STATUTORY INSTRUMENTS

2015 No. 1000

BROADCASTING

The Community Radio (Amendment) Order 2015

Made - - - - 26th March 2015

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by sections 262 and 402(3) of, and paragraph 11 of Schedule 14 to, the Communications Act 2003(**1**).

The community radio services to which this Order applies are, or are to be, provided primarily for the good of members of the public or of a particular community, rather than for commercial reasons. The Secretary of State considers that the provision of those services confers, or would confer, significant benefits on the public or on the communities for which they are provided.

In accordance with paragraph 17(1) of Schedule 14 to the Communications Act 2003, the Secretary of State has consulted OFCOM

In accordance with section 262(5) of, and paragraph 17(2) of Schedule 14 to, that Act, a draft of this Order was laid before and approved by a resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the Community Radio (Amendment) Order 2015 and comes into force on the day after the day on which it is made.

Amendment of the Community Radio Order 2004

2. In article 6(4) of the Community Radio Order 2004 (disqualified persons)(**2**), at the end of subparagraph (f) insert—

“;

(g) a local digital television programme service.”

3. The Schedule to the Community Radio Order 2004 is amended as follows.

4. In paragraph 4 (Renewal of Local Licences and Special Application Procedure), after the words “Section 104A (renewal of local licences)” insert “, 104AA (further renewal of local licences),

(**1**) 2003 c.21.
(**2**) S.I. 2004/1944. That Order was amended by S.I. 2010/118.

104AB (renewal under section 104AA: nomination of national services), 104AC (variation of conditions relating to digital services)(**3**)".

5.—(1) Paragraph 5(2)(**4**) (which modifies section 105 of the Broadcasting Act 1990 by adding subsections (2) to (8) to that section as it has effect in relation to a community radio service) is amended as follows.

(2) In the subsection (3) added to that section—

(a) after "provide a community radio service," insert "or where OFCOM is considering a variation of such a licence under section 86(5) to include conditions set out in subsection (5)";

(b) in paragraph (a) after "in question" insert "(or, as the case may be, whether to vary the licence in question pursuant to section 86(5))"; and

(c) in paragraph (b) after "it is granted," insert "(or, as the case may be, the terms of the variation of the licence in question pursuant to section 86(5)),".

(3) For paragraph (b) of the subsection (4) added to that section substitute—

"(b) subject to paragraph (c), every licence to provide a community radio service that overlaps with any other licence, other than a community radio service, the potential audience of which includes no more than 150,000 persons who have attained the age of 15 years must contain such conditions as appear to OFCOM to be appropriate for ensuring that the relevant income for that community radio licence as is attributable to any arrangements for—

(i) the inclusion in that service of any remunerated advertisement, and

(ii) the sponsorship of any programmes included in that service,

does not, in any financial year of the licence holder, exceed £15,000;".

(4) For paragraph (c) of the subsection (4) added to that section substitute—

"(c) every licence to provide—

(i) a community radio service that overlaps with any other local licence for a service, other than a community radio service, the potential audience of which includes no more than 150,000 persons who have attained the age of 15 years, where that local licence has at any time been varied pursuant to section 106(1A)(e)(**5**), or

(ii) a community radio service, other than a service such as falls within paragraph (b),

must contain the conditions mentioned in subsection (5).".

(5) For the subsection (5) added to that section substitute—

"(5) Subject to subsection (6), the conditions referred to in subsection (4)(c) are those that appear to OFCOM to be appropriate, in the case of the community radio licence in question, for—

(a) permitting the relevant income for that licence attributable to any arrangements for—

(i) the inclusion in the service provided under that licence of any remunerated advertisement, or

(ii) the sponsorship of any programmes included in that service,

(**3**) Sections 104AA, 104AB and 104AC were inserted into the Broadcasting Act 1990 (c.42) by sections 32(2) and 32(3) of the Digital Economy Act 2010 (c. 24).

(**4**) Paragraph 5(2) was amended by S.I. 2010/118. Article 3(2) of that S.I. also omitted subsection (2) which was added to section 105 as it applies to community radio.

(**5**) Section 106(1A) was inserted by the Communications Act 2003 section 312(1) and (3), and paragraph (e) of subsection (1A) was inserted by section 34(1) of the Digital Economy Act 2010.

to include the sum of £15,000 per financial year of the licence holder ("the fixed revenue allowance"); and

(b) ensuring that where the relevant income attributable to the arrangements set out in paragraph (a) exceeds the fixed revenue allowance in any financial year of the licence holder, any such relevant income in excess of the fixed revenue allowance does not exceed 50% of the total relevant income (disregarding the fixed revenue allowance) for that licence in that year."

(6) After the subsection (5) added to that section insert—

"(5A) The Secretary of State may, from time to time, request OFCOM to review whether the £15,000 figure in subsections (4)(b) and (5) remains appropriate."

(7) For subsection (6) added to that section substitute—

"(6) OFCOM may include conditions in a licence to provide community radio services falling within subsection (4)(c), which modify the percentage of the total relevant income referred to in subsection (5), if it appears necessary to secure the result that—

(a) the inclusion in any community radio service of remunerated advertising; or

(b) the sponsorship of programmes included in that service,

do not prejudice unduly the economic viability of any other local service (other than a community radio service)."

6. In paragraph 6(b)(iv) (which modifies section 106 of the Broadcasting Act 1990 as it has effect in relation to a community radio service) for the paragraph numbers "(e)" and "(f)", substitute "(da)" and "(db)".

7. In paragraph 6A(**6**) (which modifies section 106ZA of the Broadcasting Act 1990 as it has effect in relation to a community radio service) in the words to be substituted, for the words "(e) and (f)" substitute "(da) and (db)".

8. In paragraph 10A(**7**) (which modifies the Communications Act 2003 as it has effect in relation to a community radio service by adding section 253A)—

(a) in subsection (1) of that added section, for "one extension" substitute "two extensions"; and

(b) in subsection (2) of that added section for "the end of the period" to the end of the sentence, substitute "the date the relevant licence would otherwise expire".

Provision for renewal of certain licences

9. Where a community radio licence would otherwise expire within 6 months of the date on which this Order comes into force, section 253A(3)(b) (as added to the Communications Act 2003 by paragraph 10A of the Schedule to the Community Radio Order 2004) shall be read as if it said "ends 4 weeks before that date.".

(**6**) Paragraph 6A was inserted by S.I. 2010/118.
(**7**) Paragraph 10A was inserted by S.I. 2010/118.