

Non-provision of service, Oban FM Community Radio Ltd

Type of case	Broadcast Licence Conditions
Outcome	Resolved
Service	Oban FM
Date & time	7 April to 30 August 2022
Category	Non-provision of service
Summary	The Licensee failed to provide the service for nearly five months, due to factors outside of its control. Resolved.

Introduction

Oban FM is a commercial radio station serving the Oban area. The licence for Oban FM is held by Oban FM Community Radio Limited (“Oban FM” or “the Licensee”).

Ofcom received a complaint that Oban FM was not broadcasting any programmes. To assess the complaint, Ofcom requested recordings from Oban FM, as well as information about what it was broadcasting. The Licensee informed Ofcom that it was unable to provide any recordings because of technical difficulties it had experienced whilst trying to move to new studios, which meant it was unable to broadcast the Oban FM service.

Ofcom considered that this raised potential issues under Conditions 2(1) and 2(4) of Oban FM’s licence, which state, respectively:

- “2(1) The Licensee shall provide the Licensed Service specified in the Annex for the licence period”.
- “2(4) ...the Licensee shall ensure that the Licensed Service accords with the proposals set out in the Annex so as to maintain the character of the Licensed Service throughout the licence period.”

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

Response

The Licensee set out a timeline of events between November 2021 and May 2022 that had led to the service ceasing to broadcast.

The Licensee had been asked to vacate its current premises and had duly arranged new premises from which to operate the service. The events mostly related to the installation of a new internet line to these new premises, which was originally scheduled to take place in December 2021. This installation involved engineer visits, a potential road closure and equipment delivery delays. This installation did not take place as scheduled; the Licensee rescheduled the installation several times, but the communications network provider was not able to complete the installation on any of these subsequent visits.

The Licensee informed Ofcom that it has raised a complaint against the provider due to carry out the work regarding the issues with installing the new line and has provided copies of correspondence with that communications network provider, in which it explained the impact of the delivery of the service and the requirement from Ofcom to provide the licensed service. Oban FM explained that it was due to be evicted from its previous premises at the end of December 2021; given the issues with connecting the new premises and therefore their ability to operate the service from those new premises, the Licensee had requested an extension on its rental lease from its existing landlord four times, but was evicted and ceased broadcasting on 7 April 2022.

Regarding the broadband installation and resumption of service, the Licensee stated “Oban fm goes back to its fully operational broadcasting on Tuesday 30 th so i have a local engineer to try to get me a quick fix until [communications network provider] can manage to get to us”. It confirmed that it resumed broadcasting the Oban FM service on FM on 30 August 2022, prior to the internet being installed on 13 September, and described the new premises as its “forever home”.

Oban FM also stated that it had tried to contact Ofcom by phone but could not get through to someone to explain the difficulties that it was facing.

Decision

Provision by a licensee of its licensed service on the frequency assigned to it is the fundamental purpose for which a commercial radio licence is granted. Ofcom has a range of duties in relation to radio broadcasting, including securing a range and diversity of local radio services which are calculated to appeal to a variety of tastes and interested, and the optimal use of the radio spectrum. This is reflected in the licence conditions requiring the provision of the specified licensed service. Where a service is not being provided in accordance with the licence, choice for listeners is likely to be reduced.

In this case, Oban FM did not provide the Oban FM service when it was evicted from its studio on 7 April until 30 August 2022, when it resumed broadcasting the Oban FM service.

We appreciate that Oban FM identified the need for a new internet line at its new premises and raised this requirement with its communications network provider in November 2021, and sought an extension to its rental lease to the end of January 2022 (and subsequently extended its lease three more times). We also acknowledge that the delays were caused by factors outside of the Licensee’s control and that it attempted to contact Ofcom about the difficulties it was facing. In addition to this,

we recognise that Oban FM does not anticipate moving the studio again so is unlikely to experience the same issues with the installation of an internet line.

As such, whilst we consider that this Licensee was in breach of Conditions 2(1) and 2(4) during the period in which it was unable to broadcast the Oban FM service, we are satisfied that the Licensee had allowed sufficient time for the work to be carried out to allow it to move studios without disruption to the service and the factors that led to the disruption to the service were out of its control. The Oban FM service is now back on air and the Licensee took steps to get the service on air prior to the internet being installed.

Ofcom's Decision is therefore that this matter is resolved. We will monitor the service to ensure that the Licensee is compliant with these conditions of its Licence.

Resolved