



# Building on the Myers Review

A submission to the Digital Britain project

Publication date:

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## Section 1

# Summary

- 1.1 Commercial radio is facing its greatest challenges since launching 35 years ago. As we highlighted in our submission *Radio in Digital Britain*<sup>1</sup>, the central challenge for policy and regulation is to meet the public's demand for the local radio content they value, in a way which takes account of the financial realities faced by operators, while at the same time creating an industry structure for a digital future.
- 1.2 We welcome the Independent Review of Radio Services and the Existing Localness Legislation by John Myers [hereafter the Myers Review] and agree with the broad thrust of many of its suggestions. We also welcome its ambition to regulate localness on the basis of public value for FM stations serving fewer than 700,000, which are the ones suffering most financially. Of the 300 commercial radio stations broadcasting:
- 180 are small stations serving fewer than 700,000 population
  - 36 are larger FM stations serving more than 700,000 population
  - 56 are on AM (we agree with the Myers Review that they should be allowed to drop localness, except by Nation, allowing for example a Scottish national AM station)
  - 28 are regional (including London) and so could merge to become new national stations
- 1.3 The Myers Review suggests that these small local radio stations should be regulated through a market research-based Local Impact Test. We see difficulties with this proposal coming from its lack of legal robustness, its cost to industry, its lack of regulatory certainty, and the construction and assessment of the market research. Building on the Myers Review's analysis, we believe there may be better ways to regulate localness on small commercial radio stations than the **Local Impact Test (LIT)**, which we refer to as **Option 1**. This paper suggests three other options for consideration.
- 1.4 **Option 2 – Focus on news, information and community notices.** Building on Myers' focus on news, all stations would have to provide local news (produced from within a mini-region) at least hourly during daytime. In addition, we suggest they should have to carry traffic and travel news and weather during peak times and a community notice-board several times a day giving details of local events. But for stations below 700k population, requirements for other local programming would be removed. Enforcement would be achieved by regular monitoring by Ofcom to ensure news and information were being delivered, and there could be a formal, biennial assessment of the industry by Ofcom (similar to the PSB Review).
- 1.5 **Option 3 – A new 'Localness Charter'.** Dropping the last remaining element of input regulation, all requirements for locally-made hours would be removed for stations below 700k. Instead Ofcom would develop a Localness Charter, based on a more specific version of our existing guidance, which would be written in to each station's licence. Listeners would be invited to complain of poor performance, and

<sup>1</sup> [http://www.ofcom.org.uk/radio/ifi/radio\\_digitalbritain/](http://www.ofcom.org.uk/radio/ifi/radio_digitalbritain/)

Ofcom would carry out reactive monitoring in response to complaints, as well as a formal, biennial assessment of the industry.

- 1.6 **Option 4 – Liberalise current rules, and create a new set of mini-regions.** The current requirements for locally produced content would be relaxed, moving from 10 hours/weekday to 7. These would be applied within newly drawn ‘mini-regions’, which would give the flexibility effectively to create larger, more viable stations, while preparing for digital migration (because these new regions correspond to actual or potential DAB transmission areas). Stations would still be required to provide both local material consisting of local news, information and softer, community-focused local content, but with flexibility regarding its production, meaning co-location and programme sharing would be allowed within the new areas. (Around half of all local FM stations could benefit from merging; all could benefit from reduced local hours requirements.)
- 1.7 It would be possible to devise a hybrid of two or more of these options.
- 1.8 A brief overview of the implications of each option is shown in the Figure 1. The detail is covered in the rest of this document.
- 1.9 In addition to the options for regulating localness, this document considers how a new co-location policy might work and the savings that could accrue to existing regional stations becoming new national stations. These proposals are set within the new strategic three-tier framework for commercial radio proposed in our Radio in Digital Britain submission, which would help fit the industry for digital migration.

