
Bauer Radio stations in the west of England

Request to create a new approved area

CONSULTATION:

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Closing Date for Responses: 04 June 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.

In October 2018 Ofcom introduced a new set of larger approved areas in England¹ to give stations more flexibility in their broadcasting arrangements. We also said that we would consider requests from licensees to create new, bespoke, approved areas, 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 approved area in the west of England for each of the following FM local radio licences the company owns:

- Bath (The Breeze)
- Bridgwater & West Somerset (The Breeze)
- Bristol (Sam FM)
- Bristol (The Breeze)
- Cheltenham (The Breeze)
- Cornwall (Pirate FM)
- Shaftesbury (The Breeze)
- Swindon (Sam FM)
- Torbay (The Breeze)
- Warminster (The Breeze)
- Weston-super-Mare (The Breeze)
- Yeovil (The Breeze)

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 this request, for the policy reasons set out in Section 3 of this document.

The consultation closes at **5pm on Thursday 04 June 2020.**

¹ The approved areas for Scotland and Wales were confirmed by Ofcom in March 2020, following a further consultation process.

2. Details and background information

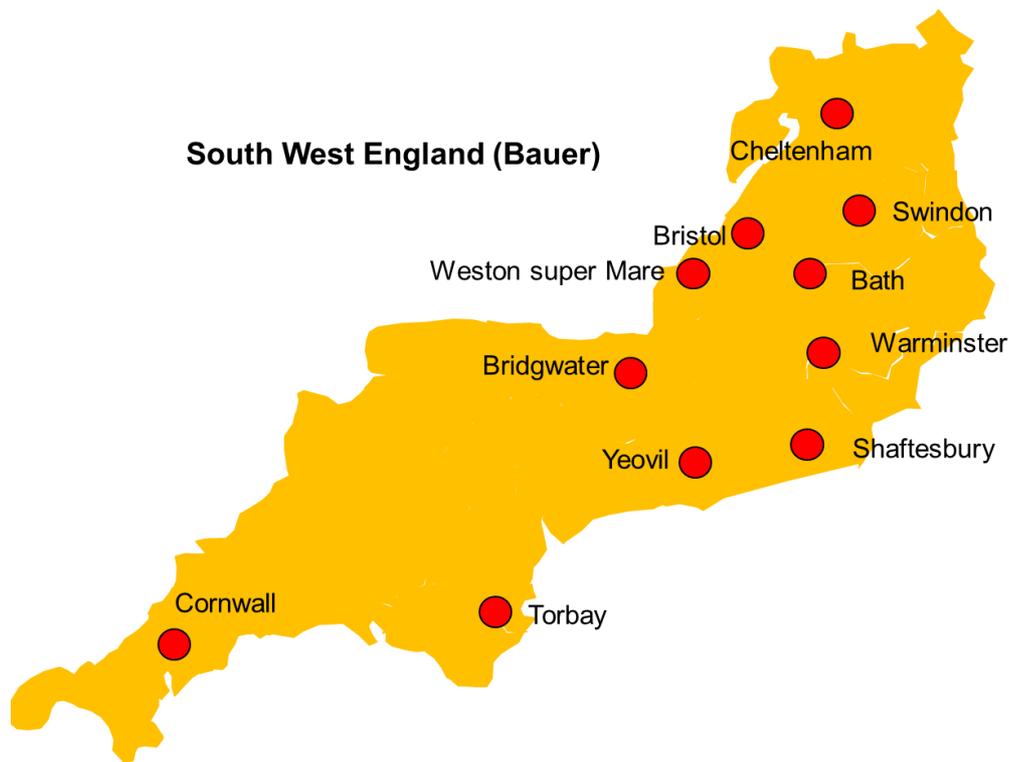
- 2.1 In relation to any given local commercial radio station, a locally-made programme is defined (in statute) as one which is made at premises in the area the station broadcasts to, or at premises located somewhere else but still within a larger area which includes the station’s broadcast area. The 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 area², 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.

