



Advertisement of FM Independent Local Radio Licence for EXETER

Date of advertisement: 09 February 2006

Contents

Section		Page
1	Introduction	2
2	The licensed area	3
3	Assessment of applications	5
4	Other relevant regulatory requirements	9
5	Guidelines and procedures for submission of applications	11
6	The application	13
7	Procedures for decision-making	20
Annex		Page
1	Section 3 of the Communications Act 2003	21
2	Formats of existing services	25
3	Blank format	27
4	Licence fees	28
5	Copyright	29

Section 1

Introduction

- 1.1 Ofcom, in accordance with section 104(1) of the Broadcasting Act 1990, invites applications for a licence to provide an Independent Local Radio (ILR) service on the FM (VHF) waveband covering the city of Exeter and the surrounding area, for a maximum period of 12 years from the commencement of broadcasting.
- 1.2 The closing-date for the receipt of completed applications will be **3.00 p.m. on Wednesday 10 May 2006**. A fee of £5,000 will be payable for each application submitted. This fee will not be refundable in any circumstances.
- 1.3 Ofcom welcomes views from the public about the local radio needs of listeners in this area, and the type of programme service required. These should be e-mailed to commercialradio@ofcom.org.uk, or sent to Neil Stock, Head of Radio Planning & Licensing, Ofcom, Riverside House, 2a Southwark Bridge Road, London, SE1 9HA. Please mark the envelope 'Exeter licence'.
- 1.4 In considering the applications it receives for this licence, Ofcom is required to have regard to the each of the statutory criteria set out in section 105 of the Broadcasting Act 1990, as amended (see Section 3 of this Notice for full details). The legislation does not rate these requirements in order of priority, but it may be that Ofcom will regard one or more of these criteria as being particularly important in view of the characteristics of the licence to be awarded and the applications for it. Given the small population coverage afforded by this licence relative to that of existing services available in the area, criterion (a) – the ability of each applicant to maintain, throughout the period for which the licence would be in force, the service which it proposes to provide – is likely to be considered of particular importance. Similarly, as a 'smaller' licence serving a specific locality (i.e. Exeter) which is not the sole focus (in editorial or marketing terms) of any existing service, criterion (c) – the extent to which a proposed service would broaden the range of programmes available by way of local (commercial) services in the area, and would cater for tastes and interests different from those already catered for – is likely to be considered more important in relation to an applicant's proposals for speech content than in relation to its music proposals, and less significant overall than criterion (b) – the extent to which an applicant's proposed service would cater for local tastes and interests (general or particular). In respect of criterion (d), non-research based evidence of local support is likely to be considered alongside evidence of demand, as Ofcom appreciates that applicants for a licence of this scale might wish to provide such evidence. However, a limited number of carefully-selected expressions of support is likely to be considered more meaningful than volumes of repetitious letters or petitions. The guidance given above on the application by Ofcom of the statutory criteria to this particular licence award is subject to Ofcom's discretion, as Ofcom cannot restrict in advance the way in which it will exercise its discretion in any particular case. As stated above, Ofcom will always consider each of the four statutory criteria when making a licence award.

Section 2

The licensed area

- 2.1 This licence is offered for a service designed to cover the city of Exeter and the surrounding area. Depending on the implemented transmission parameters, coverage may also include all or some parts of Bradninch, West Hill, Budleigh Salterton, Exmouth and Dawlish.
- 2.2 It is not intended that this licence should serve any other large centres of population and, in particular, coverage is designed to be much less extensive than that achieved by the existing Exeter/Torbay licensee, Gemini FM. To this end, only one frequency on the FM (VHF) waveband is being made available for this licence. If the successful applicant were to implement similar transmission parameters at the Exeter site of Gemini FM, coverage would be expected to be very similar to that achieved by it on 97.0 MHz. For guidance purposes only, the measured composite coverage area of the three transmitter network used by Gemini FM can be found at: <http://www.ofcom.org.uk/static/radiolicensing/mcamaps/al032.pdf>
- 2.3 Some overspill of coverage beyond the area this licence is designed to serve is likely to be unavoidable, but applicants should note that Ofcom is unlikely to approve transmission proposals which would deliver unacceptably strong signals into Newton Abbot or Torbay. Applicants should also note that, generally on FM there may be localised deficiencies in coverage in certain pockets within the service area; due to terrain or other environmental factors.
- 2.4 As indicated above, one frequency on the FM (VHF) waveband is being made available for this licence. Applicants should aim to identify a suitable transmission site with the primary objective of achieving satisfactory coverage of the city of Exeter itself, and as much of the surrounding area (as defined above) as proves to be technically feasible. The actual frequency to be used will not be confirmed until after the award of the licence and international clearance of the successful applicant's transmission proposals are completed. This frequency should be able to be used at a maximum effective radiated power (e.r.p.) of 1.0 kilowatt (mixed polarisation), with a maximum e.r.p. of 500 watts applying in each of the vertical and horizontal planes of polarisation.
- 2.5 Coverage, as defined in the guidance document 'Coverage: Planning Policy, Definitions and Assessment' (which can be viewed at: http://www.ofcom.org.uk/radio/ifi/rbl/commer/ar/coverage/pp_def/) will be determined by the successful applicant's choice of transmission site, and the transmission parameters approved.
- 2.6 Although the aerial pattern for this service is expected to be omni-directional, the final radiation pattern will depend upon the successful applicant's choice of transmission site and any restriction required in order to protect existing services using the same or adjacent frequencies from interference, or to prevent coverage extending into a locality which this licence is not designed to serve.
- 2.7 Applicants should outline their proposals and identify a site and transmission parameters. If a directional transmitting aerial array is proposed a template showing the radiation constraints which the applicant assumes will apply to the aerial design at its proposed transmission site must be provided as part of the response to the

'Transmission Proposals' question in the application. Any coverage predictions supplied with the application should take this template into account.

