
Statement on two aspects of Ofcom's policy on granting short-term restricted services licences (SRSLs)

Statement on two aspects of Ofcom's policy on granting short-term restricted services (SRSLs) – Welsh overview

[Redacted for publication (redactions marked with ⌘)]

STATEMENT:

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1. Overview

This statement relates to two aspects of Ofcom's policy on licensing short-term restricted service licences (SRSLs).

What we have decided – in brief

We have identified two aspects of our policy on licensing short-term restricted service licences (SRSLs) as not having fully achieved their objective of helping Ofcom to fulfil our duties to:

- secure the optimal use of spectrum; and
- secure the availability throughout the UK of a wide range of broadcasting services which – taken as a whole – are both of high quality and calculated to appeal to a variety of tastes and interests.

These policies are that:

- Ofcom generally does not grant the same applicant more than two SRSLs in a single year, or more than one SRSL a year if the service is within the M25.
- Ofcom generally does not grant SRSLs where the service proposed to be provided does not appear to be different from what is available on the commercial and community services in the area of broadcast.

Our consultation proposed to stop applying these policies. Following a review of the consultation responses, described in full below, we have decided that we will no longer apply both policies. We will amend the wording of our guidance notes as proposed in our consultation.

Background

- 1.1 Ofcom grants short-term radio licences for restricted services, which are analogue services for broadcasts to defined locations or for coverage of particular events. We do so having regard to guidance on our policy, which we have published and may update from time to time.
- 1.2 Ofcom must carry out our functions to further the interests of citizens and of consumers, where appropriate by promoting competition. The things we are required to secure include the optimal use of spectrum and the availability throughout the UK of a wide range of broadcasting services which – taken as a whole – are both of high quality and calculated to appeal to a variety of tastes and interests.
- 1.3 In our [published consultation](#) of 3 October 2019, we proposed to no longer apply the following two aspects of our policy on granting SRSLs:
 - a) generally granting a maximum of two SRSLs within any period of twelve consecutive months in the same area of the UK (or a maximum of one SRSL within the Greater London areas and other areas within the M25), and ensuring a minimum period of four months between the end of a licensee's first licence and the start of the same licensee's second licence; and

- b) generally not granting licences for services that do not appear to be different from a commercial or community radio service in the same area of broadcast.
- 1.4 We made this proposal because the policy as drafted has not, in our view, achieved its objective of securing the optimal use of spectrum; or of securing the availability of a wider range of services calculated to appeal to a larger variety of tastes and interests than would otherwise be the case.
- 1.5 We received 17 responses to the consultation, three of which were submitted confidentially. One person only responded on the question of services that do not appear to be different from a commercial or community radio service in the same area.
- 1.6 We discuss the responses in full in Section 2 below.

Our decision

- 1.7 We have decided to no longer apply the policy under which Ofcom generally does not grant the same applicant more than two SRSLs in a single year, or more than one SRSL a year if the service is within the M25. Instead, once an applicant has held two SRSLs, or when an applicant is applying within four months, we will prioritise new applicants in an exception to our usual first come first served policy.
- 1.8 We have decided to remove the policy under which Ofcom generally does not grant SRSLs where the service proposed to be provided does not appear to be different from what is available on the commercial and community services in the area of broadcast.
- 1.9 We have also published [amended guidance notes](#) to reflect our decision.

2. Decision to change our policy on granting SRSL licences

Background

- 2.1 A restricted service is a sound broadcasting service broadcast for reception either:
- a) within a particular establishment in the UK or at another defined location in the UK; or
 - b) for the purposes of a particular event taking place within the UK.
- 2.2 Ofcom grants long-term and short-term restricted service licences (SRSLs). Short-term licences are usually only granted for a maximum of 28 consecutive days. Examples of purposes for which SRSLs are granted include coverage of music festivals, sporting events, dog shows, drive-in movies, religious festivals or for trial broadcasts in preparation for applying for a longer-term licence.

Legal framework

- 2.3 Ofcom must carry out our functions to further the interests of citizens and of consumers, where appropriate by promoting competition. The things we are required to secure include the optimal use of spectrum and the availability throughout the UK of a wide range of broadcasting services which – taken as a whole – are both of high quality and calculated to appeal to a variety of tastes and interests.

