
Bauer Radio approved area requests

For the south and west of England

STATEMENT

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1. Overview

Most local analogue commercial radio stations are required, pursuant to the Communications Act 2003, to produce a certain number of hours of locally-made programming. Until legislative amendments passed in 2010, the definition of “locally-made” was limited to programmes made at a studio in the station’s licensed area. Now, however, such programmes may also be made elsewhere within a larger area approved by Ofcom. These wider areas are known as ‘approved areas’. It is Ofcom’s general policy that, in addition to broadcasting locally-made programming from anywhere in its approved area, a station can also share this locally-made programming with other stations located in the same approved area as long as the service provided by each station includes local material relevant to its local area.

In October 2018, Ofcom published a statement¹ (the ‘October 2018 Statement’) that introduced, following consultation, a new set of approved areas in England² 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.

This statement sets out our conclusions following a request by Bauer Radio for us to create new approved areas.

What we have decided

Following consultation, Ofcom has approved two new approved areas which Bauer Radio has asked Ofcom to create for FM local radio licences it owns.

These new approved areas for Bauer Radio are as follows:

- South of England (Bauer)
- South West England (Bauer)

Following this decision, we have also granted Format change requests submitted by Bauer Radio enabling stations located within these new approved areas to make their locally-made programming anywhere within their approved area. These changes do not require consultation under sections 106 and 106ZA of the Broadcasting Act 1990, as they involve programmes continuing to be made within the new ‘approved areas’.

¹ https://www.ofcom.org.uk/data/assets/pdf_file/0019/124435/statement-further-consultation-localness-commercial-radio.pdf

² The October 2018 statement maintained the previous single approved area for Northern Ireland, and there was a further consultation on approved areas in Scotland and Wales.

2. The approved area requests

'South of England (Bauer)' approved area

2.1 In March 2020, Ofcom received a request from Bauer Radio asking that Ofcom designate an approved area which it has labelled as 'South of England (Bauer)', as defined below, as an approved area for the purposes of section 314 of the Communications Act 2003, for the following FM radio licences:

- Alton & Haslemere (The Breeze)
- Andover (The Breeze)
- Aylesbury (Mix 96)
- Basingstoke (The Breeze)
- Bournemouth (Fire Radio)
- Chichester (Spirit FM)
- Newbury (The Breeze)
- Reading (The Breeze)
- Salisbury (Spire FM)
- Solent (Wave 105)
- Surrey & North East Hampshire (Eagle Radio)
- Weymouth & Dorchester (Wessex FM)

2.2 A map of Bauer's proposed 'South of England (Bauer)' approved area, which merges most of the existing Ofcom 'South of England' approved area with parts of the existing Ofcom 'West of England' approved area, is at Annex 1. In particular, Bauer's proposed new South of England area includes the Bournemouth, Salisbury, Solent and Weymouth & Dorchester licence areas, which are part of Ofcom's existing 'West of England' approved area, and excludes Northamptonshire, which is part of Ofcom's 'South of England' approved area.

2.3 In its request, Bauer Radio provided reasons why it believes its proposed new 'South of England (Bauer)' area should be approved in relation to each of the 12 local licences concerned, based on consistency with Ofcom's approved area policy, considerations of distances between stations and the affinities between the station areas. It also argued that the new approved area would align better with the ITV region boundaries for the area.

2.4 Ofcom's preliminary view of Bauer Radio's request was that we were minded to approve the 'South of England (Bauer)' area for the 12 local FM licences listed above.

2.5 Our preliminary view was based upon the fact that the proposed new approved area more closely matches ITV's 'Meridian' region, and is therefore consistent with our general approach, as set out in the October 2018 Statement, of approved areas broadly (but not necessarily exactly) matching ITV regions. This is 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.

