The Future of Radio

The future of FM and AM services and the alignment of analogue and digital regulation

A Discussion document

December 2006

Introduction

1. On 16th November 2006, Ofcom published a discussion document outlining issues faced by the broadcast radio industry which they believed warranted further consideration, highlighting a number of proposals to ensure that listeners' interests are protected over the coming years, and requesting general thoughts.

Summary of GCap Media response

2. GCap welcomes the ongoing review on the Future of Radio by Ofcom. Ofcom identifies the challenges currently faced by the industry, namely new technology, advertising expenditure and the uptake of digital radio. There are many variables within each of these challenges, which will grow and change at various rates. In addition, other challenges will appear over time.

3. We agree that the regulatory burden on radio, both analogue and digital, is onerous and unsustainable, and should be reviewed urgently, especially in light of other changing legislation which could have material impact on the radio sector (in particular spectrum pricing). We recognise that Ofcom will consult during 2007 on how the regulatory burden may be changed and that views are not requested at this stage. However, we believe that all platforms should be considered, and that where one platform is currently more heavily regulated than others, it may be in the better interests of industry overall to relax these to match other platforms, rather than raising the regulatory hurdle on the currently more relaxed platforms.

4. We also welcome a full debate on the re-advertisement of analogue licences. Whilst there is currently no switch-over date, it is likely that as digital audiences grow, the economic value of analogue services will diminish and fewer operators will want to fund simulcasting on a rapidly obsolescent platform. However, until that time, a competitive re-advertisement process for licences with a potentially shorter than 12 years licence term would place significant burdens on licensees (in terms of management and financial resource).

5. We note that Ofcom has a Communications Act requirement to review community radio in 2007. We are concerned that the community radio project is still in its infancy and will not mature for several years to come. If the 2007 review were therefore to lead to regulatory relaxation in the short term (for example, the percentage of applicable advertising), we are concerned that any such changes will be based on inadequate data which may not to be the advantage of either the community or commercial radios sectors. We therefore recommend that a further review is undertaken in 2009 before any regulatory change to community radio is enacted.

6. We would welcome discussion on how future legislation should be drafted. One of the issues around the Communications Act 2003 is that it is both unwieldy in terms of size, but also that as most legislation is enshrined in primary legislation, the Act is not very responsive to a rapidly changing world. An option may be for a larger amount of legislation to be undertaken through secondary legislation, which in turn will enable regulations to adapt more easily and responsibly.

7. Finally, we urge Ofcom and the DCMS to undertake an urgent review of current legislation< including the ownership rules, and to introduce new legislation as soon as possible to enable commercial radio to react in a rapidly changing media landscape.

General Observations

Licence Renewals

8. We note the issues surrounding the re-advertisement of analogue licences over the next decade. Over this period, with increasing uptake of DAB and other digital radio platforms, the economic value of analogue services will diminish and we will get to the stage when few operators will want to fund simulcasting on an obsolescent platform. In addition, a competitive re-advertisement process under which licences may be granted for short (i.e. less than 12 years) licence terms, would place significant burdens on licensees in terms of management and financial resource at a time when those resources would be better focused on programming and marketing.

9. We therefore welcome a full debate on the re-advertising of analogue licences. This should include setting a timetable to switch-over, or as a minimum the criteria which will be used to set that date.

BBC

10. We note the comments on the BBC and have concerns about the growing strength of the BBC, with its guaranteed funding and the lack of effective oversight of its operations. The BBC has launched a number of new services over the last decade, all of which are formats that could be provided by the commercial sector. These have included national services 6 Music, BBC7 and Asian Network, as well as a number of new local services (for example BBC Coventry and Warwickshire).

11. We recommend that when undertaking further consultation on the future of radio and the legislative environment, Ofcom should include a full market impact assessment of all BBC analogue and digital radio services.

Commercial Advertising

12. Commercial radio revenues have been impacted in recent years, both by fluctuating trends in over all spend, as well as the growth of internet advertising. These changes have been structural and are likely to continue for the foreseeable future. Against the issues faced by commercial radio, the BBC maintains its guaranteed levels of public funding.

Audio Consumption

13. We agree with Ofcom that the means by which consumers access information will change. In particular, there is a noticeable move to accessing information on an on-demand basis, rather than radio's traditional 'push' basis. In the future, dedicated news and information channels may be more relevant for new digital services rather than each service sourcing and providing their own news and information.

Administered Incentive Pricing ('AIP')

14. GCap has already submitted a full response to Ofcom's consultation on the "Future pricing of spectrum used for terrestrial broadcasting". In that response we highlighted our concern that the impact of the introduction of AIP on the commercial viability of DAB broadcasting has not been fully investigated by Ofcom, including whether the additional expenditure will limit the industry's ability to invest in multi-platform broadcasting, and we urged Ofcom to undertake further work ahead of the introduction of AIP.

