

Ofcom Broadcast and On Demand Bulletin

Note to Broadcasters

Coronavirus

We previously published notes of guidance which are available to read on [our website dated 23 March and 27 April 2020](#). These set out our approach to enforcement over this unprecedented time, particularly in relation to compliance with the [Broadcasting Code](#), programming commitments, the payment of annual licence fees and information requests. This note provides an update to broadcasters on our position in all these areas.

We recognise that not all the matters set out in this note will apply to all broadcasters, and that individual concerns will vary depending on the nature of the service each of you provide. We provide contact details at the end of the note and encourage you to get in touch if you have any questions on this update. In summary, this note provides details of the following matters:

1. [Broadcasting Code](#)

We continue to expect broadcasters to comply with Ofcom's Broadcasting Code and to be able to provide recordings to Ofcom on request. Ofcom will continue to prioritise enforcement of broadcasting standards in relation to Coronavirus related content. This letter provides additional guidance to broadcasters in this area, including reference to recent sanction decisions and guidance we have issued to broadcasters.

2. [Programming commitments](#)

We understand that operational challenges continue for many broadcasters and we want to provide all broadcasters with the flexibility they need to protect their staff and provide the best possible service to their audiences. We expect all broadcasters to continue to make every reasonable effort to meet the programming and production requirements set out in their licence.

Where broadcasters are genuinely unable to continue to meet the programming and production requirements set out in their licence as a result of the disruption due to Coronavirus, we will continue to consider the force majeure condition in the licence to be engaged, and a licensee would not be liable to enforcement action as a result. We will review the position again at the end of the calendar year. We ask that broadcasters keep Ofcom informed on changes to their services and are prepared to provide an explanation of what steps they have taken to ensure compliance insofar as possible.

3. [Licence fees](#)

We are writing to all licensees when their annual licence fee invoices become due and will continue to consider delayed payment or discuss alternative payment options for broadcasters who cannot pay their fees on time due to financial constraints relating to the Coronavirus.

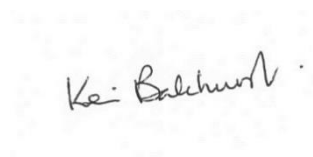
4. Information requests

On 30 April, Ofcom published our [Plan of Work](#) for 2020/21. There are several areas where we will now be seeking information from broadcasters in support of our work programme, these include our annual reports on diversity in TV and radio, and our Media Nations report. In this update, we summarise the status of specific requests and would like to reassure broadcasters that we will take a pragmatic and flexible approach wherever possible, in light of the operational challenges you may continue to be experiencing.

Getting in touch with Ofcom

If you have any other queries about this update, please do not hesitate to get in touch with us by email: broadcast.licensing@ofcom.org.uk

Yours sincerely

A handwritten signature in black ink, reading "Ke. Bakhurst". The signature is written in a cursive style and is positioned above a faint, light blue circular stamp.

Kevin Bakhurst
Group Director
Content and Media Policy

1. Compliance with Ofcom's Broadcasting Code

We are continuing to assess any complaints we receive about broadcast content during this time. We expect all broadcasters who are able to broadcast to continue to have measures in place to make and retain recordings of broadcast output and produce these to Ofcom on request. In light of the current situation, we are asking broadcasters:

- to provide recordings requested by Ofcom electronically (rather than by post) for the foreseeable future; and
- to communicate and correspond with Ofcom on any Standards or Fairness and Privacy case by email (rather than post), wherever possible.

We remind all broadcasters that they should have plans in place to ensure their output complies with the Broadcasting Code in the event that their compliance officers are unable to work. If their contingency plans for compliance come under threat, broadcasters should consider carefully whether they should remain on air.

While we acknowledge some schools expect to begin reopening to more children in the coming weeks, broadcasters are reminded that care should continue to be taken when broadcasting content during the daytime when children may now be more likely to see or listen to it.

Broadcast content relating to the Coronavirus

We recognise that licensees will continue to want to broadcast content relating to the Coronavirus and that dissemination of accurate and up-to-date information to audiences will be essential during the current situation. However, we remind all broadcasters of the significant potential harm that can be caused by material relating to the Coronavirus. This could include:

- Health claims related to the virus which may be harmful.
- Medical advice which may be harmful.
- Accuracy or material misleadingness in programmes in relation to the virus or public policy regarding it.

