



# Request to locate studios outside licensed area: 96.3 QFM (Paisley)

Statement

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## Section 1

# Statement

- 1.1 At its meeting on 14 September, Ofcom's Radio Licensing Committee (RLC) considered a request from GMG Radio ('GMG'), the prospective new owner of the local commercial radio station for Paisley, 96.3 QFM, that it be allowed to relocate the station's studios to new premises in Baillieston, east of Glasgow. (Since Baillieston is outwith the 'licensed area' of the Paisley service, such a move requires regulatory approval).
- 1.2 GMG's proposal (which was published in full on Ofcom's website) was to co-locate QFM with a neighbouring station that it already owned – namely Real Radio, which is licensed to serve the whole of Central Scotland. To do so, it felt, would vastly improve the commercial viability of QFM, which has performed relatively poorly in both audience and revenue terms in recent years, while also offering other potential advantages such as enhanced opportunities for staff development.
- 1.3 The RLC had initially considered GMG's request at its June meeting, when it took the view that to move the station's studios would not in itself "substantially alter the character of the service". This was significant because it meant that Ofcom was not under any statutory obligation to consult on this matter. (Under section 106ZA of the Broadcasting Act 1990, as amended, any proposed change that Ofcom considers would or could substantially alter the character of the service must, if it is to be considered further, be the subject of a public consultation).
- 1.4 However, mindful of its statutory responsibilities under the Communications Act 2003 (and in particular its responsibility under section 314 to protect and promote localness on local sound broadcasting services), the RLC decided that the matter was worthy of wider public debate, and therefore opted to consult before making its final decision. Ofcom published its consultation on 29 June 2006, with a closing date for responses of 27 July 2006.
- 1.5 The consultation attracted nine responses, three of which were from stakeholders. All five members of the public who responded opposed the change. They felt that GMG's motivation was purely economic, and that the interests of listeners in Paisley and Renfrewshire were not best served by permitting their local radio station to move so far away (physically) from the area that it actually serves. (Indeed, several respondents were critical of the fact that some years ago the station moved its studios from Paisley to western Glasgow, despite that fact that they remained within the station's licensed coverage area). Their concerns were echoed by the Rt. Hon. Douglas Alexander MP (Paisley & Renfrewshire South) who wrote, on behalf of constituents who had contacted him, to express concern that the specifically local Renfrewshire focus of the service should be maintained.
- 1.6 Following consideration of the consultation responses and the views of Ofcom's Content Board, the RLC decided to agree to the proposed change. It felt that GMG had made a convincing case in favour of co-location with Real Radio, that emphasised both the economic and other benefits that such a move should bring. (Despite having a sizeable coverage area, QFM operates on the periphery of the well-developed Glasgow marketplace, and consequently faces strong competition for both listeners and advertisers). In taking its decision, the RLC was fully cognisant of its statutory duties under section 314 of the Communications Act 2003, including the requirement to have regard to its own published guidelines on localness. It noted

that GMG was not seeking to reduce the commitments contained within its Format relating to the type and quantity of output that should be broadcast (indeed, it was noted that GMG had committed to doubling the minimum number of local news bulletins broadcast each weekday: this was welcomed, and the Format will be amended accordingly). Compliance with the Format will continue to be assessed by Ofcom's Radio Content team.

## Section 2

# Relevant Statutory Criteria

### Broadcasting Act 1990

### (as amended by sections 312 and 313 of the Communications Act 2003)

Requirements as to character and coverage of national and local services.

**106.**—(1) A national or local licence shall include such conditions as appear to OFCOM to be appropriate for securing that the character of the licensed service, as proposed by the licence holder when making his application, is maintained during the period for which the licence is in force.

(1A) Conditions included in a licence for the purposes of subsection (1) may provide that OFCOM may consent to a departure from the character of the licensed service if, and only if, they are satisfied-

(a) that the departure would not substantially alter the character of the service;

(b) that the departure would not narrow the range of programmes available by way of relevant independent radio services to persons living in the area or locality for which the service is licensed to be provided;

(c) that, in the case of a local licence, the departure would be conducive to the maintenance or promotion of fair and effective competition in that area or locality; or

(d) that, in the case of a local licence, there is evidence that, amongst persons living in that area or locality, there is a significant demand for, or significant support for, the change that would result from the departure.

(1B) The matters to which OFCOM must have regard in determining for the purposes of this section the character of a service provided under a local licence include, in particular, the selection of spoken material and music in programmes included in the service.

(2) A national or local licence shall include conditions requiring the licence holder to secure that the licensed service serves so much of the area or locality for which it is licensed to be provided as is for the time being reasonably practicable.