Figure 1: Summary table of options

	<b>Option 1 Impact Test</b>	<b>Option 2 News</b>	<b>Option 3 Charter</b>	<b>Option 4 Mergers</b>
<b>Studio base</b>	Small stations may co-locate within BBC region. Large stations no change	All stations may co-locate within mini-regions, based on amalgamations of DAB areas, minimum size of 700,000 and local affinities	None	All stations may co-locate within mini-regions, based on amalgamations of DAB areas, minimum size of 700,000 and local affinities
<b>Local hours requirements</b>	Small stations – no hours requirement Large stations – reduced hours	No hours required for small stations but strengthened news and info for all stations.	No hours requirement for small stations.	Greater possibility for merger & reduced hours requirement for all stations
<b>Primary compliance check</b>	Audience research (Local Impact Test)	Regular and reactive monitoring (complaints driven); possibly biennial industry assessment	Reactive monitoring (more complaints investigations) & biennial industry assessment	Reactive monitoring, only after complaints
<b>Legal robustness of regulation</b>	Low	High	Low/Medium	High
<b>Alignment with audience demand</b>	News and information required – softer community content subject to station judgment	News and information only	Depends on detail of LC but news and information plus softer community content	Hard news and information plus softer community content
<b>Accountability to audiences</b>	High/medium	Medium	Medium/high	Low/Medium
<b>Consistent local services around UK</b>	Unlikely (group policies likely to differ)	No – larger areas get full service, smaller only get news & info	Ensures minimum service news and softer local content everywhere	Ensures minimum service news and softer local content everywhere
<b>Implications for licence awards</b>	Current beauty contest system less likely to work – replace with auction	Current beauty contest system less likely to work – replace with auction	Current beauty contest system less likely to work – replace with auction	Could maintain existing beauty contest or switch to an auction system.
<b>Regulatory certainty</b>	Low	Medium/high	Medium	High
<b>DAB consistency</b>	Low	Medium/High	Low	High
<b>Estimated extra regulatory cost (Ofcom)</b>	c.£3-4m	c. £1m	c. £1-2m	£0
<b>Estimated compliance costs</b>	Difficult to estimate	Less than at present	Difficult to estimate as completely uncertain	Less than at present
<b>Potential savings (programming)<sup>2</sup></b>	Difficult to estimate	c. £9m	Difficult to estimate	c. £15m
<b>Potential savings (co-location)</b>	c. £8m	c. £8m	>c. £8m, difficult to estimate	c. £9m

