

## Ofcom Content Sanctions Committee

<b>Consideration of Sanction against</b>	<b>Piccadilly Radio, in respect of its service ‘Key 103’ FM Manchester</b>
<b>For</b>	<b>Breaches of Rule 1.1 (Offence to Public Feeling) of Ofcom’s (ex- Radio Authority) Programme Code and Rule 1.4 (Presenters’ Views) of Ofcom’s (ex- Radio Authority) News and Current Affairs Code</b>
<b>On</b>	<b>10 &amp; 19 October 2004 and 5 &amp; 23 November 2004</b>
<b>Decision to Fine and Direct</b>	<b>£125,000 and a Direction to transmit Ofcom’s statement of finding at 17:00, 20:00 and 23:00 daily for a week</b>

### **Summary**

For the reasons set out in full in the Decision, the Ofcom Content Sanctions Committee found as follows:

- (1) Piccadilly Radio is licensed by Ofcom to run the service known as Key 103 FM (Manchester) (“Key 103”).
- (2) Ofcom received six complaints about Key 103’s output broadcast on 10 & 19 October 2004 and 5 & 23 November 2004, in four late-night phone-ins presented by James Stannage.
- (3) Listeners complained that the following broadcasts contained:
  - offensive jokes and comments about the death of Kenneth Bigley (10 October 2004);
  - offensive references to and treatment of Muslims (19 October 2004);
  - alleged incitement to racial hatred (5 November 2004); and
  - a racist comment (23 November 2004).

Also on reviewing the station’s output Ofcom was concerned about a broadcast which:

- gave undue prominence to the presenter’s views during a discussion on a matter of political controversy (10 October 2004).
- (4) Piccadilly Radio made no attempt to defend the content, stating that the racial, religious and sexual content of the broadcasts, despite their late-night position on the schedule, crossed the line into an area that was “totally unacceptable”.
  - (5) Ofcom found Piccadilly Radio in breach of the following rules of the ex-Radio Authority Programme Code and News and Current Affairs Code (“the Codes”):

- Rule 1.1 of the (ex-Radio Authority) Programme Code which requires that “nothing is included in programmes which offends against good taste or decency or is likely to encourage or incite to crime or to lead to disorder or to be offensive to public feeling” (broadcasts 10 & 19 October 2004 and 5 & 23 November 2004); and
  - Rule 1.4 of the (ex-Radio Authority) News and Current Affairs Code which states that “Individual presenters...may only express views on matters of political or industrial controversy or relating to current public policy, if an appropriate and adequate response from others, given with equivalent force is clearly available” (broadcast 10 October 2004).
- (6) In Ofcom’s view the content which breached Rule 1.1 of the Programme Code was some of the most offensive material it had heard. In particular, the presenter’s continual focus on race and religion, as forms of abuse, caused grave concern.
  - (7) Piccadilly Radio (appearing by representatives of Emap Radio) was invited to attend and appeared before the Content Sanctions Committee (“the Committee”). It admitted it had breached the Codes and apologised for the failures in its editorial and compliance control which had led to the situation. The Managing Director for Radio Programming at Emap was also clear that this material was “about the worst thing” he had ever heard on the radio. The licensee wished to distance itself from any racist remarks and wanted to stress that the licensee was in no way racist. However, it vigorously defended the distinctive position of Key 103 within its (local) market and emphasised the pressures on local commercial stations in what is a highly competitive environment. It also stated that over a twenty year period this programme had not, in its view, had a bad track record in terms of Code breaches and this was therefore not a case where breaches had been repeated or deliberate. It acknowledged however that they were very serious.
  - (8) The Committee acknowledges the particular nature of the licensee’s station and its competitive position. However, Ofcom considered that Piccadilly Radio’s failure to put in place more robust controls in terms of compliance arrangements for this programme was particularly serious. This was because there had been a number of similar and serious issues with the same presenter on previous occasions (some of which had resulted in fines being imposed by the Radio Authority). For instance, despite this history of compliance failures and problems, the programme was, at times, ‘produced’ by technical operators. It also appeared that the licensee had no effective system of monitoring this output and ensuring that problems would surface at senior management level. Overall the licensee demonstrated a most serious failure in its compliance procedures and a lack of editorial control.
  - (9) Whilst the Committee acknowledged that some steps had been taken to control the situation prior to these latest incidents, these steps were, in its view, clearly inadequate and this should have been apparent to the licensee before these latest breaches had occurred. Accordingly, the Committee considered that the station had paid insufficient attention to the long history of problems with James Stannage. It had relied too heavily on the presenter’s personal assurances that such content would not be repeated when it should have been clear to them that serious breaches were likely to occur again.
  - (10) The broadcasting of late-night phone-in programmes covering controversial and emotive subjects is an important part of the schedule of commercial radio stations; moreover, such content is to be encouraged and allowed to flourish but within appropriate limits. Such programming carries with it certain