- 2.8 Applicants should make their own estimates of anticipated population coverage, based upon the location of the transmission site used, and the transmitter characteristics likely to be approved for use. Based on 2001 Census data, and the parameters used at the Gemini FM site for Exeter, Ofcom estimates that the licence could achieve coverage (as defined by UK planning criteria) of an area with an adult (aged 15+) population of around **140,000**.

Section 3

Assessment of applications

General statutory requirements

- 3.1 Under section 85(2)(b) of the Broadcasting Act 1990 as amended, Ofcom is obliged to do all it can to secure the provision within the United Kingdom of a range and diversity of local independent radio services. This applies to all existing analogue local services licensed by Ofcom, and all future services provided on a localised basis, regardless of their scale of coverage, as a result of the advertisement of a "local" licence.
- 3.2 In carrying out all of its functions, Ofcom is also required to have regard to the general duties set out in section 3 of the Communications Act 2003, which are reproduced in Annex 1 to this Notice.

Statutory requirements relating specifically to grant of local licences

- 3.3 In determining the most suitable applicant for the award of an independent local radio licence, Ofcom is obliged to have regard to the special requirements set out in section 105 of the Broadcasting Act 1990 as amended. These are as follows:
- (a) the ability of each of the applicants for the licence to maintain, throughout the period for which the licence would be in force, the service which he proposes to provide.
 - (b) the extent to which any such proposed service would cater for the tastes and interests of persons living in the area or locality for which the service would be provided, and, where it is proposed to cater for any particular tastes and interests of such persons, the extent to which the service would cater for those tastes and interests.
 - (c) the extent to which any such proposed service would broaden the range of programmes available by way of local services to persons living in the area or locality for which it would be provided, and, in particular, the extent to which the service would cater for tastes and interests different from those already catered for by local services provided for that area or locality; and
 - (d) the extent to which there is evidence that, amongst persons living in that area or locality, there is a demand for, or support for, the provision of the proposed service.

(a) Ability to maintain the proposed service

In fulfilling its statutory obligations under section 105(a) of the 1990 Act, Ofcom needs to satisfy itself that an applicant has access to sufficient financial resources, and appropriate human and technical resources, to maintain the proposed service. More particularly, Ofcom will need to be assured that an applicant has made a well-reasoned calculation of the expected levels of costs and revenue, such that the service is capable of being maintained while delivering its programming Format. The questions set out under this criterion in section 6 of this Notice are designed to enable Ofcom to assess applications in relation to this legislative requirement.

(b) and (c) Catering for tastes and interests, and broadening choice

In pursuit of its duties under sections 105(b) and (c), and also under section 314 of the Communications Act, Ofcom will require applicants to specify the nature of the proposed programme service and the way in which it will be provided. Under section 106(1) of the 1990 Act, Ofcom is required to include conditions in each local licence that are appropriate for securing that the character of the service, as proposed in the application, is maintained. The method by which Ofcom meets this requirement is a Format. The style and typical content of Formats can be scrutinised on the Ofcom website at <http://www.ofcom.org.uk/static/radiolicensing/amfm/anologue-main.htm>. Applicants are required, as part of their application, to set out the Format under which they would be willing to operate. Submission of a particular Format will be taken as evidence of willingness to accept a licence, if offered, on the terms indicated. Applicants are strongly advised to pay particular attention to the wording of their draft Format, since changes to the draft will not normally be permitted. (Ofcom will only make exceptions to this rule where there is clear evidence that the proposed correction is consistent with the original application.) Changes that, if made, would materially alter the draft Format, will not be permitted under any circumstances. **Ofcom does not intend to enter into any negotiation or discussion regarding the contents of a Format subsequent to a licence award.** A Format may only be varied by Ofcom on the grounds specified in section 106(1A) and (1B) of the Broadcasting Act 1990. Ofcom will shortly be publishing its procedure for considering requests for Format changes. Further details will be made available on the website.

In evaluating applications, Ofcom will be required to assess the extent to which each applicant offers to provide a programme service which would cater for the tastes and interests of people living in the Exeter area, and would broaden choice in relation to the following existing ILR services available within the area:

- Exeter/Torbay FM (Gemini FM)
- Exeter/Torbay AM (Classic Gold 666/954)

The Formats of these services are at Annex 2. Under the terms of section 105(c) of the Broadcasting Act 1990, Ofcom is only required to consider the extent to which an applicant's proposals would broaden choice in relation to other local (non-BBC) radio services.

(d) Evidence of local demand, or local support

Section 105(d) requires Ofcom to take account of the evidence of demand, or support, among people in the licensed area for an applicant's proposals. In our view, evidence of local demand, as demonstrated by formal audience research or analysis, is a more meaningful and cogent measure than evidence of local support as demonstrated by letters or petitions. It is for applicants to decide what evidence of support they wish to submit, if any, but Ofcom does not believe that generic support for the establishment of a new radio service is as meaningful as evidence of considered support for a specific applicant's proposals. In addition, Ofcom will welcome and will have regard to public comments and opinions about the local radio needs of the area.