<sup>2</sup> Excluding regional stations becoming national

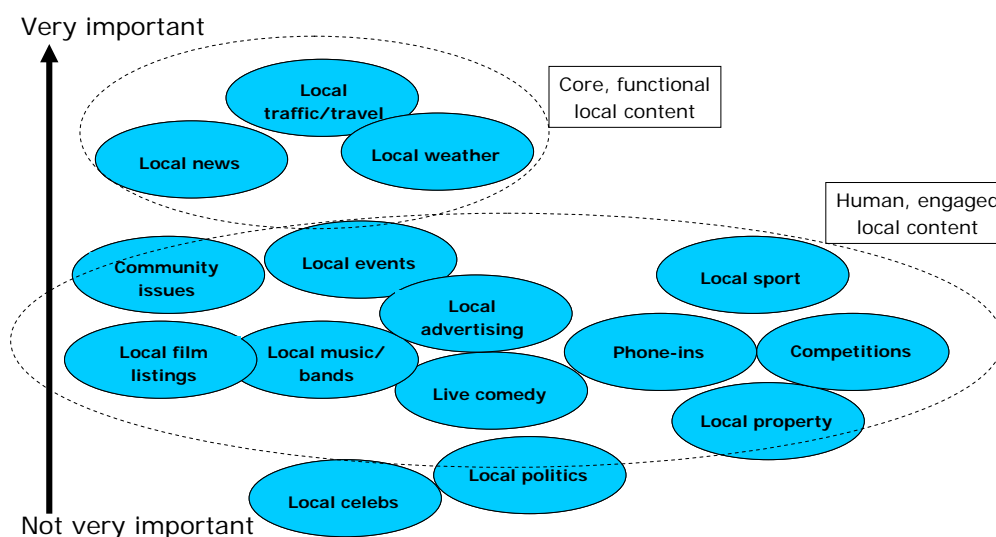
## Section 2

# Analysis

### Audiences value local radio

- 2.1 Ofcom's audience research has identified two distinct types of local radio content, both of which are important to consumers:
- Core functional content comprising local traffic and travel, local weather and local news. This is of interest and importance to all listener types and seen as a crucial element of local radio output by the majority of listeners in all locations.
  - Human, engaged local content, for example discussion of local community issues, local entertainment, and locally-themed chat shows and competitions. This varies in perceived importance depending upon the life-stage and personal tastes/needs of the listener. Thus community issues are of interest to the more community minded, or those in rural areas; phone-ins are important for older, speech radio listeners; sports coverage for sports fans; etc.
- 2.2 From a citizen viewpoint, core functional local content is important because of its implications for democratic engagement, but human engaged content also has an important role for certain sections of the community, in particularly the elderly, those at home with young children and generally those who rely more on local radio for company and a connection to the local community.

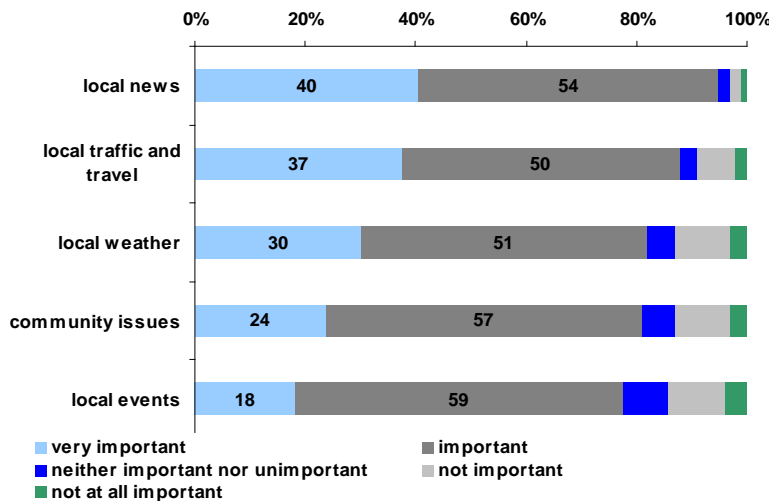
**Figure 2: Relative importance of local content delivered by local radio**



- 2.3 In a series of three-hour focus group discussions held in eight cities, radio was singled out as the medium with which communities most strongly identified. Radio is seen as more local, and therefore more relevant, from a community perspective than television, yet still a large-scale broadcast medium with greater impact than local press, for example.

2.4 Local radio is felt to involve communities in very tangible and positive ways. The visibility of presenters in the community, road-shows, and other ways of supporting local events and causes, help to create empathy and trust. Local voices, requests and competitions and more direct community participation help to create a sense of ownership. For many, their local radio service is important and truly valued.

**Figure 3: importance of issues being covered on local radio**



2.5 In this context the idea of local radio giving something to the community’s citizens is seen as one of its more valuable roles:

*“The local station cares about their area and often goes out into the local community to raise money for charities – for example darts and domino nights to raise money for Dundee’s Caring for Kids Charity”*  
 Female 45+ Dundee

2.6 The genuinely local attachment of a local station to its local area is important to its audience. Our research found that nearly all listeners felt that the quality and relevance of local traffic/travel reports, and local news and weather bulletins, were enhanced by being locally-made and broadcast by local people.

2.7 This becomes even more important at times of local crisis, such as flood or heavy snow, when local content beyond pure news and travel has a major role to play in serving the community.

2.8 When the financial state of the industry was explained to respondents, many were unwilling to see a reduction in local material and locally-made programmes even given the financial challenges.

2.9 But when pushed to consider at which times of the day it was important to have local content on local radio, breakfast and evening drive times were found to be the most important times for functional local content, although there was also an appetite for local content during the rest of daytime.

