

SCHEDULE

Modification of legislation in relation to community radio services

PART 1

Modifications to the Broadcasting Act 1990

Grant of licences

5.—(1) Section 105(1) (which makes provision as to the matters to which OFCOM are required to have regard in determining whether, and to whom, to grant local licences) shall have effect as if the provision made by that section were re-numbered as subsection (1) of that section, and as if, in that provision—

- (a) for the words “local licence” there were substituted the words “community radio licence”;
 - (b) in paragraph (b), for the words from “living in the area or locality for which the service would be provided” there were substituted the words “comprising the relevant community”;
 - (c) in paragraph (c), for the word “for”, in the first place where it occurs, there was substituted the word “in”, and for the words “cater for tastes” to the end there were substituted the words “be of a nature or have a content distinct from that of any other local service the licence for which would overlap with the licence for the proposed service”;
 - (d) the word “and” immediately before paragraph (d) was omitted, and after the word “service” in that paragraph there were added the following paragraphs—
 - “(e) the extent to which the provision of any such proposed service would result in the delivery of social gain to the public or the relevant community;
 - (f) the provision that each of the applicants proposes to make in order to render himself accountable to the relevant community in respect of the provision of the proposed service;
 - (g) the provision that each of the applicants proposes to make to allow for access by members of the relevant community to the facilities to be used for the provision of the service and for their training in the use of those facilities”.
- (2) Also, that section shall have effect as if the following subsections were added at the end—
- “(2) OFCOM shall not grant a community radio licence to any applicant who proposes to receive from—
 - (a) any one person, or
 - (b) from any one person and any other persons connected with him, taken together, more than 50 per cent. of the income that would be required in each financial year of the applicant to provide the proposed service in that year.
 - (3) Where OFCOM have published a notice under section 104(1), in the case of a proposal of theirs to grant a licence to provide a community radio service, they shall, in determining—
 - (a) whether, or to whom, to grant the licence in question, and
 - (b) if they grant it, the terms on which it is granted,

(1) Section 105 was amended by section 360(3) of, and paragraph 48, Part 1, of Schedule 15 to, the Communications Act 2003.

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have regard to the need to ensure that any service provided under that licence does not prejudice unduly the economic viability of any other local service.

- (4) Accordingly, and without prejudice to the generality of subsection (3)—
- (a) OFCOM shall not grant a licence to provide a community radio service in any case where the licence, if granted, would overlap with another local licence for a service, other than a community radio service, the potential audience of which includes no more than 50,000 persons who have attained the age of 15 years;
 - (b) every licence to provide a community radio service that overlaps with any other local licence the potential audience of which includes more than 50,000 persons who have attained the age of 15 years, but no more than 150,000 such persons, must contain such conditions as appear to OFCOM to be appropriate for prohibiting—
 - (i) the inclusion in that service of any remunerated advertisement, and
 - (ii) the sponsorship of any programmes included in that service; and
 - (c) every licence to provide a community radio service, other than a licence to provide a service such as falls within paragraph (b) above, must contain the conditions mentioned in subsection (5).

(5) Subject to subsection (6), the conditions are those that appear to OFCOM to be appropriate, in the case of the community radio licence in question, for ensuring that the amount of such of the relevant income for that licence as is attributable to any arrangements for—

- (a) the inclusion in the service provided under that licence of any remunerated advertisement, or
- (b) the sponsorship of any programmes included in that service,

does not, in any financial year of the licence holder, exceed such proportion of the total relevant income for that licence in that year as may be specified in those conditions.

(6) Any condition imposed by OFCOM pursuant to subsection (4)(c) must specify such proportion of that total relevant income as—

- (a) appears to OFCOM to be likely to secure the result that—
 - (i) the inclusion in the service provided under that licence of remunerated advertisements, and
 - (ii) the sponsorship of programmes included in that service, do not prejudice unduly the economic viability of any other local service; and
- (b) is such as to secure that 50 per cent. of that income, or some lesser proportion of it, is attributable to the arrangements mentioned in subsection (5)(a) and (b).

(7) In this section—

“relevant income”, in relation to any community radio licence, means any payment or other financial benefit (whether direct or indirect) attributable to the provision of the service under that licence which any relevant person has received, will receive or is or will be entitled to receive in the financial year in question;

“relevant person”, in relation to a community radio licence, means the holder of that licence and every person who is connected with him; and

“remunerated advertisement”, in relation to a service provided under a community radio licence, means any advertisement included in that service for which any relevant person has received, will receive or is or will be entitled to receive, any payment or other financial benefit (whether direct or indirect) in consideration for so including it.

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(8) Any reference in this section to sponsorship does not include a reference to any payment made, or other financial benefit (whether direct or indirect) conferred, by a person for purposes that are wholly or mainly philanthropic in nature.”.