
Short-term restricted service licensing review

[Short-term restricted service licensing review](#) – Welsh document

CONSULTATION:

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1. Overview

This consultation relates to two aspects of Ofcom’s policy on licensing short-term restricted services licences (SRSLs).

What we are proposing – in brief

Currently, 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.

Currently, 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.

We propose to cease to apply these two policies.

- 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.
- 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 Ofcom’s guidance notes currently say: “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. However, 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. The exceptions to this are very low power FM in-stadium SRSLs...There should usually be 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.”
- 1.4 Ofcom’s guidance notes also currently say: “The programme format of a short-term restricted service should broaden audience choice. You should provide output that is different from what is available on the commercial and community services in the area where you wish to broadcast. We may reject applications that do not appear to be different from a commercial or community radio service in the same area”.
- 1.5 We propose to cease to apply these policies, as they have not in our view achieved their objective of securing the availability of a wider range of services or one calculated to appeal to more variety of tastes and interests than would otherwise be the case.
- 1.6 We expect that as a result, more SRSLs would be likely to exist, and some may broadcast content that is similar to content broadcast by community and commercial radio stations.

2. Proposal to change policy on SRSL licensing

What are restricted services?

- 2.1 A restricted service is a sound broadcasting service broadcast for reception either:
- within a particular establishment in the UK or at another defined location in the UK; or
 - for the purposes of a particular event taking place within the UK.

What are SRSLs?

- 2.2 Ofcom grants long-term and short-term restricted services licences. Short-term licences are usually granted for a maximum of 28 consecutive days. Examples of purposes for which SRSLs are granted include coverage of music festivals, sports events or dog shows, drive-in movies, religious festivals or for trial broadcasts in preparation for applying for a longer-term licence.

What is the 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.

Ofcom's guidance notes: two SRSLs

- 2.4 Ofcom has issued guidance notes¹ on how we will approach the grant of SRSLs.

- 2.5 Paragraphs 1.3 and 1.4 provide:

“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. However, 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. The exceptions to this are very low power FM in-stadium SRSLs (see section 7).

There should usually be 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 This policy exists to ensure that all would-be applicants have a reasonable chance to access the spectrum. However, we have occasionally deviated from this policy and granted more than two licences to the same applicant within the same year. On careful review of these

¹ Ofcom, 29 March 2019, [Short-term restricted service licences: guidance notes for applicants and licensees](#) (the “guidance notes”).

instances, it appears to us that they have not prevented anyone else from accessing the spectrum. We therefore propose to amend 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 We do not consider that this change is likely to impact negatively on the range and variety of services available to audiences or on any would-be users of spectrum. We consider it likely to promote optimal use of spectrum and the provision, if anything, of a wider range of services.

Ofcom’s guidance notes: tastes and interests

- 2.8 In order to fulfil our duty to secure the availability throughout the UK of a wide range of television and radio services which – taken as a whole – are both of high quality and calculated to appeal to a variety of tastes and interests, paragraph 5.2 of Ofcom’s guidance notes provides:

“The programme format of a short-term restricted service should broaden audience choice. You should provide output that is different from what is available on the commercial and community services in the area where you wish to broadcast. We may reject applications that do not appear to be different from a commercial or community radio service in the same area.”²

- 2.9 Paragraph 5.3 deals with an exception to this policy.
- 2.10 The purpose of this policy was to secure that Ofcom’s grant of an SRSL for providing a service catering to tastes and interests that were already adequately met by a long-term radio service did not block the spectrum from being used to provide other services appealing to different tastes and interests.

² See paragraph 5.2 in the guidance notes.

