
Bauer Radio stations in the north of England

Request to create a new approved area

CONSULTATION:

Publication date: 25 September 2020

Closing date for responses: 23 October 2020

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1. Overview

Most local analogue commercial radio stations are required to produce a certain number of hours of locally-made programming. Under legislation passed in 2010, these stations are not only able to broadcast their locally-made hours from within their licence area, but may instead broadcast from studios that are based within a larger area approved by Ofcom. These wider areas are known as ‘approved areas’. Stations can also share their local hours of programming with other stations located in the same approved area.

Ofcom has approved an area for every local radio licence in the UK, to give stations more flexibility in their broadcasting arrangements. However, a licensee can ask Ofcom to approve a bespoke area, since the statutory framework allows for an approved area in relation to each local analogue service.

What we are consulting on – in brief

Bauer Radio has asked Ofcom to approve the creation of a new bespoke approved area in the north of England which would include the Northallerton licence, currently part of the North East of England Ofcom approved area, in a new approved area alongside 16 FM licences held by Bauer which are currently in the Yorkshire & Lincolnshire Ofcom approved area. If approved, the new approved area would be known as ‘Yorkshire & Lincolnshire (Bauer)’.

The proposed new ‘Yorkshire & Lincolnshire (Bauer)’ area would be approved for the following 17 licences: Barnsley; Bassetlaw; Bradford & Huddersfield FM; Bridlington; Chesterfield; Doncaster; Grimsby; Harrogate; Humberside FM; Leeds FM; Lincoln; Northallerton; Rotherham; Scarborough; South Yorkshire FM; Wakefield, and; York.

We are seeking views on Bauer Radio’s proposal, before we decide whether or not to approve the requested area. Our preliminary view is that we are minded to approve these requests, for the policy reasons set out in Section 3 of this document.

The consultation closes at **5pm on 23 October 2020**.

2. Details and background information

- 2.1 In relation to any given local commercial radio station, a locally-made programme is defined (in statute) as one which is made at premises in the area the station broadcasts to, or at premises located somewhere else but still within a larger area which includes the station’s broadcast area. The latter is called an ‘approved area’, because it must be approved by Ofcom (after consultation). The concept of approved areas was established in 2010 to give local stations greater flexibility over where they make their programmes – in practice, it has enabled the larger commercial radio groups to rationalise the number of studios they operate, and stations in relatively close geographical proximity to share their locally-made programmes (providing the output can still be considered to be locally-relevant to listeners in each of the individual broadcast areas).
- 2.2 An approved area relates to an individual station, which means that every local station can, in theory, have a different approved area. Historically, Ofcom has taken a mixed approach, whereby it first (in 2010) approved a set of areas such that every station in a defined geographical area of the UK had the same approved area¹, but also subsequently permitted different approved areas for some stations (for example, where two or more stations were located in more than one of the already approved areas) in response to individual requests from licensees.
- 2.3 In August 2018, Ofcom consulted on a new set of approved areas which were mostly larger than those set in 2010 on the basis that the findings of our research suggested that the location of presenters was not considered to be as important as the delivery of local material, and that technological developments have made it easier to gather and produce local material without having to be physically located in the local area. We also said that the larger approved areas would give licensees greater freedom to determine where to locate their studios and make their content, and that this flexibility would enable radio groups which own multiple licences in the same region to put more resources into programme making and less into the “bricks and mortar” costs of maintaining separate local studios.
- 2.4 The new approved areas were designed to broadly match (with a few differences) the ITV regions. This was on the basis that the ITV regions are an already well-established framework for the delivery of sub-UK-wide broadcast programming, which both audiences and advertisers have a degree of familiarity with. We approved these areas in our [statement of October 2018](#) (for England, Northern Ireland and the Channel Islands) and, following a second consultation process, in [March 2019](#) (for Scotland and Wales). In the October 2018 statement, we recognised that some licensees may wish to seek approval of a different approved area for their stations for reasons including the strategic and commercial interests of the radio groups concerned.

¹ The only exceptions to this were Greater London and northern Scotland. Any stations located in these areas needed to ask Ofcom to approve an area on a case-by-case-basis.