2.10 The possibility of cost savings leading to the replacement of local presenters with a high profile networked presenter was also largely rejected on the grounds that high profile presenters are already accessible on syndicated commercial or BBC national services, and in any case such a policy would go no way towards replacing the localness it had caused to disappear.

## Financial pressures threaten viability

- 2.11 Following a decline in industry revenues of 7% in 2008, analysts predict that radio revenues will continue to decline this year. Forecasts range from a fall of 3% (Zenith) to 15% (Enders). Some in the industry predict an even greater fall of up to 20%, while one major group reports that the decline has already bottomed out. Some of this decline may be cyclical, some of it structural as advertising moves from traditional media to the internet.
- 2.12 Our recent analysis of the sector suggests that, if the most pessimistic forecasts of industry revenue are realised, many stations serving fewer than 700,000 people, could be loss making by the end of this year.
- 2.13 We have recently carried out financial analysis of a cross section of local radio licensees. This analysis (Figure 4) considered stations grouped by size of population coverage, based on actual revenues for 2008.
- 2.14 Our analysis suggests that the smallest stations, which have the smallest margins, will be hit hardest, while large stations may still make respectable margins.

**Figure 4: costs and revenues by size of station**

Sample size	8	6	5	11
<b>2008 Actuals (averaged)</b>				
Population (MCA)	<b>750k +</b>	<b>500K - 750K</b>	<b>300K - 500K</b>	<b>&lt; 300K</b>
Total Revenue	7,775	2,636	1,758	958
Total Variable/Direct	1,492	555	367	180
Total Operating Costs	4,302	1,829	1,158	743
PBIT 000s	1,981	252	233	35
Operating Margin %	25.5%	9.6%	13.3%	3.7%

**2009 Estimate - Assuming revenues down 20%**

Population (MCA)	<b>750k +</b>	<b>500K - 750K</b>	<b>300K - 500K</b>	<b>&lt; 300K</b>
Total Revenue	6,220	2,109	1,406	766
Total Variable/Direct	1,194	443	294	144
Total Operating Costs	4,302	1,829	1,158	743
PBIT 000s	724	-163	-46	-121
Operating Margin %	11.6%	-7.7%	-3.3%	-15.8%

**Figure 5: Analysis of total commercial radio costs, 2008**

Analysis of costs	£m	%
Transmission	61	12%
Sales & commercial production	137	27%
G&A	190	37%
Rights	46	9%
Programming	75	15%
	509	100%

- 2.15 The financial structure of the industry as a whole shows that only £75m is currently spent on programming, representing 12% of the total cost base (Figure 5). This compares with BBC Radio's programme budget of c. £400m.

### Current regulation

- 2.16 The current regulatory framework is based on a mix of input regulation (specifying where programmes must be made) and output regulation (specifying number of hours of local programmes, Formats describing programming, and statutory Localness Guidance setting out our expectations of local content).
- 2.17 The rules were simplified significantly last year when we halved the amount of local programming required and simplified Formats to one or two lines. The current guidelines on hours and co-location are:
- FM stations – 10 hours a day of locally made programmes during weekday daytimes (including breakfast), 4 hours/day at weekends. Programming must be made within the licensed area (i.e. co-location generally not permitted). Local news must be broadcast during peak-time.
  - Small FM stations (<250k population) – may request co-location with neighbouring stations and share 6 of their 10 hours outside breakfast to create a mini-regional network.
  - AM stations – 4 hours of locally made programmes (i.e. from within the licensed area) during weekday daytimes with local news during peak. For stations in Scotland, Wales and Northern Ireland, at least 10 hours/day on weekdays must be produced within that Nation.