responsibilities. Piccadilly Radio had broadcast this content without having the necessary safeguards in place which would be expected around such programming. The licensee had also not built into its compliance procedures and editorial controls due recognition of the seriousness of the problems with this presenter which had been longstanding over several years.

- (11) For the reasons set out in the Decision, and taking into account two previous fines concerning similar breaches of the Codes by this licensee, Ofcom decided that Piccadilly Radio should be fined the sum of £125,000 (all fines are payable to HMG and once received by Ofcom are forwarded to The Treasury). Ofcom has also directed the licensee to broadcast a statement of Ofcom's finding at 17:00, 20:00 and 23:00 daily for a week, in a manner and form to be determined by Ofcom.

## **Background**

1. Piccadilly Radio is a commercial radio service based in Manchester and part of the Emap Radio Group. Piccadilly Radio is licensed by Ofcom to run the service known as Key 103 FM (Manchester) ("Key 103"). The station's Format provides for, "A contemporary and chart music and information station for 15-44 year-olds in Greater Manchester" and promises that "features of local relevance will be strongly in evidence throughout programming".
2. Ofcom received six complaints about Key 103's output relating to four late-night phone-in programmes presented by James Stannage. In summary, the listeners complained that the programmes were offensive, racist, and incited racial hatred.
3. On 10 October 2004, the presenter, made jokes and comments about the death of Ken Bigley (the British hostage who was taken captive in Iraq and later murdered). His death had been confirmed by his family only 2 days earlier. The 'jokes' concerning Ken Bigley referred to the manner of his death (beheading) as well as offensive remarks about his wife based on her ethnicity and the fact that she was from Thailand.
4. On 10 October 2004, Ofcom was concerned that the presenter emphatically and continuously aired his own views, over the top of callers, on the Iraq War (a matter of political controversy), in a manner that did not allow "appropriate and adequate response from others" as required by the News and Current Affairs Code.
5. On 19 October 2004, the presenter made highly abusive comments concerning Muslims and used a mock Asian accent. The abuse centred on the religion of the callers and aggressively mocked Islamic traditions.
6. On 5 November 2004, the presenter made stereotypical comments about arranged marriages and obscene sexual comments in reference to the caller's religion, using at times a fake and mocking Asian accent.
7. On 23 November 2004, the presenter aired his dislike for a well-known celebrity partly on the basis of, and by reference to, her religion.

*(It should be noted that the Content Sanctions Committee which considers the issue of sanctions believed that, in this case, the contents of the broadcasts above were so offensive that it should not be repeated in the body of this adjudication. However, it is Ofcom's policy to explain the reasons for its decisions and, in light of the*

*seriousness of this case, extracts of some of the material is attached as an Annex to this adjudication.)*

8. The Radio Authority, Ofcom's predecessor, also found Piccadilly Radio in breach of its Codes, concerning offence, on a number of occasions and in relation to the presenter's output on Key 103. The Radio Authority had imposed financial penalties previously on two occasions against the licensee for the broadcast of offensive material by James Stannage. In April 1996 the licensee was fined £1,000 and in June 1997, it was fine £10,000. In November 2003, during the regulatory transition period, the Radio Authority recorded a breach of its Programme Code concerning the presenter's conversation with a Lupus sufferer, when he graphically described how she should have carried out her suicide attempt. The Radio Authority described the output as "unacceptable" and potentially harmful. It warned the licensee that, although its regulatory powers were imminently to transfer to Ofcom, details of this matter would remain on file and be available for future consideration, if so required.
9. In May 2004 Ofcom found subsequent broadcasts by James Stannage, on Key 103, to be in similar breach of the Code. These concerned the broadcast of tasteless 'jokes' in the aftermath of a tragic incident concerning Chinese cockle pickers in Morecambe Bay.
10. Piccadilly Radio accepted and agreed that the output broadcast on 10 & 19 October 2004 and 5 & 23 November 2004 was in breach of the Programme Code and the News and Current Affairs Code ("the Codes"). The broadcaster made no attempt to defend the content and agreed that the material had crossed the lines into an area that was "totally unacceptable". Piccadilly Radio also said that it recognised that the issues highlighted a history of compliance problems with this presenter which, with hindsight, it should have noticed previously.
11. During Ofcom's investigation, the licensee initiated disciplinary procedures against the presenter, James Stannage, which eventually resulted in his dismissal. The licensee also said that it had put in place new compliance procedures to ensure such a situation does not occur again.
12. While not wishing to defend the broadcast, Piccadilly Radio stated that, "Given the deliberately controversial stance the presenter took, it was inevitable that, over a number of years, during the course of a nightly live 3-hour programme the presenter may occasionally get it wrong". It believed that James Stannage was a very experienced presenter and the licensee said it had mistakenly believed he was capable of judging whether the content of his programme was compliant with the Code rules.
13. The Executive considered the breaches of the Codes to be extremely serious and therefore referred the matter for consideration to the Content Sanctions Committee ("the Committee"). The Committee met on Wednesday 16 November 2005 to consider the matter. Piccadilly Radio (appearing by representatives of Emap Radio) was invited to attend and appeared before the Content Sanctions Committee ("the Committee").

