Equality Act 2010 to recognise the unfair position which this puts us in as a Muslim organisation and one which by its name alone is recognised as being synonymous with the British Muslim community”.

86. With reference to the finding in a study on Islamophobia²¹ that “Muslims are one of the ‘least liked’ ethnic and religious groups” and that “[p]rejudice towards Islam and Muslims stands out in the UK, not only because it is much more widespread than most forms of racism, but also because prejudice toward Islam is more common among those who are wealthier and well-educated”, and to Home Office data on hate crimes targeted against Muslims²², Islam Channel said that there was “dangerous potential for Ofcom’s judgements to be unintentionally weaponised, leading to the vilification of Islam Channel as a representative of the Muslim community, which ultimately feeds into these shocking statistics on hate crime”.
87. Islam Channel said it was founded on the idea of “‘championing inclusivity and...mutual respect between different communities, faiths and cultures’ so the very notion that we would require any kind of deterrent to prevent the broadcast of anti[s]emitic material is not only nonsensical but also offensive”. It said it had been clear throughout that it did not condone the contents of *The Andinia Plan* and that, given Ofcom had acknowledged the breaches were neither reckless nor deliberate, and given the circumstances, in its view a “deterrent” was neither needed nor could have helped prevent the breaches. It said a financial penalty “is not only futile as a deterrent in this case but actually causes unnecessary and disproportionate harm”.

Precedent cited by Licensee

88. Islam Channel said that in addition to the precedents cited in Ofcom’s Sanction Preliminary View (see paragraphs 175, 177, 179, 183, 185, 186 and 187), it considered the case of Khalsa TV Limited to be relevant.
89. It said a number of the precedent cases involved no financial penalty or a lower financial penalty than that proposed in the Sanction Preliminary View. It added that these precedents involved breaches of more rules and, in some cases, breaches that were more serious than its own breaches, as they were found to be reckless or, for example, likely to incite crime or disorder.
90. It said that these precedent cases involved content created “in-house”. In contrast, it said *The Andinia Plan*, which it noted “does still appear to be available on major streaming services”²³, was an “acquired documentary, produced by a third party and directed by Luis Castro, a director whose other works such as *Chávez* have been acclaimed by the film industry”²⁴.
91. Islam Channel said the content in these precedent cases “frequently involved violence or terrorism or other more inflammatory subjects, which were very close geographically to the audience, whereas in the words of Ofcom, the content of *The Andinia Plan* was: ‘likely to be somewhat less inflammatory for audiences outside Argentina and Chile’”. Quoting the Sanction

²¹ [The Dinner Table Prejudice; Islamophobia in Contemporary Britain](#), Stephen H. Jones and Amy Unsworth, The University of Birmingham, 2021. The Licensee also noted that the report said that Muslims are one of two groups for whom there is less public sanction if someone openly acknowledges their dislike of them.

²² [Hate crime, England and Wales, 2021 to 2022](#), Home Office Official Statistics, 6 October 2022. This states: “...two in five (42%) of religious hate crime offences were targeted against Muslims (3,459 offences)”.

²³ Some services available to US audiences appear to carry *The Andinia Plan* but several UK services make it clear it is not available to UK customers. If Ofcom becomes aware that the programme is available on any services we regulate, we will consider whether regulatory action is appropriate.

²⁴ According to a [biography on the IMDB website](#), written by Luis Castro himself, he is “best known for his role as a director of the documentary *Chávez*, which was broadcast in several TV networks and awarded an Honorary Mention at the Havana Film Festival 2013”.

Preliminary View again, it added that *The Andinia Plan* contained “no abusive or derogatory content”.

92. The Licensee said that in many of the precedents, “even by the broadcaster’s own analysis they did not have sufficient compliance – or in some cases any compliance – procedures in place at the time of the breach, which is in stark contrast to our own situation, where we have been extremely diligent in our ongoing efforts to continuously improve our compliance processes”.
93. Islam Channel referred to five precedent cases for Ofcom’s consideration: Radio Ikhlas Limited²⁵, Worldview Media Network Limited (Republic Bharat)²⁶, Khalsa Television Limited (KTV)²⁷, Ahlebait TV Networks²⁸ and Trace World UK (Starz)²⁹, which it said attracted “considerably lower fines” than that suggested in the Sanction Preliminary View, “and in one case, no fine at all”. The factual details of these precedent cases are available in paragraphs 175 to 187. The points below are the Licensee’s representations on why it considered the penalty proposed in the Sanction Preliminary View was “completely disproportionate and inconsistent”.
94. Radio Ikhlas Limited (19 December 2018): The Licensee said that Ofcom had found Radio Ikhlas Limited in breach of Rule 3.3 (abusive and derogatory content), in addition to Rules 3.2 and 2.3. It added that Ofcom had considered Radio Ikhlas Limited’s breaches to be “deliberate (in the sense the presenter intended to cause offence) and reckless”, unlike its own breaches. It said the breaches by Radio Ikhlas Limited were “so serious that Ofcom considered revoking its licence and it was found to be in breach of its licence conditions, and by its own admission had completely inadequate compliance in place, with live shows not even being monitored and no apology being broadcast”. It said the financial penalty in this case was £10,000 and “much lower” than that proposed in the Sanction Preliminary View.
95. Worldview Media Network Limited (Republic Bharat): The Licensee said that Ofcom had found Republic Bharat in breach of Rule 3.3, in addition to Rules 3.2 and 2.3. It added that the offending content in this case included “violent and inflammatory statements by a retired Major General from the Indian Army against Pakistani civilians”. It said this content was “more inflammatory and would have been more immediate to the audience than *The Andinia Plan*, for the reasons stated above”. It said the financial penalty in this case was £20,000 and also lower than that proposed in the Sanction Preliminary View.
96. Khalsa Television Limited (KTV): The Licensee said that this precedent case was considered by Ofcom to be “very serious” and “highly inflammatory”, breaching Rules 2.1, 2.3 and 3.1 (incitement to crime or disorder). Islam Channel said KTV had “a very poor compliance record with five breaches in one year and 17 over a relatively short period of time”. It added, “[a]nother breach was also sanctioned with a financial penalty at the same time and no measures had been put in place to prevent future breaches occurring. Despite this, they were fined the lower amount for this breach [than that proposed in the Sanction Preliminary View of] £30,000”.
97. Ahlebait TV Networks: The Licensee said that Ofcom had found Ahlebait TV Networks in breach of Rule 3.3, in addition to Rules 3.2 and 2.3. The Licensee said that “the nature of the content was similar in this case, in that although serious and concerning an anti[s]emitic theory of a worldwide conspiracy (in their case financial and in ours to do with population movement), it was considered by Ofcom to be less inflammatory in the sense of not being concerned with any

²⁵ See Ofcom Sanction 110 (18) [Radio Ikhlas Limited](#).

²⁶ See Ofcom Sanction [Worldview Media Network Limited](#).

²⁷ See Ofcom Sanction 119 (20) [Khalsa Television Limited](#).

²⁸ See Ofcom Sanction 156 (22) [Ahlebait TV Networks](#).