Localness

- 3.4 Section 314(1) of the Communications Act 2003 requires Ofcom to carry out its functions in relation to local sound broadcasting services in the manner that it considers is best calculated to secure:
- that programmes consisting of or including local material are included in such services but, in the case of each such service, only if and to the extent (if any) that Ofcom considers appropriate in that case; and
 - that, where such programmes are included in such a service, what appears to Ofcom to be a suitable proportion of them consists of locally-made programmes.
- 3.5 Ofcom does not consider it appropriate to prescribe an amount of local material or a proportion of locally-made programming that new services should contain. The extent to which local material and locally-made programming is appropriate or suitable may well vary greatly between different Formats. Applicants will be invited to set out in the 'Format' section of their application the amount of local material and the proportion of locally-made programmes that they will provide, and to support their proposals with evidence of demand and/or support. Ofcom will consider on the basis of the application whether the amount of local material included is appropriate, and whether the proportion of locally-made programmes is suitable, for that particular service proposal. Ofcom assumes that "locally-made programmes" in this context refers to programmes produced and presented from within the licensed area of a station, but is prepared to be persuaded otherwise should an applicant wish to propose an alternative definition.
- 3.6 Applicants are advised to familiarise themselves with Ofcom's published guidance on localness, which can be obtained from:
<http://www.ofcom.org.uk/radio/ifi/rbl/commer/ar/localness>. Applicants may also wish to familiarise themselves with the new obligation upon operators of a local radio licence to establish and maintain a "Public File" – a public document available on the radio station's website (and in hard-copy form upon request) which demonstrates to Ofcom, listeners and competitors alike how the service is satisfying its licence obligations (including those related to localness, where appropriate).

Assessment process

- 3.7 The assessment of applications for a licence will be based primarily upon the proposals presented in the completed application. In the course of assessing applications, Ofcom may seek clarification and/or amplification of proposals. This will usually be done through questioning by a single letter, which will be sent to the individual nominated in the application. Further ad-hoc questioning, if appropriate, may be conducted by telephone, or by e-mail, as well as by letter. Non-confidential responses to these questions will be published on the Ofcom website, alongside the original application.
- 3.8 As part of the assessment process, each application is assigned a score to reflect the extent to which it satisfies each of the statutory criteria of section 105 of the 1990 Act as amended. These scores are designed to provide an approximate comparison of different aspects of applicants' proposals, and are used for guidance rather than for the specific purpose of deciding upon the successful applicant. Other factors, such

as Ofcom's general duties, may well play a part in the final decision. The scores will not be published.

- 3.9 No material amendments to the application may be made by the applicant without the agreement of Ofcom. Ofcom will not agree to any such amendment which it considers would be unfair to any other applicant for the licence, or which would adversely affect the public consultation on the applicant's proposals.

Section 4

Other relevant regulatory requirements

Programme output

- 4.1 All programme output on commercial radio, including sponsorship, must conform to The Ofcom Broadcasting Code, available at: <http://www.ofcom.org.uk/radio/ifi/codes/>

Advertising

- 4.2 Similarly, all advertising output must conform to The BCAP Radio Advertising Standards Code, which is available at: http://www.asa.org.uk/asa/codes/radio_code/
- 4.3 Subject to the requirements of these Codes, each local licensee is free to decide the amount, frequency and distribution of advertising airtime.

Ownership rules

- 4.4 Ofcom will need to be satisfied that applicants fully comply with statutory provisions regarding ownership. In addition, Ofcom is required to satisfy itself that applicants are "fit and proper persons" before it may grant a licence. The application includes the following questions designed to enable Ofcom to achieve these objectives:
- Board of Directors
 - Proposed Investors and Shareholding Structure
 - Involvement of the Applicant in Specified Activities
- 4.5 The statutory provisions on ownership are in Schedule 2 to the Broadcasting Act 1990 (as amended by the Broadcasting Act 1996 and the Communications Act 2003), Schedule 14 to the Communications Act 2003, and the Media Ownership (Local Radio and Appointed News Provider) Order 2003 (SI 2003/3299). Copies of this legislation are available from <http://www.hmso.gov.uk>.
- 4.6 In general terms, the ownership rules applicable to local radio services fall into two categories:
- (a) the disqualification of certain categories of persons from holding a licence or participating in a licensee above a prescribed level; and
 - (b) restrictions on the number of local radio service licences that a person may hold in particular circumstances.
- 4.7 Applicants should ensure that they would comply with all relevant ownership rules should their application be successful. If applicants have specific queries on the application of the ownership rules to them, they should contact Kathleen Stewart [tel: 020 7783 4293, e-mail: kathleen.stewart@ofcom.org.uk] if the query relates to a disqualified category of persons, or Andy Causby [tel: 020 7783 4390, e-mail: andy.causby@ofcom.org.uk] if the query relates to the restrictions on the number of local licences that a person may hold.
- 4.8 If an applicant would be in breach of the restrictions on the number of local radio service licences that a person may hold were he to be awarded the licence, that

applicant may still submit an application to Ofcom. However, Ofcom cannot grant a licence to a person who is in breach of any of the ownership rules. Accordingly, the applicant should specify in his application how he intends to ensure that he will comply with the ownership rules at the time the licence is granted, if his application is successful. In these circumstances, the award of a licence to such an applicant would be conditional on the applicant taking the necessary steps to ensure that he complied with the ownership rules at the time the licence was granted.

