



Guidance note for public interest
test on the completed acquisition
of GMG Radio Holdings Limited by
Global Radio Limited

Publication date:

3rd August 2012

Background and Ofcom's role

On 24th June 2012 Global Radio Limited acquired the entire issued share capital of GMG Radio Holdings Limited. On 2nd August 2012 the UK Secretary of State for Culture, Media, Sport and the Olympics issued an intervention notice specifying the public interest consideration: "the need, in relation to every different audience in the United Kingdom or in a particular area or locality of the United Kingdom, for there to be a sufficient plurality of persons with control of the media enterprises serving that audience". The Secretary of State requested that Ofcom should report by 28th September 2012 on the effect on this consideration of the acquisition.¹ This document outlines how we will proceed.

Our role is to conduct an initial investigation into the public interest consideration and to provide advice and recommendations on it which may be relevant to the Secretary of State's decision on whether he should refer the case to the Competition Commission for further analysis. We will focus on the effects of the merger on the consideration specified by the Secretary of State, and will not deal with competition issues. These fall within the jurisdiction of the Office of Fair Trading. Our report to the Secretary of State will also include a summary of any representations about the case that we receive from the merging parties and other interested parties.

It is for the Secretary of State to decide whether to refer the case to the Competition Commission, in the light of our report.

Process guidance

Our process is divided into two main parts:

- information gathering and analysis; and
- developing our advice to the Secretary of State.

Information gathering and analysis

Publication of the invitation to comment: We have published an *invitation to comment* on our website. This document outlines the points on which we would particularly welcome stakeholders' input, and explains how to make representations to Ofcom on this issue. We invite written responses, supported by evidence, to be submitted no later than **17th August 2012**.

Engagement with the merging parties: Ofcom might request information from the merging parties. Requests for information will be made during the first week. Soon after the requests are made, the merging parties should discuss with Ofcom the availability of the requested data and the form in which it will be made available. The deadline for supplying the information will be short, and in any case no later than **21st August 2012**.

Engagement with third parties: Meetings with third parties may also be held, where appropriate and as allowed within the timescale set by the Secretary of State.

¹ This intervention notice also requires that the Office of Fair Trading advises the Secretary of State on the considerations relevant to the making of a reference under section 22 or 33 of the Enterprise Act 2002 which are relevant to the decision on whether to make a reference under the provision of the Enterprise Act 2002. These are essentially jurisdictional matters. The Office of Fair Trading may also provide a summary of representations received from third parties relating to the media plurality considerations. See further [OFT Mergers - Jurisdictional and procedural guidance](#) (paragraphs 9.1 to 9.10).

Ofcom strictly observes confidentiality in all aspects of its operations. This applies to material supplied by both the merging parties and other interested third parties. We will give the Secretary of State all relevant submissions (including confidential ones) to enable him to make his decision. We will require a full non-confidential version of any confidential submissions, together with reasons why information should be treated as confidential.

Internal analysis: Ofcom will begin its analysis of this matter today. This will draw on stakeholders' submissions, information that Ofcom already has available in-house, and any relevant research it is possible to conduct in the timescale set by the Secretary of State.

Defining our advice to the Secretary of State

As soon as practicable we will consolidate the results of our internal analysis and the points raised by stakeholders to reach a provisional position on our recommendation to the Secretary of State.

If our provisional position were that this case raises potentially material public interest issues, we would send an *issues letter* to the merging parties, setting out the core arguments and evidence in the case. If appropriate and practicable, the letter would include the offer of an *issues meeting* at which the merging parties could discuss our draft position and the analysis underpinning it. We envisage an interval of two or three working days between receipt of any issues letter and the issues meeting. The parties may also submit a written response to our provisional position within five days of receipt of the issues letter.

Ofcom will finalise its report and send it to the Secretary of State by **28th September**, together with any other material that may be relevant to his decision.

The Secretary of State will decide whether the case should be referred to the Competition Commission for further analysis. The Secretary of State will publish his decision and our report simultaneously.

If the Secretary of State makes a reference to the Competition Commission, Ofcom will make all relevant information in its possession available to the Competition Commission to allow it to conduct its analysis.

Next steps and key dates

- **3rd August:** publication of the invitation to comment.
- **17th August:** deadline for written representations from all stakeholders.
- **21th August:** merging parties' responses to Ofcom's information requests.
- **By 28th September:** Ofcom submits its report (including its recommendation and a summary of stakeholders' submissions) and any other relevant material to the Secretary of State.