Draft Order laid before Parliament under section 282(4) 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

2003 No. 0000

BROADCASTING

The Media Ownership (Local Radio and Appointed News Provider) Order 2003

Made - - - -

Coming into force - -

The Secretary of State, in exercise of the powers conferred upon her by sections 282(1) and 402(3) of, and paragraphs 10 to 13 of Schedule 14 to, the Communications Act 2003(**1**), and having consulted the Office of Communications(**2**), hereby makes the following Order, a draft of which has been laid before Parliament in accordance with section 282(4) of, and paragraph 17(2) of Schedule 14 to, that Act and approved by a resolution of each House of Parliament:

Part 1

General provisions

Citation and commencement

1.—(1) This Order may be cited as the Media Ownership (Local Radio and Appointed News Provider) Order 2003.

(2) This Order comes into force on 29th December 2003.

Interpretation of the Order

2.—(1) In this Order—

"the 1990 Act" means the Broadcasting Act 1990(**3**);

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

(**2**) Such consultation is required by section 282(2) of, and paragraph 17(1) of Schedule 14 to, the 2003 Act in the case of any order under section 282 or Schedule 14, 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.

(**3**) 1990 c. 42.

"the 1996 Act" means the Broadcasting Act 1996(**4**); and

"the 2003 Act" means the Communications Act 2003.

(2) Expressions used in this Order and in Part 3 of the 2003 Act have the same meanings in this Order as they have in that Part.

Connected persons

3.—(1) For the purposes of this Order—

(a) any person connected with a person who holds a licence shall be treated as if he also were a holder of that licence, and

(b) any person connected with a person who provides a local digital sound programme service shall be treated as if he also were providing that service,

and references to a person becoming the holder of a licence, or beginning to provide a service, shall be construed accordingly.

(2) References in this article to a person being connected with any other person shall be construed in accordance with Part 1 of Schedule 2 to the 1990 Act(**5**).

(3) But a person shall not be treated as holding a local sound broadcasting licence or a local digital sound programme licence, or providing a local digital sound programme service, merely because he is the director of a body corporate which holds the licence or (as the case may be) provides the service.

Part 2

Requirements Applying to Local Sound Broadcasting Licences

Interpretation of Part 2

4.—(1) In this Part, "potential audience" means, in relation to a local sound broadcasting service or a regional Channel 3 service, the persons who have attained the age of 15 years and reside within the coverage area for that service.

(2) For the purposes of this Part, 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.

(3) For the purposes of this Part, the coverage area for a service provided under a local sound broadcasting licence or a regional Channel 3 licence is 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 this Part.

(4) Paragraphs 3 and 4 of Part 1 of Schedule 14 to the 2003 Act (which contain provisions concerning local and national newspapers and their market shares and provisions for the construction of references to running a newspaper) apply for the purposes of this Part of this Order as they apply for the purposes of that Part of that Schedule.

(**4**) 1996 c. 55.

(**5**) Part 1 of Schedule 2 to the 1990 Act was amended by paragraphs 1 to 3 of Part 1 of Schedule 2 to, and Part 1 of Schedule 11 to, the 1996 Act, and by section 357(1) of, paragraph 69(1) to (3) of Schedule 15 to, and Schedule 19 to, the 2003 Act.

Restriction on holding more than two overlapping licences

5.—(1) A person ("the relevant person") who holds at least two local sound broadcasting licences may not hold a further such licence ("the further licence") in any case where, if he were to do so, the conditions in paragraph (2) would be satisfied in relation to any licence held by him ("the licence in question") at the time immediately after he became the holder of the further licence.

(2) The conditions are that—

(a) the licence in question overlaps with any two other local sound broadcasting licences held by the relevant person which also overlap with each other;

(b) one of the licences mentioned in sub-paragraph (a) is the further licence; and

(c) the limit on concentration is contravened in the case of the licence in question.

(3) For the purposes of paragraph (2), the limit on concentration is contravened in the case of the licence in question if the first total represents more than 55 per cent. of the second total.

(4) The first total is the aggregate number of points attributable (according to the table in article 8) to—

(a) the licence in question; and

(b) any other local sound broadcasting licences held by the relevant person and of a description mentioned in the first column of the table in article 8.

(5) The second total is the aggregate number of points attributable to the licence in question and all other local sound broadcasting licences of a description mentioned in the first column of the table in article 8 (regardless of who holds them).

Cross-media ownership

6.—(1) A person ("the relevant person") may not hold a local sound broadcasting licence ("the relevant licence") in any case where, if he were to do so, then, at the time immediately after he became the holder of the relevant licence—

(a) he would be a person of a description falling within paragraph (2); and

(b) the conditions in paragraph (3) would be satisfied in relation to any licence that he holds ("the licence in question").