Section 5

Guidelines and procedures for submission of applications

- 5.1 The application should be presented in the format prescribed by Ofcom in Section 6 of this Notice, and should include responses to all of the questions. Pages should be numbered.
- 5.2 At least one copy of all material should be submitted in the English language.
- 5.3 Applications must be clear, concise and simple in layout and style. Over-elaborate applications which include videos and/or other supplementary promotional material are strongly discouraged. Ofcom will not be influenced by the inclusion of illustrations or other devices designed to enhance the visual appeal of an application. In particular, applications must not include photographs and/or pictures. A limited number of charts is acceptable.
- 5.4 One electronic copy of an application must be received by Ofcom no later than the closing-date specified in Section 1 of this Notice. Applications received after this time will not normally be accepted. All applications will be acknowledged upon receipt. If e-mail is the chosen method of submission, the application must be sent to commercialradio@ofcom.org.uk. Applicants should be aware, however, that e-mails are not an instantaneous means of communication, especially when they have large attachments. Applicants are therefore strongly advised to submit e-mail applications at least 48 hours in advance of the closing-date, so that urgent steps can be taken by the applicant if no acknowledgement from Ofcom is received.
- 5.5 Payment of the application fee must also be received (i.e. the funds must be present in the Ofcom bank account) by the closing-date specified in Section 1 of this Notice. Applicants may submit their payment by either of the following methods:
- (a) Payment by BACS into the Ofcom bank account (sort code: 30-97-90, account number: 00740372, account name: Ofcom). Please note that any payments made using this method will take at least three working days to reach the Ofcom account.
 - (b) Payment by CHAPS into the Ofcom bank account (details as above). Please note that although this is a 'same day' payment method, applicants intending to submit their payment on the closing-date itself should confirm with their bank the deadline for ensuring that it is received by Ofcom on that date.
 - (c) Payment must be notified in advance to Ofcom's Sales Ledger team (fax: 020 7783 4901 or email: Sales-Ledger@ofcom.org.uk), with the notification including the following information:
 - the name of the licence to which the application fee relates (in the mandate reference field);
 - the amount submitted;
 - the payee name;
 - the bank sort code;

- the account name; and
 - the anticipated receipt date.
- 5.6 Applications will be made available for public inspection on the Ofcom website. Details of which parts of an application may, or should, be submitted in confidence are included in Section 6 of this Notice. If an applicant wishes to submit any information in confidence, this should be presented in an appropriately-marked annexe to the main application. If an applicant wishes to submit information in confidence other than where this is specifically indicated as permissible, confirmation that this is acceptable must be sought beforehand, in writing, from Ofcom's Head of Radio Planning & Licensing.
- 5.7 If an applicant wishes to submit letters of support, these should be included in a separate appendix from the main application, but the response to Q.7 of the application must include a summary of the evidence of support being submitted.
- 5.8 Failure to comply with any of the above guidelines may render the application liable to disqualification.

Section 6

The application

6.1 The application should be structured strictly in accordance with the following outline.

General information

(a) Name of Applicant, Address, Telephone and Fax Nos., E-mail address

This must be a single legal entity: either a body corporate or a named individual person. If the former, a copy of the certificate of incorporation must be included with the application.

(b) Main Contact (For Public Purposes)

Please nominate at least one individual to deal with any press or public enquiries, stating:

Name:
Telephone (daytime):
Address:
E-mail address:

(c) Proposed Station Name (if decided)

(d) Brief Description of Programme Service

Provide a one-sentence statement summarising the type of programme service or format proposed.

(e) Main Contact (For Ofcom Purposes)

Please nominate one individual to whom questions of clarification and/or amplification should be sent, stating:

Name:
Telephone (daytime):
Address:
E-mail address:

This information must be submitted in confidence, separately from the other responses in this section.

Section 105(A): Ability to maintain proposed service

1. Ownership and control of company which will operate the licence

(a) Board of Directors

i) Provide the name, occupation, other directorships, other media interests, background and relevant media experience of each director (executive and non-executive), including the proposed chairperson.

- ii) If there are firm plans to appoint any further directors, provide information (with details of any specific individuals in mind). This information may be submitted in confidence.

(b) Proposed Investors and Shareholding Structure

Full details of the proposed shareholding structure should be provided, including:

- i) Names and addresses (the latter may be submitted in confidence) of all existing or proposed shareholders.
- ii) Total number, class/classes of shares and issue price of shares (specify voting, non-voting, preference, other etc.).
- iii) All voting shareholders and holders of 5% or more of non-voting shares and loan stock should be named. State the number, class/classes and price of shares to be issued to each investor.
- iv) Outline any shareholders agreements or arrangements which exist.
- v) Where a corporate body other than a current Ofcom licensee will be providing 30% or more of the required funding, details should be given of its directors and main shareholders, and of its activities.
- vi) Ofcom may request additional information (e.g. a banker's letter, statutory/management accounts) regarding the shareholders, or any other providers of finance, listed in the application.

(c) Involvement of the Applicant in Specified Activities

Details are required of the involvement by the applicant and its participants (including shareholders or other subscribers of more than 5% of the applicant's total funding requirements) in any of the activities listed below, and the extent of the interest. For these purposes, the applicant includes associates of the applicant (i.e. directors and their associates and other group companies).

- i) Advertising agencies;
- ii) Newspapers;
- iii) Other broadcasting interests;
- iv) Bodies whose objects are wholly or mainly of a religious nature;
- v) Bodies whose objects are wholly or mainly of a political nature;
- vi) Local authorities;
- vii) Other publicly-funded bodies.

* Applicants should note that this information is required for the purposes of checking compliance with the ownership rules, and is not relevant to an applicant's ability to maintain its proposed service. If none of the categories above apply to the application this should be clearly stated.