²⁹ See Ofcom Sanction 113 (19) [Trace UK World Ltd](#).

type of physical violence or incitement". It said the financial penalty in this case was £10,000 and "much lower than that being consider [sic] for our case".

98. Trace World UK (Starz): The Licensee said that Ofcom had found Starz in breach of Rules 1.2, 4.1 and 4.8 of the BCAP Code. It quoted from this precedent case, in which Ofcom found that these breaches had "happened as 'an isolated lapse of judgement by a single moderator'...against a backdrop of an 'established compliance process and structure'". It said that in this case no financial penalty was imposed.
99. Islam Channel asked Ofcom to reconsider whether a financial penalty should be imposed in light of these precedents.

Current financial situation

100. Islam Channel said that it was "currently in an extremely weak financial position [and had] been severely impacted by the cost-of-living crisis". It said it is "supporting its newly-launched Bangla channel³⁰, as well as dealing with repayment of a high level of debts, accrued from the covid period". It said any financial penalty could prove an "existential threat to the channel, threatening a very valuable and irreplaceable source of accurate, moderate educational Islamic content, not just valuable to the Muslim community but to British society as a whole".

Oral representations

Islam Channel's community standing and ethos

101. Islam Channel said the channel's launch in 2004 was also the year that a report³¹ had concluded that Britain was "institutionally Islamophobic". It said this was relevant as Islam Channel's mission had been from the very beginning to counter racism and hate in all its forms and against any community, Muslim and non-Muslim alike, and to promote interfaith harmony. It said this mission had informed "a plethora of programming events, initiatives and activities over the past two decades, working with faith leaders from all religions to further this vision [and so fill] a prominent gap in the current media landscape"³². It said the values in its Mission Statement (paragraph 71), provided with its written representations, were fundamental to it (also featuring in its staff handbook, induction processes and corporate presentations) and it wanted to be "absolutely clear that we have zero tolerance for any content or behaviour, which discriminates in any way whatsoever".
102. Islam Channel set out the upbringing and educational and employment background of its CEO, Mohamed Harrath. It said he was raised in a family that emphasised principles of equality, diversity, and inter-faith dialogue, which it said have and will always run through all of its programming. Among other examples of anti-racist campaigning, it said Mr Harrath served as the anti-racism officer on the LSE Students Union. In this role it said he organised the first ever

³⁰ In its oral representations it said Islam Channel Bangla serves "the disadvantaged community of...Bengali-speaking Muslims".

³¹ Islamophobia Issues, Challenges, and Action Report by the Commission on British Muslims and Islamophobia by Hugh Muir and Laura Smith, researchers Robin Richardson, ed. (Stoke on Trent, UK: Trentham Books, 2004)

³² As an example, it said in its oral representations that in March 2023 it was the media sponsor of the Muslim World League's first European conference held in London. It said guests included Edwin Shuker, Vice President of the Board of Deputies of British Jews, and Laura Marks, Chair of the Holocaust Memorial Day Trust. It said speakers included Rabbi Jackie Tabick, Joint President of the World Congress of Faiths. It said, "as media sponsor, we filmed a documentary about the event which is currently showing on all three channels [Islam Channel, Islam Channel Urdu and Islam Channel Bangla]". It added that it will be holding the Seventh GPU Festival in 2024; that it regularly hosts guests and panellists on the channel from different faiths and none; and that it "even pioneered what *The Guardian* called Britain's first inter-faith game show, '*Faith Off*'. It said it provided unbiased current affairs reporting into events affecting the UK's faith communities, "recently inviting representatives of the Hindu community onto a special show to discuss the situation in...Leicester".

delegation of student leaders to Auschwitz to commemorate Holocaust Memorial Day. Islam Channel said that Mr Harrath's experience working for five years in the financial services industry was now being used to improve all aspects of the Licensee's operations, including its compliance procedures.

The seriousness of the breaches and Islam Channel's response to them

103. Islam Channel restated its written representations set out at paragraphs 74 and 75.

The repeated nature of the breaches

104. Islam Channel restated its view that the breaches were not repeated. It said, "[t]here is a very big difference between a junior member of staff being able to schedule a programme and a seasoned experienced and trusted scheduler, working within a stringent system, to which she had privileged access, [redacted]".

105. The Licensee said, "well before [the breaches] we had doubled-down on our efforts to enhance our compliance procedures to ensure they are as watertight as humanly possible".

Compliance arrangements in 2018, post March 2020 and at time of breaches

106. The Licensee restated many of the points in its written representations and that in 2018 a junior employee was able to schedule a programme. It also said that at that time, "the scheduling or transmission team had to go into the archives to access programmes". It explained that its archive of content was extensive having collected material from various paid for and free sources since Islam Channel's inception in 2004. Inherited by the current management, it said this archive was "essentially disorganised" and included content both fit and unfit for broadcast. It explained further that, from March 2020, its qualified and experienced³³ Head of Production and the compliance team were "in the process of [checking and] transferring over all programmes from our archives to our new transmission drive", in a "drive for compliance and the digitisation of our back catalogue", and the breaches occurred "just before this process was completed". It said that it was doing this to "remove any possibility that any member of staff or the transmission team would have to go into the archive and find materials. Because obviously, as [Ofcom] rightly identified, that leaves too much space for human error". It said, "[o]nly programmes which had been cleared for broadcast were transferred to the new system". It said it was at this point that it had clearly marked *The Andinia Plan*, which was in its archives having not been broadcast "at any recent point", as "not fit for broadcast". It said it did not know why, having been marked as not fit for broadcast, the programme was not then deleted, but instead moved to the transmission drive by the scheduler, and so broadcast³⁴.

107. The Licensee said that only the scheduler and the Head of Production had the power to take a programme from the archive and place it in the transmission drive for broadcast. It added that in normal circumstances the schedule (which it said was updated automatically on its website via a live feed from its programming software) would have been reviewed by its Head of Production, but it was "very possible that [the scheduler] could, given the autonomy that she was given, within certain limits if you like, could have the autonomy to put something on a schedule, broadcast it, and it not being caught by [the Head of Production]". It also confirmed that for this to have happened the scheduler must have removed a programme from the existing schedule and put *The Andinia Plan* in its place at some point after [redacted] 20 February 2021, and that it did not know why she had done this.

108. Islam Channel said that it was, at that time, "very busy" as it was "preparing to launch on BARB, and also, as part of the drive for compliance and the digitisation of our back catalogue...in the process of transferring over all our programmes from our archives to our new transmission

³³ The Licensee said this individual was [redacted].

³⁴ The Licensee said that it had not been able to investigate the reasons for this further [redacted].

drive". It added that there were lots of meetings and discussions on scheduling, as it was preparing for Ramadan³⁵. It said its Head of Production worked very closely with the scheduler [X] Islam Channel said that there was nothing its Head of Production could have done differently to prevent or foresee the breaches. It also pointed out that "at the time we were still in full lockdown [during the Covid-19 pandemic], so everyone was working remotely, which added to the unique circumstances".

109. The Licensee said, "when you have a senior member of staff responsible for a task, even when you have all checks and balances in place, you do have to place some trust in that individual to act responsibly". It said the scheduler [X].

