



Providing a service in accordance with ‘Key Commitments’ and retention and production of recordings, Takeover Radio 106.9

Type of case	Broadcast Licence Conditions
Outcome	In Breach
Service	Takeover Radio 106.9
Date & time	25 September to 1 October 2023
Category	Key Commitments Retention and production of recordings
Summary	<p>The Licensee failed to fulfil the requirements specified in its Key Commitments to maintain its character of service. Breaches of Licence Conditions 2(1) and 2(4).</p> <p>The Licensee also failed to provide recordings to Ofcom on request. Breaches of Licence Conditions 8(1) and 8(2).</p>

Introduction

Takeover Radio 106.9 is a community radio station for young people aged eight to 25, living within the area of Ashfield. The licence for Takeover Radio is held by Sutton Youth Radio Limited (“Takeover Radio” or “the Licensee”).

Like other community radio stations, Takeover Radio is required to deliver ‘[Key Commitments](https://static.ofcom.org.uk/static/radiolicensing/Community/commitments/cr000169.pdf)’ (<https://static.ofcom.org.uk/static/radiolicensing/Community/commitments/cr000169.pdf>), which form part of its licence. These set out how the station will serve its target community and deliver social gain (community benefits), and also include a description of the programme service.

Ofcom received a complaint that Takeover Radio was not meeting its requirements for original output and locally-produced output. Ofcom had also committed to monitor the service following the

[Breach Decision](https://www.ofcom.org.uk/__data/assets/pdf_file/0029/262865/Licensing-Decision-Takeover-Radio-106.9-Key-Commitments-case-01593732.pdf) (https://www.ofcom.org.uk/__data/assets/pdf_file/0029/262865/Licensing-Decision-Takeover-Radio-106.9-Key-Commitments-case-01593732.pdf) published in June 2023.

Ofcom requested recordings of the output of the service from 25 September to 1 October 2023. However, when we came to assess the recordings, we noted that they included news bulletins from 6 November 2023 and therefore could not have been the off-air recordings of broadcast output from the week requested. We requested the recordings from the week commencing 25 September 2023 again, but the Licensee explained that it was unable to provide them due to only retaining off-air recordings for a period of 30 days.

Ofcom considered that this raised potential issues under Licence Conditions 8(1) and 8(2)(a) and (b), which state that:

- 8(1): “The Licensee shall adopt procedures acceptable to Ofcom for the retention and production of recordings of the Licensed Service’s broadcast output”; and
- 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...
 - b) at the request of Ofcom forthwith produce to Ofcom any such recording for examination...”

Ofcom also requested from the Licensee a full programme schedule for the week commencing 25 September 2023 indicating the content that was original or locally-produced, as well as information about how the Licensee was meeting its Key Commitments.

Having assessed the recordings and programme schedule provided, we found that the Licensee was meeting its locally-produced output requirement. However, it appeared that Takeover Radio was not delivering the following Key Commitments:

- The service provides original output for a minimum of 10 hours per day.
- Speech. The main types of speech output broadcast over the course of each week are: news, travel, weather and sports, community and event information, discussions, interviews and features of relevance to the target community.

Ofcom considered that this raised potential issues under Licence Conditions 2(1) and 2(4). These state, respectively:

- 2(1): “The Licensee...shall provide the service specified in Part I (b) of the Annex for the remainder of the licence period”; and
- 2(4): “Subject to Condition 2(5) below..., the Licensee shall ensure that the Licensed Service accords with the proposals set out in Part I (b) of the Annex so as to maintain the character of the Licensed Service throughout the licence period”.

Ofcom requested comments from the Licensee about how it was complying with the above Licence Conditions.

Response

Retention and production of recordings

Takeover Radio acknowledged that due to what it described as a “genuine error” resulting from a change of technical officer, the recordings supplied contained the content that was broadcast during the week requested, with the exception of the news, sports and weather bulletins which were from the date that the recordings were downloaded.

Further, the Licensee said that this case had highlighted that it had erroneously been retaining recordings for 30 days instead of the required 42 days. The Licensee assured Ofcom that it had since amended its recorder so as to retain recordings of its output for 42 days from the date of broadcast.

The Licensee offered to provide additional “post-broadcast” recordings to Ofcom.

Original output

Takeover Radio stated that it is not currently meeting its original output requirement and explained “although [it is] continuously improving the volume and variety of this output, it has not yet met the 10 hours per day in terms of scheduled ‘hour long +’ programming”. The Licensee referred to the programme schedule it had provided, which stated the highest number of original output hours broadcast on any day across the week was eight hours. The Licensee said it broadcast 32 hours of original output across the week in question. The Licensee also stated that previously it had been “too focused upon the educational benefit of the young people’s participation, e.g. the music and digital skills that they acquire even in producing an item as short as a jingle – ahead of the broadcasting requirement”, and was working to address this as a priority.

