
DRAFT FOR CONSULTATION

Radio Manufacturer

Metadata Terms of Use

February 2019

Please respond to this consultation by Friday 12th April 2019

Background

RadioDNS creates open technical standards that let radio broadcasters provide additional content ("Metadata") alongside broadcast radio services.

Examples of this Metadata are:

- Radio Station logos
- URLs for audio streams
- Images related to the radio programme

The technical standards define how this Metadata is transported from the radio broadcaster to the radio device. They do not define what acceptable use of that Metadata is.

Radio broadcasters are supportive that their Metadata is used to enhance radio, but want protection in place to prevent what they would consider mis-use.

Manufacturers would like to use the Metadata to enhance radio, but want reassurance that their intended use is acceptable to Radio Broadcasters.

RadioDNS has consulted representatives from both Manufacturers and Radio Broadcasters to draw up a common understanding of acceptable use.

Objectives

Our ambitions with developing a standard Terms of Use are:

- The majority of Radio Broadcasters will make their Metadata available under the standard Terms of Use
- The majority of Manufacturers will use the Metadata in line with the standard Terms of Use
- The agreement of the Terms of Use is implied by the Radio Broadcaster offering the Metadata and the Manufacturer using it, and no explicit agreement is required.
- If a Radio Broadcaster wants to offer their Metadata on more bespoke terms, they do so in a way that is generally sympathetic to these standard Terms of Use.

RadioDNS will not be a party to these agreements, but we will provide the canonical reference document on our website, at a fixed, permanent URL to represent each version of the Terms of Use, which both parties can refer to with confidence. (This is similar to how the Creative Commons project makes Creative Commons licences available).

A Non-Legal Summary

This is a brief and non-legal summary of the Terms of Use. It doesn't replace the text of the Terms of Use.

In summary:

- Radio Broadcasters are responsible for providing accurate Metadata, in the correct technical standards.
- Radio Broadcasters are responsible for ensuring that they have the rights to allow the Manufacturer to use the Metadata.
- Manufacturers must not change or add to the Metadata.
- Manufacturers must not use the Metadata after the expiry time that the Radio Broadcaster gives them
- Manufacturers may not charge specifically for the Metadata, but can offer it as part of a bundle of "Connected Services".

Consultation

The attached document is our proposal for a standard Terms of Use of Radio Broadcaster Metadata by Manufacturers. We want Radio Broadcasters, Manufacturers, Service and Technology Providers to review it to see if it would be acceptable to them.

We are seeking comments and feedback on these Terms of Use by Friday 12th April 2019.

Please tell us:

- Who are you / who you are responding on behalf of
- If you would be able to use these Terms of Use
- If not, why not - what would you change?

You can respond by:

- Sending an email to us describing what your concerns are
- Sending a copy of this document with your comments added as annotations (**this is our preference**)

Please don't send us documents which you have edited or amended (even with tracking switched on), because it's very hard for us to see what the differences between the original and your changes are.

Please email to:

feedback@radiodns.org

If you have any questions, please use the same email address.

Radio Device Manufacturer Metadata Terms of Use - DRAFT FOR CONSULTATION

Purpose

The Content Provider wishes to provide Metadata for the manufacturer of devices receiving and reproducing broadcast radio signals to use with and within their Radios by publishing standard terms and conditions that can be accepted by those parties. The Content Provider has agreed to these Radio Device Manufacturer Terms in order that the Device Manufacturer which agrees to these terms, may use such Metadata.

1. Definitions

Broadcast Radio Signals: means radio frequency transmissions to the standard of AM, FM, DAB, DAB+, DRM or HD Radio.

Content Provider: means an entity that provides Content and Metadata.

Content: means audio distributed by means of Broadcast Radio Signals.

Device Manufacturer: means an entity that is responsible for the reception of Broadcast Radio Signals and reproduction of Content by use of its Radio devices, and the use of any Metadata or Content by the End-User.

Radio Device Manufacturer Terms: means these terms and conditions which are intended to apply to any Device Manufacturer which utilises the Metadata from a Content Provider and sets out how the Device Manufacturer may use Metadata in their Radio(s) and how Metadata is made available by the Content Provider or Service Provider to the Device Manufacturer.

End-User: means recipient of the Content and Metadata.

Metadata: means any digital information, whether machine or human readable, that is provided by the Content Provider to enhance their Content.

Radio: means any device receiving and reproducing Broadcast Radio Signals including those controlled by or utilising applications (Companion Apps) when presenting Metadata to the End-User.