110. The Licensee referred again to the events in the days before the breaches (paragraph 55), adding that [X].

111. Islam Channel said, "everything now is on a new drive and [members of staff and the transmission team] have no access to the old materials [in the archive]". It added that "[o]nly compliant programmes are now available to [transmit], and they can only be added to the [transmission drive], following a carefully set out process of checks and balances involving sign-off from a number of people, including the Head of Production". It assured therefore that it had taken "timely and effective steps to end this breach".

Processes for acquired content

112. On its processes for third party acquisitions, the Licensee said it now has a "check, review and verify system which involves the content being checked multiple times and signed off at each stage, and finally by the Head of Production, before it is sent to transmission". It added, "we have a full view before purchase [new content], then review it again for compliance, and to do any editing which is required, before a final review which is the last stage before uploading to the [transmission] drive". It added that the checks were thorough and included, for example, a check of the subtitles by someone fluent in the relevant language. It said a dedicated compliance specialist who had been with Islam Channel for nearly five years carried out the compliance checks, along with editors and producers, with subsequent approval by the Head of Production and, variously if needed, the Head of Communications and CEO. It added that each stage in the process was signed off to form a digital trail. For scheduling, it said its Head of Production had ultimate sign off, but the weekly EPG meeting it had established following the breaches ensured that everybody within senior management, and not just within production, were aware of what was up and coming on the EPG and of any new acquisitions. It said this also meant that if there was a change in the schedule it was much more likely to be picked up. It added that, to be "extra cautious", the transmission team also attended the meeting.

Processes for in-house productions

113. With reference to its processes for in-house productions, it said it had "made the vetting process for presenters more stringent, to include a complete review of all social media presence by the Head of Communications and for guests by the show's producer, with any concerns being escalated to senior management". It said it had "brought in an external consultant and Ofcom specialist to carry out training and compliance workshops, and that's for all producers, presenters and regular panellists across Islam Channel, and this is a regular and ongoing process". It said the consultant "also worked with us to develop training materials which are specific to our output and the types of issues which we face in particular, especially with regards to religious and current affairs shows" and that, "for live shows, these materials are used to brief guests, and an Ofcom-trained gallery producer watches at all times". It added, "scripts for shows have to be signed off by the Head of Production". It also said it had

³⁵ Ramadan began on 13 April 2021 and lasted 30 days.

developed a protocol for use in all live shows to be followed in the case of any potential incident, “so that it is dealt with immediately by the producer and presenter, and escalated without delay to trigger the launch of a full inquiry to determine if any further action is necessary”.

Financial penalty

114. Islam Channel said that it was “very upset”, and it was “very painful” that despite its “best efforts” and the “huge progress it had made” since the previous oral hearing of 9 September 2020, it had broadcast *The Andinia Plan*, as it was “so contrary to [its] beliefs and to what the channel stands for”. It added that it had been “very, very close” to being in a position where even the extraordinary circumstances surrounding the breaches would not have resulted in a programme being broadcast in this way.
115. The Licensee said it took issue with Ofcom’s position in the Sanction Preliminary View that “the imposition of a £20,000 penalty in the case of *The Rightly Guided Khalifas* did not deter the Licensee from committing a similar contravention within a relatively short timeframe”, adding, “as Ofcom has acknowledged, there was no intention to show this programme, and therefore it doesn’t make sense that there would be a need for a deterrent”, and, “we’ve taken effective steps to prevent it from happening again and we remain focused on compliance”.
116. The Licensee said that a far greater deterrent for it than sanctions proposed in the Sanction Preliminary View were “those which the media and establishment will inevitably add to them”. The Licensee said the sheer level of hostility directed at Islam Channel was beyond anything its Head of Communications had previously experienced handling various high-pressure situations as a Public Relations professional. It said it “had some negative experiences with Ofcom in the past...detailed...in our last hearing”³⁶, so given this and its “history of poor treatment by the British media [it] obviously expected some adverse media coverage following the announcement by Ofcom of our previous fine”. It said that it “did not expect an attack on us to come from the heart of the British establishment in the form of a question...at PMQs” (see paragraph 66 and footnote 16) which it said attempted to “draw a link between our Ofcom fine and violent terrorists”, which it said was “absurd, even laughable” and “completely misrepresented” it. It said, “this hardly seems to be appropriate or proportionate”, and that it doubted that “that anything similar happens to other channels when they receive a fine”. It added that this exchange in parliament was referenced on BBC Radio 4.
117. Islam Channel added that it caused “untold harm to the important work [it did as a] community broadcaster...to correct misconceptions about Muslims, celebrate Muslim achievements and provide a reliable and responsible source of information about Islam”. It referred once more to the findings of the study on Islamophobia referenced in its written representation and to the Home Office data on hate crimes against Muslims³⁷, which it said were “deeply concerning [and] why it’s so important that you do take into consideration the additional pressures and penalties imposed on us, simply for being a Muslim channel”. It added that if a financial penalty was imposed it would provide “a kind of excuse for others to feel justified in attacking and undermining the good work we do”.

Precedent cited by Licensee

118. Islam Channel referred to the precedents which it had detailed in its written representations and set out the same views on them that it had previously made in writing.

³⁶ See paragraph 54 of the Licensee’s representations in the prior case [Sanction 130 \(19\) Islam Channel Ltd](#).

³⁷ See footnotes 21 and 22.

Current financial situation

119. Islam Channel said any financial penalty would be unaffordable to it and could result its closure.

120. The Licensee said it had “historically operated at a close to break-even level” and that it was “recovering from the effects of Covid and repaying debts from this period to suppliers”. Added to this, it said “the current cost of living crisis which disproportionately affects the Muslim community” had “inevitably affected [its] advertising and sponsorship revenue”.

121. On the relevance of [X], on its financial position and the operation of the broadcast channel, it said it operated at a modest level of profit, but [X].

122. The Licensee said [X].

123. We therefore went on to consider these written and oral representations (paragraphs 71 to 122), as well as its earlier representations (paragraphs 53 to 68) as part of our consideration of what, if any, sanction was proportionate in this case.

Ofcom’s Decision to Impose a Statutory Sanction

124. As set out in paragraph 1.13 of the Sanctions Procedures, the imposition of a sanction against a broadcaster is a serious matter. Ofcom may, following due process, impose a sanction if it considers that a broadcaster has seriously, deliberately, repeatedly or recklessly breached a relevant requirement.

Serious and repeated nature of the breaches

125. Ofcom considered the breaches were serious. As set out in paragraphs 28 to 52, we considered that a conspiracy theory which first appeared in an openly National Socialist publication, in relation to which no credible evidence was offered within the programme, and which reflected multiple well known antisemitic tropes, was presented as credible throughout the programme. Key elements of the theory were presented without any substantive challenge or contextualisation. Notwithstanding that the programme provided some challenge and context (see paragraph 39), with alternative points of view included at various points in the programme (see paragraphs 40 to 43), we did not consider that overall, sufficient context was provided to justify the broadcast of antisemitic hate speech in this programme.

