

## Provision of recordings and information, River Radio Ltd

<b>Type of case</b>	Broadcast Licence Conditions
<b>Outcome</b>	In Breach
<b>Service</b>	River Radio
<b>Date &amp; time</b>	October 2022
<b>Category</b>	Retention and production of recordings Provision of information
<b>Summary</b>	The Licensee failed to provide recordings and information to Ofcom on request, relating to a fairness complaint. Breaches of Licence Conditions 7, 8 and 19(1)(a).

### Introduction

River Radio is a predominantly talk radio station broadcasting on DAB in Berkshire using a Digital Sound Programme service licence (“DSP licence”). The licence for the service is held by River Radio Ltd (“River Radio” or “the Licensee”).

Ofcom requested recordings from the Licensee to assess Fairness and Privacy complaints about three programmes broadcast on River Radio on 10, 16 and 23 October 2022. The Licensee responded to one request to say it would provide the recordings but did not provide any recordings by the specified deadline. Ofcom contacted the licensee again by post to request the recordings and information about whether the Licensee holds the recordings, but did not receive the recordings or information by the deadline.

Ofcom considered that this raised potential issues under Conditions 7, 8 and 19(1)(a) of the licence, which state:

- 7(1) “The Licensee shall adopt procedures acceptable to Ofcom for the retention and production of recordings of the Licensed Service’s broadcast output.”

- 7(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”
- 8(1) “The Licensee shall furnish to Ofcom in such manner and at such times as Ofcom may reasonably require such documents, accounts, returns, estimates, reports, notices or other information as Ofcom may require for the purpose of exercising the functions assigned to it by or under the 1990 Act, the 1996 Act or the Communications Act...”
- 19(1) “The Licensee shall comply with such directions and requests for information as may be given to them by Ofcom following receipt by them from Ofcom of a copy of a fairness complaint that relates to the provision of the Licensed Service, and in particular the Licensee shall, if so requested:
- (a) provide Ofcom with a recording of the programme, or of any specified part of it, to which the complaint relates if and so far as such a recording is in their possession”

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

### **Response**

Ofcom did not consider it necessary to seek a response from the Licensee in reaching a Preliminary View in this case. In response to the Preliminary View, the Licensee stated that the director who was contacted by email had been on sabbatical for two months and his fellow directors had not informed him about the letters requesting the recordings. These directors have now stepped down.

The Licensee stated that it has a recording for all shows broadcast by the service from the last two years and will send the recording to us. River Radio subsequently informed us that it had tried to send the recording but the email bounced back because the file attached was too large and promised to send the files via an online file sharing service.

### **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 DSP licensees, this is reflected in Licence Condition 7, and in Licence Condition 19(1)(a) where a fairness complaint has been made. Licensees are also required

to provide information that Ofcom reasonably requires to exercise its functions and to do so in a timely manner. For DSP licensees, this is reflected in Licence Condition 8.

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.

Ofcom expects licensees to comply with their licence condition and ensure they are able to provide recordings of the Licensed Service's broadcast output to Ofcom in full upon request. Whilst we appreciate the difficulties faced by the Licensee and its attempts to send the recordings to us, the recordings and information requested have not been received and there has been no further contact from the Licensee since it was made aware of this. In this case therefore, the Licensee failed to provide information and recordings of the programmes.

River Radio's failure to provide the material was significant in this case as it impeded Ofcom's ability to assess the service's broadcast output. Ofcom's Decision is therefore that River Radio Ltd is in breach of Conditions 7, 8 and 19(1)(a).

**Breach of Conditions 7, 8 and 19(1)(a)**