

9.1 Questions for consultation

As set out in this report, there are two sets of immediate priorities to be addressed:

Firstly, how should we regulate local analogue commercial radio and, in particular, the provision of local material and locally-made programmes? We would welcome views on the following:

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

Yes.

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?

Yes, we are in favour of local content on local stations, and we do not believe that "news hubs" need necessarily lead to a reduction in quality or quantity of local news, in fact we believe the opposite will be true. If stations, particularly local ones, can use their resources more efficiently there is more money to spend on "localness", the current restrictions are not appropriate for the desired result of local news programming.

- 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?

A full time journalist in the broadcast area, reporting back to a central hub would, we believe, deliver Ofcom's aims.

When considering local content, it must also be remembered that some stations are now being defined by their "community of interest" NOT their geographical location. In these cases it would seem that "relevant to the community of interest" is actually more important than geographically local. We believe that this should be recognised within the guidelines and agreed format so that these stations are not penalized by virtue of their geographical location.

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

We believe that a certain level of regulation is good for the industry and reduces the tendency for stations to revert to "lowest common denominator" programming, which often leads to more music, less speech and less vibrant on air presentation. However too much regulation can stifle the industry. We don't believe that voluntary self regulation is always the answer, after all it would be sad to see radio lose the respect it has so deservedly earned in terms of its news coverage and trustworthiness, and be regarded in the same negative, and untrustworthy way as newspapers. This would be bad for the industry as whole.

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

Yes, software today is very sophisticated and doesn't need to "sound" automated. Provided local content and speech content levels are met (according to the format) the station should be able to choose when it automates and how much. It is very unlikely that any station will over use this, after all phone ins, live competitions etc make up a large part of many stations output. However with more and more stations being licensed there is likely to be less money available for programming so automation will become more necessary. The answer to this is not to limit automation, but to limit the causes of automation i.e. too many stations in a market, making live programming unviable.

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?

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?

The BBC already do this, for example in the south of England, and it would seem right that the commercial sector can do this too.

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?

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

Yes.

Secondly, how can we best facilitate the growth of digital radio? We would welcome views on the following 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:

The growth of digital radio can be facilitated in a number of ways, and these do not necessarily require the licensing of more stations.

The only reason to licence more and more stations is if, by the term "growth", Ofcom simply means more stations, regardless of content, quality and financial viability. But we understand the spirit of this consultation is to find ways to safeguard listener choice and ensure that listeners are given a choice of quality radio stations offering a variety of content and serving their (the listeners) needs. If this is the case then licensing more digital stations will be counterproductive.

More stations means fewer listeners per station, means reduced advertising revenue, means lower standards of programming, means less local news, less original programming, less high quality speech output etc. This does not serve the interests of the listener.

The first priority is to ensure that as many people as possible in the UK have access to DAB. There are already 2 national multiplexes and a number of sound services have already pulled out. The additional capacity is being used for data. Clearly there is not room for a third multiplex offering audio services.

If a third multiplex is licensed then we believe it should be used solely for the following:

- 1) data delivery, multimedia, non programme related info. This will help drive DAB take-up by offering additional services and interactivity
- 2) existing sound service providers should be given the opportunity to increase their bit rate, again this will help drive take up as they will be able to offer more alongside their services as well as superior audio quality
- 3) we **do not** believe that priority should be given to the BBC. As a public service broadcaster BBC services should complement commercial services, not compete directly with them. By giving the BBC the third national multiplex the danger is that it would compete directly with the commercial sector and it is more likely that commercial stations would suffer (as did Oneworld) and ultimately if the commercial stations folded because they were no longer commercially viable then the licence payer would have to foot the bill, a bill that was initially being paid for by the commercial sector. As tax/licence payers we do not want to have to pay for services that could be paid for equally well by the commercial sector.

We strongly believe that the existing MW and FM stations that are not currently broadcasting on DAB should be given an opportunity to move to DAB. It is not fair to penalize them with inferior sound quality, nor is it fair to penalize the DAB stations by reneging on assurances made by the Radio Authority that all radio in the UK will move to DAB. Your own research indicates that if this is to happen 5 blocks will be needed. This does not leave room for any further national multiplexes. Priority must be given to allowing all stations to broadcast and compete at the same level of quality.

- 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?

There needs to full DAB coverage of the UK so priority must be given to areas that do not yet have DAB coverage.

You do not state which areas with existing DAB services would receive additional licences so it is difficult to comment, but we believe, for example, that London is adequately served and should **not** be granted additional licences and certainly not at the expense of areas that aren't currently covered.

