

**Consultation title:** Radio – Preparing for the future  
**To (Ofcom contact):** Peter Davies  
**Name of respondent** Mike Phillips  
**Representing:** Emap Performance

### **CONFIDENTIALITY**

**What do you want Ofcom to keep confidential?**

Nothing

### **DECLARATION**

I confirm that the correspondence supplied with this cover sheet is a formal consultation response. It can be published in full on Ofcom's website, unless otherwise specified on this cover sheet, and all intellectual property rights in the response vest with Ofcom. If I have sent my response by email, Ofcom can disregard any standard email text about not disclosing email contents and attachments.

**Ofcom can publish my response:** once the consultation ends

**Name:** Mike Phillips, Head of Regulatory and Public Affairs

## **Ofcom's Radio Review consultation questions**

*1. Do you agree with our proposals to use formats as the primary tool of regulation for analogue commercial local radio?*

Emap agrees that Formats are the best regulatory tool for ensuring compliance with the requirements of section 105 and 106 of the Broadcasting Act. Furthermore, we believe that Format requirements combined with the majority of the proposed Localness guidelines (but see comments in reply to questions 2, 4 and 7) should be sufficient to allow Ofcom to discharge its statutory requirements with the least intrusive regulatory mechanisms.

*2. How do you think the objective of ensuring the provision on commercial local radio of a high quality news service, including local and national news, is best achieved?*

*- Should stations be allowed to use news hubs to allow them to operate in the most operationally effective way?*

Emap firmly believes that groups should be free to decide how best to provide a high quality, locally relevant news service. Whilst some may argue that co-locating news staff into a single location could appear to deprive an area of a dedicated journalistic presence, in Emap's view, the advantages of a centralised newsroom far outweigh any perceived disadvantage. The advantages include:

news hubs can free up journalists from being studio bound to provide more actuality;

increased volume of local stories because journalists are not desk bound;

make best use of those with 'radio friendly' voices;

improve editorial control and judgements by having an experienced editor to oversee the output of more than one service.

Furthermore, where there are one or more neighbouring stations, a news story from one area will often be of relevance, and interest to, the other(s).

Emap believes that judgements about how best to deploy news staff should be left to the discretion of local stations/groups who have a detailed understanding of the local areas and the needs of local listeners.

*- Do you agree that we should include a statement in the localness guidelines to the effect that, in order to provide a comprehensive local news service, each station must provide direct and accountable editorial responsibility, based within the licensed area, for the provision of a news service equivalent at least to full time professional journalist cover for all of the hours during which its licensed format specifies that it will provide local news programmes?*

Emap understands why Ofcom would prefer to retain some form of control over the presence of journalistic cover within each licensed area. However, the advantages of news hubs, as mentioned above, can only be fully realised without any regulatory restriction that may impede the movement of journalists operating within a hub. For example, in the event of a major breaking story, a strict interpretation of the requirement that a full time journalist is based within the licensed area could hamper reporting a story if the event was in an adjacent area. Additionally, the imposition of such a requirement would appear to be contrary to Ofcom's preferred stance of regulating outputs rather than inputs – see further comments below in reply to questions 4 and 7.

*- Is there a better way to achieve the objective that focuses more on output rather than input regulation?*

News content and provision should be assessed and judged in the same way as any other Format requirement (i.e. by the investigation of complaints, by ad hoc monitoring). Additionally, Ofcom could conduct spot check monitoring of local news following a major local story to check the 'quality, relevance, timeliness and accuracy' of news delivery. Ofcom's expectation about these matters is clearly set out in the revised localness guidelines and should provide adequate recourse for the regulator to act, as it sees fit, should the need arise.

*3. Should stations be allowed to decide for themselves how much programming they automate*

Yes. Good automation is transparent to the listener and, providing that any daytime automation continues to satisfy Format and localness requirements, stations should be free to automate as they wish. Failure to provide automated output of a transparent nature and satisfactory quality will result initially in listener dissatisfaction and, ultimately, regulatory issues (neither of which are in a station's interest) which can be addressed by Ofcom in the usual way.

