



KCast Radio - Terms of Use Policy

KCommunications, Inc.

<https://www.kcastradio.com>

KCast Radio App

THE KCAST RADIO TERMS OF USE POLICY WAS UPDATED ON JUNE 1, 2020

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I. DEFINITION OF TERMS

1. "Terms of Use Policy"

This document in its entirety and the provisions contained herein.

2. "We," "Us," or "Our"

For the purposes of this Terms of Use Policy we will use these terms interchangeably when referring to KCast Radio, the parent company of KCast Radio–KCommunications Inc.–and/or any third-party company, agent, or entity affiliated with KCast Radio or KCommunications Inc.

3. "You," "Your," "Listener," or "User"

For the purpose of this Terms of Use Policy we will use these terms interchangeably when referring to any individual who accesses, intends to access, or has accessed in the past any of our products or services.

4. **“Service”**

Our digital stream of music, news, and original content.

5. **“Website”**

When preceded in our Privacy Policy by “we,” “us,” or “our” the term Website is defined as our web domain, <https://www.kcastradio.com>, which is a digital Internet property owned and managed by us; this term includes any web music player embedded on a web page we own as part of our Website which provides access to our Service and all other subpages as part of our Website. Our Website will appear in your browser with the root domain indicated above.

6. **“App”**

When preceded in our Terms of Use Policy by “we,” “us,” or “our” the term App is defined as both the KCast Radio iOS App available on the Apple App Store or the KCast Radio Android App available on the Google Play Store. Certain statements contained in our Terms of Use Policy may apply only to the *iOS edition* of our App or only to the *Android edition* of our App; in any such foregoing instance, statements or provisions applicable only to one *edition* of our App will be specifically indicated.

7. **“Device”**

A computer, phone, tablet, or any other consumer electronic product capable of accessing the Internet and our Service.

8. **Other Terms**

Any other terms not defined above will be defined below as part of the statements or provisions they pertain to or are a part of and will be indicated clearly in bold type with quotation marks upon the first instance in which they appear in this Terms of Use Policy. Any such terms defined in this way will subsequently apply to the entirety of this Terms of Use Policy.

II. **INTRODUCTION AND ACKNOWLEDGEMENT**

1. Our Website was created and is managed by us, and our App was developed by us in partnership with Radio.co (UK) Limited and AFFINITY Media, LLC. Our Service is provided by us and is intended for use as is. This Terms of Use Policy governs the use of our Website, our App, and our Service and the agreement that operates between you and us. This Terms of Use Policy defines your rights and obligations regarding the way you use our Website, our App, and our Service.

2. Your access to and use of our Website, our App, or our Service is conditioned on your acceptance of and compliance with this Terms of Use Policy (**“Agreement”**), and by accessing or using our Website, our App, or our Service You agree to be bound by these Terms of Use. If you disagree with any part of this Terms of Use Policy then you may not access our Website, our App, or our Service. You represent that you are over the age of 18 (or equivalent minimum age in your home country). We do not permit those under 18 to use our Website, our App, or our Service without the permission of a parent or legal guardian.

3. Your access to and use of our Website, our App, and our Service is also conditioned on your acceptance of and compliance with the KCast Radio Privacy Policy. Our Privacy Policy describes our policies and procedures on the collection, use and disclosure of your personal information and non-personal information when you use our Website, our App, and our Service and tells you about your privacy rights and how the law protects you. Please review our Privacy Policy in its entirety prior to using our Website, our App, or our Service. Our Privacy Policy is available at <https://www.kcastradio.com/privacy>.

4. In order to use our Website, our App, or our Service, you need compatible hardware, software (latest version recommended and sometimes required) and Internet access (fees may apply). Our Website, our App, and our Service performance may be affected by these factors.

III. ACCOUNT

1. Accessing certain areas of our Website may require a username and password, and you are responsible for maintaining the confidentiality and security of that information. We are not responsible for any losses arising from the unauthorized use of your account. Please contact us if you suspect that your account has been compromised by contacting us at privacy@kcastradio.com.

2. You must be age 18, or equivalent minimum age in your your country or territory of residence ("**Home Country**"), as set to create an account and use any applicable functionality of our Website. A username and password for persons under this age must be created for you by a consenting parent or legal guardian.

3. By creating an account for use of certain functionality of our Website in a particular country or territory you are specifying it as your Home Country.