In addition further multiplexes in areas already licensed would have the effect of "moving the goalposts". For example, the Radio Authority London 3 licence advertisement read, "This is the last of the three digital multiplex licences for services in and around Greater London". If the possibility of other multiplexes had not been ruled out by the Authority, alternative business plans would have been developed with very different programming commitments.

Ofcom states in the consultation document "Small stations are the least profitable, with a negative average operating margin of around -9% of revenue. There is considerable variation in the profitability of smaller stations, with around 50% of them making an operating profit and 50% a loss during their most recently reported financial year...The same is true of the medium-sized stations. As competition increases in future, audiences for all stations risk being eroded by listening to other stations."

We believe you have answered your own question – no further multiplexes should be licensed in areas that are already served by a local multiplex.

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

There is no need for a further national DAB licence to broadcast sound radio programmes. (see our answers to question 8 above and 11 below)

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

Yes, Broadcasting Act licences have worked well. The alternative might be to auction the bandwidth and we fear that this would create few viable radio services. The danger is that, without the regulation of the licence both in terms of geographical coverage area and content, new stations would spring up that did not increase choice or serve underserved audiences. It is quite conceivable that one area could find itself with a large number of stations but all playing the same blend of pop.

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)?

We do not believe that there is a case for licensing a further national multiplex. Digital1 has put considerable investment into DAB, without them the industry would have faltered and we would not be in a position to even ask this question. This investment and the associated risk should be rewarded not punished. By allowing other services into the market, services that did not take the initial risks, Ofcom would be penalizing D1. When D1 applied for their multiplex licence it was clearly stated that this was going to be the only national commercial multiplex, by Ofcom going back on this promise, should all broadcasters now assume they cannot trust Ofcom?

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

We believe that as DAB technology develops and the receivers develop that multi-media/data will become increasingly important, and there should be spectrum for this. This will likely be delivered through improvements in coders at the transmitter sites. We do not envisage great demand for further sound programmes on a national multiplex. There is a danger that by delivering a further national multiplex for sound programmes some local services that have built up a quasi national network will simply gravitate to the national multiplex thereby foregoing their commitment to local programming (which after all is more expensive than national programming). This would completely go against Ofcom's aims to increase choice and ensure local content. In smaller areas where the multiplex fees, per listener, for a broadcaster is proportionately high, there is a danger that these services will not be replaced, especially if there is already capacity available. By licensing even one, but certainly 2 new national multiplexes, Ofcom is in serious danger of failing in its remit to increase local programming and choice. We believe that there should be a clear commitment from Ofcom not to licence any further national DAB multiplexes.

We support the BBC's commitment to DAB and recognise that they have done much to drive take up and awareness, as well as providing an excellent range of services. We do not believe, however, that it is sensible for them to offer identical services to the commercial sector. This benefits no one. As a public service broadcaster they are best placed to offer services that are not provided for elsewhere. This is what the BBC does well. Duplicating services is pointless. For this reason and those stated in our other answers

we do not believe that the BBC should be allocated spectrum for another national multiplex or a series of additional local/regional multiplexes.

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?

Yes we do believe it should be increased. For example Passion would be interested in providing additional health and environment news and data. It could also be used for emergency data, eg flood warnings. We believe that increased data services will provide additional services, choice and opportunities for both listeners and advertisers and this is a win-win situation. New technology already allows multiplex owners to increase the audio quality of a service without increasing the bit rate and could in fact allow audio quality to remain constant while bit rate is reduced. This would free up space for further services and we would like to see this used for the provision of data.

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?

We believe that TV should be consistent with radio and vice-versa.

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?

We believe that it is important to define quality based up on the quality of the transmitted signal, as the broadcaster cannot be held responsible for the quality of the receiving equipment. We agree with points 1,2 and 3 of your table on page 143 of the consultation document. We are not clear about the meaning of point 4 and would ask that you clarify this.

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

With the advent of DAB and the development of DRM, it seems like a waste of time and resources to license any further MW stations. This is supported by your own findings; "During the past 15 years, listening on MW has declined substantially as listeners have migrated to the superior audio quality and stereo transmission of the FM band, despite a significant increase in station choice on MW through the Radio Authority's licensing of two national commercial stations (Virgin Radio and Talk Radio, now talkSPORT) and the launch of BBC Radio 5 Live."

