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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order, made under section 262 of the Communications Act 2003 (“the 2003 Act”) amends the Community Radio Order 2004 (“the 2004 Order”), which had made various modifications to the Broadcasting Act 1990 (“the 1990 Act”) and the 2003 Act in relation to community radio.

Article 3 makes the following modifications to the 1990 Act:

- (a) it omits section 105(2) of the 1990 Act that was previously included pursuant to paragraph 5(2) of the Schedule to the 2004 Order, thereby removing the restriction that a community radio licence may not be granted to an applicant who proposes to receive more than 50 per cent of the income the applicant needs to provide the proposed service from any one source.
- (b) it makes changes to section 105(3) and (4)(b) of the 1990 Act, as applied to community radio by the 2004 Order, to provide that the references to “any other local service” and “any other local licence” do not include references to any other community radio service or licence.
- (c) it removes two words from the beginning of section 105(4) which, by virtue of their context, are unnecessary.
- (d) it omits section 105(4)(a), thereby removing the prohibition on the Office of Communications (Ofcom) granting a licence to provide a community radio service where the licence would overlap with another local licence for a service with a potential audience of no more than 50,000 persons aged fifteen or over.
- (e) it makes changes to section 105(4)(b) by providing that the conditions prohibiting the inclusion of any remunerated advertisement and sponsorship that Ofcom are required to include in a community radio licence for a service which overlaps with another local service (other than a community radio service) apply where the potential audience does not exceed 150,000 persons aged fifteen or over.

Article 4 makes changes to s106ZA of the 1990 Act as it applies to community radio to add two further criteria to the list of matters as a result of which Ofcom must consult when deciding whether to consent to a departure from the character of a community radio service for the purposes of a condition imposed in a community radio licence under section 106(1A) of the 1990 Act. The two criteria already appear within section 106(1A) for the purpose of community radio as a result of paragraph 6 of the Schedule to the 2004 Order.

Article 5 modifies the 2003 Act in relation to community radio by substituting for section 253 a new section 253A, which gives Ofcom the power to extend community radio licences for one period of not more than five years.

An impact assessment of the effect that this instrument will have on the costs to business and the voluntary sector is available from the website of the Department for Culture, Media and Sport ([www.culture.gov.uk](http://www.culture.gov.uk)). It is also annexed to the Explanatory Memorandum which is available alongside the instrument on the OPSI website.