*4. Should the requirement for a station's studios to be based within the measured coverage area be relaxed to require the station to be based within the licensed area?*

According to page 75 of the review, the licensed area will be 'the area that the licence is designed to serve (as set out in the original licence advertisement). Emap does not believe that, in practice, this will give stations much, if any, more flexibility than the current MCA rule. The MCA is a technical definition that, generally speaking, sets out on a map the areas described in the licence advertisement. However, if Ofcom were to consider a change from MCA to TSA this would provide licensees with some flexibility. At the same time, Ofcom will have some assurance that stations will not simply adjust a TSA to fit a proposed move because the expansion of a TSA beyond reasonable boundaries will damage RAJAR performance as listening becomes diluted in areas of weaker signal strength. Alternatively, Emap would ask Ofcom to consider introducing a relaxation that requires studios to be located within a set distance (e.g. 10 miles) from the MCA perimeter. Giving stations some real flexibility will allow groups to establish local 'centres of excellence' which will benefit licensees and citizen-consumers alike.

*5. Do you agree that a station's local hours, as defined by its format, should include local material, but that, outside of these hours, stations should be free to share material with other stations on a network basis as they see fit?*

Yes and we welcome Ofcom's clarification about this.

*6. Do you agree that each station should be required to maintain a format and localness file, available both at its premises and online, which demonstrates how it is meeting its obligations?*

Emap has very strong reservations about the introduction of such a file. We fully appreciate that it is intended to act as a safeguard for, and to demonstrate the commitment to, localness requirements but, for a regulator whose policy is to regulate outputs, it seems an unnecessarily bureaucratic move. To be credible such a document would have to be compiled and maintained at a senior level and contain a great deal of detail (page 86 of the review mentions, for example, including the amount of local news and the number of local stories broadcast) which will lead to a significant increase in the workload. If the file is not supervised at a senior level and updated frequently, there is a real danger that it will become little more than a hastily compiled document done under duress at the end of each quarter. As such, it will not accurately reflect the output of the station and will be of little real use to licensees, citizen-consumers or the regulator. Furthermore, some of the suggested contents of the

publicly available file (such as the hours a station is automated) could raise serious security issues for station premises and equipment. Again, we believe that the right approach for Ofcom is to take the least interventionist route and regulate outputs only – which is precisely the way that listeners will judge a service; if it isn't locally relevant audiences will decline and revenue will suffer. If a service is found to be lacking (and declining audiences will be an indication of this), Ofcom has recourse to the Yellow Card procedure and/or other regulatory action when appropriate.

*7. Do you agree with our revised localness guidance, which sets out the factors stations should take into account in providing local programming?*

Emap agrees with the majority of the guidance contained in the proposed localness guidelines. However, for the reasons mentioned above in our response to question 2, we do not believe that it is either appropriate, or necessary, to insist upon the presence of the equivalent of full time journalistic cover within each licensed area. Additionally, as stated in our reply to 4, we believe the requirement that studios should be located within the licensed area should be relaxed to 'TSA'.

#### **Digital radio questions:**

*8. Do you agree with our proposals to allocate more spectrum in VHF Band III for DAB-compatible use (subject to spectrum clearance and international agreement)*

*in the following way:*

*- Three blocks to provide local multiplexes to those areas which currently do not have their own local multiplex and some areas which already have local multiplexes?*

*- One or two blocks for national coverage (depending upon whether four or five blocks of spectrum are available in total)?*

*9. Do you agree that the proposed local DAB digital radio multiplexes should be awarded as Broadcasting Act licences?*

In our submission to Ofcom's consultation on the future use of Band III and L-Band spectrum, Emap said that, based upon evidence of demand from both listeners and advertisers, priority should be given to using sub-band III spectrum for national T-DAB multiplexes. We suggested that a general (Wireless Telegraphy Act) licence and a Broadcasting Act licence should be the priorities with any remaining spectrum used to cover holes in the existing local coverage. We added that our preference for the local multiplexes would be for larger regional/sub-regional areas rather than

small-scale licences. We note that the review mentions it may be possible to combine some of the smaller areas and advertise these as larger licences and Emap would urge Ofcom to do so to enhance the commercial viability of such multiplexes. We also support the advertising of second or third tier local or regional multiplexes and similarly hope Ofcom plan and advertise these in a commercially attractive manner.

It remains our view that new national services are the best way to promote and safeguard the future of DAB by providing the number and range of services wanted by listeners and advertisers; local services do not, in our view, drive the take up of DAB.

