

RESPONSE TO OFCOM CONSULTATION DOCUMENT

“The Future Licensing of FM Commercial Radio”

from Lincs FM plc

Lincs FM plc is a small radio group that has grown by application rather than acquisition. It operates Lincs FM (Lincolnshire and Newark), Trax FM (Bassetlaw and Doncaster), Ridings FM (Wakefield), Dearne FM (Barnsley), Compass FM (Grimsby), Rutland Radio and Fosseyway Radio (Hinckley). Lincs FM plc is a programme provider on the Leeds multiplex (simulcasting Ridings FM), on the South Yorkshire Multiplex (simulcasting Trax FM) and the Humberside Multiplex (simulcasting Lincs FM).

1. *Do you agree with our broad objectives for the radio sector?*

We agree with OFCOM’s broad objectives for the radio sector.

- 2 *Do you agree with our proposed policy for allocating FM spectrum?*

Whilst we generally agree with the proposed policy of allocating FM spectrum, we believe that in addition to accommodating new local commercial radio services, RSLs and community radio, OFCOM should also consider offering additional resources either by allocating more power or by relays to improve the coverage of smaller local commercial radio stations, particularly where coverage of a particular geographical or community area is less than perfect. In the past this has been done on a by request basis but we believe that real improvements to local choice and competition could be achieved by OFCOM actively considering how coverage could be improved for all of its small and medium licencees. We also believe that it is particularly important that frequencies that could be used commercially are used to improve commercial radio provision.

We are in general agreement with the proposed development outlined in paragraphs 30 – 32, however we believe that the proposal for Humberside is inappropriate. This is an area we have particular knowledge of.

As we understand it there is a possibility of two additional Humberside services, one achieved by changing the frequency of an existing commercial station in the area and one by finding a frequency or frequencies currently unused in the BBC sub-band.

Humberside does not exist and indeed should never have existed. The now defunct Humberside was created by London based planners

in 1974 on the misplaced premise that the forthcoming bridge linking the East Riding of Yorkshire to Lincolnshire, which was eventually opened in 1981, would create a logical county and that somehow an identity could be created. The Local Government Boundary Commission report of 1991 was forced to conclude that “the expectations in 1974 that the new Humberside county and the Humber bridge would radically alter the pattern of economic and social life and bring together the north and south bank communities had not been realised.” (*Quoted in: The Future of Local Government from the Humber to the Wash: The Local Government Commission for England, June 1993*)

Humberside was abolished in the local government review as a failure that had little public support. The Local Government Commission report of 1994 said, “Identification with Humberside is lower (at 9%) than any other county council area so far reviewed by the Commission, with the sole exception of Avon (5%).” (*Final Recommendations of the Future Local Government of North Yorkshire, Humberside and Lincolnshire: The Local Government Commission for England, January 1994*)

Whilst there are some remaining organisations that straddle both banks of the Humber they are generally being dissolved rather than created. What a pity if OFCOM continues the mistakes of previous London based planners and continues to support a flawed, failed concept. The South Bank of the Humber, North Lincolnshire and North East Lincolnshire are served by five commercial radio stations: Viking FM and Magic AM serving the East Riding of Yorkshire, North Lincolnshire and North East Lincolnshire from Hull, Galaxy FM serving South Yorkshire, West Yorkshire and the Viking FM area from Leeds, Lincs FM from Lincoln serving most of Lincolnshire and Compass FM serving North East Lincolnshire from Grimsby.

Humberside is not a metropolitan area. Competition on the South Bank is ample, whilst the people of Kingston-upon-Hull and the East Riding of East Yorkshire have no dedicated radio station that does not have to share its coverage with North Lincolnshire and North East Lincolnshire. OFCOM should advertise a new licence for the City of Kingston-upon-Hull and the whole of East Ridings of Yorkshire using a frequency from a BBC sub-band. Further competition on the south bank of the Humber is unnecessary whilst Hull and its surrounds would benefit from a further service with a single real local focus. This area does not have a local station restricted to the locality and we suggest that for OFCOM to properly realise its new duties of protecting “localness”, it is important that it does in the future. We do not believe that there is significant demand for an additional service on the south bank, where commercial radio already has a 49% share, when for the Viking area as a whole it has a share of only 45%. We estimated that the share north of the Humber is only 43% (source: RAJAR/Ipsos-rsl period ending December 2003). We suggest that development in this area is restricted to a new licence for the whole of the East Riding of Yorkshire and the City of Kingston-upon-Hull.

3. *Do you consider that, where possible, advertising larger or smaller licences best serves the interest of citizen consumers?*

We believe that most larger area coverage regional stations have brought a real expansion to listener choice. However, we believe that these stations, particularly for formats with significant speech, should cover areas that are logical and popular with the public at large. We therefore think that the aggregation of licences as indicated has some merits and is less likely to distort the more local market dynamics of smaller stations in these areas. We would not support further licences (if technically possible) covering Bristol and South Wales for example or for part of Yorkshire and Lincolnshire. Although these areas are covered successfully by existing regional stations we believe it is no coincidence that they are dance music formats where “local” identity is less important.

4. *Should we seek to aggregate any or all of the potential licence areas within the following four broad regions:*

- *North-East England*
- *South-West England*
- *South Wales*
- *Solent*

What are the costs and benefits attached to adopting such a policy?

The benefits are that a larger population coverage is more likely to support a more niche format than a smaller station but at the cost of local identity. We think that in each case OFCOM must assess whether there is sufficient locally based small to medium scale provision in each area. As we have explained we do not think there is a case for a further Humberside licence as there is a greater need for a smaller more locally focused service.

