Draft Order laid before Parliament under section 262(5) of, and paragraph 17(2) of Schedule 14 to, the Communications Act 2003, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2004 No.

BROADCASTING

Community Radio Order 2004

Made - - - -	*2004*
Coming into force - -	*2004*

The Secretary of State, in exercise of the powers conferred upon her by sections 262 and 402(3) of, and paragraphs 11 and 13 of Schedule 14 to, the Communications Act 2003(**1**), considering that the provision of services of the description set out in this Order would confer significant benefits on the public or on the communities for which they are provided(**2**) and having consulted the Office of Communications as regards the provisions of this Order made under the said Schedule 14(**3**), hereby makes the following Order, a draft of which has been laid before Parliament in accordance with section 262(5) of, and paragraph 17(2) of Schedule 14 to, that Act and approved by a resolution of each House of Parliament:

Citation and commencement

1.—(1) This Order may be cited as the Community Radio Order 2004.

(2) This Order shall come into force on the day after the day on which it is made.

Interpretation

2.—(1) In this Order—

"the 1990 Act" means the Broadcasting Act 1990(**4**);

"the 2003 Act" means the Communications Act 2003;

"community" means—

(**1**) 2003 c. 21.

(**2**) Section 262(2) of the 2003 Act provides that the Secretary of State is not to make an order under section 262 in relation to a description of services unless the description is of services to be provided primarily for the good of members of the public or of a particular community (rather than for commercial reasons), and she considers that the provision of services of that description confer, or would confer, significant benefits on the public or on the communities for which they are provided.

(**3**) Such consultation is required by paragraph 17(1) of Schedule 14 to the Communications Act 2003 in the case of any order under that Schedule other than one that is confined to giving effect to recommendations made by OFCOM in a report of a review under section 391 of that Act.

(**4**) 1990 c. 42.

(a) the persons who live or work or undergo education or training in a particular area or locality, or

(b) persons who (whether or not they fall within paragraph (a)) have one or more interests or characteristics in common;

"community radio licence" means a licence under Part 3 of the 1990 Act (as it has effect by virtue of this Order) to provide a community radio service;

"community radio service" means a local service having the characteristics set out in article 3;

"coverage area" means, in relation to a service provided under a local sound broadcasting licence, the area in the United Kingdom within which that service is capable of being received at a level satisfying such technical standards as have been laid down by OFCOM for the purposes of Part 2 of the Media Ownership (Local Radio and Appointed News Provider) Order 2003(**5**) in relation to such a service;

"local authority" has the meaning given in paragraph 1(1)(**6**) of Part 1 of Schedule 2 to the 1990 Act;

"local service", "national service" and "restricted service" each has the meaning given in section 245(4) of the 2003 Act;

"potential audience" means, in relation to any local service, the persons who reside within the coverage area for that service;

"social enterprise" means a business which has as its primary objective the support of one or more projects of a social nature (rather than the production of a financial profit);

"social gain" has the meaning given by paragraph (2).

(2) In relation to a community radio service, "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—

(a) the provision of sound broadcasting services to individuals who are otherwise underserved by such services,

(b) the facilitation of discussion and the expression of opinion,

(c) 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

(d) the better understanding of the particular community and the strengthening of links within it,

and may also include the achievement of other objectives of a social nature and, in particular, those mentioned in paragraph (3).

(3) Those objectives are—

(a) the delivery of services provided by local authorities and other services of a social nature and the increasing, and wider dissemination, of knowledge about those services and about local amenities;

(b) the promotion of economic development and of social enterprises;

(c) the promotion of employment;

(d) the provision of opportunities for the gaining of work experience;

(e) the promotion of social inclusion;

(**5**) S.I. 2003/3299.

(**6**) The definition of "local authority" in paragraph 1(1) of Part 1 of Schedule 2 to the Broadcasting Act 1990 was amended by section 66(6) of, and paragraph 89 of Schedule 16 to, the Local Government (Wales) Act 1994 (c. 19) and was repealed in part by section 66(8) of, and Schedule 18 to, that Act. It was also amended by section 180(1) of, and paragraph 166 of Schedule 13 to, the Local Government etc. (Scotland) Act 1994 (c. 39).

(f) the promotion of cultural and linguistic diversity;

(g) the promotion of civic participation and volunteering.

(4) For the purposes of this Order, two local sound broadcasting licences overlap if (but only if) the potential audience of the service provided under either of those licences includes 50 per cent. or more of the potential audience of the service provided under the other licence.

(5) In this Order, in relation to any service which is intended to serve more than one community, any reference to the community which that service is intended to serve shall be taken to include a reference to every such community.

(6) In this Order, one person shall be treated as being connected with another person if he would be so treated for the purposes of Schedule 2(**7**) to the 1990 Act.

Characteristics of community radio services

3.—(1) It is a characteristic of community radio services that they are local services provided primarily—

(a) for the good of members of the public, or of particular communities, and

(b) 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.

(2) It is a characteristic of every community radio service that it is intended primarily to serve one or more communities (whether or not it also serves other members of the public).

(3) It is a characteristic of every community radio service that the person providing the service—

(a) does not do so in order to make a financial profit by so doing, and

(b) 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.

(4) It is a characteristic of every community radio service that members of the community it is intended to serve are given opportunities to participate in the operation and management of the service.

(5) It is a characteristic of every community radio 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.

Application of broadcasting legislation

4. The provisions of the 1990 Act and the 2003 Act shall have effect in relation to a community radio service with the modifications set out in the Schedule.