In light of the serious and rapidly developing nature of the Coronavirus pandemic and the associated significant risk to public health there is a particular need for factual statements about Coronavirus to be presented with appropriate care, given the ongoing significant national and international concern about the crisis.

In particular, we strongly advise you to take particular care when broadcasting, for example:

- unverified information about the Coronavirus. This may include, for instance, discussion of unverified theories for the causes of the Coronavirus and discussion of potential treatments or cures for the Coronavirus that do not align with advice of the NHS or other public health authorities;
- statements that seek to question or undermine the advice of public health bodies on the Coronavirus, or otherwise undermine people's trust in the advice of mainstream sources of information about the disease; and
- statements about public health advice on the Coronavirus which may not apply to all four nations in the UK, given the variations in official guidance between the nations. Care should be

taken to ensure that viewers and listeners are made aware in an appropriate manner of the different approaches taken by public authorities in England, Wales, Scotland and/or Northern Ireland in areas such as social distancing requirements.

Ofcom underlines that the Code does not prohibit the broadcasting of controversial views which diverge from, or challenge, official authorities on public health information. However, such views should always be placed into context and not be presented in such a way as to risk undermining viewers' trust in official health advice, which in the current context could have potentially serious consequences for public health. It is for each broadcaster to make an editorial decision about how to provide adequate protection to their audience in the circumstances. It could be achieved in a number of ways, including by ensuring timely and robust challenge by programme presenters or other guests. Presenters should therefore be ready to intervene to provide sufficiently strong challenge and context in the event of programme contributors making potentially inaccurate or harmful comments about the Coronavirus.

For further information, please see [Ofcom's research on health claims in programmes](#), and our [guidance](#) accompanying Rule 2.1 of the Broadcasting Code.

Depending on the content in question, other relevant rules to consider when complying content about the Coronavirus could include (but are not limited to): Rule 2.2, Rule 2.3 and (for news programming only) Rule 5.1.

We will continue to prioritise our enforcement of broadcast standards on the above issues. In these cases, it may be necessary for Ofcom to act quickly to determine the outcome in a proportionate and transparent manner, and broadcasters should be prepared to engage with Ofcom on short timescales.

Ofcom will consider any breach arising from harmful Coronavirus-related programming to be potentially serious and will consider taking appropriate regulatory action, which could include the imposition of a statutory sanction.

As part of this enforcement work, since 6 April we have imposed three sanctions on licensees for serious breaches relating to Coronavirus content:

- [Uckfield Community Radio Limited](#) for failing to protect its listeners from potentially harmful content about the origins and causes of the Coronavirus.
- [ESTV](#) for failing to protect its viewers from potentially harmful content about the Coronavirus pandemic in an interview with David Icke on its local television channel London Live.
- [Loveworld Limited](#) for failing to protect its viewers from potentially harmful claims about the cause of, and a treatment for, the Coronavirus in a news programme, and other potentially harmful content in a sermon on its religious television channel Loveworld.

We have separately issued [Guidance to ITV](#) and its presenters following remarks made by *This Morning* presenter Eammon Holmes which alleged a link between the Coronavirus and 5G technology.

If you have any queries about this guidance, please do not hesitate to contact us at:

OfcomStandardsTeam@ofcom.org.uk

2. Compliance with programming commitments

Broadcasters and the wider industry have demonstrated their ability to innovate, collaborate and adapt to continue to deliver high-quality services to audiences across the UK during this exceptional period. We expect broadcasters to continue to take all necessary steps to try to deliver the best possible service to all audiences and to fulfil the terms of their licence, including formatting/production requirements and the commitments that underpin the type of content broadcast.

We do however recognise that broadcasters continue to face significant challenges as a result of the Coronavirus and understand the prolonged impact these will have on schedules and production. So, where broadcasters are genuinely unable to continue to meet the programming and production requirements set out in their licence as a result of the disruption due to the Coronavirus, we will continue to consider the force majeure condition in the licence to be engaged, and a licensee would not be liable to enforcement action as a result. We will review the position again at the end of the calendar year. This is in line with our [published procedures](#).