IV. LINKS TO OTHER WEBSITES, APPS, AND EXTERNAL SERVICES

1. We sometimes provide links to websites and services other than those owned by us (collectively "**External Services**"). A link present on our Website to an External Service should not be considered to be an endorsement by us of the content, products, or services available through any such External Service. We assume no responsibility for, the content, privacy policies, or practices of any External Services, and you agree that we are not responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with the use of or reliance on any such content, goods or services on or through any such External Services. You agree to use External Services at your sole risk.

2. You agree that you will not use any External Services in any manner that is inconsistent with this Terms of Use Policy. You agree not to use the External Services to harass, abuse, stalk, threaten or defame any person or entity, and you agree further that we are not responsible for any such use. External Services may not be available in all languages or in your Home Country, and may not be appropriate or available for use in any particular location. To the extent you choose to use such External Services, you are solely responsible for compliance with any applicable laws.

3. Prior to using any External Service, we encourage you to review the External Service's terms of use policy and privacy policy in order to understand how that External Service's terms of use policy and/or privacy policy may differ from our own.

V. SERVICE USAGE RULES, AVAILABILITY, CODE OF CONDUCT, SUPPORT, AND TERMINATION

1. Your use of our Website, our App, and our Service must follow the rules set forth in this section ("**Usage Rules**"). Any other use of our Website, our App, or our Service is a material breach of this Terms of Use Policy. We may monitor your use of our Website, our App, and our Service to ensure that you are following the Usage Rules set forth below:

- (a.) You may use our Website, our App, and our Service only for personal, noncommercial purposes.
- (b.) Our delivery of our Service to you does not transfer any commercial or promotional use rights to you, and does not constitute a grant or waiver of any rights of the copyright owners.
- (c.) Manipulating ratings, or reviews via any means—such as using a bot, script or automated process or providing or accepting any kind of compensation or incentive—is prohibited.
- (d.) You may not tamper with or circumvent any security technology included with the Services.
- (e.) Video Content requires an HDCP connection.

2. Certain content types, features or functionality not available in your Home Country are not applicable to you unless and until they become available to you. Certain Services and content available to you in your Home Country may not be available to you when traveling outside of your Home Country.

3. Our Website, our App, and our Service may allow you to submit or post materials such as comments, ratings and reviews, pictures, videos, and audio (including associated metadata and artwork). Your use of such features must comply with the **"Code of Conduct"** guidelines outlined below, which may be updated from time to time. If you see materials that do not comply with the Code of Conduct guidelines, please report your concern to us immediately at info@kcastradio.com. You hereby grant us a worldwide, royalty-free, perpetual, nonexclusive license to use the materials you submit to us regarding our Website, our App, or our Service. We may monitor your use of our Website, our App, and our Service to ensure that you are following the Code of Conduct as set forth below and decide to remove or edit any submitted material. You may not:

- (a.) Post any materials that you do not have permission, right or license to use, or infringe on the rights of any third party;
- (b.) Post objectionable, offensive, unlawful, deceptive, inaccurate, or harmful content;
- (c.) Post personal, private or confidential information belonging to others;
- (d.) Request personal information from a minor;
- (e.) Impersonate or misrepresent your affiliation with another person, or entity;
- (f.) Post or transmit spam, including but not limited to unsolicited or unauthorized advertising, promotional materials, or informational announcements;
- (g.) Post, modify, or remove a rating or review in exchange for any kind of compensation or incentive;
- (h.) Post a fake rating or review;
- (i.) Plan or engage in any illegal, fraudulent, or manipulative activity.

4. We are responsible for providing maintenance and support for our Website, our App, and our Service as required under applicable law. We are not responsible for providing maintenance and support for any third party websites, apps, or services.

5. We may terminate or suspend your access immediately, without prior notice or liability, for any reason whatsoever, including without limitation if you breach this Terms of Use Policy. Upon termination, your right to use our Website, our App, and/or our Service will cease immediately.

VI. LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, AND WAIVER AND INDEMNITY

1. TO THE EXTENT NOT PROHIBITED BY LAW, IN NO EVENT SHALL WE BE LIABLE FOR PERSONAL INJURY OR ANY INCIDENTAL, SPECIAL, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF PROFITS, LOSS OF DATA, BUSINESS INTERRUPTION, OR ANY OTHER COMMERCIAL DAMAGES OR LOSSES, ARISING OUT OF OR RELATED TO YOUR USE OF OR INABILITY TO USE OUR WEBSITE, OUR APP, OR OUR SERVICE, HOWEVER CAUSED, REGARDLESS OF THE THEORY OF LIABILITY (CONTRACT, TORT, OR OTHERWISE) AND EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY FOR PERSONAL INJURY, OR OF INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO THIS LIMITATION MAY NOT APPLY TO YOU. In no event shall our total liability to you for all damages (other than as may be required by applicable law in cases involving personal injury) exceed the amount of fifty dollars (\$50.00). The foregoing limitation will apply even if the above stated remedy fails of its essential purpose.