In response to Ofcom’s Preliminary View, the Licensee confirmed that it understood the difference between “music only shows” and original output. The Licensee reiterated that, for the week in question, it did not meet the required level of original output. Additionally, the Licensee stated that it was participating in the upcoming “Nottinghamshire Festival of Science and Curiosity”, and stated that it will produce a series of hour-long shows for broadcast as part of this.

Speech

Takeover Radio stated that it believes the speech requirement of its Key Commitments was being met by “original output, the jingles, the young people’s ‘shorts’, and the news, weather and sport”. The Licensee did, however, acknowledge that it could be providing more broadcast content with regard to community and event information. The Licensee stated that it is working to address this including commissioning a pilot titled ‘What’s Next?’ which the Licensee scheduled for broadcast on 25 December 2023. The Licensee also explained it is experimenting with the most effective way to “to air ‘short’ local information clips along with other local programmes about community events, for example from the Partnership and Community Team”.

In response to Ofcom’s Preliminary View, the Licensee reiterated that it had “sought to meet the Speech requirement”. The Licensee also noted that it had broadcast community information but acknowledged that this was not broadcast during the week monitored. The Licensee also expressed that it did not feel that travel information was relevant to its target community.

Decision

Reflecting our duties to ensure a diverse range of local radio services, community radio licensees are required to provide the licensed service specified in its Key Commitments. This is a fundamental purpose for which a community licence is granted.

Retention and production of recordings

In each broadcaster's licence, there are conditions requiring licensees 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 Condition 8.

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.

Ofcom requested recordings of content broadcast between 25 September and 1 October 2023 but received recordings which appeared to be the scheduled output broadcast during the week requested, with the exception of the news, sport and weather bulletins which were from the date the audio was downloaded from the Licensee's recording system. The recordings were clearly not the required off-air recordings.

When Ofcom requested the off-air recordings again, the Licensee was unable to provide them because it had retained the off-air recordings for 30 days instead of the required 42 days from the date of broadcast. It was fortunate in this case that the Licensee's failure to provide the off-air recordings did not prevent Ofcom from assessing whether the Licensee was complying with its Key Commitments, however, it highlighted that the Licensee was not complying with condition 8 of its licence.

We recognise the Licensee's statement that "a genuine error" led to it providing the incorrect recordings to Ofcom. We also understand that the Licensee is now retaining its recordings for the required 42 days.

In this case, Takeover Radio did not retain the relevant recordings or provide them to Ofcom on request as required under conditions 8(1) and 8(2)(a) and (b) of its licence.

Original output

Takeover Radio admitted that it was not broadcasting ten hours of original output per day. Our monitoring indicated that the Licensee under-delivered against this Key Commitment each day of the week monitored and, it appeared that a maximum of three hours of original output per day was broadcast. Original output contained within the recordings provided was also at lower levels than that outlined in the programme schedule the Licensee had provided. It appeared that the Licensee considered that programmes containing music of a particular genre or theme with no speech content could be counted as original output. We would like to remind licensees that continuous music with no speech content other than advertisements, station idents and/or outsourced news bulletins (i.e. news bulletins produced by a third party) does not count as original output.

Therefore, we consider that Takeover Radio was not meeting its original output requirement during the week in question.

Speech

Ofcom found that the speech content broadcast during the week monitored consisted of educational, or 'factual' inserts for example facts about the USA, discussions about types of music enjoyed by the presenter, and news, sports and weather updates from Radio News Hub (although the bulletins provided in the recordings were from a different week). However, there was no community or event information within the recordings provided, which the Licensee acknowledged. We also noted there was no travel information on the days monitored.

We acknowledge the Licensee's belief that travel news is not relevant to its target community. Nevertheless, this remains part of the service's Key Commitments and should be included as part of the main types of speech output broadcast over the course of each week. If the Licensee wishes to change its Key Commitments to remove the requirement to broadcast travel, it should submit a request to change its Key Commitments.

As such, we consider that Takeover Radio was not meeting its speech requirement during the week in question.

Conclusion

Ofcom's Decision is that Takeover Radio is in breach of Licence Condition 2(1) and 2(4) for failing to comply with the following Key Commitments:

- Speech. The main types of speech output broadcast over the course of each week are: news, travel, weather and sports, community and event information, discussions, interviews and features of relevance to the target community.
- The service provides original output for a minimum of 10 hours per day.

Ofcom's Decision is that the Licensee is also in breach of Licence Condition 8(1) and 8(2)(a) and (b) for failing to retain and produce recordings to Ofcom on request.

We expect the Licensee to work to rectify these issues immediately. Ofcom will monitor this service to ensure that Takeover Radio is complying with these Key Commitments and these conditions of its licence.

Breaches of Licence Conditions 2(1) and 2(4), 8(1) and 8(2)(a) and (b).