(3) A national licence shall include conditions enabling OFCOM, where it appears to them to be reasonably practicable for the licensed service to be provided for any additional area falling outside the minimum area determined by them in accordance with section 98(2), to require the licence holder to provide the licensed service for any

such additional area.

(4) Subject to subsection (5), OFCOM may, if they think fit, authorise the holder of a local licence, by means of a variation of his licence to that effect, to provide the licensed service for any additional area or locality adjoining the area or locality for which that service has previously been licensed to be provided.

(5) OFCOM shall only exercise the power conferred on them by subsection (4) if it appears to them—

(a) that to do so would not result in a significant increase of the area or locality for which the service in question is licensed to be provided; or

(b) that the increase that would result is justifiable in the exceptional circumstances of the case.

(6) As soon as practicable after OFCOM have exercised that power in relation to any service, they shall publish, in such manner as they consider appropriate, a notice—

(a) stating that they have exercised that power in relation to that service; and

(b) giving details of the additional area or locality for which that service is licensed to be provided.

(7) In this section ‘relevant independent radio services’ means the following services so far as they are services falling to be regulated under section 245 of the Communications Act 2003—

(a) sound broadcasting services;

(b) radio licensable content services;

(c) additional services;

but, in relation to a departure from the character of a service provided under a local licence, does not include a service that is provided otherwise than wholly or mainly for reception by persons living and working in the area or locality in question.

Consultation about  
change of  
character of local  
services.

**106ZA.**—(1) Before deciding for the purposes of a condition imposed under subsection (1A) of section 106 whether to consent to a departure from the character of a service provided under a local licence on any of the grounds mentioned in paragraphs (b) to (d) of that subsection, OFCOM must publish a

notice specifying–

- (a) the proposed departure; and
  - (b) the period in which representations may be made to OFCOM about the proposal.
- (2) That period must end not less than 28 days after the date of publication of the notice.
- (3) The notice must be published in such manner as appears to OFCOM to be appropriate for bringing it to the attention of the persons who, in OFCOM's opinion, are likely to be affected by the departure.

(4) OFCOM–

- (a) are not required to publish a notice under this section, and
  - (b) may specify a period of less than 28 days in such a notice as the period for representations,
- if they consider that the publication of the notice, or allowing a longer period for representations, would result in a delay that would be likely prejudicially to affect the interests of the licence holder.

(5) OFCOM are not required under this section–

- (a) to publish any matter that is confidential in accordance with subsection (6) or (7); or
- (b) to publish anything that it would not be reasonably practicable to publish without disclosing such a matter.

(6) A matter is confidential under this subsection if–

- (a) it relates specifically to the affairs of a particular body; and
- (b) its publication would or might, in OFCOM's opinion, seriously and prejudicially affect the interests of that body.

(7) A matter is confidential under this subsection if–

- (a) it relates specifically to the private affairs of an individual; and
- (b) its publication would or might, in OFCOM's opinion, seriously and prejudicially affect the interests of that individual.



## **Communications Act 2003**

### **314 Local content and character of local sound broadcasting services**

(1) It shall be the duty of OFCOM to carry out their functions in relation to local sound broadcasting services in the manner that they consider is best calculated to secure-

(a) that programmes consisting of or including local material are included in such services but, in the case of each such service, only if and to the extent (if any) that OFCOM consider appropriate in that case; and

(b) that, where such programmes are included in such a service, what appears to OFCOM to be a suitable proportion of them consists of locally-made programmes.

(2) OFCOM must-

(a) draw up guidance as to how they consider the requirements of subsection (1)(a) and (b) should be satisfied; and

(b) have regard to that guidance in carrying out their functions in relation to local sound broadcasting services.

(3) The guidance may be different for different descriptions of services.

(4) OFCOM may revise the guidance from time to time.

(5) Before drawing up or revising the guidance, OFCOM must consult-

(a) such persons as appear to them to represent the interests of persons for whom local sound broadcasting services are or would be provided;

(b) persons holding licences to provide local sound broadcasting services or persons appearing to represent such persons, or both; and

(c) such other persons as they consider appropriate.

(6) OFCOM must publish the guidance and every revision of it in such manner as they consider appropriate.

(7) In this section-

" local material", in relation to a local sound broadcasting service, means material which is of particular interest-

(a) to persons living or working within the area or locality for which the service is provided;

(b) to persons living or working within a part of that area or locality; or

(c) to particular communities living or working within that area or locality or a part of it;

"locally-made", in relation to programmes included in a local sound broadcasting service, means made wholly or partly at premises in the area or locality for which that service is provided;

"material" includes news, information and other spoken material and music; and

"programme" does not include an advertisement.

(8) References in this section to persons living or working within an area or locality include references to persons undergoing education or training in that area or locality.