2. WE DO NOT GUARANTEE, REPRESENT, OR WARRANT THAT YOUR USE OF OUR WEBSITE, OUR APP, OR OUR SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, AND YOU AGREE THAT FROM TIME TO TIME WE MAY REMOVE THE SERVICES FOR INDEFINITE PERIODS OF TIME, CANCEL THE SERVICES AT ANY TIME, OR OTHERWISE LIMIT OR DISABLE YOUR ACCESS TO OUR WEBSITE, OUR APP, OR OUR SERVICE WITHOUT NOTICE TO YOU. YOU EXPRESSLY AGREE THAT YOUR USE OF, OR INABILITY TO USE, OR ACTIVITY IN CONNECTION WITH OUR WEBSITE, OUR APP, OR OUR SERVICE IS AT YOUR SOLE RISK. OUR SERVICE AND ALL CONTENT DELIVERED TO YOU THROUGH OUR WEBSITE, OUR APP, OR OUR SERVICE ARE (EXCEPT AS EXPRESSLY STATED BY US) PROVIDED "AS IS" AND "AS AVAILABLE" FOR YOUR USE, WITHOUT WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NONINFRINGEMENT. BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES, THE ABOVE EXCLUSION OF IMPLIED WARRANTIES MAY NOT APPLY TO YOU. IN NO CASE SHALL WE (INCLUDING OUR DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AGENTS, OR CONTRACTORS) BE LIABLE FOR ANY DIRECT, INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES ARISING FROM YOUR USE OF ANY ASPECTS OF OUR WEBSITE, OUR APP, OR OUR SERVICE OR FOR ANY OTHER CLAIM RELATED IN ANY WAY TO YOUR USE OF OUR WEBSITE, OUR APP, OR OUR SERVICE AND/OR CONTENT, INCLUDING, BUT NOT LIMITED TO, ANY ERRORS OR OMISSIONS IN ANY CONTENT, OR ANY INJURY, LOSS OR DAMAGE OF ANY KIND INCURRED AS A RESULT OF THE USE OF ANY CONTENT POSTED, TRANSMITTED, OR OTHERWISE MADE AVAILABLE VIA OUR WEBSITE, OUR APP, OR OUR SERVICE, EVEN IF ADVISED OF THEIR POSSIBILITY. BECAUSE SOME COUNTRIES, STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR THE LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH COUNTRIES, STATES OR JURISDICTIONS, OUR LIABILITY SHALL BE LIMITED TO THE EXTENT SUCH LIMITATION IS PERMITTED BY LAW. WE SHALL USE REASONABLE EFFORTS TO PROTECT INFORMATION SUBMITTED BY YOU IN CONNECTION WITH OUR WEBSITE, OUR APP, AND OUR SERVICE, BUT YOU AGREE THAT YOUR SUBMISSION OF SUCH INFORMATION IS AT YOUR SOLE RISK, AND YOU HEREBY RELEASE KCOMMUNICATIONS, INC AND KCAST RADIO FROM ANY AND ALL LIABILITY TO YOU FOR ANY LOSS OR LIABILITY RELATING TO SUCH INFORMATION IN ANY WAY. WE DO NOT REPRESENT OR GUARANTEE THAT OUR WEBSITE, OUR APP, OR OUR SERVICE WILL BE FREE FROM LOSS, CORRUPTION, ATTACK, VIRUSES, INTERFERENCE, HACKING, OR OTHER SECURITY INTRUSION, AND YOU HEREBY RELEASE KCOMMUNICATIONS, INC. AND KCAST RADIO FROM ANY LIABILITY RELATING THERETO. WE ARE NOT RESPONSIBLE FOR DATA CHARGES YOU MAY INCUR IN CONNECTION WITH YOUR USE OF OUR WEBSITE, OUR APP, OR OUR SERVICE.