Our consultation proposals

- 2.4 In our consultation we proposed to no longer apply two aspects of our policy on granting SRSL licences. In our view they had not achieved their objective of securing the optimal use of spectrum, or of securing the availability of a wider range of services calculated to appeal to a larger variety of tastes and interests than would otherwise be the case.
- 2.5 The first was Ofcom's policy to generally grant a maximum of two SRSLs within any period of twelve consecutive months in the same area of the UK (or a maximum of one SRSL within the Greater London areas and other areas within the M25), and ensuring a minimum period of four months between the end of a licensee's first licence and the start of the same licensee's second licence.
- 2.6 We proposed to change our policy so that the guidance notes read:
- "An individual or organisation may usually be granted a maximum of two SRSLs within any period of twelve consecutive months, in the same area of the UK. Usually only one licence per applicant per year will be granted within Greater London area and other areas within the M25. This is due to extremely limited frequency availability in this area. There should usually be a minimum period of four months between the end of a licensee's licence and the*

start of the same licensee’s next licence. The exceptions to this are very low power FM in-stadium SRSLs (see section 7).

However, where a licence applicant has already held two licences (or one licence if within the M25) within the previous 12 months, or is applying for a licence within four months of a previous one, we will consider the likelihood that a further licence grant will in practice negatively affect others wishing to broadcast, having particular regard to the power levels required and the nature of the service being licensed. We will prioritise applications from those who have not held a licence within the previous four months and have not held two licences (or one licence if within the M25) in the previous 12 months, as an exception to our usual first come first served approach (see sections 3.1 and 3.2).”

- 2.7 The second was Ofcom’s policy generally to not to grant SRSLs that do not appear to be proposing a different service from a commercial or community radio service in the same area, which was put in place in order to broaden audience choice. We proposed to no longer apply this policy.

Summary of responses

- 2.8 Ofcom received 17 responses to our consultation.
- 2.9 Below we detail the responses we received in support of our proposals and the responses we received that were not in support of our proposals. We set these out along with our assessment of the responses, and the conclusions that we have reached. We tackle the proposals relating to each policy separately.
- 2.10 In addition to the below comments, three respondents commented on fees, long-term restricted service licences (LRSLs) and other aspects of our guidance notes. Their comments are not related to the scope of this review. We will consider them in our upcoming wider review of our restricted service licensing policy.

Policy regarding the maximum number of SRSLs held in a 12-month period

Responses in support

- 2.11 Peninsula FM, which has previously held SRSLs, said that the current process discourages organisations from running SRSLs for events.
- 2.12 The Community Media Association (CMA), which represents the community media sector, considered the change would be unlikely to “impact negatively on the range and variety of services available to audiences or on any current users of radio spectrum” and considered that it is likely to “facilitate the optimal use of broadcast spectrum and the provision of a wider range of services for listeners.”
- 2.13 Nine other applicants agreed with this proposal without giving reasons.

Responses not in support

- 2.14 Patrick Heeley, who has previously held SRSLs, raised a concern about removing this policy. He said that Ofcom may receive more applications for SRSLs and if this were to lead to too many SRSLs appearing on multiple occasions in the same year, it could reduce the availability of frequencies which may lead to other services being unable to get on air. He commented that he would see this as a reduction in choice of services.
- 2.15 Asian Broadcasters and Journalists Association UK, which represents restricted service licensees and community radio operators, presenters and journalists in the North, said that it believes this policy is fair and “enables everyone to have access to the FM [air]waves for at least one month.” It also said that if Ofcom decides to remove this policy, it would “close the doors for the new potential applicants as the same applicants will be having the monopoly on the RSL system in a city.”
- 2.16 The Radio People, a consultancy that works with commercial and community broadcasters, suggested that there is no evidence that removing the policy would result in a wider range of services being available to listeners.
- 2.17 A confidential respondent [redacted]
- 2.18 Lastly, a respondent, who asked that their name be kept confidential [redacted], disagreed with our proposal on the grounds that it would encourage multiple applications within 12 months from “criminal individuals and groups”. The respondent said it would agree with allowing multiple applications from those who wished to serve the community.