Our approach to programming commitments will give broadcasters flexibility to respond effectively to the challenges they face and take necessary measures to protect their staff. In support of our overarching duties to promote the interests of audiences and the health of the industry, we ask that all TV and radio broadcasters keep us informed on their plans and provide a commentary if they anticipate any measures that they are taking as a result of the Coronavirus may mean that licence obligations are not fulfilled. We would also welcome views on how our regulatory approach may continue to adapt and evolve in support of the broadcasting and production industry's recovery from the impacts of the Coronavirus.

If you have any queries on programming commitments or views on how our regulatory approach may support recovery please contact us: broadcast.licensing@ofcom.org.uk

3. Invoices for annual licence fees

It is a requirement of every broadcaster's licence that they pay their annual licence fees, and we ask all licensees who are still able to pay to do so at your earliest opportunity. However, we recognise the unprecedented circumstances may present unique financial challenges for some broadcasters. We are writing to all licensees on this when their invoice is due. For those broadcasters who cannot pay on time, we are willing to consider delayed payment(s) or discuss alternative payment options, such as payment plans.

We would also remind broadcasters of the importance of ensuring we have the most up-to-date contact details for you over this period, particularly the email address we hold on file for your licence bill contact. Ofcom colleagues continue to work remotely so we ask all broadcasters to correspond with us by email. Postal correspondence will not be received or processed during this time. Please get in touch with us at BroadcastingLicenceFees@ofcom.org.uk if you would like to make any changes to your details.

4. Information requests

In our previous update to broadcasters, we committed to pause any non-business critical requests for information. On 30 April, Ofcom published an updated [Plan of Work for 2020/21](#) that sets out our priorities for the year, which include our work on TV and radio diversity and our industry report, Media Nations. In support of delivering our plan, we are now seeking to conclude relevant requests issued earlier this year and make new requests as outlined below. We appreciate that broadcasters are still experiencing ongoing resource and operational challenges, so wherever possible, we want to work collaboratively with you on what is possible to provide and by when. We include contact details for specific requests in the following sections and encourage you to get in touch if you may have difficulty fulfilling our request.

Please note we are continuing to send out requests for information in relation to our broadcast standards enforcement work. Such requests are a necessary part of our enforcement process. We anticipate the work involved for broadcasters in replying to such requests is relatively limited. Although we will continue to take into account any practical challenges that broadcasters may face in fulfilling such request from Ofcom, it is important that standards enforcement continues to be effective.

We also want to take this opportunity to highlight other priority work areas, on [BBC regulation](#) and our latest review of public service broadcasting [Small Screen: Big Debate](#). We are not currently planning on making formal information requests in these areas, but you may want to contribute to any upcoming consultations, so we include contact details at the end of this section if you have any queries on the scope or timing of these projects.

If you have any queries on the PSB Review, please e-mail the team on:
smallscreen.bigdebate@ofcom.org.uk

For any queries on BBC regulation: BBCperformance@ofcom.org.uk

Or queries on broadcast standards enforcement work: OfcomStandardsTeam@ofcom.org.uk

Diversity information requests

Ofcom has a duty under section 27 of the Communications Act 2003 to take all such steps as we consider appropriate for promoting equality of opportunity in relation to employment by those providing television and radio services, and the training and retraining of persons for such employment, between men and women, persons of different racial groups and disabled persons. This is reflected in a licence condition that requires larger broadcasters to make arrangements for promoting equality of opportunity and for training/retraining.

During February and March 2020, Ofcom sent the majority of broadcasters a request for information on their number of employees and days authorised to broadcast. In the coming weeks we aim to issue a follow-up request for information on 2019 diversity and inclusion data to some larger broadcasters. Taking into account the current disruption for the sector, we will reduce the amount of information required this year. However, all broadcasters with 20 employees or more should retain the full data set for 2019 to enable them to submit any outstanding data to Ofcom alongside the 2020 data next year.

Any queries, please contact the team on: diversityinbroadcast@ofcom.org.uk

TV Transmission & Revenue requests

In January 2020, Ofcom sent an email to all TV broadcasters asking them to complete a TV Transmission & Revenue Return relating to the period January-December 2019. We asked that they submit this information by Friday 20 March 2020 through the [Ofcom Online Services Portal](#). There is also guidance on how to complete and submit the return on our [website](#).

It is a condition of every TV licence that broadcasters provide this information to Ofcom on request. We use the data compiled from these returns to:

- calculate TV licence fees;
- feed into Ofcom's report summarising the broadcasting sector over the past year; and,
- monitor the TV broadcast market and inform Ofcom's policy in this area.