126. As set out in paragraph 35, we had regard to the fact that the programme topic was likely to be somewhat less inflammatory for audiences outside Argentina and Chile. We also took into account that the hate speech in this programme was not accompanied by abusive or derogatory comments about Jewish people. However, we considered that the theme of a world Jewish conspiracy is one which incites, promotes and justifies hatred based on antisemitism and anti-Israeli feeling across the globe, including in the UK. We therefore considered that the programme as broadcast to a UK audience would, on its face, be likely to spread, incite, promote or justify hatred based on intolerance on the grounds of nationality, race, religion or belief. We considered that the risk of the broadcast material causing harm or offence was particularly high, given the National Socialist origins of the Andinia Plan theory and the marked increase in antisemitic hate crimes recorded in the UK in recent years (paragraph 36).

127. While we considered that the broadcast of this content carried a particularly high risk of causing harm or offence, we took into account: the Licensee had put in place measures intended to prevent its broadcast (see paragraphs 152 to 154); and, the breaches occurred in what it described as “unique circumstances” (see paragraphs 55, 60, 62, 68, and 80). We also took into account that the Licensee had obtained a third-party, documentary style programme, which superficially appeared to examine the Andinia Plan theory with balance in the form of the inclusion of the viewpoint of Jewish contributors. Then, at a later stage, in reviewing its back catalogue, the Licensee had marked it as not fit for broadcast. However, despite it being

categorised as not fit for broadcast it had nevertheless been kept by the Licensee within the archive it was in the process of phasing out and had subsequently been broadcast.

128. Ofcom has previously imposed sanctions on the Licensee for breaches of Rules 3.2, 3.3 and 2.3 for the broadcast of antisemitic hate speech without sufficient contextual justification on 11 November 2018 (paragraph 168). The broadcast of *The Andinia Plan* also breached Rules 3.2 and 2.3 for the broadcast of antisemitic hate speech without sufficient contextual justification. We therefore considered that these breaches were repeated. These facts on their own are sufficient to consider the breaches “repeated”; the circumstances in which the breaches occurred are irrelevant to this particular consideration. We have, however, taken these circumstances into account throughout the following consideration of enforcement action.
129. Ofcom acknowledged “the unusual nature of these difficult circumstances” in which the offending content was broadcast. However, licensees are required by their Ofcom licence to have in place adequate compliance procedures, including to manage the risk of human error (see also paragraph 156).
130. As set out above, the Licensee expressed concern that in its view Islamophobia in the UK is such that Islam Channel is subject to disproportionately hostile media attention and political scrutiny, and that the negative press coverage it received as a Muslim institution whenever it had any dealings with Ofcom was “a very heavy additional penalty”, on its credibility and finances. It considered that this should deter Ofcom from imposing a financial penalty on it.
131. Ofcom was mindful of the Licensee’s concerns, however it is the case that our broadcasting sanction decisions often attract a degree of interest from the public, media and politicians. The Panel recognised the negative impact on the Licensee which may arise from press coverage of any financial penalty, and in particular that Islam Channel Ltd has the protected characteristic of religion. The Panel also noted the Licensee’s concerns about what it reported as its own highly negative experience of religious discrimination. The Panel agreed with the Licensee that the issue of religious discrimination and hate speech on religious grounds are inherently serious. With that in mind, the Panel also took into account that the Licensee broadcast a programme amounting to sustained antisemitic hate speech, and that this was the second time it had broadcast an antisemitic programme in a period of a little over two years (November 2018 to February 2021).
132. In the interests of promoting good relations between groups with protected characteristics, the Panel considered that the nature of the material in this case as set out above clearly merited consideration for sanction, including a financial penalty. As the Licensee itself accepted, contrary to the mission and ethos of its service, it broadcast hate speech, and so committed serious breaches of the Code.

Imposition of sanction

133. In view of the factors set out above, Ofcom considered that the breaches were serious and repeated and so warranted the imposition of a statutory sanction in accordance with our procedures. The following paragraphs set out the enforcement action we have considered and the sanctions we have decided to impose.

Imposition of sanctions other than a financial penalty

Direction to licensee to take remedial action

134. Section 236 of the Act provides Ofcom with the power to direct the holder of a TLCS licence to broadcast a correction or a statement of Ofcom’s findings (or both), or not to repeat a programme which was in contravention of a licence condition.
135. While Ofcom acknowledged the Licensee has advised Ofcom that it had already taken the decision not to repeat the programme (paragraphs 62 and 75), we considered a direction not to

repeat the programme would be appropriate in this case, given the serious nature of the breaches involving hate speech which was presented without any substantive challenge of contextualisation. Ofcom considers the burden on licensees of being subject to a direction of this kind is not great, while the benefit in terms of audience protection is clear.

136. The purpose of directing a licensee to broadcast a statement of Ofcom's findings in relation to harmful breaches is to inform audiences of Ofcom's findings and ensure they are aware of the specific way in which the programme breached the Code. Ofcom took into account that Islam Channel Ltd had broadcast an apology twice for showing the harmful and offensive content on Monday 5 March 2021 at 21:16 and Monday 8 March 2021 at 21:00. In our view these apologies, which were broadcast one and a half and two weeks after the programme in question was transmitted, were insufficient on their own to adequately mitigate the potential harm and offence the breaches could have caused.
137. We therefore considered that directing the Licensee to broadcast a statement of Ofcom's findings would be appropriate in order to bring Ofcom's action in response to the breaches, to the attention of Islam Channel's viewers.
138. Ofcom also considered that, on their own, a direction not to repeat and a direction to broadcast a statement of Ofcom's findings would be insufficient to reflect the seriousness of the breaches in this case.
139. The Licensee proposed that its mission to promote inclusivity and the stand it takes against all forms of discrimination, together with the improvements to its structures and systems that it had made before the latest breaches, and the further improvements it had made following them, were evidence that it did not need any deterrent, in the form of a financial penalty, to prevent it from similar breaches going forward. However, Ofcom took into account that, following the breaches in November 2018, the Licensee had committed to improving its systems in order to avoid further similar breaches, and similarly pointed to its natural aversion to all forms of hate speech, and yet it went on to broadcast *The Andinia Plan* in February 2021. We did not therefore consider that the directions alone would act as an effective disincentive to discourage the Licensee from repeating similar breaches of the Code or other licensees from contravening the Code in a similar manner. Therefore, in reaching its Decision, Ofcom considered that a direction not to repeat the programme and a direction to broadcast a statement of Ofcom's findings should be combined with another category of sanction, to act as an effective deterrent.
140. Ofcom next considered whether it would be appropriate to determine that a financial penalty should be applied in this case.

Imposition of a financial penalty

141. Section 237 of the Act provides Ofcom with the power to impose a financial penalty on the holder of a TLCS licence. The maximum penalty that can be imposed on the holder of a TLCS licence in respect of each contravention of a TLCS licence condition is the greater of £250,000 or five per cent of the licensee's qualifying revenue relating to its last complete accounting period for which its licence has been in force.
142. For the purposes of determining the maximum penalty in this case, Ofcom requested from Islam Channel financial data setting out its qualifying revenue for the last accounting period.
143. Based on the figure provided by the Licensee, the maximum penalty that Ofcom could impose in this case was £250,000.
144. Ofcom's Penalty Guidelines state (in section 1, paragraph 11) that: "Ofcom will consider all the circumstances of the case in the round in order to determine the appropriate and proportionate amount of any penalty. The central objective of imposing a penalty is deterrence. The amount

of any penalty must be sufficient to ensure that it will act as an effective incentive to compliance, having regard to the seriousness of the infringement. Ofcom will have regard to the size and turnover of the regulated body when considering the deterrent effect of any penalty”.