Ofcom's assessment and conclusion

- 2.19 In the context of availability of short-term restricted service licensed broadcasts (noting that Ofcom has no control over who will apply to hold a licence and for what purpose), the grant of a short-term restricted service licence will generally increase listener choice. This is because the listener will have access to one more service.
- 2.20 Our experience has been that those applicants wishing to broadcast similar services several times a year often appear to be the only people in their area wishing to broadcast using an SRSL at all. Providers of drive-in movie shows are an example of this. Our policy did not set an absolute cap on the number of licences that may be granted to a person in a given area, but did establish as a general position that we would usually not grant more than two in a single year, or one if the service was within the M25.
- 2.21 Restricting repeat applications in the same area frees the spectrum for others to use, and makes it possible for a wider variety of services appealing to many different tastes and interests to be provided. But it risks at times resulting in no service being provided at all. Removing this restriction on the number of licences that may be granted is, in our view, likely to result in more services being made available.
- 2.22 We do not consider that the change would lead to other services being unable to get on air. Each applicant must identify an event they wish to cover in order to apply for a licence, which would be held in a particular area, and would use a particular part of the spectrum.

Our proposed change would prioritise potential users in the relevant area who have not accessed the spectrum there at all during the months before. They would be prioritised over someone who has used spectrum in the area (potentially more than once), as an exception to our usual first come first served approach. This may mean that a person who applies for their third (or above) licence would need to wait longer than they usually would to receive a decision on their application, in order for Ofcom to be sure that no one else has applied for a service that would use the spectrum in that area at the same time before going on to grant the licence. It would also make it a little less likely that Ofcom would be able to accommodate late applications. However, we are satisfied that we would be able to identify and manage situations where a person was making repeat applications. If Ofcom prioritises new applicants, we do not consider that any person or organisation will be able to operate a monopoly.

- 2.23 Regarding the respondent's concern that criminals will apply for licences, it is unclear to us why the policy change could be thought likely to have this effect. Ofcom may not grant a licence to any person unless we are satisfied that they are a fit and proper person. If Ofcom ceases to be satisfied that a person holding a licence is fit and proper to hold it, we must do all we can to secure that they do not remain the holder of the licence. (In this context 'person' means both individuals and organisations).
- 2.24 Overall, we remain of the view that changing the policy would mean that spectrum is more likely to be used when someone wishes to use it, which we consider would better fulfil our duty to ensure the optimal use of spectrum. We also consider that it could lead to a wider range of services being available which would better fulfil our duty to secure throughout the UK a wide range of services appealing to a variety of tastes and interests.
- 2.25 If an applicant for an SRSL has already held two licences (or one licence if within the M25) within the previous 12 months, or is applying for a licence within four months of a previous one, we will prioritise any other application received for a service in the same area from a person who has not held a licence within the previous four months and has not held two licences (or one licence if within the M25) in the previous 12 months. This will be an exception to our usual first come first served approach.

Policy regarding services that do not appear to be different from existing services

Responses in support

- 2.26 The CMA stated that removing the policy would lead to an increase in the diversity of short-term restricted service licensed stations, which would broaden listener choice and increase opportunities for those wishing to make radio broadcasts. The CMA also said that it does not think the potential loss of advertising revenues for a community radio station as a result of removing this policy outweighs the benefits to increased audiences for all broadcasters.
- 2.27 One respondent, who asked for their name to be kept confidential [REDACTED], welcomed the ability to have multiple applicants for a Ramadan service in Bradford (where there is now

an existing community radio station catering for the Islamic community) to allow applicants from different sects of the Islamic community to get a "fair chance" to serve their community, rather than just one organisation doing this.

- 2.28 Peninsula FM said that it believes that Ofcom's changes to commercial radio localness requirements mean that short-term restricted service licensees are in a better position to be responsive and cover local events and interact with the local community. So it agreed that we should remove this policy.
- 2.29 Patrick Heeley commented that the current policy is anti-competitive and not in the best interests of the consumer.
- 2.30 Radio Cracker Ballymena, which has previously held SRSLs, said that if a community radio service was to be awarded in Ballymena they "would worry that [Radio Cracker Ballymena] may not be considered different enough to warrant a licence award" and so support removing the policy.
- 2.31 Eight other applicants agreed with this proposal without giving reasons.

