

## Retention and production of recordings, Retrocadia Ltd

<b>Type of case</b>	Broadcast Licence Conditions
<b>Outcome</b>	Resolved
<b>Service</b>	Cinque Ports Radio
<b>Date &amp; time</b>	4 to 10 April 2022
<b>Category</b>	Retention and production of recordings
<b>Summary</b>	The Licensee had provided recordings from its playout system rather than its FM output. The Licensee has indicated that it now has the capacity to also provide recordings of its FM output. Resolved.

### Introduction

Cinque Ports Radio is a community radio station based in Romney Marsh in Kent. The licence for Cinque Ports Radio is held by Retrocadia Ltd (“Retrocadia” or “the Licensee”).

Ofcom undertook monitoring of the Cinque Ports Radio service in March and April 2022, after finding Retrocadia Ltd in breach of its Key Commitments, and for failing to provide recordings, in January 2022.<sup>1</sup>

Ofcom therefore requested recordings of the output of the service from 4 to 10 April 2022, to allow us to monitor the Licensee’s compliance with its Key Commitments.

The Licensee was able to provide recordings of the service, which demonstrated that it was in compliance with its Key Commitments. However, the Licensee indicated to us in its written response that there were two periods in this week where the FM transmitter had gone off-air, due to a power cut and transmitter maintenance respectively. In our review of the recordings provided to Ofcom, we did not identify these outages of the service, and so we considered that the Licensee may have provided us with recordings of its online stream, rather than its FM broadcast output.

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<sup>1</sup> See [Issue 443](#) of Ofcom’s Broadcast and On Demand Bulletin, published on 24 January 2022.

Condition 8 of Retrocadia Ltd's licence states:

- "8(1) The Licensee shall adopt procedures acceptable to Ofcom for the retention and production of recordings of the Licensed Service's broadcast output.
- 8(2) In particular the Licensee shall:
  - (a) Make and retain, for a period of 42 days from the date of its inclusion therein, a recording of every programme included in the Licensed Service..."

We wrote to the Licensee, asking it to provide its comments on its compliance with Condition 8 of its Licence.

## Response

In its response to our request for comments, the Licensee indicated that the recordings which it provided were "a true and accurate record of our station broadcast output for the period". The Licensee explained that the recordings came from its processing PC, as one of three audio streams from that location, going to the logging PC, online audio stream and FM broadcast feed respectively. The Licensee emphasised that it did not have any split programming between its online and FM output, and so the recordings provided at the time of the identified outages "were exactly what would have been broadcast if the FM transmitter was active".

The Licensee went on to state that:

"In the spirit of cooperation and to reinforce our compliancy we have now commissioned an "off air" recording system that will be housed at a remote location and log directly off an FM tuner. This system will also store the recordings on a PC and have a cloud backup that will store the audio for over 45 days. This system should be active by Tuesday 24<sup>th</sup> May 2022".

## Decision

In each broadcaster's licence, there are conditions requiring the licensee to retain recordings for a specific number of days after broadcast, and to comply with any request by Ofcom to produce recordings of programmes as broadcast. For community radio licences, this is reflected in Licence Conditions 8(1) and 8(2)(a) and (b).

The requirement for Licensees to retain recordings of their broadcast output is significant for Ofcom's ability to carry out its statutory duties in regulating broadcast content, because a failure to retain recordings and produce them to Ofcom upon request prevents us from assessing the output of the service. This is a key part of the enforcement process for cases about compliance with both Licence Conditions (under the General Procedures) and the Broadcasting Code.

The requirement in Condition 8 of Retrocadia's Licence refers to recordings of "the Licensed Service's broadcast output", which refers to the output **as broadcast on the licensed service**. In this case, this

refers to the output broadcast on the Licensee's FM feed, rather than its online output, which Ofcom does not regulate. While we acknowledge that in most cases online and FM output will be identical, we require recordings of the broadcast output related to the Licence. Recordings of a separate online stream, or the pre-broadcast output, such as from a studio production computer, are not acceptable.

In this case, the recordings provided by the Licensee on Ofcom's request were from its processing PC, rather than the output as broadcast on its FM transmitter, and we were therefore unable to use the recordings to identify the outages to its transmitter. We are satisfied, however, that the Licensee believed it was in compliance with Condition 8 of its Licence, as established in its written response. Further, once we made the Licensee aware of the full requirements of Condition 8, it has established a system to record the output of its FM transmitter. We will request recordings in future to ensure that the Licensee is compliant with this condition of its Licence. Therefore, we consider this incidence of a failure to retain and provide recordings resolved.

**Resolved**