145. In this case, Ofcom’s Decision is that a financial penalty is necessary to reflect the serious and repeated nature of the Code breaches recorded against the Licensee, and to act as an effective incentive to comply with the Code, both for Islam Channel and other licensees (see section 1 paragraph 4 of the Penalty Guidelines).

Factors taken into account in determining the amount of a penalty

146. In considering the appropriate amount of a financial penalty for the Code breaches in this case, Ofcom took account of the specific relevant factors set out at section 1, paragraph 12, of the Penalty Guidelines as set out below:

The seriousness and duration of the contravention

147. Ofcom regarded the breaches to be serious for the reasons set out in paragraphs 125 and 126. We had regard to the fact that the programme topic was likely to be somewhat less inflammatory for audiences outside Argentina and Chile, and that the programme contained no abusive or derogatory content. We also took into account that it included some challenge and context to the views expressed by those supporting the Andinia Plan conspiracy theory. However, key elements of the theory, which reflected multiple well known antisemitic tropes, were presented as credible throughout the programme, and without substantive challenge or contextualisation. We were very concerned by the fact that the Licensee had broadcast content which it had categorised as not fit for broadcast, which in Ofcom’s view constituted antisemitic hate speech which carried a particularly high risk of causing harm or offence, given the National Socialist origins of the theory and the marked increase in antisemitic hate crimes recorded in the UK in recent years.

148. While we considered that the broadcast of this content carried a particularly high risk of causing harm or offence, we took into account the circumstances described by the Licensee in which the third-party content in question was potentially freely obtained along with a large volume of other content at some point since its inception in 2004, marked as unfit for broadcast in a drive for more stringent compliance at some point after March 2020, and then broadcast in February 2021 (paragraphs 106 and 127).

149. The Breach Decision related to material broadcast on 22 February 2021. We are not aware of the material having been broadcast again and the Licensee advised Ofcom it would not be broadcast again. The Licensee confirmed that it had taken steps to ensure that such incidents would not happen again (albeit only after being contacted by Ofcom (see paragraphs 161 to 165)).

The degree of harm, whether actual or potential, caused by the contravention, including any increased cost incurred by consumers or other market participants

150. Ofcom is mindful of its duties: under section 3(2)(e) of the Act to secure, in the carrying out of its functions, the application, in the case of all television and radio services, of standards that provide adequate protection to members of the public from the inclusion of offensive and harmful material in such services. The programme contained antisemitic hate speech which in our view, as set out in paragraphs 125 and 126, carried a particularly high risk of causing harm or offence to members of the public.

Any gain (financial or otherwise) made by the regulated body in breach (or any connected body) as a result of the contravention

151. We have no evidence to suggest that the Licensee made any financial or other gain from these breaches of the Code.

Whether in all the circumstances appropriate steps had been taken by the regulated body to prevent the contravention.

152. As set out at paragraph 56, the Licensee said it had a comprehensive and improved system of compliance in place, coupled with training (from both internal and external experts), and subject to continuous review. It had also implemented a policy of employing staff who had broader experience of the television industry and its regulation, including a full-time scheduler who had many years of experience, to strengthen its compliance framework. The Licensee said that the scheduler was given full training in compliance procedures and its comprehensive system of marking programmes.
153. Islam Channel said that the scheduler had been given “privileged access” to its archived content, and was working within a “stringent system” (paragraph 104) to transfer programmes cleared for broadcast to its new digital drive, and to the exclusion of programmes marked as not fit for broadcast, such as *The Andinia Plan*, the deletion of which she had been tasked with ensuring. It said that only she, and the Head of Production, had the power, at that time, to take a programme from the archive and place it in the transmission drive for broadcast. It also said, “when you have a senior member of staff responsible for a task, even when you have all checks and balances in place, you do have to place some trust in that individual to act responsibly” (paragraph 109). The Licensee also confirmed that its Head of Production would normally have reviewed the broadcast schedule, but in this case the scheduler must have made a late change to the schedule to include *The Andinia Plan* and so not afforded the Head of Production the opportunity to prevent its broadcast (paragraph 107).
154. Islam Channel said that its current compliance procedures are “robust” and that it had taken “appropriate steps to prevent the broadcast of this programme”, having classified this programme as not fit for broadcast. It was only due to the “extraordinary circumstances [set out at paragraphs 55 to 57] that this error was able to occur”, circumstances it said were “unique and unforeseeable”. It added that the breaches should not be considered as anything other than an “isolated error by one individual, acting in an uncharacteristic and unforeseeable manner, [X] unrelated to Islam Channel”.
155. Ofcom took into account the Licensee had compliance procedures in place at the time to identify material raising potential issues under the Code, which if followed ought to have resulted in the scheduler heeding the “not fit for broadcast” classification it had applied to the programme and either deleting it, or at the very least, not scheduling its broadcast.
156. However, Ofcom had particular regard for the fact this is the second time the Licensee has broadcast a pre-recorded programme containing antisemitic hate speech and which it had previously marked as not fit for broadcast (see also paragraphs 157 and 168). On the first occasion it placed responsibility on a junior level scheduler. For the broadcast of *The Andinia Plan*, it placed responsibility on an experienced, newly hired and trained scheduler. However, in accordance with the conditions of their Ofcom licence, each licensee is responsible for having adequate compliance procedures in place, including for managing the risk of human error.
157. In this case, the Licensee has argued that the considerable autonomy given to the scheduler, and trust it had placed in her, were justified by her experience and level of seniority. However, we considered that the availability of content marked not fit for broadcast to be placed in the broadcast schedule by the scheduler, and the autonomy given to her as someone who had been in Islam Channel’s employment for less than two months, were weaknesses in the Licensee’s compliance processes. We also took into account that the Licensee had already broadcast hate speech in November 2018 and had had a little over two years since that point to remove all possibilities of a repeat contravention. The Licensee said it had marked *The Andinia Plan* as not fit for broadcast at some point after March 2020, when it had begun a review of its archive. It

has not made clear why it did not simply delete the offending content rather than marking it as not fit for broadcast with a view to deleting it at a future point in time.

158. The Licensee retained, labelled and stored content it had marked as not fit for broadcast in a way that twice permitted an employee acting in isolation to access hate speech and schedule its broadcast. In Ofcom's view, this shows that its processes and content management, although tightened and undergoing scrutiny and improvement, were inadequate at the time of the broadcast of *The Andinia Plan* in securing that hate speech was not broadcast. In this case this resulted in repeated serious breaches of the Code.

The extent to which the contravention occurred deliberately or recklessly, including the extent to which senior management knew, or ought to have known, that a contravention was occurring or would occur

159. Islam Channel has categorically disavowed the content of *The Andinia Plan* and stated that Islam Channel's mission is "to counter racism and hate in all its forms", adding that it would "never knowingly do anything to undermine this aim" (paragraph 63).

