
In Breach

Radio Asian Fever

Coverage of the European Elections, 10 May 2009, 18:00

Introduction

Radio Asian Fever (also known as *Fever 107.3 FM*) is an Asian community radio station based in Leeds which is owned and operated by Radio Asian Fever Ltd ("the Licensee"). The UK European parliamentary election took place on 4 June 2009 and the official election (or run up) period for this poll commenced on 28 April 2009. On 12 May 2009 Ofcom received a complaint that a political programme broadcast on *Radio Asian Fever* on 10 May 2009 was presented by Radio Asian Fever's Project Director, who also sits on the Licensee's board, and featured a local Labour councillor and a Labour candidate for the European parliamentary elections. It was claimed that the presenter and the two Labour representatives all encouraged listeners to vote Labour. The complainant was concerned that the Licensee showed political bias by only featuring a Labour councillor and Labour MEP candidate on the programme during an election period.

On receiving the complaint Ofcom immediately contacted the licensee to ensure that it fully understood its obligation under the impartiality requirements of the Code and, in particular, the rules that apply to broadcasting at the time of an election.

Ofcom subsequently requested comments from the Licensee on how this programme complied with Rule 6.1 (the application of impartiality requirements during the time of elections) and Rule 6.2 (due weight must be given to the coverage of major parties during the election period) of the Code.

Response

The broadcaster responded that some of its staff attended a meeting on 10 May 2009 at Leeds Civic Hall. It continued that, during that meeting, it was claimed that Labour's second seat in the local European Parliament constituency was under threat, through voter apathy, from the British National Party in the forthcoming elections. *Radio Asian Fever* was asked to help by giving airtime to Mr Maroof Hussein and Cllr Arif Hussein (a Labour candidate for the European parliamentary elections and a local Labour councillor respectively) to encourage listeners to vote for Labour. The Licensee said that if it had refused this request it might have offended many members of the various ethnic communities who were present at the meeting and who listened to its service.

Having agreed to feature Mr Maroof Hussein and Mr Arif Hussein, the Licensee said that it had not realised that the European elections were subject to the same requirements as local and national elections and that it should have referred to the Code before agreeing to feature them. The Licensee continued that *Radio Asian Fever* has in the past always given due weight to the coverage of the major parties whenever it has covered elections and that not doing so on this occasion was due to a "lack of concentration" and poor judgement.

With regard to broadcasting the Licensee's own opinions on air on a matter of political controversy (for example the presenter, who is on the Board, stated live on air "*vote Labour to keep the BNP out*"), the Licensee apologised and said that the presenter was guilty of being absent-minded and for getting carried away with the community's concerns and fears. The Licensee sincerely apologised and confirmed that this would not happen again.

The Licensee said that in order to correct its mistake it would give due weight and time to members of the other major parties (i.e. the Liberal Democrats and the Conservatives) which was equal to that which it gave to the Labour Party. It said that it would also broadcast a generic advertisement for the European parliamentary elections urging its listeners to vote for a party of their choice. The Licensee concluded its response to Ofcom by asking it to take into account that it is a small community station operating on a very small budget broadcasting programmes which benefit the local community all year round.

Decision

Rule 6.2 – Due weight to the coverage of political parties in elections

The effect of Section 6 of the Code is to ensure that broadcasters apply the "due impartiality" rules (as set out in Section 5 of the Code) to their coverage of elections. In particular Rule 5.11 states that "due impartiality must be preserved on matters of major political... controversy... by the person providing a service... in each programme or in clearly linked and timely programmes". Ofcom considers that the European parliamentary election is a major matter of political controversy as defined by the Code.

Ofcom recognises the importance to the right to freedom of expression. This encompasses the broadcasters' right to transmit and the audience's right to receive creative material, information and ideas without interference but subject to restrictions prescribed by law and necessary in a democratic society. This right is enshrined in the European Convention on Human Rights.

However, UK legislation requires broadcasters to preserve due impartiality on major matters of political controversy. This requirement is considered to be particularly important at the time of elections. This means that broadcasters in covering election issues must ensure that, during the election period, due weight is given to all the major parties (and other parties where appropriate). Rule 6.2 states:

"Due weight must be given to the coverage of major parties during the election period. Broadcasters must also consider giving appropriate coverage to other parties and independent candidates with significant views and perspectives."

On 10 May 2009 programme, the station interviewed both a Labour candidate for the European Elections and a local Labour councillor. In the programme, the interviewees were able to promote the Labour Party and set out its policies for the election. Under the Code, the licensee was under an obligation during the election period to ensure that due impartiality was preserved and other major parties were therefore given an opportunity to participate. How this is achieved is an editorial matter for the broadcaster, for example impartiality can be achieved within a particular programme or over time through a series of programmes.

On receipt of the complaint, the licensee confirmed that it would contact the other major parties to offer them an amount of airtime equivalent to that which it had given to the Labour Party. It also said that it would create a generic advertising campaign for the European election urging its listeners to vote for the party of their choice. On 2 June 2009 Fever FM broadcast an hour-long interview with local Conservative councillor Matthew Loble. It also arranged for an equal amount of time on-air with a local Liberal Democrat councillor. However, due to other commitments, the broadcaster informed us that the Liberal councillor was unable to attend the pre-arranged interview.

We note the efforts the licensee made to comply with the Code. However, at time of elections broadcasters must ensure due impartiality by giving due weight to major parties. In the case of general coverage of the election (as opposed to the specifics of a constituency report) the broadcaster was required to give coverage to the three main parties in the UK. The broadcaster's failure to cover the Liberal Democrat Party's position, in any form, therefore resulted in a breach of the Code.

Breach of Section 6.2 of the Code

Rule 6.1 Due Impartiality at the time of Elections

In the programme transmitted on 10 May 2009, the presenter (alongside his Labour Party guests) clearly endorsed the Labour Party and encouraged listeners to vote Labour.

The presenter of the programme, who is a Director of the Licensee and sits on its board, used his position publicly and personally to endorse a partial political message. For instance, he referred to the European election ballot paper stating "*...on the voting sheet, there's a box where you vote for Labour isn't it...one cross on Labour...just one tick on Labour*". He also made other direct calls to listeners to vote Labour including "*you're not voting for him [one of the Labour party members present] you are voting for the Labour Party*", "*just vote for Labour on 4 June*" and "*just tick your box on Labour*". Towards the end of the programme the presenter stated:

"...it is very, very important that everybody gathers and votes for the Labour Party on 4 June and keeps out the British National Party"

This was all in the context of an 'interview' with two members of the Labour party, the overall effect being a one hour on-air conversation about the reasons to vote Labour in the up-coming election, and how to achieve it.

Ofcom did not therefore consider that the programme was presented with due impartiality. The seriousness of this breach of the Code was compounded by the fact that it occurred in the "election period" just three weeks before the European parliamentary election on 4 June 2009.

While Ofcom welcomed the broadcaster's admission that it made a grave error of judgement in allowing its service to be used in a politically partial way, Ofcom was concerned that a member of the board of the Licensee, who was also the presenter of the programme, exercised poor judgement during an election period which led to a serious and significant breach of the Code. While Ofcom recognises that Radio Asian Fever is a small local station, it is a condition of its licence that it complies with the Code.

Breach of Rule 6.2 – Due weight to the coverage of political parties in elections
Breach of Rule 6.1 – Due Impartiality at the time of Elections