3. BY USING OUR WEBSITE, OUR APP, OR OUR SERVICE, YOU AGREE, TO THE EXTENT PERMITTED BY LAW, TO INDEMNIFY AND HOLD KCOMMUNICATIONS, INC. (INCLUDING KCAST RADIO), ITS DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AGENTS, AND CONTRACTORS, HARMLESS WITH RESPECT TO ANY CLAIMS ARISING OUT OF YOUR BREACH OF THIS AGREEMENT, YOUR USE OF OUR WEBSITE, OUR APP, OR OUR SERVICE, OR ANY ACTION TAKEN BY US AS PART OF ANY INVESTIGATION OF A SUSPECTED VIOLATION OF THIS AGREEMENT OR AS A RESULT OF ANY FINDING OR DECISION THAT A VIOLATION OF THIS AGREEMENT HAS OCCURRED. YOU AGREE THAT YOU SHALL NOT SUE OR RECOVER ANY DAMAGES FROM KCOMMUNICATIONS OR KCAST RADIO, ITS DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AGENTS, OR CONTRACTORS, AS A RESULT OF ANY DECISION TO REMOVE OR REFUSE TO PROCESS ANY INFORMATION OR CONTENT, TO WARN YOU, TO SUSPEND OR TERMINATE YOUR ACCESS TO OUR WEBSITE, OUR APP, OR OUR SERVICE, OR TO TAKE ANY OTHER ACTION DURING THE INVESTIGATION OF A SUSPECTED VIOLATION OR AS A RESULT OF ANY CONCLUSION THAT A VIOLATION OF THIS AGREEMENT HAS OCCURRED. THIS WAIVER AND INDEMNITY PROVISION APPLIES TO ALL VIOLATIONS DESCRIBED IN OR CONTEMPLATED BY THIS AGREEMENT.

VII. GOVERNING LAW

1. Except to the extent expressly provided in the following paragraph, this Agreement and the relationship between you and KCommunications, Inc. shall be governed by the laws of the State of Alabama, excluding its conflicts of law provisions. You agree to submit to the personal and exclusive jurisdiction of the courts located within Shelby County, Alabama, to resolve any dispute or claim arising from this Agreement.

VIII. OTHER PROVISIONS

1. This Agreement constitutes the entire agreement between you and KCommunications, Inc. (including KCast Radio) and governs your use of our Website, our App, and our Service, superseding any prior agreements with respect to the same subject matter between you and KCommunications, Inc. (including KCast Radio). You also may be subject to additional terms and conditions that may apply when you use affiliate services, third-party content, third-party software, or External Services.

2. If any part of this agreement is held invalid or unenforceable, that portion shall be construed in a manner consistent with applicable law to reflect, as nearly as possible, the original intentions of the parties, and the remaining portions shall remain in full force and effect. Our failure to enforce any right or provisions in the Agreement will not constitute a waiver of such or any other provision.

3. We will not be responsible for failures to fulfill any obligations due to causes beyond our control.

4. You agree to comply with all local, state, federal, and national laws, statutes, ordinances, and regulations that apply to your use of our Website, our App, and our Service. Your use of our Website, our App, and our Service may also be subject to other laws.

5. You hereby grant KCommunications, Inc. the right to take steps we believe are reasonably necessary or appropriate to enforce and/or verify compliance with any part of this Agreement. You agree KCommunications, Inc. has the right, without liability to you, to disclose any data and/or information to law enforcement authorities, government officials, and/or a third party, as we believe is reasonably necessary or appropriate to enforce and/or verify compliance with any part of this Agreement (including but not limited to our right to cooperate with any legal process relating to your use of our Website, our App, or our Service and/or content, and/or a third-party claim that your use of our Website, our App, or our Service and/or content is unlawful and/or infringes such third party's rights).

IX. CHANGES TO OUR TERMS OF USE POLICY

1. We will continually update our Terms of Use Policy in order to remain compliant with relevant industry standards and/or applicable laws.
2. Any changes we make to our Terms of Use Policy will be posted to this page and/or communicated to you in other ways if required by law. We encourage you to check back frequently to see any updates or changes to our Terms of Use Policy.
3. If you do not agree or consent to this Terms of Use Policy, including changes or updates, do not continue to use our Website or our App, and do not attempt to access our Service or any other products or services we offer in any way.

X. CONTACT US

1. If you have any questions or concerns about our Terms of Use Policy, our business practices, or your experience with our Website or our App, we invite you to contact us at info@kcastradio.com or privacy@kcastradio.com.

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