160. We have no evidence that suggests the breaches occurred deliberately, recklessly or with the knowledge of Islam Channel's senior management. We noted that there were measures in place to identify potentially harmful material, and we acknowledged the circumstances surrounding the breaches and the events which led up to this programme being broadcast. We recognised that it was unusual that the Licensee had not been immediately made aware [X] and the changes in working patterns that the Covid-19 lockdowns brought made it easier for this to escape the attention of the Licensee's senior management. However, while the Licensee has described these circumstances as "unique" and "unforeseeable", Ofcom considered that the possibility of such circumstances arising is a normal business risk, which is manageable with appropriate systems and processes.

Whether the contravention in question continued, or timely and effective steps were taken to end it, once the regulated body became aware of it.

161. The breaches occurred in a single broadcast which by its nature was not ongoing. The Licensee only became aware of the potentially serious issue raised by the programme on being alerted to the material by Ofcom on 23 February 2022 (the day after it was broadcast).

162. [X] Following this, the Licensee said it immediately checked the programme schedules and cleared for broadcast all programmes that had not already been broadcast.

163. Ofcom is not aware of any further breaches of the Code by the Licensee since the breaches in question.

164. The Licensee said in direct response to these breaches, it had "tightened [its compliance systems] even further" by holding a weekly EPG review meeting, which brings together senior members of its production team, its senior management and its transmission team to serve as a final check "to minimise the risk of individual human error" (paragraph 62). It also said it has completed the review of its archive and the introduction of its new digital drive stating: "[n]o employee now has access to any programmes which have not been cleared as any old programmes declared unfit for broadcast have not been transferred to the new drive, and no new programmes are uploaded without first being cleared" (paragraph 81), "following a carefully set out process of checks and balances involving sign-off from a number of people, including the Head of Production" (paragraph 111). It also set out that it has a "check, review, verify" system for third-party acquisitions (paragraph 112). For in-house productions, it said it has a vetting process for contributors, an on-going programme of relevant training by an external consultant, a system of briefing guest contributors with bespoke training materials,

and a protocol for incidents affecting live broadcasts involving both the presenter and trained gallery producer (paragraph 113).

165. Therefore, Ofcom considered that the Licensee has taken steps to prevent a further contravention, provided the measures it has stated have been put in place are adhered to and maintained through careful managerial oversight.

Any steps taken for remedying the consequences of the contravention

166. In its representations during Ofcom's investigation, Islam Channel Ltd. said it had "taken all possible remedial measures available" to it including issuing a "full apology" and renewing its commitment not to broadcast the programme again. It said that as soon as it became aware of the complaint to Ofcom, it "took the immediate step" of broadcasting two apologies to its audience (see paragraph 59) "to apologise unreservedly to them and to make clear that this programme had been broadcast in error and that the opinions in it were not endorsed by Islam Channel". It said the apology was shown on two separate occasions – Friday 5 March 2021 at 21:16 and Monday 8 March 2021 at 21:00 – to capture peak audiences and viewers who may have seen the original programme.

167. We accepted that the Licensee took steps, via the broadcast apologies, to try to remedy the consequences of the contravention. We welcomed the wording of the apologies, which described the concerning nature of the content ("*material which would be considered offensive to Jewish people*"), promoted "*mutual respect between different communities, faiths and cultures*" and clearly disavowed the programme's content, explicitly stating that Islam Channel "*profoundly regrets that this programme was broadcast and does not endorse any of the opinions expressed*". We acknowledged the Licensee apologised much sooner than after the first time it broadcast hate speech (one and a half / two weeks after the broadcast compared to nearly nine months) and the timing of its apologies had a good chance of reaching the viewers who had watched *The Andinia Plan*.

Whether the regulated body in breach has a history of contraventions (repeated contraventions may lead to significantly increased penalties).

168. The Licensee has a history of contraventions, which should have alerted it to the need to ensure its improved compliance procedures were adequate. Of most direct relevance to this case, Ofcom imposed a £20,000 penalty, directed the Licensee not to repeat the programme without edits to remove content in breach of the Code, and directed the Licensee to broadcast a statement of Ofcom's findings for breaches of Rules 3.2, 3.3 and 2.3 on 11 November 2018. The breaches occurred in a segment of an episode of *The Rightly Guided Khalifas*, a religious education series on the history of the Qur'an. This ascribed a perpetually negative characteristic to Jewish people; namely corrupting Holy Books and seeking the destruction of Islam in both ancient and more recent times. It conflated Israel and Jewish people, characterising Jewish people as "tyrannical" and having an "evil mind". The segment also used further negative and stereotypical terms to describe Jewish people. We considered this programme promoted and justified hatred towards Jewish people and therefore constituted hate speech. Ofcom considered that the antisemitic hate speech and other material broadcast in the programme that was abusive or derogatory about Jewish people would have been both harmful and highly offensive to some viewers of the programme and potentially damaging to relationships between Jewish and Muslim communities. Islam Channel said that it had removed the offending episode when the series was first broadcast. However, the episode was later included in a repeat of the series due to an error by a junior level scheduler, who had failed to review the content³⁸.

³⁸ See also footnote 17.

169. Other breaches occurred in the period 2006 to 2014, including three breaches of Section 2 of the Broadcasting Code (harm and offence). Although these illustrate a prior history of inadequate compliance procedures, we acknowledge the significant time that has passed since, and change in management since that period. In imposing a sanction for the broadcast of *The Rightly Guided Khalifas*, we took into account the period that had elapsed between that broadcast in 2018 and the breach that preceded it in 2014.

170. However, the imposition of a £20,000 penalty in the case of *The Rightly Guided Khalifas* did not deter the Licensee from committing a similar contravention within a relatively short timeframe (*The Rightly Guided Khalifas* was broadcast in November 2018 and *The Andinia Plan* in February 2021). We considered that deterrence, both for Islam Channel and other licensees, requires that repetition of breaches leads to a significantly increased penalty³⁹.

The extent to which the regulated body in breach has cooperated with our investigation

171. In Ofcom's view, the Licensee has been cooperative. For example, in representations before and after our Preliminary View it admitted the breaches of the Code in this case, provided full responses to Ofcom's formal requests for representations relating to the material broadcast and for information on the service in general; and has given assurances that it has taken steps to remedy its failure to comply with the Code. Ofcom also acknowledged the Licensee was candid in its representations, clearly demonstrated it took the breaches seriously and engaged positively during the sanction process.

Precedent

172. In accordance with the Penalty Guidelines, in coming to this Preliminary View, Ofcom has had regard to relevant precedents set by previous cases.⁴⁰

173. We took into account that the breaches related to attacks on a particular group which were discursive and made by secular authority figures in Argentina and Chile (a politician, a lawyer/ "international analyst", and the founder of a movement) described in the programme as "experts" and "scholars", but which did not extend to inciting crime or disorder (Rule 3.1).

