

Local Commercial Radio Licence Award: Cornwall

The FM local commercial radio licence for the county of Cornwall was awarded on 7 March 2005 to Atlantic Broadcasting Limited (Atlantic FM).

Cornwall licence award decision

When the Cornwall licence was advertised last September, we stated that, given the large geographical area and the relatively dispersed nature of the population to be served by this Cornwall licence, criterion (a) of section 105 of the Broadcasting Act 1990 – 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 – would be likely to be considered of particular importance.

We also said that as the licence is designed to serve a clearly defined locality (i.e. the county of Cornwall) which is not the sole focus (in marketing terms) of the only existing service available in the area, 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 – would be likely to be considered as important in relation to an applicant's proposals for speech content as it would be 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) of section 105, we said that non-research based evidence of support would be likely to be considered alongside evidence of demand, as Ofcom appreciated that applicants might have wished to provide such evidence. However, we advised that a limited number of carefully-selected expressions of support would be likely to be considered more meaningful than volumes of repetitious letters or petitions.

We also noted that this guidance is subject to discretion, and that Ofcom will always consider each of the four statutory criteria when making a licence award.

In considering the applications submitted for this licence, the Radio Licensing Committee took full account of three important factors which are specific to the advertised licence area. Firstly, the Committee noted that the sole existing local commercial radio service in the area, Pirate FM, has a very broad Format which does not include any specified target audience and does not define the particular style of music that the station must play. Secondly, it was recognised that Cornwall is a relatively large and rural area in which the population is highly dispersed, with no single town or city acting as the focus for a majority of the county's residents. Thirdly, the Committee noted the popularity of BBC Radio Cornwall among older listeners in the area, as evidenced by its share of listening according to RAJAR.

In relation to section 105(a), it was considered that the application by Atlantic FM benefited from the financial backing of Tindle Radio, a company which has a proven track record in successfully operating comparatively small radio stations in rural areas with a strong local identity, and which will also be able to provide local knowledge and contacts through its co-owned newspaper titles in the area. It was also considered that the establishment of a limited liability partnership to hold the stake in Atlantic FM of the non-corporate investors would enhance the potential efficiency and stability of the company structure, while some of these non-corporate

investors offer additional commercial radio expertise as well as local knowledge. This local knowledge was fully demonstrated in Atlantic FM's business plan, which displayed an extensive understanding of the local marketplace within which the station will operate, and made a convincing case based on the size of the market and the nature of the existing radio services in the area that the new service should not be confined by a narrow demographic target audience.

In terms of section 105(b), the Committee felt that the audience research conducted by Atlantic FM demonstrated convincingly that the service proposed in its application would cater for the tastes and interests of a substantial proportion of the local population, and that the Format proposed was an appropriate reflection of the programming philosophy outlined in the application.

The Committee recognised a particular difficulty in relation to section 105(c) resulting from the broad nature of Pirate FM's Format. Atlantic FM's proposal was to broaden choice in relation to Pirate FM by offering alternative output across a broad range of tastes and interests to a potential audience large enough to be commercially viable. The Committee felt that this proposal was superior to one which aimed to provide a service to a narrowly-defined age-group perceived to be underserved by Pirate FM's present output and potentially offering less positive commercial prospects. The Committee therefore felt that Atlantic FM's approach was appropriate in view of the characteristics of the market as outlined above.

In relation to section 105(d), as is indicated above, the Committee considered that the research conducted by Atlantic FM provided convincing evidence that a station aiming to appeal to a range of different ages and tastes would better provide a distinctive choice than one aimed specifically at a younger or older audience. The group's main survey was conducted among a large and representative sample of the local population, with the interviews conducted in-home to maximise the reliability of the responses, and the findings provide strong evidence of demand for the proposed music/speech balance and emphasis on localness and adult-oriented music in Atlantic FM's Format. The Committee recognised that other applicants had submitted more evidence of support for their proposals, in the form of letters, than had Atlantic FM, but felt that considerations in relation to section 105(a) were of greater significance in this particular licence award.

Finally, the RLC considered that, in relation to Section 314 of the Communications Act 2003, Atlantic FM demonstrated strong evidence of demand for the amount of local material and proportion of locally-made programming it proposed in its application. The station's proposed Format includes commitments to local news throughout daytime and other speech content of specific local relevance, and all of the programming will be produced and presented in Cornwall.

The following pages set out the statutory requirements relating to radio licensing, and details of the licensing process. Further information about these, and detailed information relating to the applications for the Cornwall licence, can be found at:

http://www.ofcom.org.uk/licensing_numbering/radio_sound_broadcasting/commercial_radio/ifmapps/corn/?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 Cornwall licence was advertised on 8 September 2004. By the closing-date of 8 December 2004, eight applications were received, as follows:

Atlantic Broadcasting Ltd. (Atlantic FM)
CKFM Kernow Ltd. (CKFM)
Cornwall Local Radio Ltd. (SouWest FM)
Extreme Radio Limited
IMD Radio Cornwall Ltd. (Itchy FM)
Kernow FM Ltd.
St Piran FM Ltd.
Time FM (Cornwall) Ltd.

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 (Co-chair)
Peter Bury, Director of Strategic Resources
Martin Campbell, Head of Content & Standards Radio Team
Peter Davies, Head of Market Intelligence
Matthew Maclver, Content Board member
Pam Giddy, Content Board member

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 20 January 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 7 March 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. Applicants for licences in other areas should note that this licence award was made based on the particular characteristics of the Cornwall licence area, and the applications which were submitted. 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.