Emap would support any rationalization of Band III frequencies to maximize the benefits of new allocations. However, this support is qualified by our concern about the potential costs that any rationalisation may impose upon existing operators. However, regardless of whether any such review of local allocations takes place, we are firmly convinced that an expansion of national services is vital for DAB's success. As noted in Ofcom's report 'The i-Pod Generation', DAB thus far has been more attractive to older listeners and that younger people are listening to the radio noticeably less than their parents. Many younger people cited a lack of choice and repetitive playlists as reasons for their dissatisfaction with current radio services. They are also constant channel hoppers. DAB now needs to make headway with this important demographic and the provision of new national services targeting younger people, available at around the time that mass market mobile/ghetto blaster type DAB receivers are coming to the market will help fuel interest and ensure the success of DAB across the population as a whole. Emap is firmly of the view that, particularly as Ofcom does not believe there is, at present, a case for analogue switch off, it is vital the regulator should do all it can to help facilitate the continued growth of DAB take-up. This is crucial at the time that major brands are now starting to manufacture more sets of greater variety (table tops, clock radios and walkman style devices). The launch of Classic FM was the major factor in lifting the awareness of commercial radio and an announcement that there will be new national services on DAB will be a major media story and accelerate the take up of receivers right across the population as a whole.

Emap recognises that Ofcom has a broadcasting policy of enabling local terrestrial DAB services across the UK and, to achieve this, intends to use 3 of the available frequency blocks to complete the network of local multiplexes. We believe these should be advertised as Broadcasting Act licenses as, to do otherwise, would not ensure complete roll out of local DAB services.

*10. Do you agree that the frequency blocks proposed to be allocated to national*

*coverage should be awarded under the terms of the Wireless Telegraphy Act only (i.e. without the need for a Broadcasting Act licence)?*

As Ofcom's proposed use of the 4 or 5 spectrum blocks allocates 3 blocks for local use leaving, at least initially, only one for national coverage, Emap believes this should be advertised as a Broadcasting Act licence to ensure the provision of additional national DAB services and continue to drive interest in the platform. The take-up of DAB is at a critical point, particularly in attracting younger listeners and national advertisers, and an announcement by the regulator that a further national multiplex for sound services will be advertised will increase awareness and interest in the platform. Advertising the first, and possibly only, national multiplex as a general licence will not guarantee any further national DAB services and may lead to slower growth or even stagnation for the platform because the only new services that will become available will be restricted to just local stations. Emap believes the experience gained from the auction for 3G phone services should add an element of caution to Ofcom's consideration about adopting a similar approach to what may be the only opportunity it has to help promote national commercial radio across the UK.

If Ofcom insists on licensing the first, and possibly only, frequency block as a WT licence, then Emap would urge it to consider attaching some conditions to the licence to guarantee a minimum number of free to air DAB radio services. We believe that an auction, with no such requirement, would almost certainly not provide any further sound services as these are not likely to be cost effective for a licence awarded by virtue solely of an auction.

*11. What demand do you envisage there being for nationally-allocated DAB compatible spectrum?*

Emap believes there is unsatisfied demand from service providers, listeners and advertisers for new national DAB services and, as mentioned above, this is crucial to bolster continued awareness and uptake. Whilst we recognise that Ofcom's standard approach would be to auction this spectrum in a technology neutral manner, we do not believe that awarding the first, and possibly only, national spectrum block as a WTA licence will necessarily provide any new DAB services. Emap agrees with Ofcom that the use of DAB compatible frequencies could allow the introduction of 'new multimedia data services' alongside radio stations. However, we are committed to DAB and believe that the first block should be licensed as a BA multiplex to secure the future development and uptake of DAB, leaving Ofcom free to license the second block as a WT licence - by which time it should be much clearer about which type of multimedia data services are likely to be suitable and viable for the available frequencies. Despite our

past and continued commitment to DAB, with the prospect at the moment that only one spectrum block will be available, it is unlikely that Emap would participate in an auction for a WT Act licence.

*12. Do you think the limit on non-programme related data carried on each commercial DAB digital radio multiplex should be raised from the current limit of 20%? If so, what should the limit be raised to? What do you envisage extra capacity would be used for?*

At present it is unclear what the non-programme related data capacity could be used for. Emap therefore believes that there is currently no compelling reason to relax the data limit but to concentrate on providing and promoting DAB radio services.