174. As summarised in paragraphs 88 to 99, Islam Channel provided representations to Ofcom on five precedent cases which it considered relevant to Ofcom's deliberations on this matter. In light of the Licensee's representations, Ofcom first considered these precedent cases. These were: Radio Ikhlas Limited, Worldview Media Network Limited (Republic Bharat), Khalsa Television Limited (KTV), Ahlebait TV Networks and Trace World UK (Starz). A full list of Ofcom's previous recent sanctions decisions is published on Ofcom's website⁴¹.

175. **19 December 2018, Radio Ikhlas Limited**⁴² – Ofcom imposed a penalty of £10,000 and directed the licensee to broadcast a statement of Ofcom's findings for breaching Rules 2.3, 3.2 and 3.3. The presenter of a live phone-in programme, who was a local imam, had discussed the beliefs of the Ahmadiyya community in offensive and pejorative terms. Ofcom found that the material constituted hate speech, sustained for 21 minutes, which was intended to spread, incite, promote or justify hatred against Ahmadi people on religious grounds. We considered that the

³⁹ See also section 1, paragraph 12, of the Penalty Guidelines which states that one of the factors that Ofcom will consider when determining the appropriate and proportionate amount of any penalty is: "[w]hether the regulated body in breach has a history of contraventions (repeated contraventions may lead to significantly increased penalties)".

⁴⁰ Ofcom's Penalty Guidelines were last amended on 14 September 2017. Precedents pre-dating this revision are of less value.

⁴¹ See [Broadcasting and on demand sanction decisions](#). Archived older decisions are linked from that page.

⁴² See: [Sanction 110 \(18\) Radio Ikhlas](#).

contraventions were deliberate (on the part of the presenter acting for Radio Ikhlas Limited, albeit without its sanction of the content in question) or at least reckless.

176. Ofcom agreed that this case is distinguishable from that of *The Andinia Plan* in that we did not consider the breaches in the current case to have been deliberate or reckless. We accepted that the hate speech in the current case was in pre-recorded content, which the Licensee had identified as not fit for broadcast, but which was broadcast in error. However, the Radio Ikhlas breaches were the first breach of our rules for hate speech by that licensee. In addition, Radio Ikhlas Limited was a small community radio station and not a television service.

177. **27 June 2019, Trace World UK (Starz)**⁴³ – Ofcom directed the licensee to broadcast a statement of Ofcom’s findings for breaches of Rules 1.2, 4.2 and 4.8 the BCAP Code (The UK Code of Broadcast Advertising). The breaches related to an image submitted by a viewer alongside a music video depicting a cartoon caricature of a Jewish person based on racist stereotypes. The image was likely to have been interpreted by viewers as being highly offensive and antisemitic. It was repeatedly reshown, in rotation with photographs submitted by other viewers, over the course of 51 minutes for brief periods of 10 to 30 seconds at a time, which in total amounted to just over seven minutes of content. Ofcom took into account that the breaches were not deliberate, reckless or repeated, and that the licensee had deleted the image, broadcast an on-screen apology 25 minutes after the last broadcast of the image, and improved its compliance. We also took into account that the material did not derive from a respected source which would have lent it additional credibility and religious or moral weight. We noted that the breaches appeared to have resulted from an isolated lapse of judgement by a single moderator against a backdrop of the rejection of a large number of viewer contributions as part of an established compliance process and structure for monitoring viewer contributions to this advertising content. We decided to direct the licensee to broadcast a summary of the breach decision rather than to impose a financial penalty.

178. The current case also involves an employee’s failure to follow an established compliance process despite training. However, the current case is a repeated failure and not an isolated incident. In the precedent case, the licensee’s business model relied on high numbers of continuous viewer contributions, with content moderators acting as “gatekeepers” and making “in the moment” decisions about what to allow to be broadcast. It was able to demonstrate the effectiveness of its processes in rejecting a large number of viewer contributions, and the offending content was a viewer contribution. In the current case, *The Andinia Plan* was a one-hour, documentary-style programme on an editorial service (Islam Channel) that features serious, instructional content (paragraph 3). The Licensee chose to keep this programme in its archives albeit marked as not fit for broadcast with a view to deleting it at some future point, and entrusted the management of its archive and broadcast schedule to an experienced but newly hired, senior staff member. As below at paragraph 184, the speakers in *The Andinia Plan* were presented as “experts” and “scholars”; in the precedent case the antisemitic contribution derived from an unknown member of the public. Islam Channel’s apology for the broadcast of *The Andinia Plan* was well-crafted and made days after the breaches. The apology in the precedent case was unspecific, but made minutes after the breaches ended.

179. **22 December 2020, Worldview Media Network Limited (Republic Bharat)**⁴⁴ – Ofcom imposed a financial penalty of £20,000 and a direction to broadcast a statement of findings for breaches of Rules 2.3, 3.2 and 3.3. Ofcom found that an episode of the programme *Poochta Hai Bharat*, a daily current affairs discussion programme in Hindi, contained uncontextualised hate speech which was also potentially highly offensive. In the programme, the presenter and some of the guests conveyed the view that all Pakistani people are terrorists and featured further

⁴³ See: [Sanction 113 \(19\) Trace UK World Ltd.](#)

⁴⁴ See: [Sanction 137\(20\) Worldview Media Network Limited.](#)

derogatory and abusive statements regarding Pakistani people, which were sustained and repeated throughout the programme. They included statements by a retired Major General from the Indian Army which we considered expressed a desire to kill Pakistani civilians in their homes by a figure of authority. We considered these statements to be expressions of hatred based on intolerance of Pakistani people due to their nationality alone, and that the broadcast of these statements spread, incited, promoted and justified such intolerance towards Pakistani people among viewers. Ofcom considered these breaches to be extremely serious.

180. While Republic Bharat had only been broadcasting in the UK since August 2019 which was a little over a year at that time and was a very small service, Islam Channel has been broadcasting in the UK since 2004 and is much larger. While these were Republic Bharat's first recorded breaches of the Code or any of the other conditions of its licence, Islam Channel has breached the Code before, and in this case has committed a repeated breach of the rule on hate speech.
181. **12 February 2021, KTV**⁴⁵ – Ofcom fined Khalsa Television Limited (KTV) £30,000 after it found a live discussion programme, *Panthak Masle* featured a number of statements which were likely to incite crime or lead to disorder (Rule 3.1). Ofcom found this programme breached Rules 2.1, 2.3 and 3.1 of the Code.
182. Ofcom agreed with Islam Channel's representations that this precedent case was significantly more serious than the present case, given that it involved a repeated breach of Rule 3.1 (among other things). As set out below in paragraphs 188 and 189, financial penalties take into account the size and turnover of licensees. They cannot therefore be used in isolation as a measure of the level of seriousness attributed by Ofcom to any particular contravention.
183. **25 April 2023, Ahlebait TV Networks**⁴⁶ Ofcom imposed a financial penalty of £10,000 and directions to broadcast a statement of findings and not to repeat the programme. The case related to an edition of *20th Hour*, called "*Money Power, Islam and a Just Order*". Ofcom found that this edition of this weekly, live, current affairs discussion programme breached Rules 3.2, 3.3 and 2.3. It contained statements from a regular contributor which depicted the persecution of Jewish people as a divine punishment for practising usury in such a way to impoverish many societies. Ofcom considered the statements evoked a common derogatory stereotype about Jewish people being disproportionately in control of money lending businesses, being driven by greed and being unwilling to forgo money to the detriment of other people, and used this view to justify the expulsion of Jewish people from various societies throughout history, exclusively blaming this on Jewish people. Ofcom found the comments were presented without sufficient context or any challenge from the presenter.
184. *The Andinia Plan* was a recorded documentary style programme. Similar to the above case, its contributors were not religious authority figures, but were presented as "*experts*" and "*scholars*". There was some contextualisation of the antisemitic content, albeit insufficient to justify the broadcast of antisemitic hate speech. The antisemitic content was woven throughout most of the one-hour documentary up to and including its conclusion. In the precedent case, the antisemitic content was in the form of relatively brief comments and the programme was not contingent on them. Islam Channel apologised days as opposed to months after the breaches. For Ahlebait TV Networks, the breaches were not repeated breaches but rather the first of the Code under its then management, and the first involving hate speech, and Ofcom acknowledged that until these breaches occurred, the Licensee had a good compliance history.
185. **15 April 2019, City News Network (SMC) Pvt Ltd**⁴⁷ – Ofcom imposed a penalty of £75,000 and a direction to broadcast a statement of findings for breaching Rules 2.3, 3.2 and 3.3. A guest