‘South West England (Bauer)’ approved area

- 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 defined below, as an approved area for the purposes of section 314 of the Communications Act 2003, for 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 A map of Bauer’s proposed ‘South West England (Bauer)’ approved area, as proposed by Bauer Radio, which combines most of the existing Ofcom ‘West of England’ approved area with parts of the existing Ofcom ‘Central’ approved area, is at Annex 2. In particular, Bauer’s proposed new South West England area includes the Cheltenham licence area which is part of Ofcom’s existing ‘Central’ approved area, but excludes the Bournemouth, Salisbury, Solent and Weymouth & Dorchester licence areas, which are part of Ofcom’s existing ‘West of England’ approved area.
- 2.8 In its request, Bauer Radio provided reasons why it believes its proposed ‘South West England (Bauer)’ area should be approved in relation to each of the 12 local licences concerned, based on consistency with Ofcom’s approved area policy, considerations of distances between stations and the affinities between the station areas. In particular, Bauer argued that it was appropriate to add Cheltenham despite it being in Ofcom’s existing ‘Central’ rather than ‘West of England’ approved area like the other 11 licence areas. Bauer argued that the county of Gloucestershire, which includes the Cheltenham licence area, is within the same ITV ‘West’ region that covers all of the other licences which form part of this request.
- 2.9 Ofcom’s preliminary view of Bauer Radio’s request was that we were minded to approve the ‘South West England (Bauer)’ area for the 12 local FM licences listed above.
- 2.10 Our preliminary view was based upon the fact that the proposed new approved area closely matches the ITV ‘West’ region, and is therefore consistent with our general approach, as set out in the October 2018 Statement, of approved areas broadly (but not necessarily exactly) matching ITV regions. This is 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

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also accepted Bauer's argument that listeners in Gloucestershire share greater affinity with Bristol (in Ofcom's existing 'West of England' approved area) than Birmingham (in Ofcom's existing 'Central' approved area). In addition, we approved a very similar request from Global Radio last year.

3. Assessment and decision

Consultation responses

- 3.1 In our consultations on Bauer's two requests, both published on 7 May 2020, we asked whether, for the purposes of where locally-made programming may come from, Ofcom should approve the two new areas requested by Bauer.
- 3.2 We received 150 responses to the consultations for these areas. One of the responses related to both consultations, whereas all the rest except one were submitted in response to our consultation on the proposed 'South of England (Bauer)' approved area.
- 3.3 While many responses raised specific points to consider, some commented more widely on the future of local radio and the principles behind the requests, including more generalised comments about Ofcom's regulation of local commercial radio.
- 3.4 We have grouped responses by the specific local areas (and stations) to which they relate, rather than by which of the two consultations they were a response to, as we considered that none of the responses was clearly specific to one or both of the consultations.

Weymouth and Dorchester

- 3.5 One respondent, who wished to remain anonymous, observed that "Weymouth and Dorchester (Wessex FM) are likely to be better suited to the South West region/approved area", adding that they felt "that there is a greater connection between Weymouth/Dorchester with the wider South West region." Bauer had requested that Weymouth and Dorchester should be in a 'South of England (Bauer)' rather than 'South West England (Bauer)' approved area.

Chichester, Littlehampton and Bognor Regis

- 3.6 The large majority of the responses we received were specifically in relation to Spirit FM, the service for the area encompassing Chichester, Littlehampton & Bognor Regis, with respondents generally concerned about Bauer's plans for the station since acquiring it last year. One of the responses came from the organiser of the "Save Spirit FM" campaign, and included an online petition of 9,210 signatures opposed to Bauer's plans for the station.
- 3.7 Cllr Eileen Lintill, Leader of Chichester District Council, felt that Ofcom and Bauer should reconsider their respective positions. This view was supported by the Leader of the Opposition on Chichester District Council as well as several other organisations in the area including the Chichester Liberal Democrats, Get Bognor Social, the Middleton-on-Sea Village Fete Committee and a local Brownies and Rainbows group.
- 3.8 Respondents spoke of how "Spirit FM has spent 24 years building trust with its listeners and relationships with local businesses, charities and community groups" (Middleton-on-Sea Village Fete Committee), "bring[s] fun to the community, like Battle of the Boozers quiz, Secret Sound, Friday night lockdown quizzes, the list is endless" (Pierre Towers) and

argued that the move would result in a loss of connection between stations and their communities and create a “monolithic provision” (Chris Lowrey). A number of respondents had particular praise for Spirit FM’s local fund-raising and charitable work, as well as the station’s high profile role in local issues such as a campaign in 2008 to prevent the closure of a local hospital.

