[GB] Ofcom Revocation of Star China Media Limited Broadcasting Licence

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Lorna Woods
School of Law, University of Essex

The Broadcasting and Communications Acts provide that entities responsible for broadcasting should have the appropriate licence; failure to have such a licence when required is a criminal offence (s 13(1) Broadcasting Act 1990). Conversely, only the persons who have "general control over which programmes and other services are comprised in the service" are the persons deemed to be providing the service for the purposes of the Act. A licensee cannot sub-let its licence, nor can it be the puppet of another body. Ofcom has provided guidance as to what this means in practice.

There are also limitations on the persons who may hold broadcasting licences; s 5(1)(a) Broadcasting Act 1990 disqualifies certain persons from holding licences (as listed in Part II of Schedule 2). Specifically, this provision excludes a body whose objects are wholly or mainly of a political nature and/or who is controlled by a body whose objects are wholly or mainly of a political nature.

Ofcom received a complaint (which was also published as a blog by the complainant) in early 2020 to the effect that Star China Media Limited (SCML) was ultimately controlled by the Chinese Communist Party. Ofcom started an investigation which led to another entity, China Global Television Network Corporation (CGTNC) accepting that SCML should no longer hold the licence. It subsequently submitted an application to transfer the licence from SCML to CGTNC. Ofcom rejected the application on two grounds: it did not contain all the information Ofcom had requested; and it was predicated on a corporate re-organisation which has still not been completed. Ofcom subsequently advised that it was minded to revoke the licence, and its recent decision implements the revocation.

Ofcom based its revocation notice on the fact that the wrong entity, CGTNC, is providing the licensed service, a fact which was not disputed. While Ofcom acknowledged that revocation of a licence was a significant interference with the applicants' freedom of expression as well as that of their audience, in Ofcom's view, this was a proportionate response. It is the responsibility of the broadcaster to ensure it is appropriately licensed. Moreover, Ofcom had engaged with both entities for the better part of a year to help them bring matters into line (detailed at Annex A). While it is possible for the licence to be transferred to another

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person, Ofcom had expressed concern in its provisional revocation notice that the current corporate structure meant that CGTNC would be under the control of and an associate of a disqualified person (part of the China Media Group controlled by the Chinese Communist Party). CGTNC provided no evidence to rebut this, and indeed the information provided to Ofcom as to the corporate structure was limited and inconsistent.

In addition to the facts leading to revocation, Ofcom had found CGTNC in violation of impartiality rules and of fairness and privacy rules, in respect of which Ofcom was considering imposing sanctions. Three other fairness and privacy obligations are ongoing. The revocation decision was not affected by these content cases.

Ofcom, Notice of Revocation

https://www.ofcom.org.uk/__data/assets/pdf_file/0025/212884/revocation-notice-cgtn.pdf

Ofcom, Guidance on the licensing position of the 'provider of a service' and the 'sub-letting of capacity', 21 May 2010

https://www.ofcom.org.uk/__data/assets/pdf_file/0019/8326/service-provider.pdf

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