² 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 them³. 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 March 2020, we received a request from Bauer Radio asking that Ofcom designate an approved area which it has labelled as ‘**South West England (Bauer)**’, as an approved area for the purposes of Section 314 of the Communications Act 2003, for each of the following FM radio licences:
- Bath (The Breeze)
 - Bridgwater & West Somerset (The Breeze)
 - Bristol (Sam FM)
 - Bristol (The Breeze)
 - Cheltenham (The Breeze)
 - Cornwall (Pirate FM)
 - Shaftesbury (The Breeze)
 - Swindon (Sam FM)
 - Torbay (The Breeze)
 - Warminster (The Breeze)
 - Weston-super-Mare (The Breeze)
 - Yeovil (The Breeze)
- 2.7 Bauer Radio’s request in full is set out at Annex 6, and includes the following map (overleaf) of the proposed new South West England (Bauer) approved area, which combines most of the Ofcom ‘West of England’ approved area with a small part of the Ofcom ‘Central’ approved area (specifically, the county of Gloucestershire).

³ Under s.314(9) of the Communications Act 2003.

Proposed ‘South West England (Bauer)’ approved area



- 2.8 If the creation of the South West England (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.
- 2.9 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 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 South West England (Bauer) approved area is approved, Ofcom would be likely to give consent to any programme sharing requests between the licences listed at paragraph 2.6, provided we are satisfied that those stations will continue to meet such obligations.

3. Consideration of the request

- 3.1 Annex 6 contains Bauer Radio’s request to create a new approved area called ‘South West England (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 the approved South West England (Bauer) area would be appropriate in relation to each of the 12 licences concerned, based on consistency with Ofcom’s approved area policy, considerations of distances between stations and 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 South West England (Bauer) area.
- 3.4 Our preliminary view is based upon the fact that:
- Gloucestershire forms part of the ‘ITV West’ region and is therefore consistent with our general approach of approved areas broadly matching ITV regions.
 - We accept Bauer’s argument that listeners in Gloucester are, in terms of cultural affinity, generally more likely to look towards Bristol (in Ofcom’s west of England approved area) than Birmingham (in Ofcom’s Central approved area).
 - We note that Gloucestershire sits in the UK Government’s ‘South West’ region rather than its ‘Midlands’ region.
 - We approved a very similar request last year from Global Radio, which saw the area served by the Cheltenham & Gloucester licence added to the existing Ofcom West of England approved area (minus the counties of Hampshire and Dorset) to create a new approved area (‘South West and West Country’) for each of Global’s stations in that region.

Consultation question

Do you agree that, for the purposes of where locally-made programming may come from, Ofcom should approve the ‘South West England (Bauer)’ area in relation to the 12 local 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 Thursday 4 June 2020**.
- A1.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-3/bauer-radio-stations-west>. 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 (<https://www.ofcom.org.uk/consultations-and-statements/consultation-response-coversheet>). This email address is for this consultation only, and will not be valid after 4 June 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, www.ofcom.org.uk, 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 at <https://www.ofcom.org.uk/about-ofcom/website/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; for more details please see <https://www.ofcom.org.uk/about-ofcom/latest/email-updates>

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 West 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 question

Do you agree that for the purposes of where locally-made programming may come from, Ofcom should approve the 'South West England (Bauer)' area in relation to the 12 local licences listed in Section 2 of this document? If you do not agree, please give reasons.

A5. Ofcom approved areas

The approved areas for England, Scotland, Wales and Northern Ireland, confirmed by Ofcom's statements dated 26 October 2018 and 4 March 2019, are shown on the map below.



A6. Bauer Radio's request to create a new approved area in the west of England

Request to change Approved Areas

Bauer wishes to apply to change the Approved Area for our stations in the West of England to align them more appropriately with local and regional affinities.