- 2.5 We said that any licensee who wishes to have a different approved area for its stations may submit a request to us to approve the proposed area. In accordance with the statute, any such requests will need to be consulted on before Ofcom can approve them². We also said that these requests will continue to be considered on a case-by-case basis using the criteria of station size, affinities between the station areas concerned, distance between stations and financial viability, as set out in our current guidance on [the regulation of Format changes](#).
- 2.6 In August 2020, we received a request from Bauer Radio asking Ofcom to approve the creation of a new bespoke approved area, known as ‘**Yorkshire & Lincolnshire (Bauer)**’ for the purposes of Section 314 of the Communications Act 2003. The proposed new approved area would incorporate the following FM local radio licences owned by Bauer:
- Barnsley (Greatest Hits Radio)
 - Bassetlaw (Greatest Hits Radio)
 - Bradford & Huddersfield (Pulse 1)
 - Bridlington (Greatest Hits Radio)
 - Chesterfield (Greatest Hits Radio)
 - Doncaster (Greatest Hits Radio)
 - Grimsby (Greatest Hits Radio)
 - Harrogate (Greatest Hits Radio)
 - Humberside (Viking FM)
 - Leeds (Greatest Hits Radio)
 - Lincoln (Lincs FM)
 - Northallerton (Greatest Hits Radio)
 - Rotherham (Greatest Hits Radio)
 - Scarborough (Greatest Hits Radio)
 - South Yorkshire (Hallam FM)
 - Wakefield (Greatest Hits Radio)
 - York (Greatest Hits Radio)
- 2.7 Bauer Radio’s request in full is set out in Annex 6. The Northallerton licence is currently within the North East of England Ofcom approved area.
- 2.8 We also note that, since Bauer’s submission of the request in August 2020, the station is now part of Bauer’s ‘Greatest Hits Radio’ network and as such is no longer known as ‘Minster FM’.
- 2.9 If the creation of the Yorkshire & Lincolnshire (Bauer) approved area is approved by Ofcom following this consultation, Bauer Radio will be able to request – for stations it owns within in this area – a Format change to provide the locally-made programming on those stations from studios located anywhere within the new approved area.
- 2.10 In accordance with our published policy, we would also be likely to approve any Format change requests we might receive relating to programme sharing where all the stations

² Under s.314(9) of the Communications Act 2003.

involved are located within the same approved area, provided we are satisfied that the stations involved will continue to meet their licence obligations to provide local material relevant to the listeners in their individual licence areas. This would mean that, if the creation of the Yorkshire & Lincolnshire (Bauer) approved area is approved, Ofcom would be likely to give consent to any programme sharing requests between licences in the area, provided we are satisfied that those stations will continue to meet such obligations.

- 2.11 Should this request be approved, for the purposes of co-location and programme sharing, Ofcom would no longer consider the Northallerton licence to be part of the North East of England Ofcom approved area. It means that, should Bauer wish in the future to co-locate studios and/or share programming between its local FM stations in the North East of England, it would not be able to include the Northallerton licence in those arrangements (since the Northallerton licence would now be part of a different approved area).

3. Consideration of the request

- 3.1 Annex 5 contains Bauer Radio’s request to create a new approved area called ‘Yorkshire & Lincolnshire (Bauer)’. The request has been made on the basis of section 314 of the Communications Act 2003.
- 3.2 In its request, Bauer Radio has provided reasons why it believes that the Northallerton licence would be better placed within its proposed new ‘Yorkshire & Lincolnshire (Bauer)’ area, based on the affinities between the station areas concerned.
- 3.3 Ofcom’s preliminary view of Bauer Radio’s request is that we are minded to **approve** the creation of the Yorkshire & Lincolnshire (Bauer) approved area.
- 3.4 Our preliminary view is based upon the fact that:
- Changes that have taken place, with Ofcom’s authorisation, over time to the co-location and programme sharing arrangements of the Northallerton licence make this a reasonable request. Originally, as ‘Star FM North East’ the Northallerton licence was permitted to co-locate and share programming with the Darlington and Durham licences, within Ofcom’s North East of England approved area. However, in 2017 the licensee was given permission by Ofcom to co-locate and share programming with the York (‘Minster FM’) licence instead. The York licence is in Ofcom’s Yorkshire & Lincolnshire approved area.
 - We accept Bauer’s argument that there are some common listener affinities throughout the county of North Yorkshire, noted when accepting the 2017 programme sharing and co-location request (see above), and that Northallerton is within the Yorkshire and the Humber local government area.
- 3.5 We acknowledge that the map Ofcom published in Annex A2 of our October 2018 Statement on ‘Localness on commercial radio’ to illustrate the new approved areas (and reproduced by Bauer in its submission) was inaccurate in that it erroneously shows the Northallerton licence as sitting within the Yorkshire & Lincolnshire approved area. The list of Approved Areas by licence at Annex 4 of that document confirms that the Northallerton licence was in fact allocated to the North East of England approved area. We apologise for any confusion this error may have caused.