Responses not in support

- 2.32 Asian Broadcasters and Journalists Association UK believed that the current policy is fair, asking: "What is the point to offer the licence to a same service broadcast which is already covered on a community and also on a commercial station[s]."
- 2.33 Asian Broadcasters and Journalists Association UK also raised concerns that if Ofcom removes this policy, new community stations will have problems establishing themselves. It said this would especially be so "when it comes to the sponsorship and marketing side. Frequent religious RSLs are causing big overlapping in some cities and also causing presenter/staff issues to the community radio stations." Similar points regarding the viability of community radio services when in competition with SRSL services were made by another respondent, who asked to remain confidential [X]. That respondent stated that it is very difficult at the moment to acquire funding and commercial sponsorship.
- 2.34 The Radio People said that it is not convinced that removing the policy would be good for "listeners, existing analogue broadcasters or future small-scale DAB services."
- 2.35 A confidential respondent [X],

Ofcom's assessment and conclusion

- 2.36 We acknowledge that removing this policy makes it more likely that a commercial or community radio licensee may be in competition for audiences with an SRSL. We recognise this may particularly impact community radio stations. This is because they are services targeting communities in a small geographic area, and in our experience are more likely than commercial radio stations to be targeting the same or similar audiences to those that SRSL operators are targeting. We also acknowledge that these services may well be competing for the same advertising revenues during their period of broadcast.
- 2.37 However, we note that SRSLs are for short-term services, and linked to events. In its response the CMA, which represents the community media sector, noted that permanent

stations have the advantage of offering a full-time broadcast platform, and that increased interest in, and listening of, the radio is likely to lead to increased audiences for all broadcasters.

- 2.38 SRSL broadcasters must cover their costs for the period of their broadcast just as community radio stations do. The community radio sector is also likely to face increased competition from services launching on small-scale DAB in the future. We consider that, generally speaking, competition tends to benefit consumers and citizens.
- 2.39 As stated in paragraphs 2.11 to 2.14 of our [published consultation](#), over the last four years, applying the current policy of generally not granting SRSLs that do not appear to be different from an existing commercial or community service has in practice mostly affected services broadcasting during the Islamic holy month of Ramadan. This is because Muslim community radio services tend to focus their broadcasts during the Ramadan period on the same sorts of content as SRSL applicants.
- 2.40 Applying the policy has led to Ofcom deciding not to grant SRSLs to applicants who wanted to broadcast Ramadan services in areas where community radio stations were providing services focused on Ramadan.
- 2.41 However, in practice we do not consider that keeping the spectrum available so that users wishing to provide other types of service could do so has in practice led to the provision of a wider range of services. This is because in our experience, we have not received applications to provide other types of SRSL services. So we have rejected applications to provide a similar type of service than those being provided by community radio stations in the same area, but have not used any available spectrum in these areas for other types of services. We do not consider that this is making optimal use of spectrum.
- 2.42 We also recognise that the Muslim community is diverse, and that providing more than one Ramadan service in an area may result in services that appeal to a wider variety of tastes and interests. We agree with the confidential respondent's comments regarding allowing applicants from different sects of the Islamic community the opportunity to serve the community.
- 2.43 We acknowledge the possible impact of removing this policy on the community radio sector in particular. But we consider that our duties to secure the optimal use of spectrum and the provision of a wide range of services calculated to appeal to a variety of tastes and interests would be better served by removing this policy.

Our decision

- 2.44 We have decided to no longer apply the policy under which Ofcom generally does not grant the same applicant more than two SRSLs in a single year, or more than one SRSL a year if the service is within the M25, and to amend our policy wording as proposed in our consultation (see 2.6 above).

Statement on two aspects of Ofcom's policy on granting short-term restricted services licences (SRSLs)

- 2.45 We have decided to remove the policy under which Ofcom generally does not grant SRSLs where the service proposed to be provided does not appear to be different from what is available on the commercial and community services in the area of broadcast.
- 2.46 We have published [amended guidance notes](#) dated 19 November 2019 which reflects our decision.

The overview section in this document is a simplified high-level summary only. The decisions we have taken and our reasoning are set out in the full document.