The quality of MW broadcasts makes them difficult to listen to (or at least enjoy listening to them) and it also seems very unfair to expect people to invest (time, money and resources) in a radio station broadcasting on a frequency that is outdated and sub standard. This applies whether these licenses are granted to community not for profit groups or commercial groups. There are other options available, why waste resources on the least efficient and effective option? By offering MW licences Ofcom is in effect offering something that, it knows, is not "fit for purpose".

If additional frequencies must be allocated, then it would seem most sensible to allocate them to existing MW operators who know the shortcomings of the service and don't need to make large additional investment. However overall, we do not believe that resources should be diverted from other more important areas to deal with MW.

After all, ask the question – who is likely to listen to MW with so many stations available on DAB and other digital platforms and most DAB radios only receiving FM and DAB? Remember, retailers don't "sell" analogue radios, they stock them, but don't actively sell them.

Licensing further MW stations is a bit like a record company, in the digital age, deciding to release the latest pop songs on 78rpm vinyl record or Sony releasing a new range of black and white only TVs.

Ofcom states; "With new MW license awards, we are likely to place particular emphasis on the statutory criterion of 'ability to maintain the service' contained in Section 105 (a) of the Broadcasting Act 1990, given the difficulties of attracting audiences to new MW services that nearly all operators have experienced in recent years."

Ofcom recognises that it is difficult to attract audiences to MW and this in turn makes it difficult to make a MW station commercially viable. Who will buy advertising on a station with just a handful of listeners? Advertising prices will therefore need to be very low and this in turn will lead to lower commercial script and production standards, which in turn damages the sound of the station and reduces the effectiveness of radio advertising both on that station and in the wider market.

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

See above – don't license any further MW stations.

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.*

We believe there is already a good balance of choice, diversity and innovation being offered by both new players and the larger groups. By regulating the industry and ensuring that quality is important everyone wins – the audience, the advertisers, the employees, and the companies themselves.

Allowing a glut of services to exist may appear to increase choice but will in fact, as has been demonstrated elsewhere, mean output has to be made cheaper and cheaper to compete, leading to lowest common denominator radio with back to back music and often unskilled (i.e. low paid) presenters. Not good for the audience, the advertisers, the employees or the companies.

Adding more DAB services (in areas already served by more than the national multiplexes) would put many broadcasters at risk. More services dilute the audience, reduce revenues and threatens stations viability.

If further multiplexes are licensed in areas that are already served, then the companies that invested in the early stage and took the greatest risks to drive digital take up are being penalised in favour of those who sat back and did nothing.

Areas that are not currently served by a local/regional multiplex should be licensed as soon as possible to ensure that DAB is available to as many people as possible and to give the broadcasters the opportunity to broadcast via DAB.

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.

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?*

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 fulfill public purposes in radio?*

There are more and more "community of interest radio stations" and many of these fulfill the role of "public purposes in radio".

A general comment:

Overall we believe that the licence fee, and therefore at this time the BBC, is the best way to provide programming that cannot be supported commercially. If a service can be supported commercially then it makes no sense for licence fee money to be used. The BBC and commercial sector should not be in direct competition but rather they should be complementary to each others services. However this does not mean that commercial broadcasters are incapable of providing "public purpose" programming. For example some of the new DAB stations provide "community of interest services" and these could be classified as "meeting public purpose"

- Should the BBC's radio archive be made available more widely to commercial players to provide alternative radio services?

In what way is re-playing old BBC archives an "alternative radio service"? If the BBC doesn't want to broadcast this material then make it available for download, licence payers have already paid for it once, why pay again?

We have some additional comments to the consultation document, not covered by the areas of questioning:

1) Licensing lots more stations does not give the consumer greater choice or encourage competition. Only the large radio groups with lots of cash can afford to take on these new licenses, particularly if there are so many that securing advertising revenue becomes very difficult with such a fragmented audience, only the large groups with their existing infrastructure, their economies of scale and their capital reserves can afford to launch and maintain new stations. By being clear about the finite number of licences available you encourage greater choice by giving smaller radio groups and newcomers a secure environment within which to invest the large sums needed to launch and maintain a new radio service.

The alternative is a number of stations struggling to put out content on a shoestring, leading to sub standard output, which does not serve consumers or the industry as a whole.

In the consultation document Ofcom states...

"To enhance choice, diversity and innovation for consumers at the UK, national, regional, local and community levels.

In the short-term this means we need to:

- encourage the development of more choice and competition by licensing new analogue and digital services and encouraging the growth of digital radio;

We do not agree with this statement for all the reasons stated above, and do not believe that "licensing new analogue and digital services" encourages more choice, or encourages "the growth of a strong commercial sector, capable of extending range and choice and investing in the future."