5. *Should OFCOM adopt a policy of advertising two new licences of a different size each month, or would advertising a larger number of licences but at longer intervals be preferable? What impact would either option have for resource management among prospective applicants?*

We agree with the proposal to advertise two licences (one large, one small) per month. We think that additionally they should be in geographically different areas, as we do not agree that it is unlikely that applicants might wish to apply for both sizes, particularly if they are in an applicant’s geographical area of interest. Lincs FM plc has applied for and won licences in successive months. Whilst it will have an impact on resources for prospective applicants it is likely to make some groups select which licences to apply for more carefully. We think that a more careful selection of which licences a particular group applies for is beneficial.

6. *What is your view regarding the proposal to provide information tailored around a specific licence area at the time of its advertisement, rather than generic guidance on the licensing process?*

We would welcome more information tailored around a specific licence area, but we feel that providing this information at the time of a licence advertisement is too late in the process. For a report on existing ILR provision and listening patterns to be of any benefit to potential applicants, it needs to be provided at an early enough stage in the application process for applicants to be able to take some account of it in their plans. We note from paragraph 52 that OFCOM are proposing to provide full geographical coverage details at the time at which an area is added to the advertisement timetable. This would seem the appropriate time at which to provide the other proposed information as well.

7. *Would it be beneficial for OFCOM to vary the nature of information requested in an application according to the type of licence and/or applicant?*

We welcome the proposal for more guidance as to how, and on what basis, applications will be assessed. We appreciate OFCOM's awareness that varied approaches are called for depending on the nature of the licence and/or the applicant. However, we think that the differences in questions according to applicant should be limited so that applications for a particular licence are comparable.

8. *Would applicants find it helpful to be provided with factual information about existing listening patterns etc in a new licence area?*

Please see our answer to Q6. We would welcome factual information on matters such as listening patterns in a new licence area, but such information must be supplied early enough in the application process for it to be beneficial. For many applicants, a licence application begins many months – even years – ahead of a licence advertisement, perhaps with an RSL designed to test a particular format. At this point we are likely to take into account existing listening patterns, and conduct our own analysis. If OFCOM are also proposing to conduct similar research or analysis, it would be beneficial to know the findings as soon as possible.

We welcome OFCOM's conclusion in paragraph 53 that they should not specify the type of format they wish to be provided in a particular licence area, and we also welcome the assurance that any publication of factual information about listening figures will not indicate a closed mind about any particular formats.

9. *Do you agree that a single letter is preferable to other means of seeking clarification and/or amplification of an applicant's proposals? Please provide a rationale for your preferred method of follow-up questioning.*

We agree that a single letter is preferable to other means of seeking clarification. We would suggest that this is genuinely used purely for straightforward clarification/amplification. In the past we have felt that questions are sometimes asked for the sake of it.

10. *Are you content with OFCOM's proposals regarding the submission of applications?*

We are content with most of OFCOM's proposals regarding the submission of applications. In particular, we welcome the measures to simplify and shorten application documents and the proposal that just one electronic copy needs to be submitted. The proposal that applicants should "write their own Format" is also very welcome.

11. *Do you agree that a short-listing process such as that employed in Ireland could potentially slow down licensing? How might the adoption of such a procedure improve the overall process?*

We feel there is no need for a formal short-listing process, which would slow down licensing.

12. *Would you prefer the statements made after licence awards to include reference to unsuccessful applicants as well as to the winner? What would be the benefits/disbenefits of your preferred approach?*

We feel it would be unworkable to include specific references to unsuccessful applicants. However, we would welcome more detail as to why awards are given. A more formal account of the decision-making process would be useful, as well as a detailed account of how well the successful candidate was judged to have met the criteria of section 105 of the Broadcasting Act, in particular those criteria judged especially important in the case of the licence in question. Perhaps the assessment could refer to the scoring system mentioned in paragraph 58, as well as the other bases on which decisions are made. If OFCOM feel that an application that wins is lacking, but is still the best, then how it is lacking should be included in OFCOM's statement.

13. *Are you confident that these proposals for a new licensing process can deliver a regulatory system which is effective consistent and timely?*

We believe these sensible proposals will be a significant improvement.

14. *Can you suggest any changes to the proposals which would improve on current practices?*

The proposals reveal a good understanding of the industry's concerns about the current licensing process. We would suggest one further change. Paragraph 56 of the proposals says that "of course" the date upon which an award decision is expected will depend on the number of applications. We would urge OFCOM to try to adopt a consistent length of time for decision-making – perhaps three months. One of the biggest bugbears about the Radio Authority licensing process was "slippage": decisions being taken later than expected, which can cause considerable difficulties for small or medium-sized applicants in particular. The single biggest improvement OFCOM could make would be to have a consistent and entirely predictable timescale, from the time an area is added to the timetable right through to the date on which a decision can be expected. Many of the excuses that the Radio Authority used for "slippage" would not stand up in the commercial world they regulated. We do not think a firm timetable should cost more, although it would require robust management.

15. *Do you believe there would be additional costs, or cost savings, from the radio industry as a result of the proposed changes? Please specify. If you anticipate higher costs in any area, do the benefits of the proposed new system justify these?*

There will be savings in the actual cost of producing application documents, and we welcome this. We believe OFCOM's proposals to provide factual information about existing listening patterns in new licence areas are in part motivated by a desire to save on applicants' research costs. In practice, unless the information is provided early enough in the licence advertisement process, these savings are unlikely to happen.