- 3.9 Robert Arnold also disagreed with Bauer’s proposals, saying that they “demonstrate a complete lack of understanding of the value and importance of Spirit FM” adding that the proposed area was too large as there “is no affinity, geographical or otherwise, between West Sussex and the Hampshire & Dorset cities”.

Salisbury

- 3.10 There were also a number of responses regarding the inclusion of Spire FM, in Salisbury, in the ‘South of England’ approved area requested by Bauer. Owen Bartholomew objected on the basis that Salisbury has little in common with the south coast or the commuter-belt towns such as Guildford and Reading, and that it was “very hard to believe that adequate provision of local content appropriate to Salisbury would be provided if these other stations are also to have their interests met.” Michelle Ditton said that there were areas of Salisbury which were not well covered by BBC provision but were well served by Spire FM with presenters that know the area and give good local news, sport and traffic updates.
- 3.11 Jonathan Freer added that “[t]here is clearly a demand for a local service in Salisbury (proven by the fact it is in phase 1 for the local DAB licences)” and “the changes amount to effective closure and replacement with a service that exists today [Bauer’s ‘Greatest Hits Radio’] on multiple platforms within almost all areas within this region.”

General points

- 3.12 A significant number of responses were against Bauer’s general plans to re-brand some of these local radio stations (to ‘Greatest Hits Radio’) and to co-locate and share their locally-made programming with other stations in the proposed approved areas.
- 3.13 Some comments were made around Ofcom’s general policy with regard to approved areas and its consultation. Jonathan Leahy said “I do not understand why there is a need to broadly match TV regions” in approved areas and that “I do not believe Ofcom have sufficiently consulted with listeners, or promoted the consultation sufficiently with many listeners only becoming aware of the consultation 3 days prior to the end of the consultation period.” A respondent who wished to remain anonymous added: “I consider OFCOM has a fiduciary duty to block the action being taken by Bauer as a blatant abuse of the intent of the regulations.”
- 3.14 A number of respondents commented upon the importance of local radio stations during the COVID-19 pandemic. A respondent who wished to remain anonymous commented that at this time, demand for “true local radio” stations such as Eagle Radio is “at an all time high... listeners are dependent on local radio for critical information.”

Analysis and conclusions

- 3.15 Regarding the comment we received in respect of Weymouth and Dorchester, we noted the respondent's view that the Weymouth and Dorchester licensed area (the station broadcasts as 'Wessex FM') should remain in Ofcom's existing 'West of England' approved area rather than be allowed to make and share its locally-made programming from and with stations in other parts of south east England, as proposed by Bauer. The geographical area covered by the Weymouth and Dorchester licence is currently split between the ITV Meridian and Westcountry regions. Given our view, set out in our 2018 localness consultation, that 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, it is possible to make a case for the Weymouth and Dorchester licence to sit within either the Ofcom South of England or West of England approved areas. In our statement on ['Localness in commercial radio'](#), published in 2019, we said that commercial radio companies who wish to have a different approved area that make economic and logistical sense for the particular licences they own, could submit a request to us to approve new, bespoke areas. These would be considered by Ofcom on a case-by-case basis considering criteria of station size, affinities between the station areas concerned, distance between stations and financial viability. We are satisfied that, in this case, Bauer has legitimate logistical reasons to apply for this approved area change and including it in the South of England (Bauer) area does not create an unusually large area. We also consider that affinities exist between the Weymouth and Dorchester licensed area and other localities in the South of England, as well as between it and localities in South West England.
- 3.16 In assessing responses to the consultation on including Chichester, Littlehampton and Bognor Regis within Bauer's proposed 'South of England' area, we noted the clear strength of feeling among respondents who are concerned about Bauer's wider plans for Spirit FM following its acquisition of the station last year. However, it is important to note that the Chichester, Littlehampton and Bognor Regis licensed area (the station broadcasts as 'Spirit FM') is already in Ofcom's 'South of England' approved area and therefore Spirit FM could already have flexibility to include 'locally-made' programmes made elsewhere in the South of England, subject to Ofcom approving a relevant Format Change Request. This consultation was specifically in regard to Bauer's proposals, which would create a slightly amended 'South of England (Bauer)' area, adding Bournemouth, Salisbury, Solent and Weymouth & Dorchester to the existing approved area but excluding Northamptonshire. It was not about any other changes that Bauer may intend to make, including any involving using the scope it already has to change its programme line-up following legislative amendments in 2010 relaxing the definition of 'locally-made' programmes, and Ofcom's consequent establishment of 'approved areas'. This consultation therefore sought views primarily on whether Bauer's proposed new 'South of England' area was an appropriate one in respect of the 12 local licences proposed to be included within it. Few of the responses directly sought to compare listener affinities between these areas, and while the comments from those that did were noted, these arguments did not persuade us