⁴⁵ See: [Ofcom Sanction 119 \(20\) Khalsa Television Limited Sanction Decision](#)

⁴⁶ See: [Sanction 156 \(22\) Ahlebait TV Networks](#)

⁴⁷ See : [Sanction \(111\)19 City News Network \(SMC\) Pvt Ltd.](#)

featured in two current affairs discussion programmes made a series of unfounded and unchallenged accusations about members of the Ahmadiyya community, including that Ahmadi people had committed acts of murder, terrorism and treason as well as undertaking political assassinations. The same guest made remarks that attributed conspiratorial intent to the actions of the Pakistani authorities towards the Ahmadiyya community and stated they were being favoured in Pakistani society at the expense of orthodox Muslims. Ofcom considered the Licensee had been reckless in inviting the same guest who had made statements constituting hate speech and abusive and derogatory treatment of Ahmadi people to appear in a further live edition of the programme in which they made similar remarks in breach of the Code.

186. **5 May 2020, Lord Production Inc Limited** (Peace TV – Valley of the Homosexuals)⁴⁸ – Ofcom imposed a statutory sanction of £100,000 for breaches of Rules 2.3, 3.2 and 3.3 of the Code. The programme discussed Islamic family values and homosexuality. The presenter, an Imam, made a sustained attack on homosexuality that was not presented with any reference to religious scripture and was expressed in a way which was gratuitously and repeatedly abusive. The licensee had breached the Code in relation to harm and offence a number of times in the past and had also previously breached Rules 3.2, 3.3 and 2.4 of the Code (condoning and glamourising violent, dangerous or seriously antisocial behaviour).

187. **3 November 2020, Islam Channel Ltd.** See paragraph 168.

188. As set out in the Penalty Guidelines, Ofcom may depart from these cases depending on the facts and context of the current case. Islam Channel contrasted the financial penalty amounts imposed in the precedent cases to the amount the Sanction Preliminary View proposed should be imposed on it. The Penalty Guidelines state: “Ofcom will have regard to the size and turnover of the regulated body when considering the deterrent effect of any penalty”. For licensees with greater financial means, any financial penalty must be correspondingly higher to have an appropriately deterrent effect.

The size and turnover of the regulated body when considering the deterrent effect of any penalty

189. As set out in the Penalty Guidelines, the central objective of imposing a penalty is deterrence and the level of the penalty “must be sufficient to deter the business from contravening regulatory requirements, and to deter the wider industry from doing so”⁴⁹. The amount of any penalty must be sufficient to ensure that it will act as an effective incentive to compliance, having regard to the seriousness of the infringement. In considering what financial penalty is proportionate and will have a deterrent effect, we have taken into account the financial data provided by the Licensee on its qualifying revenue for the last accounting period, which was [X].

190. The Licensee stated [X].

191. Islam Channel gave financial information for both itself and Veritas Consultancy (UK) Limited (“Veritas Consultancy”). [Companies House](#) lists Mohamed Ali Harrath, the founder of Islam Channel⁵⁰, as the sole person with significant control of both companies, and as one of the two directors of Veritas Consultancy. The other director is Mohamed Harrath, who is the sole director of Islam Channel according to [Companies House](#). Both companies share the same registered address and financial year end.

192. The Licensee referred to:

- Islam Channel Limited – Corporation Tax Computation for the Year Ending 31 March 2022;

⁴⁸ See: [Sanction \(127\)19 Lord Production Inc Limited](#)

⁴⁹ See section 1 paragraph 4 of the Penalty Guidelines.

⁵⁰ See [Award For Mohamed Ali Harrath, Islam Channel’s Founder](#)

- Islam Channel Limited – Year-End Accounts Ending 31 March 2022, which showed profit of £67,971; and,
- Veritas Consultancy (UK) Limited – Year-End Accounts Ending 31 March 2022, which showed a loss of £138,653.

193. It stated that [X] and pointed to the net loss of £70,682 in the year ended 31 March 2022 across both Islam Channel Limited and Veritas Consultancy Limited. It added, “Veritas Consultancy’s accounts show cumulative losses of over £1 million”.

194. The Licensee added, [X]. It urged Ofcom to consider “not just our qualifying revenue or even the modest profit recorded by the Channel but the broader picture of its related companies [X].

195. Islam Channel said that “despite the challenging media landscape and current economic situation [it had] recently launched a third community channel to serve the marginalised community of Bengali-speaking Muslims” and that it plans to relaunch “the Global Peace and Unity Festival for 2023, an event of international standing, which furthers understanding between different faiths and communities”. The Licensee said this channel, Islam Channel Bangla, [X].

196. Islam Channel said that it “still has to cover its own expenditure as well as the aforementioned companies, in an economic landscape which is currently extremely challenging, as we emerge from the shadow of the worldwide coronavirus pandemic into commercial uncertainty and ever-increasing costs”.

197. The Licensee put forward the view that imposing a financial penalty would not be necessary or appropriate in the circumstances, either considering those of the breaches themselves (see paragraph 62) or with regard to its current financial position. It added, “Imposing a financial penalty may risk a loss of licence and in turn the loss of jobs for the many staff that the Channel employs and supports either directly or in its related entities”.

198. We considered that the Licensee has significant qualifying revenue. Its decisions to provide financial support to other businesses are a commercial matter.

Decision

199. Having regard to all the circumstances referred to above, including the need to achieve an appropriate level of deterrence and the serious and repeated nature of the Code breaches in this case, and all the representations to date from the Licensee, Ofcom’s Decision is that an appropriate and proportionate sanction is a financial penalty of **£40,000**. In addition, Ofcom is directing the Licensee not to repeat the programme, and to broadcast a statement of Ofcom’s findings in this case, on a date and in a form to be determined by Ofcom.

Ofcom

26 September 2023