2. Financial and business plan

(a) Overall Financial Strategy

Provide a concise summary of how the applicant considers it is able to establish and maintain, throughout the licence period, its proposed service, and how this licence fits in with the investors' strategy.

(b) Funding

Detail the sources of finance that will be used to fund the licence, under the following headings:

- i) Share capital
- ii) Loan stock
- iii) Leasing/HP facilities (capital value)
- iv) Bank overdraft
- v) Grants and donations
- vi) Other (please specify)

Where relevant, provide information on:

- i) Loan terms (e.g. interest rate, repayment terms, redemption/conversion terms);
- ii) Assets leased.

All of the funding identified above should be confirmed to the applicant. Explanation should be provided if this is not the case.

(c) Financial Projections

The purpose of this question is to allow the applicant to demonstrate its understanding of the market. The forecasts should be based on reasonable assumptions, that are logically applied and justifiable.

The applicant should provide financial projections on an annual basis for the licence. The projections must include:

- i) Profit and loss accounts
- ii) Balance sheets
- iii) Cash-flow forecasts

The period covered is at the discretion of the applicant, but should be justified. The forecasts should be supplied on an Excel spreadsheet or similar, with any accompanying guidance notes. The applicant must also complete and submit the spreadsheet entitled "Financial Template" located at: <http://www.ofcom.org.uk/radio/ifi/rbl/commer/ar/lapr/ftap.xls> using information from its business model.

This section must include a full listing of the underlying assumptions on which the financial projections are based, relating such assumptions clearly to other parts of the application (e.g. proposed format, extent of coverage area).

The applicant should detail how revenue figures were derived, distinguishing between local, national and sponsorship revenue.

The response to this question may be submitted in confidence.

(d) Audience Projections

Provide the following information:

- i) The projected adult (aged 15+) population of the Total Survey Area (TSA) within which it is intended to measure the listenership of the service;
- ii) Projections for listenership ratings (e.g. weekly reach, average weekly hours of listening) over the first three years of the service, with detailed demographic breakdowns as appropriate;
- iii) The expected impact of the proposed service on existing services, in listenership terms;
- iv) The basis on which the estimates above have been calculated, and any assumptions taken into account.

3. Transmission proposals

(a) Provide details of the transmission site you propose to use, under the following headings:

- i) Name and National Grid Reference of site;
- ii) Height of site above Ordnance datum (in metres);
- iii) Height of transmitting aerial above ground level (in metres);
- iv) Radiated power in either or both planes of polarisation, and aerial radiation pattern (if no aerial radiation pattern is submitted, it will be assumed without exception to be omni-directional).

The applicant should confirm whether he believes that his intended mast aperture will be available, and whether, where required, planning permission can be obtained. Where appropriate, evidence to support this belief should be provided. Details of any negotiations which have been entered into with the site owner should also be provided.

The information provided above must take into account any requirements set out in Section 2 of this Notice. In the event of minor non-compliance, Ofcom may revisit an applicant's proposals with a view to modest adjustment following award and closer scrutiny. Significant non-compliance may render the application liable to disqualification.

- (b) Please provide a detailed computer predicted map (in colour) of the coverage anticipated using the transmission site and parameters described above.
- (c) Describe proposed arrangements for transmission provision (installation, maintenance and repair). The transmission system and equipment must comply with the Engineering Code originally published by the Radio Authority, which represents Ofcom's current policy and is available at: <http://www.ofcom.org.uk/radio/ifi/rbl/commer/ar/>
- (d) What is the anticipated time-lapse between the award of licence and start of broadcasting? Applicants should note that failure to commence broadcasting the service within two years of the date on which the licence is awarded is likely to lead to the offer of a licence to the successful applicant being withdrawn. In these circumstances the

licence would be advertised afresh and a new competition would be held to award the licence.

Section 105(B) and (C): Catering for tastes and interests/broadening choice

4. Programming Philosophy

- (a) This sub-section of the application should take the form of a statement setting out the applicant's overall programming philosophy and vision for the radio service.
- (b) The strategies which the applicant proposes to implement in regard to:
- i) catering for the tastes and interests, general or particular, of persons living in the area;
 - ii) broadening the range of local commercial services available in the area;
 - iii) the provision of local material, if any;
 - iv) the proportion of locally-made programming, if any
- should be set out in this section.
- (c) If appropriate, the applicant may also provide a typical programme-by-programme weekday schedule, to give a flavour for the direction of the station.

5. Proposed Format

A blank Format is attached at Annex 3. Fill it in, ensuring that each of the following criteria are addressed within, where it is felt appropriate to do so. It should follow the style of Ofcom Formats, which can be viewed at:

<http://www.ofcom.org.uk/static/radiolicensing/amfm/analogue-main.htm>. Reasons for omission of any particular criteria (and it is accepted that not all criteria will be relevant to all applications) should be set out separately. The Format will form part of the licence. Therefore, questions of clarification may be asked prior to licence award and the wording amended to reflect this, if necessary.

- (a) Station Name (working titles accepted);
- (b) Service Duration. This is the number of hours you will broadcast each day. It should also include the number of hours of locally-made programming (i.e. programming made within the licensed area) promised. As set out in Phase 2 of Radio - Preparing for the Future, Ofcom does not believe that the amount of automation utilised by a station is an indication of programme quality. Therefore, Ofcom has no specific rules relating to the amount of automation that a licensee may utilise, and applicants do not need to include details in their proposed Format of how much live programming they intend to provide. However, should an applicant wish to include such information, it should be included in this part of the Format and will be regarded as a binding commitment in the event of a licence award.
- (c) Character of Service. This is a clear, one or two sentence description of the output and target audience.
- (d) Detail. This should address, where appropriate:
 - (i) A clear description of the type/range of music.
 - (ii) Specialist music programmes.