We request that the boundaries for our approved area be re-drawn as follows:

South West England (Bauer)

The Approved Area would be as the Ofcom Approved Area for the West of England region but

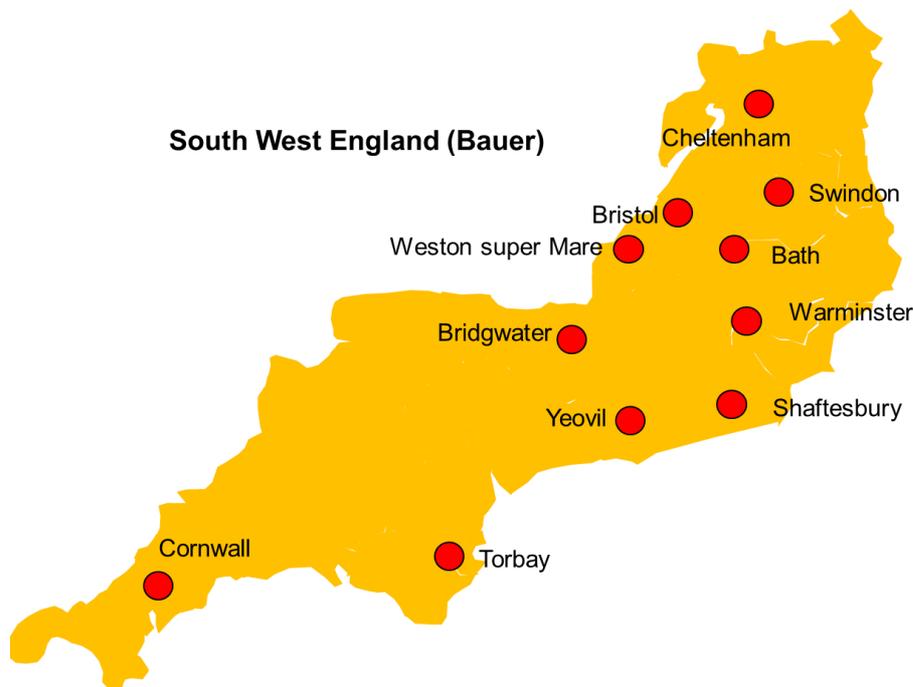
- excluding: Hampshire, the Isle of Wight, Southampton, Portsmouth, Bournemouth, Poole, the south eastern part of Wiltshire and most of Dorset (but not the north western parts of the county); and
- including: Gloucestershire.

Five Bauer-owned stations would be affected:

- The Breeze Cheltenham moves from the Midlands to the South West
- Wave 105 (Solent), Fire (Bournemouth), Wessex FM (Weymouth & Dorchester) and Spire FM (Salisbury) move from the West of England to the South of England.

Please note that the request for this change provides for future flexibility and does not imply that all stations will co-locate and share programming.

The proposed new area and the Bauer stations affected are shown in the map below:



Justification

The justification for the changes is as follows:

South West England (Bauer)

While our station in Herefordshire & Worcestershire sits properly within the Ofcom Midlands Approved Area, we propose to move Gloucestershire (including our station in Cheltenham) to the revised South West Approved Area.

- In ITV licence terms Gloucestershire is in the West of England (Westcountry) while Hereford & Worcester are in the Midlands (Central) region (see map of ITV regions below). In fact, even though the majority of the three counties are served by a single TV transmitter at Ridge Hill, Ofcom specifically made provision to split the signal from the transmitter, providing the Midlands service to Hereford & Worcester and the West of England service to Gloucestershire. This was in recognition of different viewer affinities
- Audiences in Gloucestershire have a far greater affinity with Bristol than they do with Birmingham. The opposite is true of viewers in Hereford & Worcester and many regional services are provided on this basis.
- In terms of Government regions (map 2) Gloucestershire is in the South West and Hereford & Worcester in the Midlands.

This change is in addition to moving the Solent area into the South of England (see separate request submitted to Ofcom).

Making these changes would have no impact on any existing sharing or co-location arrangements.

Map of ITV regions



Map of English regions

