

Sean Og Mac Braoin for Blast 106

Blast106 Limited

Response to Consultation.

We welcome any proposals that reduce the administrative burden on Community Radio stations as this frees them up to concentrate on their primary purpose – to meet the needs of their respective communities, as determined by those communities and not by any body who may have scant knowledge of or regard to those respective communities.

Equally we recognise the pressure on public bodies to reduce unnecessary costs and therefore reduce unnecessary regulatory activities which are not essential to maintaining adherence to the spirit of the legislation which gave rise to the establishment of community radio stations, and as amended.

Having said that, the Directors must also have regard to the track record in this area of Ofcom and the finding of the Courts. Accordingly in considering this consultation the Directors must have regard to:

1. That the High Court in Northern Ireland found Ofcom guilty of having acted unlawfully on repeated occasions.
2. That the 3 Lord Justices of the Northern Ireland Court of Appeal declared that Ofcom had disabled itself from administering a fair process. We concur with the view of the three learned Lord Justices
- 3 That Ofcom, in considering applications to update Key Commitments and in considering applications for licence extensions, have ignored overwhelming support from communities in support of changes or in support of licence extensions, which calls into question the qualification or suitability of persons within Ofcom to determine what individual communities want of their stations in relation to the core values of the Community Radio Order, as amended.
4. Judicial precedence in relation to the establishment of licences as statutory instruments. The principle of that judgement was such that licences were not contractual where negotiation did not take place as to the content of the licence (i.e. no offer/acceptance existed beyond accepting the statutory instrument). As Key Commitments have typically involved negotiation over the content of the Key Commitments, then the licence is a statutory instrument but Annex A (the Key Commitments) would be contractual by definition and in accordance with the judicial decision.

Do you agree with the proposal to revise Key Commitments as set out in this consultation? Please explain the reasons for your view.

Answer: We would support simplification of Key Commitments but only in that any changes to existing Key Commitments must be agreed with licensees and increase the quantifiable targets contained in commitments so that their attainment can be fairly and unambiguously judged against specific targets.

We oppose any changes to Key Commitment which would lead to increased subjectivity or interpretation by persons who are not members of the community for which the station is established to serve.

Increased quantifiable targets within Key Commitments will reduce complaints by the community and simplify Ofcom's regulatory work as whether or not a station is fulfilling its obligations will be a 'black & white' issue and will eliminate any confusion, subjectivity or disagreement.

This position does not inhibit a station from achieving beyond these targets but helps establish a minimum threshold for stations which they must achieve to be compliant with their licence before expanding their activities to other additional areas of social gain.

As this is a most serious matter we believe that any station which does not agree with Ofcom's proposed changes to their licence must be afforded appropriate appeal procedures including oral hearing as established by Supreme Court precedence.