### Co-location

- 2.18 We agree with the Myers Review's conclusion that allowing co-location can be one of the most important factors in ensuring viability and that there should be much greater flexibility in allowing co-location.
- 2.19 At the same time, we believe that stations need to have some relationship with the area they serve to remain relevant to their audience.
- 2.20 The Myers Review suggests allowing co-location of smaller stations (below 700,000 population) within BBC regions. Larger stations would not be permitted to co-locate.
- 2.21 In some cases, such as the South West or the North East, we believe this makes sense. In others, such as Scotland or the North West we believe these regions may be too large. For example, it may not be appropriate for all local stations in Scotland to come from Glasgow.
- 2.22 We suggest allowing co-location within new mini-regions, based on
- a minimum population size of around 700,000 population (although not a hard and fast limit), which is the size above which our analysis suggests stations should have a good chance of viability;
  - local affinities; and
  - an amalgamation of existing DAB local areas.



- 2.23 Such a set of mini-regions may also fit with a revised DAB local map, allowing local multiplexes to merge within these mini-regions, better preparing local radio for a digital age.
- 2.24 These mini-regions would not be intended to provide absolute limits to as to what should be allowed but would be intended to provide a framework within which operators would not have to seek permission for changes, giving greater regulatory certainty. (Requests for flexibility beyond these mini-regions would still be considered but would require individual consultation and assessment, as at present).
- 2.25 We estimate that this option could help around 60% of stations. Actual savings will vary greatly by station, but our estimates suggest a typical pair of stations below 300k population may save around £135k, turning a loss into break-even position. For a pair of larger stations of around 700k population a typical saving would be around the same although this would be a smaller proportion of operating costs. Across the industry the total saving could be c. £18m p.a.
- 2.26 While co-location could significantly help many stations, it may not be sufficient in itself to ensure a viable long-term future for local commercial radio.

**Figure 6: Proposed new mini-regions**



## Options for regulating localness

2.27 The Myers Review recognises the ongoing importance of localness on commercial radio but argues that, left to itself, the market may not deliver this. We consider four options for the regulation of localness.

### Option 1 – The Local Impact Test (as proposed by the Myers Review)

2.28 For small stations (under 700k population), there would be no requirement for a number of local hours. Instead compliance would be based on audience research. Each station would be required to demonstrate that audiences thought it was delivering local value.

2.29 There would however be a requirement for local news throughout daytime for all stations, and guidance could be strengthened, with the ‘over arching ambition’ that:

*“Local news bulletins should, under normal circumstances, contain stories of particular relevance to people living and working in the station’s local area. Bulletins should be underpinned by genuine journalistic values, and seek to connect, engage and respond to the interests and needs of the community the station serves.... Stations must ensure that news teams (and appropriate supporting resources) are able to respond, within a reasonable period of time, to newsworthy events from the villages, towns and cities where the target audience lives”<sup>3</sup>.*

2.30 Larger stations would be regulated on hours of local output, as now.

#### Advantages

- Maintains local programming at its heart with a focus on news but also including other important community elements.
- Places a primary importance on what audiences actually think of programme quality, rather than a set of rules based on hours of output.

#### Disadvantages

- As there would be no clear and certain conditions in each licence, there would be no proper basis on which to judge compliance and take clear, certain and effective regulatory action where that would be required.
- Any survey of existing listeners would be self-selecting and would be likely to result in a favourable bias. This is not necessarily a measure of how well the station is serving its community.
- There are considerable methodological and interpretative difficulties with this approach e.g. criteria of what is good; no way to check/appeal the results.
- Regulation based primarily on an audience research assessment is unlikely to be robust enough if contested in court.

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<sup>3</sup> Myers Review, p86

- Licensees would have no regulatory certainty (they would not know whether their output was acceptable until post survey). Other than co-location savings, licensees would be uncertain as to what they could cut.
  - Does nothing to fit local radio for digital migration.
  - Whether carried out by the stations themselves or by Ofcom, there would be an increased cost burden on stations at a time when many are losing money. We estimate a bare minimum cost of £10k/station x 183 stations plus Ofcom overheads = over £2m p.a. (This is based on the lowest possible spec: 100 listeners surveyed/station, 15 minute telephone survey, no possibility of further analysis, such as a demographic breakdown). This cost would be in addition to Ofcom's current fees charged to the radio sector of c. £3m p.a.
- 2.31 The existing licensing process would need to be changed as a 'beauty contest' would be difficult if not impossible, with no specific promises of output written into the licence and so no criteria against which to judge applicants. The most obvious alternative is a move to an auction model. Previous discussions Ofcom has had with the radio industry suggest that this would not be welcomed.
- 2.32 Total savings to the industry are difficult to estimate, as it is not clear what stations could save other than from co-location.