### **Sanctions Decision**

14. Piccadilly Radio admitted it had breached the Codes and apologised for the failures in editorial control which had led to the situation. The Managing Director for Radio Programming at Emap was also clear that this material was "about the worst thing" he had ever heard on the radio. The licensee said that "...the racist attacks on Muslims were outrageous and shocking...to the

management of the station". It also wished to distance itself from any racist remarks and wanted to stress that the licensee was in no way racist. Piccadilly Radio added that "it was just one presenter rather than the station who was breaching the Ofcom Codes".

15. However, on behalf of Key 103, the representatives said that the licensee's late-night phone-ins necessarily covered controversial issues to provoke debate and that this was a very important part of its schedule in order to compete successfully in what was a highly competitive market. They also stated that over a twenty year period this programme had not, in their view, had a bad track record in terms of compliance and this was not therefore a case where breaches had been deliberate or repeated. It acknowledged however they were very serious. The Managing Director for Radio Programming at Emap stated, "I can't think of anything in the 30-something years that I've been in broadcasting that I've felt so ashamed of". Whilst in hindsight they accepted that firmer action should have been taken at an earlier stage, they said it was not clear to them at the time that this was necessary given the various steps they had taken to improve the situation. This included a number of meetings with the presenter and the fact that they had received repeated assurances from him that such language would not recur. Disciplinary proceeding initiated by the licensee against the presenter eventually led to the presenter's dismissal, announced in June 2005. This demonstrated, according to Piccadilly Radio, how seriously it had dealt with the issue, since this presenter was described as a mainstay of its station. However, the licensee wished the Committee to consider the actions of one presenter against what it called the "good community work" it had done in Manchester.
16. In the Committee's view the content which breached Rule 1.1 of the Programme Code was some of the most offensive material it had heard. In particular, the presenter's continual focus on race and religion as forms of abuse caused grave concern. The attacks on callers were verbally aggressive and highly offensive. The Committee agreed with the licensee that the material was "totally unacceptable" and without doubt constituted very serious breaches of the Code.
17. The broadcasting of late night phone in programmes covering controversial and emotive subjects is an important part of the schedule of commercial radio stations – moreover, such content is to be encouraged. However, the Committee felt strongly that, if a broadcaster wanted to broadcast live programming which was 'edgy' and thought-provoking, there were specific responsibilities that accompanied this, including, in particular, the need for robust compliance procedures to be in place to ensure the material was broadcast within appropriate limits whilst maintaining an edge. The licensee's production team had not been adequately equipped to fulfil these responsibilities.
18. The Committee did not accept the licensee's view that it was just one presenter breaching the Codes and not the station. It is a licence condition that broadcasters comply with the Ofcom Codes. In the view of the Committee, the history of the presenter's problems stemmed from the licensee's failure to have effective compliance systems in place and an inability to follow up issues arising in the station's output. It appeared to the Committee that the licensee had had no effective systems of monitoring the presenter's output and ensuring that problems would surface at a senior management level before it was too late. The Committee was surprised to learn, given the station's history of compliance failures and problems, that the

programme was at times 'produced' by technical operators. This seemed to be a totally inappropriate and inadequate response to numerous warnings and findings (including the imposition of statutory sanctions) by the previous regulator and Ofcom. For these reasons, the Committee considered that the licensee should have taken far tougher steps at a much earlier stage. What particularly concerned the Committee was that if complaints had not been made to Ofcom, this presenter could still be on air broadcasting offensive material on Key 103 and still causing the licensee to breach the Codes.