Consultation question

Question 1: Do you agree that, for the purposes of where locally-made programming may come from, Ofcom should approve the ‘Yorkshire & Lincolnshire (Bauer)’ approved area in relation to the 17 local FM licences listed in Section 2 of this document? If you do not agree, please give reasons.

A1. Responding to this consultation

How to respond

- A1.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on Friday 23 October 2020.
- A1.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-3/bauer-radio-stations-north-of-england>. You can return this by email to the address provided in the response form.
- A1.3 If your response is a large file, or has supporting charts, tables or other data, please email it to approved.areas@ofcom.org.uk, as an attachment in Microsoft Word format, together with the [cover sheet](#). This email address is for this consultation only, and will not be valid after 23 October 2020.
- A1.4 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- Send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files. Or
 - Upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A1.5 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A1.6 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt if your response is submitted via the online web form, but not otherwise.
- A1.7 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A1.8 It would be helpful if your response could include direct answers to the question asked in the consultation document. The question is listed at Annex 4. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom’s proposals would be.
- A1.9 If you want to discuss the issues and questions raised in this consultation, please contact Jon Heasman on 020 7783 4509, or by email to jon.heasman@ofcom.org.uk.

Confidentiality

- A1.10 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that

everyone who is interested in an issue can see other respondents' views, we usually publish all responses on [our website](#), as soon as we receive them.

- A1.11 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A1.12 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.13 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further in our [Terms of Use](#).

Next steps

- A1.14 Following this consultation period, Ofcom plans to publish a statement in June 2020.
- A1.15 If you wish, you can [register to receive mail updates](#) alerting you to new Ofcom publications.

Ofcom's consultation processes

- A1.16 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 2.
- A1.17 If you have any comments or suggestions on how we manage our consultations, please email us at consult@ofcom.org.uk. We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.18 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary:

Corporation Secretary
Ofcom
Riverside House
2a Southwark Bridge Road
London SE1 9HA
Email: corporationsecretary@ofcom.org.uk

A2. Ofcom's consultation principles

Ofcom has seven principles that it follows for every public written consultation:

Before the consultation

- A2.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. If we do not have enough time to do this, we will hold an open meeting to explain our proposals, shortly after announcing the consultation.

During the consultation

- A2.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A2.3 We will make the consultation document as short and simple as possible, with a summary of no more than two pages. We will try to make it as easy as possible for people to give us a written response. If the consultation is complicated, we may provide a short Plain English / Cymraeg Clir guide, to help smaller organisations or individuals who would not otherwise be able to spare the time to share their views.
- A2.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A2.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A2.6 If we are not able to follow any of these seven principles, we will explain why.

After the consultation

- A2.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish all the responses on our website as soon as we receive them. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

A3. Consultation coversheet

BASIC DETAILS

Consultation title: Bauer Radio stations in the north of England – request to create a new approved area

To (Ofcom contact): Jon Heasman

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts? _____

If you want part of your response, your name or your organisation not to be published, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.

Name

Signed (if hard copy)

A4. Consultation questions

Question 1: Do you agree that, for the purposes of where locally-made programming may come from, Ofcom should approve the 'Yorkshire & Lincolnshire (Bauer)' approved area in relation to the 17 local FM licences listed in Section 2 of this document? If you do not agree, please give reasons.

A5. Bauer’s approved area request

Bauer wishes to apply to change the Approved Area for the licence AL307 covering Northallerton from the North East England Approved Area to the Yorkshire & Lincolnshire Approved Area to ensure it continues to align appropriately with local and regional affinities.

Figure 1: Map of Approved Areas



In recent years, Minster FM Northallerton has been sharing all content with Minster FM York and has been co-located with Minster FM in York. The Northallerton licence has an MCA population coverage of 35,231 and was deemed too small by its then owners to operate as a stand-alone station.

The York station now has permission to share programming and co-locate with other stations in the Yorkshire & Lincolnshire Approved Area.

However, although the Ofcom map of Approved Areas shows that Northallerton is in the Yorkshire and Lincolnshire Approved Area it is listed in the Ofcom table as being in the North East Approved Area, as a number of years ago, before the introduction of the original Approved Areas, the licence was given permission to share programming and co-locate with the licence in Darlington which is now in the North East Approved Area.

In order to continue to share programmes and co-locate with the York licence the Northallerton licence must seek a change to its Approved Area.

Northallerton is the county town of North Yorkshire and the area has strong connections with York and the rest of Yorkshire. Along with the other Bauer stations in Yorkshire it is also in the

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Government Region of Yorkshire and the Humber. For these reasons it more properly belongs in the Yorkshire & Lincolnshire Approved area.