Service Provider: means an entity that provides Metadata whether in its own right or acting on behalf of, and with the permission of, a Content Provider.

2. Restrictions on use of intellectual property rights

- 2.1. The Device Manufacturer will, and will ensure that its sub-contractors and sub-licensees, process and deal with Metadata solely in accordance with these Radio Device Manufacturer Terms.
- 2.2. All copyright, trademarks, design rights, patents and other intellectual property rights (registered and unregistered) in Metadata will remain vested in the Content Provider or its licensors
- 2.3. The names, images and logos in the Metadata are subject to copyright, design rights and trademarks (registered and unregistered) of the Content Provider or any other third party or licensor.
- 2.4. All Content Provider and/or licensor rights (including copyright, trademarks, patents, design rights and other intellectual property rights) in the Metadata are reserved by the Content Provider as owner or on behalf of licensors as licensee as appropriate, and nothing in the Radio Device Manufacturer Terms operates to transfer or license these rights to Device Manufacturer or to transfer or license any rights in any trademarks or logos owned by the Content Provider or Content Provider.

3. Additional Licence conditions

- 3.1. The Device Manufacturer will ensure that:
 - 3.1.1. All Metadata is acquired from the Service Provider for Content for use on the device by using the following technical standards and not by any other means:
 - ETSI TS 103 270 – Hybrid Radio Lookup
 - ETSI TS 102 818 – Service and Programme Information
 - ETSI TS 101 499 – Visual Slideshow
 - 3.1.2. all Metadata is used as an incidental or ancillary part of the Device Manufacturer's Radio(s) and will not be used to create applications or services that are intended to replicate or closely resemble to an End-User, any applications, services or products of the Service Provider or Content Provider;
 - 3.1.3. access to Metadata is made available by the Service Provider to all users of the Device Manufacturer's Radio(s) free of charge. Device Manufacturers may charge End-Users to access Metadata functionality but will not charge End-users for Metadata which will be made available to End-Users without charge;
 - 3.1.4. Metadata on any Device Manufacturer's Radio(s) made available to all End-Users of the Device Manufacturer's Radio(s) and the Device Manufacturer will not be edited to create derivative or new editorial, comprising parts or edits of any Metadata; and
 - 3.1.5. Metadata may be used by the Device Manufacturer and accessed by users of the Device Manufacturer's Radio(s) worldwide subject to any territorial restrictions imposed by the Service Provider.
- 3.2. Device Manufacturer acknowledges that the Metadata is made available to the Device Manufacturer and to the End-Users of its Radio(s) at the sole discretion, management, operational and editorial control of the Service Provider. The Service Provider reserves its right to interrupt, discontinue, remove or suspend the whole or part of any Metadata from time to time for operational reasons, such as maintenance, network performance and volume of use or for other necessary and reasonable purposes such as for editorial purposes or in order to comply with applicable policy or regulation.

4. Additional obligations regarding Metadata

- 4.1. The Device Manufacturer will ensure that it accurately display(s) any Metadata that it makes available on its Radio(s). The Device Manufacturer may use a truncated version of the Metadata, as long as the truncation does not unreasonably in the sole opinion of the Service Provider, distort or misrepresent the Metadata, and that the original Metadata can be easily accessed by the user.
- 4.2. The Device Manufacturer will use the most recent version of the Metadata provided by the Service Provider. The Device Manufacturer may use ephemeral storage to improve the technical performance of their Radio, but no Metadata may be stored longer than the caching time stipulated by the Service Provider at the time of providing the Metadata.
- 4.3. The Device Manufacturer will gain the agreement of the End-user if use of the Metadata would cause the End-user to incur costs.
- 4.4. The Device Manufacturer will not aggregate or consolidate any requests from End-users for Metadata except as provided for in this clause 4.

5. Announcements, advertising, sponsorship and marketing

- 5.1. The Device Manufacturer will not cause or permit any additional advertising, sponsorship or marketing not provided in the Metadata by the Service Provider to be displayed on any Device Manufacturer's Radio(s) in such a way so that it is associated with any Metadata, and/or is graphically or technically combined with any Metadata.
- 5.2. The Device Manufacturer will not claim nor imply that it has an exclusive relationship with the Service Provider or Content Provider; that it offers exclusive access to Metadata; or that the Service Provider or Content Provider endorses any of the Device Manufacturer's Radio(s);
- 5.3. The Device Manufacturer may promote its Radio and services but will not infer any association with a specific Content Provider.