In the current circumstances we are not proposing to take any further action in relation to those who have not provided this information by the March deadline.

It is still important that broadcasters do provide us with the TV Transmission & Revenue data, and we ask that those broadcasters that have not done this yet provide us with this data by 31 July 2020. However, we understand the current situation is unprecedented for broadcasters and so if you believe that you will be unable to provide us with the data by then, please contact the Market Intelligence team at mid@ofcom.org.uk. Please also email mid@ofcom.org.uk you require a MID Contact user account for the [Ofcom Online Services Portal](#) to provide us with this data.

As part of our data quality assurance processes we may also contact broadcasters that have already submitted if we have questions or need clarification about your submission.

Radio Relevant Turnover requests

In January 2020, Ofcom sent an email to all radio broadcasters, apart from those with community radio licences, asking them to complete a Radio Relevant Turnover Return relating to the period January-December 2019. We asked that they submit this information by Friday 20 March 2020 through the [Ofcom Online Services Portal](#). There is also guidance on how to complete and submit the return on our [website](#).

It is a condition of every radio licence that broadcasters provide this information to Ofcom on request. We use the data compiled from these returns to:

- calculate licence fees for some types of analogue radio licences;
- feed into Ofcom's report summarising the broadcasting sector over the past year; and,
- monitor the radio market and inform Ofcom's policy in this area.

In the current circumstances we are not proposing to take any further action in relation to those who have not provided this information by the March deadline.

It is still important that broadcasters do provide us with the Radio Relevant Turnover data, and we ask that those broadcasters that have not done this yet provide us with this data by 31 July 2020. However, we understand the current situation is unprecedented for broadcasters and so if you believe

that you will be unable to provide us with the data by then, please contact the Market Intelligence team at radiomid@ofcom.org.uk. Please also email radiomid@ofcom.org.uk if you require a MID Contact user account for the [Ofcom Online Services Portal](#) to provide us with this data.

As part of our data quality assurance processes we may also contact broadcasters that have already submitted if we have questions or need clarification about your submission.

Community radio finance report requests

Ofcom sent each of our community radio broadcasters licensed on or before 31 December 2018 an email on 6 March 2020 requesting that they complete a finance report for the past calendar year i.e. January to December 2019. We asked that they submit this information by Friday 3 April 2020 through an [online form provided by Microsoft Forms](#).

It is a condition of every community radio licence that broadcasters provide a finance report to Ofcom on request. We use the information gathered through these reports each year to:

- check whether community radio broadcasters have stayed within the financial limits set out in their licences in relation to on-air spot advertising and sponsorship income;
- use information compiled from the returns in Ofcom's report summarising the broadcasting sector over the past year; and,
- inform Ofcom's policy on community radio.

It is still important that broadcasters do provide us with this data, and we ask that those broadcasters that have not done this yet (over 60% of the sector have already provided us with this data) submit this by 31 July 2020. However, we understand the current situation is unprecedented for broadcasters and so if you believe that you will be unable to provide us with the data by then, please contact the Broadcast Licensing team at broadcast.licensing@ofcom.org.uk.

Any queries on community radio finance reports, please contact us by email:
broadcast.licensing@ofcom.org.uk

Local TV annual return requests

Each year, Ofcom sends an annual request to each local TV broadcaster asking them to submit their annual programming commitment returns. It is a condition of every Local TV licence that broadcasters provide an annual return to Ofcom on request and this data is used for two purposes:

- to publish information about the sector in our annual Media Nations report; and,
- to check compliance against the programming commitments for the previous year.

For these reasons, it remains important for Ofcom to collect this information. Therefore, we will shortly be writing to all local TV licensees to provide this information by 31 July 2020. However, we understand the current situation is unprecedented for broadcasters and so if you believe that you will be unable to provide us with the data by then, please contact the Broadcast Licensing team at broadcast.licensing@ofcom.org.uk.

We would continue to ask that Local TV broadcasters let us know if they experience difficulty complying with their programming commitments. Also, that they keep us informed as to how they have made reasonable adjustments where necessary with a view to continue to provide the best

possible service to their audiences. This will help Ofcom take these measures into account when we analyse the data focusing on sector performance in 2020.

Any queries on Local TV annual returns, please contact us by email: broadcast.licensing@ofcom.org.uk