



Digital Economy Act 2010

2010 CHAPTER 24

Independent radio services

32 Renewal and variation of local radio licences

- (1) In section 104A of the Broadcasting Act 1990 (renewal of local licences)—
- (a) in subsection (1), after “renewed” insert “under this section”, and
 - (b) after that subsection insert—

“(1A) A local licence may be renewed under this section only if it is granted before the day on which section 104AA comes into force.”

- (2) After that section insert—

“104AA Further renewal of local licences

- (1) A local licence may be renewed under this section on one occasion for a period of not more than 7 years beginning with the date of renewal (subject to the following provisions of this section and section 104AB).
- (2) A local licence may be renewed under this section only if—
 - (a) it has been renewed under section 104A, or
 - (b) it is granted on or after the day on which this section comes into force.
- (3) Subsections (3) to (12), (13) and (14) of section 104A apply in relation to the renewal of a licence under this section as they apply in relation to the renewal of a licence under section 104A, subject to subsections (4) and (5).
- (4) Section 104A(3) (as applied) has effect as if the words “Subject to subsection (2)” were omitted.
- (5) In the case of an approved licence, if an applicant for renewal of the licence under this section makes a national nomination in accordance with section 104AB, section 104A (as applied) has effect as if—
 - (a) subsections (4) and (13)(b) were omitted,

- (b) references to the nominated local digital sound programme service were references to the national digital sound programme service nominated under section 104AB, and
 - (c) references to the nominated local radio multiplex service were references to the national radio multiplex service nominated under section 104AB.
- (6) In this section and sections 104AB and 104AC—
- “approved licence” means a local licence approved by OFCOM for the purposes of this section;
 - “local digital sound programme service”, “local radio multiplex service”, “national digital sound programme service” and “national radio multiplex service” have the same meanings as in Part 2 of the Broadcasting Act 1996.
- (7) Before approving a licence for the purposes of this section, OFCOM must publish a document specifying—
- (a) the licence proposed to be approved, and
 - (b) a period in which representations may be made to OFCOM.

104AB Renewal under section 104AA: nomination of national services

- (1) For the purposes of section 104AA, a “national nomination” by an applicant for the renewal of an approved licence is the nomination of—
- (a) a national digital sound programme service provided or to be provided by the applicant, and
 - (b) a national radio multiplex service.
- (2) A national nomination must be made in the application for the renewal of the approved licence or before OFCOM consider the application.
- (3) The applicant may not nominate a national digital sound programme service unless OFCOM are satisfied that, if the application in question were granted, the programmes included in that service in each calendar month would include at least 80% of the programmes included in the service provided under the approved licence.
- (4) A national nomination must specify the other approved licences (if any) in relation to which, in reliance on the nomination, an application may be made under section 104AC.

104AC Variation of conditions relating to digital services

- (1) This section applies where—
- (a) a licence that is an approved licence has been renewed under section 104A and includes a local digital services condition,
 - (b) an application has been made under section 104AA for the renewal of another approved licence and the applicant has made a national nomination under section 104AB, and
 - (c) the nomination specifies the licence mentioned in paragraph (a) in accordance with section 104AB(4).

- (2) OFCOM may, if the requirements of subsections (3) and (4) are met, vary the licence mentioned in subsection (1)(a) by—
 - (a) removing the local digital services condition, and
 - (b) adding a national digital services condition.
- (3) OFCOM must have received an application for the variation from the licence holder.
- (4) OFCOM must be satisfied that, if they varied the licence, the programmes included in the nominated national digital sound programme service in each calendar month would include at least 80% of the programmes included in the service provided under that licence.
- (5) In this section—
 - “local digital services condition” means a condition requiring the licence holder to do all that the licence holder can to ensure that a local digital sound programme service is broadcast by means of a local radio multiplex service;
 - “national digital services condition” means a condition requiring the licence holder to do all that the licence holder can to ensure that the nominated national digital sound programme service is broadcast by means of the nominated national radio multiplex service until the day on which the licence (as renewed under section 104A) is to expire;
 - “nominated” means nominated in the nomination referred to in subsection (1)(b).”
- (3) Section 104A(14) of the Broadcasting Act 1990 (as applied by section 104AA of that Act) does not prevent the determination of a date falling less than one year after the making of the determination where—
 - (a) the Office of Communications consider that the relevant date for the purposes of that section (as applied) is a date which is not more than 15 months after the day on which this section comes into force, and
 - (b) the determination is made as soon as practicable after that day.
- (4) The requirement under section 104AA(7) of the Broadcasting Act 1990 may be satisfied by the publication of a document before this section comes into force.