*13. Do you think the limit on non-programme related data (including radio) carried on each commercial digital terrestrial television multiplex should be raised from the current limit of 10%? If so, what should the limit be raised to?*

*As with our reply to question 12 above, Emap's view is that the DTT network is primarily a television platform and should, for the present, continue to be so. We would not, therefore, like to see this limit increased.*

*14. Do you agree with the proposal to abolish the minimum bit-rate limit for DAB digital radio and replace it with a co-regulatory system akin to that applied in television for picture quality?*

This seems to Emap to be a sensible suggestion and we welcome the opportunity this will provide to take advantage of technological progress as this develops. However, we would wish to see a simple and straightforward method of resolving any complaints that may arise rather than any complicated and time consuming process. At the end of the day, no licensee is going to reduce the quality of the output to the extent that it is detrimental to listeners as this would have an adverse effect on audience figures.

#### **Future licensing questions.**

*15. How should Ofcom allocate further MW (AM) frequencies between commercial and community radio?*

Emap strongly believes that the allocation of MW frequencies should be prioritised so that:

1. Existing MW licensees have first choice of frequencies to improve coverage for their services to help maintain their viability.
2. Wherever possible frequencies should be used to offer new regional services or for coverage of large population centres, and advertised as commercial radio services.
3. Ofcom should confirm that it intends to continue to provide licensees (both existing and any new commercial services) with the opportunity to be flexible with MW Formats to allow licences to put forward radical proposals (such as the recent change of 'Easy' to 'KATR') to rekindle interest, awareness and viability of MW services. We believe the regulator could go beyond this and introduce complete freedom for MW stations to change Format to any programme service that broadens choice within the locality to help promote that waveband's popularity with citizen-consumers.
4. Remaining frequencies should be used for Community Radio services which are only intended to cover very limited geographical areas.

*16. How might we accommodate the advertisement of new commercial MW licences into our existing FM licensing plans?*

*Emap would not wish to see the FM licensing timetable jeopardised by the advertisement of new MW frequencies. Our preferred route would therefore be Ofcom's third option (i.e. giving clear priority to new FM licences at all times but slotting in a few new MW licence advertisements as and when practicable.*

**For consideration in phase 2 of this review, we would like to raise questions about the overall strategic framework for radio, both commercial and public sector, and the public purposes of radio. We would welcome views on the following:**

*17. Do you agree with the proposed strategic framework for the future regulation of radio, which aims:*

- To enhance choice, diversity and innovation for consumers at the UK, national, regional, local and community levels.*
- To secure citizens' interests through the provision of radio designed to meet public purposes.*
- To do this with as little intervention in the market as possible, consistent with meeting our objectives, in a way that is as consistent as possible across media and across platforms.*

Emap is content with the strategic framework proposed by Ofcom and its approach to intervening only when necessary. To this end, we firmly hope

that suggestions such as the introduction of a Format and Localness File, stipulations about the employment and location of journalists will be reconsidered and deemed to be unnecessarily interventionist.

*18. How important do you think it is to develop a set of public purposes for radio and what should those public purposes be?*

- Is the set of public purposes already developed for television a useful starting point?*
- What else should be added or what should be taken away?*
- What is the relative importance of the different elements?*
- Are there things that are better delivered by radio than other media?*

Emap believes that the 'public purposes' for radio are already broadly dictated for the commercial sector by the requirements of the Broadcasting and Communications Acts. In particular, the conditions that services are of high quality, offer a wide range of programmes calculated to appeal to a variety of tastes and interests and broaden choice, go a long way towards establishing the public purposes of radio. Each commercial licensee has a Format detailing its programming requirements which are effectively the 'public purposes' for that station.

*19. To the extent that it is possible to comment at this stage, how do you think those public purposes are best delivered?*

- How important is plurality of provision of the public purposes for radio?*
- How much of what commercial radio currently does could be classified as meeting public purposes?*
- How well does the current market structure help fulfil public purposes in radio?*
- Should the BBC's radio archive be made available more widely to commercial players to provide alternative radio services?*

Plurality of service is vital and the forthcoming tier of Community Radio stations will go further to broadening the range of programmes available to listeners and to enhancing the public purposes of radio in general. Attempting to quantify how much of what commercial radio already does can be classified as meeting public purposes would be a difficult exercise precisely because of the wide range of services available. For example, the music led output of a youth service may not appear to others to offer much that could be described as providing a public purpose. However, to listeners who appreciate the music aired, the supporting information, whether it is a local 'gig guide' or a drug awareness campaign, can be invaluable to its target audience. Ultimately, whether a commercial station is providing a public purpose is demonstrated by its ability to attract an audience.

Emap believes the BBC's radio archive should be more widely available.