

Ofcom Broadcast and On Demand Bulletin

Note to Broadcasters

Coronavirus

Ofcom is understandably receiving a number of queries from broadcast licensees about the Coronavirus situation and how we will view any impact the current situation has on compliance with regulatory obligations.

We recognise that the current situation is fast-moving and unpredictable. We appreciate that all organisations will need to follow Government advice as it emerges and make their own judgements on the appropriate operational steps required to best protect and support their staff and the implications for their viewers and listeners. Compliance with regulatory obligations is important but we want to assure broadcasters that they should feel empowered to take all necessary steps to protect their staff at this difficult time.

Compliance with Ofcom's Broadcasting Code

Ofcom is continuing to assess any complaints we receive about broadcast content during this time. We expect all broadcasters to continue to have measures in place to make and retain recordings of broadcast output and produce these to Ofcom on request as far as this is possible. 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.

Broadcasters are reminded that given the suspension of schools across the UK, care should be taken when broadcasting content during the daytime when children will be available to see or listen to content.

Broadcast content relating to the Coronavirus

We recognise that licensees will 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.

We will be prioritising our enforcement of broadcast standards in relation to 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.

Compliance with programming commitments

Some broadcasters who have programming commitments in their Ofcom licences have contacted us to ask whether we could relax our approach to enforcing these in light of this situation, or whether we could consider lowering their current requirements. We recognise that broadcasters are facing significant challenges as a result of the Coronavirus and understand the potential impact on schedules and production. This situation may make it very difficult for those broadcasters with programming commitments to meet some or all of these. Ofcom does not currently plan to adjust broadcasters' existing programming commitments. However, this is an ongoing and unpredictable situation, and we are monitoring it closely.

Ofcom will, throughout this emergency situation and in the ensuing period, take a reasonable and pragmatic approach to enforcement.

Ofcom understands that broadcasters will be taking steps to try to deliver the best possible service to all audiences, but may be unable to comply with certain terms of their licence for reasons beyond their control given the exceptional circumstances, in particular in relation to certain specific programming and production requirements. In situations where broadcasters have failed to meet their licence obligations, we will take the impact of Coronavirus fully into account when considering broadcasters' compliance, as we would with any other matter we consider to be relevant. This is in line with our published procedures which can be found here: <https://www.ofcom.org.uk/tv-radio-and-on-demand/information-for-industry/guidance/procedures>.

Therefore, for the next three months, 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 Covid-19, we would 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 of course review the position again at the end of that period.

We would ask, however, that broadcasters be prepared to provide an explanation to Ofcom as to what steps they have taken to seek to ensure compliance insofar as possible, and 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 insofar as they can.

Community radio broadcasters due to be launching a new service

For any new community radio broadcasters undertaking test transmissions of new services during this period, we would like to remind you that you are permitted to deliver a reduced service during the initial 28 days from the 'Commencement Date' of your licence. Once the test period has ended broadcasters, wherever possible, are expected to deliver a full service in line with their Key Commitments. However, new broadcasters should also bear in mind the information provided in this Note to Broadcasters and contact Ofcom if it is not able to meet its commitments in light of these exceptional circumstances.

Contact information

All of Ofcom's offices are currently closed, and Ofcom colleagues are working from home in line with the Government's current advice. As a result, we will be sending communications largely electronically over this period, with communications by post and telephone kept to an absolute minimum. It is therefore important that we have the most up to date contact information on file for all of our broadcast licensees. If you would like to make changes to the information we hold for you, please request these changes by emailing broadcast.licensing@ofcom.org.uk.

Broadcasters should be aware that, due to remote working, the Broadcast Licensing Team is not currently able to receive incoming phone calls. Please submit any queries to broadcast.licensing@ofcom.org.uk instead; this mailbox will be monitored at all times to ensure urgent matters are appropriately escalated.

Invoices for licence fees

We appreciate that broadcasters may well be facing financial difficulties in the current circumstances. We will be in touch next week about any licence fee payments due in the coming weeks

Getting in touch with Ofcom

Any licensee who experiences issues complying with their licence obligations should notify Ofcom of the issues they are facing and keep us updated as far as this is possible.

If you have any other queries please do not hesitate to get in touch with us by email:

Licensing: broadcast.licensing@ofcom.org.uk

Standards: ofcomstandardsteam@ofcom.org.uk

Fairness and Privacy: ofcomfairnessandprivacy@ofcom.org.uk

Content Policy: smallscreen.bigdebate@ofcom.org.uk