- 2.11 In practice, application of the policy over the past four years has for the most part affected services broadcasting to cover the Islamic holy month of Ramadan, because Muslim community radio services tend to focus their broadcasts during the Ramadan period on the same sorts of content as SRSL applicants.
- 2.12 In November 2018, this policy resulted in Ofcom's decision not to grant an SRSL to any of the eight applicants in Leicester wishing to broadcast Ramadan services during 2019. This was due to the launch of Radio Seerah. However, in the event, no one applied to broadcast a non-Ramadan service.
- 2.13 In January 2016 the policy resulted in our decision to reject an SRSL application for Ramadan broadcasting in Peterborough due to the launch of Salaam Radio. However, in the event, no one applied to broadcast a non-Ramadan service.
- 2.14 It is possible that other potential applicants have chosen not to apply because of the policy.
- 2.15 However, this evidence suggests that the policy has not been effective in securing the provision of services calculated to appeal to a wider variety of tastes and interests than would be the case had the SRSLs concerned been granted, because there have not been other services provided in the same areas.
- 2.16 Ofcom therefore proposes to delete paragraphs 5.2 and 5.3 from our guidance notes.
- 2.17 We expect that the consequence of this would be that more SRSLs would be likely to broadcast content that is similar to content broadcast by community and commercial radio stations.
- 2.18 We consider this likely to be neutral or beneficial to audiences, particularly Muslim audiences, in that they may have more radio services available to choose from than they otherwise would. It would also benefit those wishing to make broadcasts.
- 2.19 We consider it likely to result in somewhat more use of spectrum, which is likely to be more optimal.
- 2.20 It is likely to have some negative impact on some community and commercial radio stations, since some of these SRSLs may compete for the same advertising revenues during their period of broadcast. However, SRSLs are by definition short-term. Generally speaking, we consider in any event that competition tends to benefit consumers and citizens.
- 2.21 We are therefore consulting on whether to delete paragraphs 5.2 and 5.3 from our guidance notes.

Ofcom's proposed guidance notes

- 2.22 Annex 1 contains a copy of our guidance notes with the proposed changes shown in underlined and struck-through text.
- 2.23 We are also initiating a wider review of our restricted services licensing policy. We welcome input into other aspects of the guidance notes. We intend to take a decision on the matters set out in this consultation before we open the window for applications for the

2020 period of high demand. We will not be likely to take a decision on other aspects of the guidance notes until we have completed our review.

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

A1. Proposed revisions to our guidance notes for SRS� applicants

Our proposed revisions to our guidance notes for SRS� applicants are published separately. The proposed changes are shown in underlined and struck-through text.

A2. Responding to this consultation

How to respond

- A2.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on Thursday 31 October 2019.
- A2.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-3/short-term-restricted-service-licensing-review>. You can return this by email or post to the address provided in the response form.
- A2.3 If your response is a large file, or has supporting charts, tables or other data, please email it to rsls@ofcom.org.uk, as an attachment in Microsoft Word format, together with the [cover sheet](#). This email address is for this consultation only, and will not be valid after Thursday 31 October 2019.
- A2.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- Broadcast Licensing and Programme Operations
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- A2.5 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- Send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files. Or
 - Upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A2.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A2.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A2.8 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A2.9 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex 5. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.

- A2.10 If you want to discuss the issues and questions raised in this consultation, please email rsls@ofcom.org.uk.

Confidentiality

- A2.11 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish all responses on [the Ofcom website](#) as soon as we receive them.
- A2.12 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A2.13 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A2.14 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further in our [Terms of Use](#).

Next steps

- A2.15 Following this consultation period, Ofcom plans to publish a statement in November 2019.
- A2.16 If you wish, you can [register to receive mail updates](#) alerting you to new Ofcom publications.

Ofcom's consultation processes

- A2.17 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 3.
- A2.18 If you have any comments or suggestions on how we manage our consultations, please email us at consult@ofcom.org.uk. We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A2.19 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary:

Corporation Secretary
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA
Email: corporationsecretary@ofcom.org.uk

A3. Ofcom's consultation principles

Ofcom has seven principles that it follows for every public written consultation:

Before the consultation

- A3.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

During the consultation

- A3.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A3.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A3.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A3.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A3.6 If we are not able to follow any of these seven principles, we will explain why.

After the consultation

- A3.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

A4. Consultation coversheet

BASIC DETAILS

Consultation title:

To (Ofcom contact):

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts? _____

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

A5. Consultation questions

- A5.1 Currently, Ofcom generally does not grant the same applicant more than two SRSLs in a single year. Currently, 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.

Question 1: Do you agree that Ofcom should cease to apply the policy to not grant the same applicant more than two SRSLs in a single year, or one SRSL if the service is within the M25?

Question 2: Do you agree that Ofcom should cease to apply the policy to 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?