



Retention and production of recordings, IslandsFM Ltd

Type of case	Broadcast Licence Conditions
Outcome	In Breach
Service	Islands FM
Date & time	17, 20 and 21 May 2023
Category	Retention and production of recordings
Summary	The Licensee failed to provide recordings to Ofcom for the purpose of assessing the content. Breach of Licence Conditions 8(1) and 8(2)(a) and (b).

Introduction

Islands FM is a community radio station serving the residents on the Isles of Scilly. The licence is held by IslandsFM Ltd. (“Islands FM” or “the Licensee”).

Ofcom received a complaint that the Licensee was not meeting its Key Commitments. Ofcom therefore requested recordings of Islands FM’s output from 15 to 21 May 2023. The Licensee responded to the request to explain that it could not provide all recordings for the week requested, because of a technical fault. It also explained how it was delivering its Key Commitments.

Ofcom found that five hours of recordings were missing from the week of recordings provided by the Licensee, specifically 00:00 to 01:00, 05:00 to 06:00 and 21:00-22:00 on Wednesday 17 May 2023, 04:00 to 5:00 on Saturday 20 May 2023 and 21:00 to 22:00 on Sunday 21 May 2023.

Ofcom was content from the recordings and information that were provided that the Licensee was meeting its Key Commitments. However, Ofcom considered the failure to provide recordings of the

entirety of the output that we had requested raised potential issues under Condition 8 of IslandsFM Ltd.'s 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".
- (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".

Ofcom requested comments from the Licensee on how it was complying with the above conditions.

Response

The Licensee stated that it did not know the reason why its logging system did not record the entirety of the week commencing 15 May 2023. Islands FM stated that several of the files were 'jukebox' hours and as such it did not believe its failure to provide them to Ofcom to be "a significant problem".

The Licensee explained that "As [it] seldom refer[s] back to the log recordings, this has not been previously noticed but [it] will arrange for a reinstallation of the software and check to ensure [it does] not have an issue like this going forward".

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 licensees, this is reflected in Licence Conditions 8(1) and 8(2)(a) and (b).

Breaches of these conditions are significant because they impede Ofcom's ability to assess the output of the service. This is a key part of the enforcement process for cases about compliance with both licence conditions and the Broadcasting Code.

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In this case, the absence of the recordings did not prevent Ofcom from assessing the complaint received about the station's compliance with its Key Commitments. We note the Licensee's submission that the recordings it was unable to provide were predominantly 'jukebox' hours, i.e. continuous music. However, while recordings of such content may be less relevant to the assessment of a complaint about Key Commitments, licensees are required to make and retain recordings of all of their output.

We understand that the failure to provide five hours of output was due to a technical issue. Ofcom was concerned that the Licensee was unaware of this technical failure until Ofcom contacted it to request recordings of the content.

We expect licensees to have adequate infrastructure in place to record their output and to ensure that the output is retained for the required period set out in their licence. Licensees should also have systems in place to ensure that their recording system is operational at all times, and should contact Ofcom proactively if they experience an issue with making and retaining recordings of their output.

We welcome the Licensee's assurances that it is taking steps to ensure that it is able to make and retain recordings of all of its output in the future.

However, Ofcom's Decision is that IslandsFM Ltd. is in breach of Licence Conditions 8(1) and 8(2)(a) and (b) for failing to make and retain recordings of its output and to provide them to Ofcom on request.

We expect the Licensee to work to rectify this immediately. We will request recordings in future to ensure that the Licensee is compliant with these conditions of its Licence.

Breaches of Licence Conditions 8(1) and 8(2)(a) and (b)