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15. We have also raised concerns that the current regulatory and legislative environment under which commercial radio operates prevents broadcasters from taking the necessary steps to achieve efficient use of spectrum, and that Ofcom should ensure that regulatory and legislative environment restrictions (including those for public policy objectives) are relaxed as a condition of the introduction of AIP.

Formats & Character of Service

16. A big debate for the industry will be whether the Format is as valid in a multi-media and converged world. There are pros and cons for both keeping and disposing of Formats, and this will be a significant point of debate in forthcoming consultations. As currently structured, Formats do not enable licensees to easily adapt to an ever changing local media market. That said, it might not be entirely suitable to have a completely free market, and perhaps to have a Format similar to the level of detail adopted for Multiplex and DSPS licences may be more appropriate in the longer term (as demonstrated in Figure 21 of the Ofcom document).

Localness within Programming

17. We recognise that localness is an important element of local commercial radio. However, we question whether in the longer term this is a matter that should be enshrined in regulation or left to individual services to determine. We believe that, in the main, general market forces will lead to a number of local services providing local news and information as a matter of course – this will be a point of distinction with other services. We do not believe that forcing all services to provide traditional news and information services is in the best interests of either the industry or consumer; for example if a number of services were unable to provide a news service internally but were forced to provide such services, they may all seek to acquire such services from one third party entity. In addition, as a growing number of new digital only services are more lifestyle rather geography focused (e.g. Chill, Fun Radio etc), the inclusion of local news will have little or no benefit to consumers compared to lifestyle information. Consumers listen to these services because of the music and / or broad speech content which they provide – they do not necessarily listen to catch the latest news bulletin or weather report, which are audible through other services whose key differentiator are that they are based on communities of geography.

18. Reflecting Ofcom's desire to introduce AIP (Administered Incentive Pricing), we do not believe that local DAB services should have any statutory requirements relating to the provision of local programming, and that any such provision should be left to the market. Local multiplexes carry a broad range of services, some of which focus on communities of geography (for example, heritage ILR and local BBC) and others on communities of interest (for example, world music and the environment, children's, ambient music, etc).

19. In the future, consumers will have the ability to access local information through their DAB radio in a number of ways – as audio content broadcast to the consumer as part of normal radio programming, as audio on demand content and as visual data content. It is likely that across the broad range of services broadcast in a particular area, a number of services will deliver local content (to maximise the commercial opportunity), whilst others will focus on specialised speech content.

20. GCap believes that Ofcom needs to reflect that broadcasters and service providers will wish to engage with their listeners in ways that their listeners wish – as commercial organisations, if they do not, they will lose audiences and there business. Ofcom will not be benefiting consumers if it demands broadcasters to provide services in a prescriptive way.

Public Policy

21. As Ofcom recognises, commercial radio has a significant role public policy role, providing local news and ensuring a plurality of local voices alongside the BBC. We recommend discussion about commercial radio's public purpose, the costs associated with it and how AIP may be adjusted to reflect its provision.

Community Radio

22. Whilst GCap does not wish to limit the opportunities for community radio, we maintain our view that as community radio uses scare frequency resource to broadcast, it should be regulated appropriately and believe that the level of appropriateness is close to that of ILR rather than under a loser regulatory environment.

23. We do not believe that there should be a two tier system in relation to AIP and that community radio services should not be charged a flat AIP fee. We believe there should be parity for licences (whether ILR, community or RSL) on the basis of population size rather than by licence sector. All licences above a certain size, irrespective of sector, should be liable to AIP on a population basis, with a flat AIP fee charged for all smaller licences.

24. We are also concerned that the required review of community radio in 2007 will lead to changes in the way such licences are regulated without Ofcom having full details of the impact of community radio (of which many have operated for less than 1 year). The community radio project is still in its infancy and will not mature for several years to come. We recommend that a further review is undertaken in 2009 before any regulatory change to community radio is enacted.

Location, Location, Location

25. Radio is all about what comes out of the speaker rather than how it was made to come out of the speaker. To require a station to invest heavily in its studio design (as was the case under the IBA), to employ a certain size of staff base and to operate within certain geographical boundaries, does not in itself lead to great local radio. Listeners and advertisers judge stations on the quality of its output rather than where its studios are based. Given the economic markets in which commercial radio now trade in, licensees should be encouraged to make sensible economies wherever they can that enable greater investment in content and the output of a station.

26. We recognise the desire for local stations to be local and provide news and information. However, if a station can invest in making such content in the best way possible, perhaps by sharing studios with contiguous licence areas, then commercial radio can only benefit.

Media Ownership Rules

27. We welcome the debate on Media Ownership Rules that Ofcom began in November ("Review of Media Ownership Rules") and note Ofcom's recommendation that no changes should be made to any of the rules at this stage, but that in relation to local radio licences Ofcom believes that further deregulation should be considered in conjunction with other changes to the structure, licensing and regulation of commercial radio through the Future of Radio Review.

28. We believe that the current ownership rules have already become out-dated and do not reflect the current media landscape. We recommend an urgent review of the rules, and early discussion with the DCMS to establish a timetable for parliamentary time.