- (iii) A level of speech content (peak/non-peak)
- (iv) Any specific plans for local material.
- (v) News obligations, local and national (weekdays and weekends, peak-time, non-peak, etc.)
- (vi) Other character-defining elements of programming.

Section 105(D): Evidence of local demand or support

6. Evidence of Demand

This section should provide an analysis of the reasons as to why it is considered that there is a demand for the type of service proposed, with reference to the size and nature of the proposed target audience.

If original market research has been undertaken, please provide the following information for each piece of research:

- (a) A statement of the key objectives of the research;
- (b) The specific questions that the research sought to answer;
- (c) How the research was conducted;
- (d) The size and composition of the sample(s);
- (e) When and where the research was conducted;
- (f) A summary of the main findings from the research, showing how these demonstrate evidence of demand for the service proposed;
- (g) Full data tables for any quantitative research undertaken (these may be submitted in confidence).

Please provide your responses to (a) – (e) in tabular format.

7. Evidence of Support

This section should provide evidence of support, where appropriate, from the applicant's potential audience or from prospective local advertisers.

Declaration

Applicants are required to conclude their submission by responding to the following question:

Do you confirm that, to the best of your knowledge and belief:

- (a) the applicant is not a disqualified person in relation to the licence by virtue of the provisions of section 143(5) of the Broadcasting Act 1996 (relating to political objects);
- (b) no director or person concerned directly or indirectly in the management of the company or the applicant group is the subject of a disqualification order as defined by section 145(1) of the Broadcasting Act 1996;
- (c) no person involved in the application has been convicted within the past five years of an unlicensed broadcasting offence and that the applicant will do all it can to ensure that no person so convicted will be concerned in the provision of the service, the making of programmes included in it, or the operation of a radio station if the applicant is granted a licence; and
- (d) any matters which might influence Ofcom's judgement as to whether the directors and substantial shareholders involved in the application are fit and proper persons to participate in a radio licence have been made known to Ofcom?

Applicants should note that Ofcom reserves the right to revoke a licence if at any time any material statement made is found to be false and to have been made by the applicant or any member or officer thereof knowing it to be false, and that in the circumstances of section 144 of the Broadcasting Act 1996, the provision of false information or the withholding of relevant information with the intention of misleading Ofcom could incur a criminal conviction and a disqualification from the holding of a licence.

Section 7

Procedures for decision-making

- 7.1 The members of Ofcom's Radio Licensing Committee receive every application submitted for a particular licence, and consider each application under the statutory criteria set out in Section 3 of this Notice. The likely weight accorded to each of the statutory criteria will have been signalled as part of the licence advertisement. Details of the membership of the Radio Licensing Committee are available at: <http://www.ofcom.org.uk/radio/ifi/rbl/commer/ar/lapr/>.
- 7.2 A summary of each applicant's proposals, highlighting issues of relevance under each of the statutory criteria drawn both from the original application and any subsequent questioning, will be prepared by Ofcom's Radio Planning & Licensing team and presented to the members of the Radio Licensing Committee for consideration. A full summary of the views received as part of the public consultation and, where appropriate, relevant background information such as listening data for existing stations, are also provided.
- 7.3 The members of the Radio Licensing Committee then discuss the applications, having regard to the statutory criteria and the issues identified by the Radio Planning & Licensing team, and then decide on a collegiate basis –
 - (a) to award the licence to the strongest applicant, or
 - (b) in exceptional cases, not to award the licence.
- 7.4 The relevant member of the Radio Planning & Licensing team does not participate in the decision-making process, although they attend meetings to present their analysis and may be asked for further information and/or to clarify points.
- 7.5 A statement setting out the key determining factors under each of the criteria which led to the decision is published after each licence award.

Annex 1

Section 3 of the Communications Act 2003

General duties of OFCOM

1. It shall be the principal duty of OFCOM, in carrying out their functions-
 - (a) to further the interests of citizens in relation to communications matters;
and
 - (b) to further the interests of consumers in relevant markets, where appropriate by promoting competition.
2. The things which, by virtue of subsection (1), OFCOM are required to secure in the carrying out of their functions include, in particular, each of the following-
 - (a) the optimal use for wireless telegraphy of the electro-magnetic spectrum;
 - (b) the availability throughout the United Kingdom of a wide range of electronic communications services;
 - (c) the availability throughout the United Kingdom of a wide range of television and radio services which (taken as a whole) are both of high quality and calculated to appeal to a variety of tastes and interests;
 - (d) the maintenance of a sufficient plurality of providers of different television and radio services;
 - (e) the application, in the case of all television and radio services, of standards that provide adequate protection to members of the public from the inclusion of offensive and harmful material in such services;
 - (f) the application, in the case of all television and radio services, of standards that provide adequate protection to members of the public and all other persons from both-
 - (ii) unfair treatment in programmes included in such services; and
 - (iii) unwarranted infringements of privacy resulting from activities carried on for the purposes of such services.
3. In performing their duties under subsection (1), OFCOM must have regard, in all cases, to-

