

Local Commercial Radio Licence Award: Durham

The FM local commercial radio licence for the city of Durham and the immediately surrounding area was awarded on 7 April 2005 to Durham FM Ltd ('Durham FM').

Durham licence award decision

When the Durham licence was advertised last October, we stated that, given the relatively 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 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 Durham FM by The Local Radio Company, which owns neighbouring small-scale services in Darlington (Alpha 103.2) and Sunderland (Sun FM), would provide the new station with stable ownership, prior knowledge and experience of the local marketplace, and opportunities for some resource-sharing that could prove valuable in the context of a relatively small licence area. Durham FM's audience and revenue forecasts were considered to be achievable, and in this context RLC members noted the excellent ratings performance and track record of both Sun and Alpha in nearby areas which have a line-up of competitor stations very similar to that which the new Durham service will face.

In relation to Sections 105 (b) and (c), RLC members felt that the speech commitments contained in Durham FM's Format (such as a seven-day local news service) would improve Durham-specific news and information provision in the area, and that the overall programming proposals contained in the Format were both deliverable and would cater for local tastes and interests, as demonstrated by the group's research.

The RLC considered that, in relation to Section 314 of the Communications Act 2003, Durham FM's programming proposals contained a suitable proportion of local material and locally-made programmes. The station will offer locally-made output for 18 hours per day, and the Format includes commitments to delivering a range of local material. The Committee noted that, after two years on air, the station's Format gives it the ability to air networked programming at off-peak times, if it so chooses.

With regard to Section 105(d), the RLC felt that Durham FM provided the best balance of the three applicants between generally sound market research as evidence of demand for its proposals and strong evidence of local support for the proposed service from a range of local businesses, community 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 Durham licence, can be found at:

www.ofcom.org.uk/radio/ifi/rl/commer/ar/lapr/ifmapps/dh/

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 Durham licence was advertised on 7 October 2004. By the closing-date of 6 January 2005, three applications were received, as follows:

Durham 2Day FM Ltd (2Day FM)
Durham FM Ltd (Durham FM)
Durham Local Radio (Prince FM)

All three applications proposed broadly full-service Formats including local news and information provision specifically for the Durham 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:

Kip Meek, Senior Partner, Competition & Content (Chair)
Ian Hargreaves, Ofcom Board member (Co-chair)
Peter Bury, Director of Strategic Resources
Martin Campbell, Head of Content & Standards Radio Team
Peter Davies, Head of Market Intelligence
Pam Giddy, 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 17 February 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 April 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 Durham 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.