sufficiently to divert from our preliminary view. We noted that the proposed additions to the South of England area are a little to the west of the Chichester, Littlehampton and Bognor Regis licensed area and include towns on or near the English Channel coast likely to have some affinity with that area and which already share the ITV Meridian area.

- 3.17 Several responses to this consultation were received in relation to the Salisbury ('Spire FM') licensed area. Under Bauer's proposals, this licence would be part of its new 'South of England' area, whereas it is currently part of Ofcom's existing 'West of England' approved area. We consider there are valid arguments to support either of these two scenarios, and as such we accept that Bauer has reasonable logistical reasons to apply for this approved area change, and that it does not create an unusually large area. We also consider affinities exist between Salisbury and other areas included in the South of England (Bauer) area.

General policy

- 3.18 Underpinning many of the responses to these consultations was the view that there is a direct correlation between the geographical scope of an approved area and the localness of the local material that will be provided on any single station within that approved area. However, under the regulatory regime all local stations with a requirement to deliver a service with local character will still be required to broadcast local material relevant to their particular licensed coverage area, regardless of where their studio or presenters are based.
- 3.19 Where specified in a station's Format, which is part of its licence, the localness requirement is an enforceable licence condition. In our localness guidelines, which we revised in our October 2018 statement, we have clarified our expectations regarding the amount of local material that a local station should deliver. In particular, the previous localness guidelines stated that local material need only be provided during the hours when programmes were locally-made. The new guidelines states that "any station whose character of service requires it to provide a local service should include, as well as the level of local news specified in its Format, sufficient other local material consistent with these guidelines to deliver the required character of service".
- 3.20 The localness guidelines also set out what we take the provision of local material to mean. It includes confidence that matters of local importance, relevance or interest to the target audience in the area will be broadcast; the inclusion of content drawn from the station's licensed area; and the broadcast of programming of specific local relevance which offers an alternative to UK-wide services. The guidelines also state that we would expect local stations to be able to react appropriately at times of extreme weather conditions or significant local news.
- 3.21 Having carefully considered the consultation responses, for all of the reasons stated above we have decided not to change our preliminary views that were set out in the consultations, and to authorise the 'South of England (Bauer)' and 'South West England (Bauer)' approved areas requested by Bauer.**

3.22 Following this decision, we have now approved Format change requests made by Bauer which include co-location and programme sharing requests. This is in accordance with sections 106 and 106ZA of the Broadcasting Act 1990 (as amended) which does not require consultation on Format changes where programmes would continue to be made at premises in the 'approved area'. It is also consistent with our published policy which states that we would be likely to approve any Format change requests 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. On the basis that Bauer is a substantial operator with significant resources, we have no reason to consider that Bauer would not be able to deliver the localness obligations specified in these licences.

3.23 The requests, and our reasons for approving them, can be viewed at:
<https://www.ofcom.org.uk/manage-your-licence/radio-broadcast-licensing/amend/format-changes-2020>

A1. Map of South of England (Bauer) approved area



A2. Map of South West England (Bauer) approved area

