

Retention and production of recordings, Secklow Sounds CIC

Type of case	Broadcast Licence Conditions
Outcome	In Breach
Service	Secklow Sounds
Date & time	14 to 21 April 2022
Category	Retention and production of recordings
Summary	The Licensee was unable to provide recordings of its broadcast output to Ofcom upon request. Breach of Licence Conditions 8(1) and 8(2)(a) and (b).

Introduction

Secklow Sounds is a community radio station based in Milton Keynes. The licence for Secklow Sounds is held by Secklow Sounds CIC (“the Licensee”).

On 19 April 2022, the Licensee informed Ofcom that it had experienced an interruption to the broadcast of the service “for a few days due to a billing issue whilst swapping banks”. The Licensee also informed us that it expected the service to be restored from 20 April. Further information provided by the Licensee indicated that the service was off air between 15 and 19 April 2022, and that the outage was due to missed Direct Debit payments, because of a banking issue.

On 12 May 2022, Ofcom served the Licensee with a formal request for information in order to assess the Licensee’s compliance with Condition 2(1) of its Licence, which requires that the Licensee provides the service specified in its Key Commitments for the entire licence period. As part of this request for information and to help with our assessment of the outage to the service, Ofcom requested recordings of the Licensee’s broadcast output between 14 and 21 April 2022.

In the Licensee’s response, dated 20 May 2022, it confirmed that it was not able to provide these recordings of its output. The Licensee stated that:

“On request to the technical team who supply our playout system...and handle logging, the logger computer was found to have rebooted and not restarted between 7 May and 19 May”.

Ofcom considered that the Licensee's failure to provide recordings to Ofcom upon request raised issues under Condition 8 of its Licence, which 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 together with regular time reference checks;
 - (b) At the request of Ofcom forthwith produce to Ofcom any such recording for examination or reproduction..."

We requested comments from the Licensee on how it was complying with these conditions.

Response

Ofcom did not consider it necessary to seek a response from the Licensee in reaching a Preliminary View in this case. Upon receipt of Ofcom's Preliminary View, the Licensee indicated that it did not have any comments.

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 fundamental to Ofcom's ability to carry out its statutory duties in regulating broadcast content. The failure by a Licensee to retain recordings and produce them to Ofcom upon request prevents us from assessing the compliance of the service, both with its Licence Conditions (under the General Procedures) and with content rules, such as the Broadcasting Code.

In this case, the Licensee's failure to provide recordings of its output prevented us from carrying out a complete assessment of the outage to its provision of the Licensed Service, although we were satisfied from written material provided by the Licensee that this would likely not have been a breach of Condition 2(1) of the Licence. Ofcom expects Licensees to have contingency plans in place to ensure they are able to retain recordings of their output at all times; the Licensee did not have these contingencies in place in April 2022.

Ofcom acknowledges that the Licensee has taken steps to provide alternative information, including logs from its playout software, to assist Ofcom in assessing the complaint, and that the Licensee expects to be able to provide recordings of its broadcast output upon request in the future. However, the failure to retain and provide recordings hindered our ability to carry out our regulatory duties. We

will request recordings in future to ensure that the Licensee is compliant with this condition of its Licence. Ofcom's view is therefore that Secklow Sounds CIC is in breach of Conditions 8(1) and 8(2)(a) and (b).

Breach of Licence Conditions 8(1) and 8(2)(a) and (b) of Part 2 of the Schedule to the Community Radio licence held by Secklow Sounds CIC (CR100777).