(**7**) Paragraph 3 of Part 1 of Schedule 2 to the Broadcasting Act 1990 sets out which persons are to be treated as being connected with a particular person, for the purposes of that Schedule. This paragraph was substituted by section 73 of, and paragraph 3, Part 1, of Schedule 2 to, the Broadcasting Act 1996 (c. 55). Paragraph 3 of Part 1 of Schedule 2 to the Broadcasting Act 1990 must be read with the definition of "control" in paragraph 1(1) (taken with paragraph 1(3) and (3A)) of Part 1 of that Schedule. This definition was amended by section 73 of, and paragraph 1(1) and (2)(c), Part 1, of Schedule 2 to, the Broadcasting Act 1996. Paragraph 1(3) and (3A) were substituted for paragraph 1(3) by section 73 of, and paragraph 1(1) and (4), Part 1, of Schedule 2 to, the Broadcasting Act 1996 and paragraph 1(3)(b) was amended in part by section 357(1) of the Communications Act 2003. Paragraph 3 of Part 1 of Schedule 2 to the Broadcasting Act 1990 must also be read with the definitions of "associate" in paragraph 1(1A) and 1(2) of Part 1 of that Schedule. Paragraph 1(1A) was inserted by section 73 of, and paragraph 1(1) and (3), Part 1, of Schedule 2 to, the Broadcasting Act 1996.

Amendment of the Media Ownership (Local Radio and Appointed News Provider) Order 2003

5. The Media Ownership (Local Radio and Appointed News Provider) Order 2003(**8**) shall be amended by inserting after article 2 the following article—

"**Community radio licences**

2A. Nothing in this Order shall apply in respect of—

(a) any local sound broadcasting service that is a community radio service, as defined by article 2(1) of the Community Radio Order 2004, or

(b) any licence to provide such a service.".

Disqualified persons

6.—(1) In addition to the modifications made by article 4 of, and the Schedule to, this Order, Part 2 of Schedule 2(**9**) to the Broadcasting Act 1990 shall have effect in relation to community radio licences as if the persons who are disqualified persons by virtue of that Part of that Schedule included, in relation to such licences, any person falling within paragraph (2).

(2) Those persons are—

(a) any person who is not a body corporate;

(b) any body corporate falling within paragraph (3); and

(c) any C4 company or S4C company that would not otherwise be a disqualified person by virtue of paragraph (3).

(3) A body corporate falls within this paragraph if—

(a) that body holds at least one relevant Broadcasting Act licence, or

(b) that body is connected with a person who holds one or more such licences.

(4) In this article, a relevant Broadcasting Act licence is a Broadcasting Act licence which is not a licence to provide one of the following services—

(a) a community radio service;

(b) a digital sound programme service;

(c) a restricted service;

(d) a radio licensable content service;

(e) a restricted television service;

(**8**) S.I. 2003/3299.

(**9**) In Part 2 of Schedule 2 to the Broadcasting Act 1990, paragraph 1(1) was amended by section 73 of, and paragraph 6(1) and (2), Part 2, of Schedule 2 to, the Broadcasting Act 1996 and by section 349(1)(a) and 360(3) of, and paragraph 69(1), (4) and (5), Part 1, of Schedule 15 to, the Communications Act 2003 and was repealed in part by sections 348(1) and 406(7) of, and Schedule 19(1) to, the Communications Act 2003. Paragraph 1(1A) was inserted by section 349(1)(b) of the Communications Act 2003. Paragraph 1(2) and (3) were repealed by section 406(7) of, and Schedule 19(1) to, the Communications Act 2003. Paragraph 2 was amended by section 348(2) and (3) of the Communications Act 2003. Paragraph 3(1) was amended by section 73 of, and paragraph 7, Part 2, of Schedule 2 to, the Broadcasting Act 1996 and by section 360(3) of, and paragraph 69(1) and (6), Part 1, of Schedule 15 to, the Communications Act 2003. Paragraph 4(1) was amended by section 360(3) of, and paragraph 69(1), (4) and (7), Part 1, of Schedule 15 to, the Communications Act 2003. Paragraph 4(2) was amended by sections 348(4) and 360(3) of, and paragraph 69(1), (8)(a) and (b), Part 1, of Schedule 15 to, the Communications Act 2003. Paragraph 5 was repealed in part by sections 73 and 148(2) of, and paragraph 8, Part 2, of Schedule 2 and Part 1 of Schedule 11 to, the Broadcasting Act 1996 and was amended by section 360(3) of, and paragraph 69(1) and (4), Part 1, of Schedule 15 to, the Communications Act 2003. Paragraph 5A was inserted by section 73 of, and paragraph 9, Part 2, of Schedule 2 to, the Broadcasting Act 1996 and was repealed in part by sections 360(3) and 406(7) of, and paragraph 69(1), (9)(a), (b) and (c), Part 1, of Schedule 15 and by Schedule 19(1) to the Communications Act 2003. Paragraph 6 was amended by section 360(3) of, and paragraph 69(1) and (4), Part 1, of Schedule 15 to, the Communications Act 2003.

(f) a television licensable content service.

Restrictions on holding of community radio licences

7.—(1) No body corporate may hold more than one community radio licence at any one time.

(2) For the purposes of this article, any body corporate which is connected with another such body which holds such a licence shall be treated as if it also were a holder of that licence.

Name
Secretary of State for Culture Media and Sport