6. Device Manufacturers' warranties

- 6.1. Device Manufacturer represents and warrants that:
 - 6.1.1. it has the full right, power and authority to agree to the Radio Device Manufacturer Terms;
 - 6.1.2. it will comply with all applicable laws and regulations and broadcast codes of practice;
 - 6.1.3. it will comply with its obligations under the Radio Device Manufacturer Terms; and
 - 6.1.4. it will not use the Metadata in any way that could bring the Service Provider or Content Provider into disrepute or otherwise cause the Service Provider or Content Provider any loss or damage.
- 6.2. In the event of a breach of the warranties in this Clause 6 the Service Provider will have the right to suspend or terminate the Device Manufacturer's right to utilise the Metadata.

7. No Warranties

- 7.1. Metadata is provided by the Service Provider on a free-of-charge, "as is" and on an "as available" basis. To the extent permitted by law, the Service Provider excludes all representations and warranties (whether express or implied by law), including the implied warranties of satisfactory quality, fitness for a particular purpose, compatibility, security and accuracy. The Service Provider does not guarantee the timeliness, completeness or performance of Metadata.
- 7.2. While the Service Provider will use reasonable efforts to ensure that all Metadata is correct at the time of publication, no responsibility is accepted by or on behalf of the Service Provider for any errors, omissions or inaccurate Metadata.
- 7.3. The Service Provider does not warrant that the provision of Metadata will be uninterrupted or error free, that defects will be corrected or that the Metadata is free of viruses or bugs. The Radio Manufacturer acknowledges that it is its responsibility to implement sufficient procedures and virus checks (including anti-virus and other security checks) to satisfy its particular requirements for the accuracy of data input and output.

8. Limitation of Service Provider Liability

- 8.1. To the extent permitted by law, the Service Provider excludes all liability to the Device Manufacturer for any loss or damage howsoever arising out of or in connection with the Radio Device Manufacturer Terms, including but not limited to any liability arising in relation to Metadata or any virus or other contamination or any unavailability of Metadata. In addition, the Service Provider will not be liable for any of the following losses or damage (whether such damage or losses

were foreseen, foreseeable, known or otherwise) arising out of or in connection with the Device Manufacturer's use of Metadata under the Radio Device Manufacturer Terms:

- 8.1.1. negligence;
- 8.1.2. loss of data;
- 8.1.3. loss of revenue or anticipated profits;
- 8.1.4. loss of business;
- 8.1.5. loss of opportunity;
- 8.1.6. loss of goodwill or injury to reputation;
- 8.1.7. losses suffered by third parties; or
- 8.1.8. any indirect, consequential, special or exemplary damages arising from the use of Metadata regardless of the form of action.

9. Indemnity

- 9.1. The Device Manufacturer agrees to indemnify, hold harmless and defend the Service Provider and radio stations in respect of all damages, claims, demands, liabilities (including liability to third parties), losses, costs and expenses, including reasonable legal fees and costs, arising out of or as a result of any breach of the Radio Device Manufacturer Terms by the Device Manufacturer or otherwise in connection with its use of the Metadata.

10. Termination

- 10.1. The Service Provider may terminate the Radio Device Manufacturer Terms at its sole discretion without cause at any time with immediate effect. No notification of termination will be provided to the Device Manufacturer, and the Device Manufacturer is required to verify that the licence is still in effect each time it retrieves Metadata, subject to the provisions of clause 4.2
- 10.2. The Device Manufacturer may terminate the Radio Device Manufacturer Terms at its sole discretion without cause at any time with immediate effect by ceasing to use Metadata.
- 10.3. On the termination of the Radio Device Manufacturer Terms, all rights granted to the Device Manufacturer under the Radio Device Manufacturer Terms will cease immediately and any use of Metadata by the Manufacturer will cease immediately.

11. General provisions

- 11.1. Nothing in the Radio Device Manufacturer Terms will be construed as creating a partnership, joint venture or agency relationship between the Service Provider and the Device Manufacturer.
- 11.2. Any failure or delay by the Service Provider in exercising its rights under any provisions of the Radio Device Manufacturer Terms will not be construed as a waiver of those rights.
- 11.3. The Radio Device Manufacturer Terms are personal to the Device Manufacturer and will not be assigned or otherwise transferred in whole or in part by the Device Manufacturer. Sub-licensees
- 11.4. If any part of the Radio Device Manufacturer Terms is proven to be invalid, unenforceable or illegal, the other provisions will remain in force.
- 11.5. The Radio Device Manufacturer Terms, including any additional terms between the parties, supersede all prior agreements and understandings between the parties concerning the subject matter of this Agreement and constitutes the entire agreement in that regard between the parties.