

Local Commercial Radio Licence Award: Banbury

The FM local commercial radio licence for the town of Banbury and the immediately surrounding area was awarded on 9 May 2005 to The Bear ("The New 102 Ltd").

Banbury licence award decision

When the Banbury licence was advertised last November, we stated that, given the small population coverage afforded by the licence, Ofcom would be likely to place particular emphasis on the ability of each applicant to maintain its proposed service for the duration of the licence period (Section 105(a) of the 1990 Broadcasting Act). As this is a 'smaller' licence, serving a locality which is not the sole focus (in editorial terms) of any existing service, we also said that Ofcom was likely to consider speech content more important than music proposals in assessing Section 105(c) - the extent to which each applicant would broaden the range of local commercial radio services available in the area, and that 105(c) might be considered less significant overall than Section 105(b) - the applicants' ability to cater for local tastes and interests.

Finally, in respect of Section 105(d) - the extent to which there is evidence of local demand or support for a proposed service - we said that non research-based evidence of local support would be likely to be considered alongside evidence of demand.

In considering the applications in relation to Section 105(a), Ofcom's Radio Licensing Committee (RLC) considered that the ownership of The Bear by CN Group, which owns a number of radio stations including the one of the same name in nearby Stratford-upon-Avon, would allow the new Banbury service to benefit from being part of an experienced, financially stable, company able to utilise the sharing of human and other resources between stations located in close proximity. The group's ability to maintain its proposed service was further demonstrated through its audience and revenue forecasts, which were based on realistic expectations, consistent with its own experience, of the likely performance of a station serving a small market such as Banbury.

In relation to Sections 105 (b) and (c), RLC members felt that The Bear's Format commitments to 25% speech output in daytime, and to broadcast two extended news bulletins each day, would increase and improve Banbury-specific news and information provision in the area. Of this speech output, the specific elements mentioned in the Format were well supported by the Bear's own market research, which suggests that these elements would cater to tastes and interests in the area. The Bear's market research also indicated that its proposed music mix would appeal to a broad audience.

The RLC considered that, in relation to Section 314 of the Communications Act 2003, The Bear's programming proposals (as clarified in response to questioning) contained a suitable proportion of local material and locally-made programmes. There will be some networked output, expected to be outside daytime.

With regard to Section 105(d), the RLC felt that The Bear provided the strongest evidence of likely demand for its format and programming proposals, by way of market research, the results of which supported both the music mix and the specific speech elements. The Bear also provided evidence of support from businesses, other organisations and individuals.

The following pages set out the statutory requirements relating to radio licensing, and the licensing process. Further information about these, and detailed information relating to the applications for the Banbury licence, can be found at:
<http://www.ofcom.org.uk/radio/ifi/rl/commer/ar/lapr/?a=87101>

Statutory requirements relating to radio licensing

In carrying out all of its functions, Ofcom is required to have regard to the general duties set out in Section 3 of the Communications Act 2003. In addition, under section 85(2)(b) of the Broadcasting Act 1990, it is the duty of Ofcom to do all that it can to secure the provision within the UK of a range and diversity of local radio services.

'Localness'

In carrying out its functions in relation to local commercial radio services specifically, Ofcom is required (under section 314 of the Communications Act 2003) to act 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.

For the purposes of the licensing process, 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, as such matters may well vary greatly between different types of service. Rather, it is for applicants to set out in their application the amount of local material and the proportion of locally-made programming they propose to provide, supported, as appropriate, by evidence of demand or support for such proposals. Ofcom will then consider on the basis of the application whether the amount of local material included is appropriate, and whether the proportion of locally-made programming is suitable, for that particular service proposal.

Specific local licence award criteria

In considering the applications it receives for local commercial radio licences, Ofcom is required to have regard to each of the statutory criteria set out in section 105 of the Broadcasting Act 1990. 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.

The legislation does not rate these requirements in order of priority, but it may be that Ofcom will regard one or more of the criteria as being particularly important in view of the characteristics of the licence to be awarded and the applications for it.

Process for assessment of applications

The Banbury licence was advertised on 10 November 2004. By the closing-date of 9 February 2005, three applications were received, as follows:

Banbury 107.6
Banbury FM
The Bear

All three applications proposed broadly full-service Formats including local news and information provision specifically for the Banbury area, although there was some variance in the demographics targeted by each service.

The membership of Ofcom's Radio Licensing Committee (RLC) for this licence award was as follows:

Ian Hargreaves, Ofcom Board member (Chair)
Kip Meek, Senior Partner, Competition & Content
Peter Bury, Director of Strategic Resources
Peter Davies, Head of Market Intelligence
Pam Giddy, Content Board member
Matthew MacIver, Content Board member
Neil Stock, Head of Radio Planning & Licensing

The applications were circulated among all members of the RLC as well as among relevant Ofcom colleagues. Copies of the non-confidential sections of the applications were made available for public scrutiny on the Ofcom website, and public comment on the local radio needs of listeners in the area, and the type of programme service required, was invited both at the time of the licence advertisement and on the day after the applications were received. The Radio Licensing Committee took all replies into account when reaching its decision.

The Radio Licensing Committee had an initial discussion of the applications at its meeting on 7 March 2005. This comprised an initial presentation by a member of Ofcom's Radio Planning & Licensing team, summarising the proposals put forward by each applicant as they relate to the statutory criteria, followed by an opportunity for the RLC members to highlight any questions of clarification and/or amplification they wished to be put to the applicants.

Shortly after this meeting, each applicant was invited to respond, within a two-week period, to written questions of clarification and/or amplification on aspects of their

proposals. The non-confidential questions and responses were subsequently made available for public scrutiny on the Ofcom website.

In line with Ofcom's published procedures, each application was awarded a score (of between 0 and 10) for each of the four statutory criteria contained in section 105 of the Broadcasting Act 1990. These scores provided an indicative picture of the perceived strengths and weaknesses of each application, and were used for guidance only. A summary of the scores was presented to the RLC at its 9 May 2005 meeting, as part of a paper which summarised the issues of relevance for each application under each of the statutory criteria. The information included in this paper was drawn both from the applications and the subsequent responses to questions of clarification and/or amplification.

Points for future applicants

1. It was noted by the RLC that two of the three applicants, in response to follow-up questioning by Ofcom, supplied a supplementary clarification to its Format commitments. Neither of these clarifications constituted a material amendment to the proposals. Applicants for other licences are reminded of the importance of the Format within the application, and of being very clear which proposals they intend to enshrine in the Format. Applicants are encouraged to pay particular attention to the notes concerning Format proposals in advertisements for future licences.
2. Applicants for licences in other areas should note that this licence award was made based on the particular characteristics of the Banbury market and the applications which were submitted. Although criterion 105(a) was accorded significant weight on this occasion, each licence award will be made on an individual basis, with regard to the factors which, in the view of Ofcom, are particularly relevant to that case. Where possible, the likely weight accorded to each of the statutory criteria will be signalled as part of each licence advertisement.