



Non-provision of information, SWU.FM LTD

Type of case	Broadcast Licence Conditions
Decision	In Breach
Service	SWU.FM
Date & time	April 2024 and October 2024
Category	Provision of information
Summary	The Licensee failed to provide information to Ofcom for the purpose of assessing the ownership and control of SWU.FM LTD as well as not providing its annual community radio finance report. Breaches of Licence Condition 9 (Provision of information).

Introduction

SWU.FM is a community radio station serving young people in Bristol. It has a focus on urban, electronic and dance music genres. The licence for the service is held by SWU.FM LTD (“SWU” or “the Licensee”).

Ownership

Section 7 of the Community Radio Order 2004 restricts a company or organisation from holding more than one analogue community radio licence. The restriction also applies to any body corporate which is connected with another such body which holds such a licence. For example, the connection can be via overlapping directorships and/or ownership of companies.

We have been reviewing the ownership of SWU.FM LTD due to concerns that the director of Rinse FM may have de-facto control over SWU.FM. These concerns were raised due to SWU’s apparent close connections to Rinse FM i.e. SWU.FM’s online presence being a page on Rinse FM’s website;

joint email accounts; and potential links between the sole director of Rinse FM and the sole director of SWU.

In October 2024, Ofcom wrote to the Licensee to request information relating to the ownership and control of SWU.FM LTD. In particular, we requested “a statement and/or any evidence to explain whether Oliver Watton does or does not have a connection to Gordon Warren and Rinse FM”.

We sent the information request by first class post to SWU’s registered address and emailed to all the email addresses that the Licensee specified for communications.

To date, the Licensee has failed to respond to the request for information.

Community radio finance report

There are statutory restrictions on the funding of community radio stations. Specifically, no community radio station is allowed to generate more than 50% of its annual income from the sale of on-air advertising and sponsorship and at least 25% of a community radio station’s total relevant income must come from other sources of income. The restrictions are reflected in Conditions 6(2) and 6(4) in Part 2 of the Schedule to SWU’s licence.

It is of fundamental importance that Ofcom can verify that a licensee is complying with its licence requirements relating to funding. We therefore require licensees to submit an annual report setting out how they have met their licence obligations. The annual reports from stations also inform Ofcom’s understanding of the community radio sector, and financial information about the sector feature in Ofcom’s Media Nations report. Annual reports that are inaccurate or received late impact on the accuracy of the data in the report.

Failure by a licensee to submit an accurate annual report when required represents a serious and fundamental breach of a community radio licence, as the absence of the information contained in the report means that Ofcom is unable properly to carry out its regulatory duties.

In April 2024, Ofcom requested a finance report for the calendar year 2023 from SWU. We sent the information request by first class post to SWU’s registered address and emailed to Leia McLaughlin and Stoney Gomez who the Licensee had specified for communications at the time.

This Licensee failed to supply this to Ofcom by the specified deadline.

Relevant licence condition

Ofcom considered that the Licensee’s failure to provide the requested information relating to its ownership and control and the requested community radio finance report raised potential issues under Condition 9 of the licence, which states:

9(1): “The Licensee shall maintain records of and furnish to Ofcom in such manner and at such times as Ofcom may reasonably require such documents, accounts, estimates, returns, reports, notices or other information as Ofcom may require for the purpose of exercising the functions assigned to it by or under the 1990 Act, the 1996 Act or the Communications Act...”

We requested comments from SWU.FM LTD on how it was complying with these conditions.

Response

During this process Ofcom received one email from the Licensee stating that all emails had gone to its junk folder. The email confirmed that Oliver Watton was the Director of SWU FM Ltd however it did not respond to Ofcom's ownership or community radio finance report requests.

We subsequently gave the Licensee an extended deadline to provide this information and attempted to contact the Licensee by phone but were unable to leave a voicemail message. We received no response to the request.

Decision

Licensees are required to comply with any request by Ofcom to provide information where necessary to enable Ofcom to exercise its functions. Licensees should be contactable and respond to Ofcom's requests in a timely manner.

Ownership

Section 7 of the Community Radio Order 2004 states:

- 7 (1) No body corporate may hold more than one community radio licence at any one time.
- (2) For the purposes of this article, any body corporate which is connected with another such body which holds such a licence shall be treated as if it also were a holder of that licence.

It is of fundamental importance that Ofcom ensures that licensees are complying the statutory ownership restrictions. Ofcom requested information relating to the ownership and control of the Licensee for the purpose of exercising its functions under the above provision. The Licensee's failure to provide the requested information hampered Ofcom's ability to exercise its functions.

As such, our Decision is that the Licensee is in breach of Licence Condition 9(1).

The breach decision-maker's view is that the breach was serious and it will therefore be considered for the imposition of a statutory sanction. The sanctions panel will re-consider this during that process.

Community radio finance report

It is of fundamental importance that Ofcom can verify that a community radio licensee is complying with its licence requirements relating to funding. Failure by a licensee to submit an accurate annual report when required represents a serious and fundamental breach of a community radio licence, as the absence of the information contained in the report means that Ofcom is unable properly to carry out its regulatory duties.

As such, our Decision is that the Licensee is in breach of Licence Condition 9(1).

SWU was [found in breach of Condition 9\(1\) of its licence on 30 August 2022](#)¹ for failing to submit its community radio finance report for the calendar year 2021. SWU was also [found in breach of Condition 9\(1\) of its licence on 20 November 2023](#)², for providing its community radio finance report for the calendar year 2022 after the deadline given.

The breach decision-maker's view is that the breach was serious and repeated, and it will therefore be considered for the imposition of a statutory sanction. The sanctions panel will re-consider this during that process.

Breaches of Licence Condition 9(1)

¹ <https://www.ofcom.org.uk/siteassets/resources/documents/about-ofcom/bulletins/broadcast-bulletins/2022/issue-457/provision-of-information---community-radio-finance-reports-year-ending-31-december-2021-various?v=328363>

² <https://www.ofcom.org.uk/siteassets/resources/documents/about-ofcom/bulletins/broadcast-bulletins/2023/issue-486/licensing-decision---various---provision-of-information?v=330449>