(2) The descriptions of persons referred to in paragraph (1) are—

(a) a person who runs a local newspaper which has a local market share of 50 per cent. or more in the coverage area of the service provided under the licence in question;

(b) a person who runs local newspapers which together have a local market share of 50 per cent. or more in that coverage area;

(c) a person who holds the licence to provide any regional Channel 3 service where at least 50 per cent. of the potential audience of the service provided under the licence in question reside within the coverage area for that regional Channel 3 service.

(3) The conditions are that—

(a) the licence in question overlaps with any two other local sound broadcasting licences which also overlap with each other (regardless of who holds the other licences);

(b) one of the licences mentioned in sub-paragraph (a) is the relevant licence; and

(c) the limit on concentration is contravened in the case of the licence in question.

(4) For the purposes of paragraph (3), the limit on concentration is contravened in the case of the licence in question if the first total represents more than 45 per cent. of the second total.

(5) The first total is the aggregate number of points attributable (according to the table in article 8) to—

(a) the licence in question; and

(b) any other local sound broadcasting licences held by the relevant person and of a description mentioned in the first column of the table in article 8.

(6) The second total is the aggregate number of points attributable to the licence in question and all other local sound broadcasting licences of a description mentioned in the first column of the table in article 8 (regardless of who holds them).

(7) Where—

(a) any person holds any local sound broadcasting licence which overlaps with any two other local sound broadcasting licences (regardless of who holds the other licences) which also overlap with each other,

(b) that person becomes a person of a description mentioned in paragraph (2) while he is the holder of such a licence, and

(c) at the time immediately after he becomes a person of that description, the condition in paragraph (3)(c) is satisfied in relation to any such licence that he holds,

that person may not then hold a local sound broadcasting licence in respect of which that condition is satisfied, taking, for the purposes of this paragraph, the references in paragraphs (2) to (6) to the licence in question to be references to the licence held by him mentioned in sub-paragraph (a) or (if there is more than one) each such licence in turn, and the reference in paragraph (5)(b) to the relevant person to be a reference to the person mentioned in sub-paragraph (a).

Application of articles 5 and 6 to changes in coverage area of local sound broadcasting services

7.—(1) Where—

(a) a person (in this paragraph, "the relevant person") holds any local sound broadcasting licence which overlaps with any two other local sound broadcasting licences held by him which also overlap with each other,

(b) the coverage area for the service provided under any of the licences mentioned in sub-paragraph (a) changes at any time while the relevant person is the holder of that licence, and

(c) at the time immediately after that change takes effect, the condition in article 5(2)(c) is satisfied in relation to any of those licences,

the relevant person may not then hold the licence or (as the case may be) licences in respect of which that condition is satisfied, taking, for the purposes of this paragraph, the references in article 5 to the licence in question to be references to each licence such as is mentioned in sub-paragraph (a) in turn, and the reference in article 5(4)(b) to the relevant person to be a reference to the relevant person referred to in this paragraph.

(2) Where—

(a) a person of a description mentioned in article 6(2) (in this paragraph, "the relevant person") holds any local sound broadcasting licence which overlaps with any two other local sound broadcasting licences (regardless of who holds the other licences) which also overlap with each other,

(b) the coverage area for the service provided under any such licence changes at any time while the relevant person is its holder, and

(c) at the time immediately after that change takes effect, the condition in article 6(3)(c) is satisfied in relation to any such licence,

the relevant person may not then hold the licence or (as the case may be) licences in respect of which that condition is satisfied, taking, for the purposes of this paragraph, the references in article 6 to the licence in question to be references to the licence held by him mentioned in sub-paragraph (a) or (if there is more than one) each such licence in turn, and the reference in article 6(5)(b) to the relevant person to be a reference to the relevant person referred to in this paragraph.

Table referred to in articles 5 and 6

8. The table is as follows, and in the table—

(a) references to "the service in question" are references to the service provided under the licence that is the licence in question for the purposes of article 5 or 6 (as the case may require); and

(b) the number of points attributable to each licence of a description mentioned in an entry in the first column of the table is the number of points shown in the corresponding entry in the second column.

Description of licence	*Number of points*
The licence in question	4 points
Each local sound broadcasting licence under which is provided a service whose potential audience includes 75 per cent. or more of the potential audience of the service in question	4 points
Each local sound broadcasting licence under which is provided a service whose potential audience includes at least 25 per cent. of, but less than 75 per cent. of, the potential audience of the service in question	2 points
Each local sound broadcasting licence under which is provided a service whose potential audience includes at least 5 per cent. of, but less than 25 per cent. of, the potential audience of the service in question	1 point

Prohibition on holding a local sound broadcasting licence, holding a Channel 3 licence, and running a local newspaper

9. No one person may at the same time—

(a) hold a local sound broadcasting licence ("the licence in question"); and

(b) hold the licence to provide any regional Channel 3 service the potential audience of which includes at least 50 per cent. of the potential audience of the service provided under the licence in question; and

(c) run—

(i) a local newspaper which has a local market share of 50 per cent. or more in the coverage area for the service provided under the licence in question, or

(ii) local newspapers which together have a local market share of 50 per cent. or more in that coverage area.