- (a) the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed; and
 - (b) any other principles appearing to OFCOM to represent the best regulatory practice.
- 4. OFCOM must also have regard, in performing those duties, to such of the following as appear to them to be relevant in the circumstances-
 - (a) the desirability of promoting the fulfilment of the purposes of public service television broadcasting in the United Kingdom;
 - (b) the desirability of promoting competition in relevant markets;
 - (c) the desirability of promoting and facilitating the development and use of effective forms of self-regulation;
 - (d) the desirability of encouraging investment and innovation in relevant markets;
 - (e) the desirability of encouraging the availability and use of high speed data transfer services throughout the United Kingdom;
 - (f) the different needs and interests, so far as the use of the electro-magnetic spectrum for wireless telegraphy is concerned, of all persons who may wish to make use of it;
 - (g) the need to secure that the application in the case of television and radio services of standards falling within subsection (2)(e) and (f) is in the manner that best guarantees an appropriate level of freedom of expression;
 - (h) the vulnerability of children and of others whose circumstances appear to OFCOM to put them in need of special protection;
 - (i) the needs of persons with disabilities, of the elderly and of those on low incomes;
 - (j) the desirability of preventing crime and disorder;
 - (k) the opinions of consumers in relevant markets and of members of the public generally;
 - (l) the different interests of persons in the different parts of the United Kingdom, of the different ethnic communities within the United Kingdom and of persons living in rural and in urban areas;
 - (m) the extent to which, in the circumstances of the case, the furthering or securing of the matters mentioned in subsections (1) and (2) is reasonably practicable.
- 5. In performing their duty under this section of furthering the interests of consumers, OFCOM must have regard, in particular, to the interests of those consumers in respect of choice, price, quality of service and value for money.

6. Where it appears to OFCOM, in relation to the carrying out of any of the functions mentioned in section 4(1), that any of their general duties conflict with one or more of their duties under sections 4, 24 and 25, priority must be given to their duties under those sections.
7. Where it appears to OFCOM that any of their general duties conflict with each other in a particular case, they must secure that the conflict is resolved in the manner they think best in the circumstances.
8. Where OFCOM resolve a conflict in an important case between their duties under paragraphs (a) and (b) of subsection (1), they must publish a statement setting out-
 - (a) the nature of the conflict;
 - (b) the manner in which they have decided to resolve it; and
 - (c) the reasons for their decision to resolve it in that manner.
9. Where OFCOM are required to publish a statement under subsection (8), they must-
 - (a) publish it as soon as possible after making their decision but not while they would (apart from a statutory requirement to publish) be subject to an obligation not to publish a matter that needs to be included in the statement; and
 - (b) so publish it in such manner as they consider appropriate for bringing it to the attention of the persons who, in OFCOM's opinion, are likely to be affected by the matters to which the decision relates.
10. Every report under paragraph 12 of the Schedule to the Office of Communications Act 2002 (c. 11) (OFCOM's annual report) for a financial year must contain a summary of the manner in which, in that year, OFCOM resolved conflicts arising in important cases between their general duties.
11. A case is an important case for the purposes of subsection (8) or (10) only if-
 - (a) it involved one or more of the matters mentioned in subsection (12); or
 - (b) it otherwise appears to OFCOM to have been of unusual importance.
12. Those matters are-
 - (a) a major change in the activities carried on by OFCOM;
 - (b) matters likely to have a significant impact on persons carrying on businesses in any of the relevant markets; or
 - (c) matters likely to have a significant impact on the general public in the United Kingdom or in a part of the United Kingdom.
13. This section is subject to sections 370(11) and 371(11) of this Act and to section 119A(4) of the Enterprise Act 2002 (c. 40) (which applies to functions conferred on OFCOM by Chapter 2 of Part 5 of this Act).

14. In this section-

"citizens" means all members of the public in the United Kingdom;

"communications matters" means the matters in relation to which OFCOM have functions;

"general duties", in relation to OFCOM, means-

(a) their duties under subsections (1) to (5);

(b) the duty which, under section 107(5), is to rank equally for the purposes of subsections (6) and (7) with their duties under this section;

"relevant markets" means markets for any of the services, facilities, apparatus or directories in relation to which OFCOM have functions.

Annex 2

Formats of existing services

GEMINI FM STATION FORMAT

Licence outline

Station name	Gemini FM
Licence area	Exeter and Torbay area (as defined in Ofcom's Measured Coverage Area map)
Frequency	103, 97 and 96.4 MHz
Service duration	24 hours a day (locally produced/presented at least 16 hours weekdays, 12 hours Saturday, and 8 hours Sunday)

Definitions

Speech	"Speech" excludes advertising, programme/promotional trails and sponsor credits, and may be calculated across daytime or non-daytime.
Music	Any music percentages are calculated as a percentage of the total tracks broadcast in the period specified.
Peaktime(s)	"Peaktime(s)" refers to Weekday Breakfast and Afternoon Drivetime output, and Weekend Late Breakfast.
Daytime	"Daytime" refers to 0600 to 1900 weekdays, and weekend output from 0800 to 1400.
Locally produced/presented	Production and presentation from within the licence area. All requirements for locally produced/presented output must include peaktime.

Character of service

A CONTEMPORARY AND CHART MUSIC AND INFORMATION STATION FOR UNDER 40s IN THE EXETER & TORBAY AREA

Detail

Music programming will be current chart hits, new releases or hits up to ten years old. Up to 25% may be hits over 10 years old. Specialist music programmes for the target audience, which complement the main music mix, may be broadcast for up to 30 hours a week, mostly in non daytime. The station will be music-led, but information and/or features of particular local relevance will be strongly in evidence (via at least three informational inserts/drop-ins during each hour of non locally produced programming, except for occasional syndicated shows such as the Network Chart), with hourly bulletins containing local news run at least during peak-time. National news will feature at other times. There will be a full-time journalistic presence based at Gemini FM's studios at least during weekday daytime. Bulletins may be read from the studios of Plymouth Sound. 'Splitting' between Exeter/East Devon (97, 103) and Torbay/South Devon (on 96.4) will occur for the weekday breakfast and drivetime shows. Other 'splitting' is at the licensee's discretion. Speech should account for at least 10% of daytime output.

