




Addressing hate speech in the media: the role of regulatory authorities and the judiciary

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**Hate speech – the role of the national regulatory authorities
(NRAs) in the digital environment – the UK perspective**

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The UK Experience

Editorial content – powers and duties

BROADCAST:

Section 319(1) of the Communications Act (“the Act”) requires Ofcom to produce Standards Codes.

“It shall be the duty of fcom to set, and from time to time to review and revise, such standards for the content of programmes to be included in television and radio services as appear to them best calculated to secure the standards objectives”.

“Standards objectives”

A number of specific standards objectives are set out in Section 319 (2) of the Act including that:

“material likely to encourage or to incite the commission of crime or to lead to disorder is not included in television and radio services” (Section 319(2)(b)).

VIDEO ON DEMAND:

Section 365E(1) of the Act states:

“An on-demand programme service must not contain any material likely to incite hatred based on race, sex, religion or nationality”.

Setting Standards

The Broadcasting Code

1. Protecting the Under-Eighteens.
2. Harm & Offence.
3. Crime.
4. Religion.
5. Due impartiality and accuracy.
6. Elections.
7. Fairness.
8. Privacy.
9. Commercial references in television programming.
10. Commercial communications in radio programming



What are the rules?

Section One: Protecting Under-18s

- Rule 1.3: “Children must also be protected by appropriate scheduling from material that is unsuitable for them...”.

• Section Two: Harm

- Rule 2.1: “Generally accepted standards must be 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 harmful and/or offensive material”.

• Section Three: Crime

- Rule 3.1: “Material likely to encourage or incite the commission of crime or to lead to disorder must not be included in television or radio services”.
- Rule 3.2: “Material which contains hate speech must not be included in television and radio programmes or BBC ODPS except where it is justified by the context”.
- Rule 3.3: “Material which contains abusive or derogatory treatment of individuals, groups, religions or communities, must not be included in television and radio services or BBC ODPS except where it is justified by the context.

• Section Four: Religion

- Rule 4.2: “The religious views and beliefs of those belonging to a particular religion or religious denomination must not be subject to abusive treatment”.

Sanctions

Ofcom can impose statutory sanctions if the breaches of the Broadcasting Code or Licence Conditions are:

SERIOUS DELIBERATE REPEATED RECKLESS

Possible penalties

- Direction not to repeat a programme/advertisement.
- Direction to broadcast a correction/statement of Ofcom's findings.
- Shorten or suspend a licence (only applicable to certain types of licence).
- Financial penalty.
- Revocation of licence (not applicable to the BBC, S4C or Channel 4).

Suspension

Ofcom can suspend a licence immediately for hate speech in very serious cases (Television: section 239 Communications Act 2003 Radio: section 111B of the Broadcasting Act 1990).

- **Conditions**
 - Broadcast of material likely to encourage crime or disorder.
 - Breach of rule 3.1 justifies revocation of the licence.
- **Effect of notice**
 - Broadcaster has opportunity to make representations against revocation.
 - Ofcom will revoke licence if in the public interest.

Sanctions –Incitement and Hate speech

Licensee	Type of service	Date of broadcast	Date of Sanction	Relevant rules	Issue	Sanction
Radio Asian Fever	Community radio	17/6/11 & 18/8/11	11/6/12	2.3, 2.4, 3.1 and 4.1	Homophobic incitement	£4K penalty + Direction
DM Digital	Satellite TV	9/10/11	5/7/13	3.1	Incitement of Muslim community	£85K penalty + Direction*
Noor TV	Satellite TV	3/5/12	21/8/13	3.1 and 4.1	Incitement of Muslim community	£85K penalty + Direction*
Takbeer TV	Satellite TV	9/6/12 and 3/7/12	23/8/13	4.1 and 4.2	Abuse of Ahmadi community	£25K penalty + Direction
Sangat TV	Satellite TV	1/10/12	15/8/13	3.1	Anti-Indian Incitement of Sikh community	£30K penalty + Direction
Peace TV Urdu	Satellite TV	12 and 13/9/15	11/11/16	2.1 and 2.3	Anti-Semitic hate speech	£65K penalty + Direction
Noor TV	Satellite TV	17/11/15	20/12/16	2.1 and 2.3	Anti-Semitic hate speech	£75K penalty + Direction
Kanshi Radio	Satellite radio	30/6/16	25/7/17	2.1, 2.3, 3.2 and 3.3	Anti-Muslim (women) hate speech	£17.5K penalty + Direction
Ariana International	Satellite TV	20/7/16	6/7/17	2.3, 3.1 and 3.2	Incitement of Muslim community	£200K penalty + Direction
Iman FM	Community radio	5, 10, 12 and 14/6/17	27/7/17	3.1	Incitement of Muslim community	Revocation of licence
Radio Dawn	Community radio	26/12/16	27/2/18	2.3, 3.1, 3.2 and 3.3	Incitement of Muslim community	£2K penalty + Direction
Ausuf TV	Satellite TV	N/A	6/9/18	Fit and proper person test	Harmful content in Daily Ausuf newspaper	Revocation of licence

Prevention of Online Harm

- In September 2018, Ofcom published a discussion document examining types of harmful content online (see https://www.ofcom.org.uk/data/assets/pdf_file/0022/120991/Addressing-harmful-online-content.pdf).
- We published this alongside new research looking at peoples concerns and experiences of different types of harm online.
- This was our first contribution to the public debate about whether regulation is needed to address a range of problems that originate online, affecting people, businesses and markets.
- It draws on Ofcom's experience of regulating broadcasting and on-demand video services. It sets out some key lessons and insights that may be useful for government and policy makers developing any new models for addressing harmful online content.

Key challenges identified:

- Scale
- Variety of voices and content types
- Platforms' role in content creation
- Service variety and innovation

Key principles to be taken from broadcasting:

- Protection and assurance
- Upholding freedom of expression
- Adaptability over time
- Transparency
- Enforcement
- Independence

THANK YOU