We understand that the aim is to increase choice and encourage creativity, but by flooding the market with radio stations we believe you actually achieve the opposite. With too many stations in a market you dilute the audience to such a degree that advertising becomes unviable. Who will buy advertising on a station with just a handful of listeners? Local papers become a much more attractive advertising proposition. This is further compounded by the fact that radio commercials cost money to produce (much more money than press adverts) and so you have to factor the production costs into your advertising prices. Cutting costs can will lead to lower script and production standards, which in turn damages the sound of the station and reduces the effectiveness of radio advertising both on that station and in the wider market. This is a no-win situation for all concerned.

2) Ofcom states; ***"Thus, the financial prospects for digital radio are still uncertain. If listening does not substantially increase and as a consequence advertising demand does not emerge, in the long-run stations' losses – particularly for digital only stations – will become unsustainable.***

"Choice of stations is seen by consumers as one of the biggest benefits of digital radio and therefore can be seen as a major driver of digital radio take-up. In the audience research carried out for Ofcom by MORI (see Appendix B), 36% of potential DAB digital radio purchasers thought that the choice of extra stations would be a particular benefit. This is backed up by research carried out by the DRDB amongst people who have recently bought DAB digital radio

(published September 2004), where 71% of purchasers did so at least partly in order to receive new digital stations.

“Robustness of signal is important, and this and getting coverage to areas that aren’t currently covered is a priority.”

Our response; Many companies may say they want DAB licences but as the industry has already seen, some of these never come to fruition and some that do, underestimate the investment and commitment needed. Ofcom already states that many smaller stations struggle and that many DAB stations have already disappeared, there is bandwidth available in many regions, but no one, with the necessary financial resources, to take it, therefore licensing further DAB multiplexes in areas already served by a local multiplex makes no sense. The result will be that existing services, who have made an early commitment to DAB, will struggle. These stations are what has driven DAB and the companies that have invested should not be penalised in favour of those who sat back. Rather than adding more licenses, priority should be given to finding a solution for the smaller stations. Ofcom has already stated that the solution is not more local/semi regional multiplexes (see page your point C, page 129). Existing services need to be protected first. Licensing more and ignoring the existing services does not serve the listener. People become attached to their stations and want to be able to listen to them.

Ofcom states that consumers are keen for more interactivity with their radio, in particular downloading music, and additional relevant data. This would therefore seem a better use of the spectrum and would increase choice (increasing choice shouldn’t just mean increasing the choice of audio, it should cater to wide variety of desires), encourage digital radio take up and cultivate creativity and innovation. This in turn would help to ensure that the UK remains at the forefront of digital radio, something that can only be positive for the country’s economy.

Ofcom states:

“f. Improving consumer awareness

Responsibility for marketing digital radio rests with the industry and industry bodies. We recognise the enormous amount of work that has already gone into promoting digital radio (and DAB digital radio in particular) by the industry, led by the Digital Radio Development Bureau, with relatively limited resources. In order to further improve consumer awareness of the benefits of digital radio, the radio industry will need to continue their work to promote digital radio, as well as working with manufacturers and retailers to get the messages across. It is not Ofcom’s role to act in this area – it remains up to the industry to address the issues around consumer awareness.”

Our response:

It may not be Ofcom’s responsibility to market DAB but it is the regulators responsibility to provide a clear message to consumers about the future of radio. Consumers want to know what technology to invest in, whether it is worth spending money on a DAB radio, is buying an analogue radio (with a life expectancy of 10 years) a waste of money as the technology will be almost obsolete before the end of life of the product. Consumers look to Ofcom to provide clear guidance on these issues. This *is* your responsibility.

The Radio Authority was very clear that ALL radio in the UK would move to DAB, and yet now Ofcom is saying that this is not the case. This is a fundamental change in policy. We understood the change from RA to Ofcom was to be a smooth one and major changes in policy would only occur after consultation. This is a major change in policy and has happened without any consultation.

The RA was clear that DAB was the correct digital terrestrial radio platform for the UK as it best served the needs of the listener. Ofcom claims that it has to remain platform neutral, but this has not been the case with digital terrestrial TV. By taking the best interests of the viewer and the industry into account Ofcom has supported a digital TV platform *and* announced a switch off date. There is no reason therefore for Ofcom to behave any differently towards radio.

Ofcom states: “In effect, these recommendations can be seen as completing the roll-out of local DAB digital radio services begun by the Radio Authority.”

We hope that when Ofcom says that this “can be seen as completing the roll-out of local DAB digital radio services” Ofcom does in fact mean that.