19. The Committee accepted that the broadcaster had attempted in good faith to put some processes in place following previous breaches of the Code. It also took into account the fact that there was now a central point within Emap Radio which handled all complaints for Emap owned stations. Emap stated that this was a significant step which it had taken to improve its procedures. In addition, the licensee had admitted the breaches, had acknowledged they were serious and had now apologised to Ofcom. However, the Committee also noted that no apology to listeners had been broadcast at the time. This raised further cause for concern that had no complaints been made to Ofcom, Key 103 would have risked further breaches of this nature occurring on air.
20. Piccadilly Radio was made aware by the Committee that Ofcom could impose a range of sanctions including a fine or suspension or shortening of its licence and, if necessary, revocation of that licence. The licensee argued that a fine would be disproportionate, given it did not consider these breaches to have been deliberate or repeated and it considered its track record to have been good. However, the licensee admitted that not only were the breaches serious, but the material was "totally unacceptable" and "about the worst thing" it had ever heard on the radio. Taking into account all the relevant circumstances, including two previous fines for similar breaches of the Codes and the failure to have effective compliance procedures in place despite the presenter's track record and previous regulatory intervention, the Committee considered that a significant fine was proportionate.
21. The Committee concluded that the Code breaches (on 10 & 19 October 2004 and 5 & 23 November 2004, on Key 103 of sections 1.1 of Ofcom's (ex-Radio Authority) Programme Code and 1.4 of Ofcom's (ex-Radio Authority) News and Current Affairs Code) were extremely serious and warranted a financial penalty. For the reasons outlined above, the Committee concluded that the licensee should be fined £125,000 (all fines are payable to HMG and once received by Ofcom, are forwarded to The Treasury). Ofcom has also directed the licensee to transmit a summary of Ofcom's statement of finding, at 17:00, 20:00 and 23:00 on a daily basis, for a week, in a manner and form to be determined by Ofcom.

## **Content Sanctions Committee**

Richard Hooper

Pam Giddy

Stephanie Liston

Kath Worrall

24 November 2005

## **Annex to Content Sanctions Committee Adjudication on Key 103 FM (Manchester)**

### **Selected Extracts from Key 103 FM (Manchester) Output**

#### **10 October 2004**

The presenter 'jokes' concerning Ken Bigley:

"There's a new beer come out in Liverpool called Bigley Bitter, but nobody's drinking it, 'cos it's got no head on it",

"What's yellow and got a spare hat? Ken Bigley's widow",

"That's just typical of life isn't it – you find the only scouser who's actually got a job and somebody goes and chops his head off!"

The presenter comments to a caller in reference to Mr Bigley's death:

"Why do we give a shit about Ken Bigley? He went for the money ... He's got a 25 year old tart from Thailand"

"So why the Jesus Christ should we bother about him? He's sixty bleedin' odd, past his best, with some bimbo bird from the Far East ... We're all supposed to be, 'Oh my God what a tragedy' ... the dirty old man went to Iraq for the money."

#### **19 October 2004**

The discussion concerned, among other things, male circumcision. In response to one caller, he said:

"You're a moron"

adding in a mock Asian accent,

"Basically for cleanliness, we cut our son's foreskin off for cleanliness."

In response to what appeared to be background abuse, he then referred to the caller and his friends as:

"dirty foul-mouthed little Mussies".

To an earlier caller about why he fasted, the presenter said:

"...because you're a brainless, moronic Islam baby. That's all...", later adding

"You're just a Muslim sheep."

#### **5 November 2004**

In a discussion with a caller who opposed his proposition that tax revenues should not be wasted on old people, the presenter called her:

"a sad little chav Muslim scrote".

He asked her if her marriage had been arranged for her and then repeatedly asked if her husband was out

"gambling and whoring" adding: "Your husband's gambling and whoring, baby. I see all the Muslim boys out all night when I go out at 2am baby. I go to the casino and the late night drinking clubs and all the Muslim boys are there ... Why aren't you now, at this moment, shagging your husband? ...Have you ever given your husband a blow job?"

#### **23 November 2004**

While airing his dislike of Ozzie Osborne's family, the presenter referred to Sharon Osborne as a "dirty old slapper ... stupid, stupid Jewish princess wife."