CLASSIC GOLD 666/954 STATION FORMAT

Licence outline

Station name	Classic Gold 666/954
Licence area	The Exeter and Torbay area (as defined in Ofcom's Measured Coverage Area map)
Frequency	666 and 954 kHz
Service duration	24 hours a day (at least 4 hrs weekday locally produced/presented)

Definitions

Speech	"Speech" excludes advertising, programme/promotional trails and sponsor credits, and may be calculated across daytime or non daytime.
Music	Any music percentages are calculated as a percentage of the total tracks broadcast in the period specified.
Peaktime(s)	"Peaktime(s)" refers to Weekday Breakfast and Afternoon Drivetime output, and Weekend Late Breakfast.
Daytime	"Daytime" refers to 0600 to 1900 weekdays, and weekend output from 0800 to 1400.
Locally produced/presented	Production and presentation from within the licence area. All requirements for locally produced/presented output must include peaktime.

Character of service

A CLASSIC POP HIT-LED SERVICE TARGETTED PRIMARILY AT OVER-40s IN THE EXETER AND TORBAY AREA

Detail

The programming will feature classic pop hits (ex top 40) selected predominantly from the period 15-40 years prior to broadcast. Hits less than 15 years old will never account for more than 25% of the music output. Speech should never exceed 25% of daytime output or 50% non-daytime (apart from sports coverage weekday evenings or weekend afternoons), but a reasonable balance of information from across the area must be maintained within each day. During non-locally produced/presented time there must be at least 40 separate local informational inserts/drop-ins spread through weekday daytime, 20 through weekend daytime and 20 through all non-daytime. Hourly bulletins containing local news will be aired at least during peaktime, with a weekday daytime half-hour all speech news programme. National news will feature at other times. Any particular news arrangements agreed for Classic Gold's 'sister' FM station (covering the same area) may, if desired, be adopted for Classic Gold itself. Themed music focusing on a genre from the main mix (i.e. 60s, 70s, 80s etc) may be broadcast during non-daytime and weekends.

Annex 3

Blank format

XXX STATION FORMAT

Licence outline

Station name	Xxx
Licensed area	Xxx
Frequency	Xxx
Service duration	XX hours a day (XX locally produced/presented)

Definitions

Speech	"Speech" excludes advertising, programme/promotional trails and sponsor credits, and may be calculated across daytime or non-daytime.
Music	Any music percentages are calculated as a percentage of the total tracks broadcast in the period specified.
Peaktime(s)	"Peaktime(s)" refers to Weekday Breakfast and Afternoon Drivetime output, and Weekend Late Breakfast.
Daytime	"Daytime" refers to 0600 to 1900 weekdays, and weekend output from 0800 to 1400.
Locally-made	Production and presentation from within the licensed area. All requirements for locally-made output must include peaktime.

Character of service

XXX

Detail

Xxx

Annex 4

Licence fees

Broadcasting Act licence fees

A4.1 Broadcasting Act licence fees for 2005/06 are based on the annual Relevant Turnover obtained by the licensee. The tariff of annual Broadcasting Act licence fees (with effect from 1 April 2005) for local licences is as follows:

Bands	% of Relevant Turnover
£0 - £1m	0.300%
£1m - £5m	0.450%
Over £5m	0.675%

Wireless Telegraphy Act licence fees

A4.2 Wireless Telegraphy Act licence fees are based on adult population coverage, and calculated on the basis of units of complete 100,000 adults. The licence fee for a service on the AM waveband is discounted by one-third from the fee for an FM service. The tariff of annual Wireless Telegraphy Act licence fees for local licences is as follows:

Population	FM fee	AM fee
Fewer than 100,000 adults	£339	£226
For each complete 100,000 adults	£509	£339

Annex 5

Copyright

A5.1 Each licensee will need to enter into agreements with the copyright licensing bodies before commencing broadcasting. Copyright legislation gives to the owner of the copyright in a musical work the right to authorise a number of specific acts in relation to that work, among them the rights to broadcast the work (whether directly from a live performance or from a recording) and to make a recording of the work. The broadcasting right in virtually all copyright music (whatever its national origin or means of performance) is licensed in the United Kingdom by the Performing Right Society (PRS), whose members are the composers, lyricists, arrangers and publishers of music. The contact details for PRS are as follows:

PRS
Copyright House
29-33 Berners Street
London W1T 3AB

Tel: 020 7306 4500

Website: <http://www.prs.co.uk>

A5.2 In addition, a separate right is granted to the makers of sound recordings. The right to broadcast copyright records is licensed on behalf of most record manufacturers by Phonographic Performance Limited (PPL). The contact details for PPL are as follows:

PPL
1 Upper James Street
London W1F 9DE

Tel: 020 7534 1203

Website: <http://www.ppluk.com>

A5.3 Under certain circumstances, a licensee may have to allow for paying fees for the 'mechanical right', as the right to record for broadcasting purposes is known. This right to record most copyright music for broadcasting purposes is licensed through the Mechanical Copyright Protection Society (MCPS), which is based at the same address as the PRS and, like the PRS, acts on behalf of composers, lyricists, arrangers and music publishers.