

Community radio licence award: January 2017

In January 2017 Ofcom awarded a community radio licence to Shoreline (Retrocadia Ltd). The licence is for a service in Romney Marsh, Kent.

Licence award

All community radio services must satisfy certain 'characteristics of service' which are specified in regulation 3 of the Community Radio Order 2004. Ofcom was satisfied that the applicant awarded a licence met these 'characteristics of service'. In addition, the application was considered having regard to the matters set out in section 105 of the Broadcasting Act 1990 ('BA 1990') (as modified by the Community Radio Order 2004, as itself amended by the Community Radio (Amendment) Orders 2010 and 2015). A summary of these matters is set out below. The key considerations in relation to these matters, which formed the basis of Ofcom's decision to award the licence, are also set out below. Where applicable, the relevant sub-paragraph of section 105(1) of the BA 1990 is noted in brackets. (Please see the section on matters to which Ofcom must have regard, set out below, for full details of each subsection.)

Ofcom was satisfied that the new service would not prejudice unduly the economic viability of any other local analogue commercial radio service (section 105(3) of the BA 1990).

The service will be licensed for a period of five years from the date of its launch, on FM.

Shoreline (Retrocadia Ltd)

Shoreline will be a community radio service for the middle and older age group in Dymchurch and surrounding areas of Romney Marsh.

Ofcom noted that the applicant proposed a low-cost service, which will share studio premises with an existing internet radio service, and be entirely run by volunteers. Ofcom considered that this was an appropriate model for a community service in this rural area. As a result, Ofcom was satisfied the applicant could maintain the proposed new service (1a).

The applicant has established partnerships with some organisations and links with others to help it deliver a service that will cater for the tastes and interests of the target community (1b). Ofcom considered that the proposed service, of predominantly easy listening music with local information and other speech features for the target community, would broaden choice in relation to existing radio services available in the Romney Marsh area (1c). The applicant provided evidence of support for the proposed service (1d).

Background

An application from Retrocadia Ltd ("Retrocadia") for a community radio licence was submitted in October 2015, for the south east England region (outside the M25). Ofcom was unable to consider this application within the timeframe set out in our invitation document, and in July 2016 made a decision not to award a licence to Retrocadia. After considering submissions made by Retrocadia relating to the delay in considering this application and to changes to the applicant's circumstances, Ofcom offered Retrocadia the opportunity to submit an amended version of its application for a community radio licence for fresh

consideration. Retrocadia took up this offer and submitted an amended application in October 2016.

The application by Retrocadia is for an area in Romney Marsh in Kent, where there were no competing applications, for which a frequency has been identified, and where there is no existing locally-focussed radio service.

Statutory requirements relating to community radio licensing

The following pages set out the statutory requirements relating to community radio licensing, and details of the licensing process. Further information about these, and detailed information relating to community radio, can be found at:

licensing.ofcom.org.uk/binaries/radio/community/thirdround/notesofguidance.pdf

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) BA 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.

The characteristics of a community radio service

In respect of the licensing of community radio services in particular, all community radio licensees must satisfy 'characteristics of service' requirements which are specified in Article 3 of the Community Radio Order 2004. The characteristics of community radio services are:

- That they are local services provided primarily for the good of members of the public, or of particular communities, and in order to deliver social gain, rather than primarily for commercial reasons or for the financial or other material gain of the individuals involved in providing the service;
- That the service is intended primarily to serve one or more communities (whether or not it also serves other members of the public);
- That the person providing the service does not do so in order to make a financial profit by so doing, and uses any profit that is produced in the provision of the service wholly and exclusively for securing or improving the future provision of the service, or for the delivery of social gain to members of the public or the community that the service is intended to serve;
- That members of the community it is intended to serve are given opportunities to participate in the operation and management of the service;
- That, in respect of the provision of that service, the person providing the service makes himself accountable to the community that the service is intended to serve.

Article 2 of the Community Radio Order 2004 includes four mandatory “social gain” objectives. “Social gain” means the achievement, in respect of individuals or groups of individuals in the community that the service is intended to serve, or in respect of other members of the public, of the following objectives:

- the provision of sound broadcasting services to individuals who are otherwise underserved by such services,
- the facilitation of discussion and the expression of opinion,

- the provision (whether by means of programmes included in the service or otherwise) of education or training to individuals not employed by the person providing the service, and
- the better understanding of the particular community and the strengthening of links within it.

Article 2 also includes a number of other objectives of a social nature which may be considered to represent "social gain".

Matters to which Ofcom shall have regard

There are seven matters set out in section 105(1) BA 1990 that Ofcom must have regard to when considering whether to grant a community radio licence. In summary these are:

- The ability of each applicant to maintain its proposed service over the licence period (section 105(1)(a));
- The applicant's ability to cater for the tastes and interests of the target community (section 105(1)(b));
- The extent to which each applicant would broaden the range of local radio services available in the area, and have a content distinct from those services (section 105(1)(c));
- The extent to which there is evidence of local demand or support for a proposed service (section 105(1)(d));
- The extent to which the service would deliver social gain benefits to the public or relevant community (section 105(1)(e));
- Provisions for making the operator of service accountable to the relevant community (section 105(1)(f));
- Provisions for allowing access by members of the public or the relevant community to the station facilities, and the provision of training in the use of those facilities (section 105(1)(g)).

In considering whether, or to whom (and on what conditions), to grant a community radio licence, Ofcom must also have regard to the need to ensure that any service provided under that licence does not prejudice unduly the economic viability of any other local commercial radio service.

Furthermore, without prejudice to the generality of that economic impact requirement, section 105(4) BA 1990 requires Ofcom to impose conditions to ensure, in effect, that any community radio service is prohibited from taking any relevant income from paid advertising and sponsorship of programmes except in the following respects:

- a 'fixed revenue allowance' totalling £15,000 per financial year of the licensee for such relevant income - this exception applies to any community radio service where that service overlaps with any local commercial radio service serving a potential audience of no more than 150,000 persons who have attained the age of 15 years or older;
- a 'fixed revenue allowance' totalling £15,000 per financial year of the licensee for such relevant income plus a proportion of the total relevant income (specified by Ofcom in the licence), but which must not exceed 50% of the total relevant income

(disregarding the fixed revenue allowance) for the licence in question in that year - this exception applies to all community radio services other than a community radio service referred to in (i) above. It should be noted that a community radio service that overlaps with any local commercial radio service serving a potential audience of no more than 150,000 persons who have attained the age of 15 years or older, which has at any time been varied pursuant to section 106(1A)(e) BA 1990, is also covered by this exception.

For the avoidance of doubt, programme sponsorship includes station or channel sponsorship, and commercial communications.

Process for assessment of applications

The Ofcom Board has delegated the discharge of certain of its functions in relation to television and radio broadcast licensing to one or more senior executives from Ofcom's Content & Media Policy Group. Each of those individuals, on their own or together, have responsibility for deciding on the award of community radio licences

The decision-makers for this latest licence award were Ofcom's Director of Content Standards, Licensing and Enforcement, and Ofcom's Director, Broadcast Licensing.

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