### **Option 2 – Focus on news, information and community notices**

- 2.33 The requirement for local hours would be removed for all stations below 700k population.
- 2.34 Each station would have to provide local news at least hourly during daytime (as with the Myers Review proposals). The news would have to be produced within the mini-region.
- 2.35 But under this option, each station would also have to broadcast comprehensive traffic and travel news and weather during peak times and a community notice-board several times a day giving details of local events.
- 2.36 For example, Global operates four stations in Devon (Plymouth, Exeter, Barnstaple and South Hams). Under this option they would be required to produce separate news and information bulletins for each area, but all other programming could be networked from London.
- 2.37 Ofcom would monitor stations to ensure they were providing this news and information content.

#### Advantages

- Focuses on measurable output.
- Simple to understand and implement.
- There could be synergies with Ofcom's proposal for Independently Funded News Consortia, which we have suggested could involve the creation of local multi-media news 'hubs'

- Allows maximum flexibility over non-news and information programming.

#### Disadvantages

- Doesn't ensure delivery of softer community content which audiences value. This could be particularly important in times of local crisis, such as local flooding or heavy snow.
- Likely to result in an inconsistent level of service in different parts of the UK (e.g. full local radio service in Southampton, but only news and information in Plymouth).
- May place too much emphasis on industry profits compared to citizen and consumer needs.
- Doesn't include a measure of audience opinion

2.38 As with Option 1, the existing licensing process would need to be changed as a beauty contest may be hard to sustain. It may imply a move to an auction model.

2.39 We estimate total savings to the industry at c. £9m if stations dropped all local programming apart from news and information, but increased their news provision.

#### **Option 3 – A new “Localness Charter”**

2.40 All requirements for locally-made hours would be removed for stations below 700k pop, but instead Ofcom would develop a Localness Charter, based on our existing guidance, which would be written-in to each station's licence.

2.41 Each station would have to publicise the Charter and invite listeners to comment to Ofcom on compliance. Ofcom would respond to complaints and also carry out a biennial survey of how the whole system was working, similar to the PSB Review. This review could include stations submitting their own reports on how the system was working and how they had delivered localness.

#### Advantages

- Focus on quality of output rather than number of hours.
- Encourages audience feedback (although not as systematic a measure of audience opinion as a market research exercise).

#### Disadvantages

- As with the Option 1, without quantified requirements in the licence, it would be difficult to regulate – how much localness is enough? Increased monitoring would represent significantly greater regulatory intervention and regulatory cost, which would be borne by industry.

2.42 The existing licensing process may need to be changed as a beauty contest may not be possible. It may imply a move to an auction model.

2.43 Total savings to the industry are difficult to estimate, as the detail of the Charter, yet to be written, would determine the cost of compliance. Therefore as it is not clear what stations could save other than from co-location.

#### **Option 4 – Liberalise current rules, and create a new set of mini-regions**

- 2.44 Our financial analysis suggests that many stations may not be viable below 700k population. While co-location may help, it may not be sufficient to ensure viability. The biggest financial saving stations can make is in sharing programming. This option would allow stations within each mini-region to merge to form larger more viable stations, while still providing both ‘hard’ and ‘soft’ local content.
- 2.45 We estimate that around half of all local FM stations would have the potential to merge together to form larger stations.
- 2.46 Regulation of localness would remain based on hours of localness, provision of news and localness guidance, although the number of hours would be reduced as proposed by the Myers Review.
- 2.47 For example, under this option, Global Radio’s four stations in Devon (Plymouth, Exeter, Barnstaple and South Hams) would be allowed to merge into a single service for Devon, providing news and information bulletins for the whole county but also providing seven hours of programming a day specifically for Devon.
- 2.48 Any FM station (or stations which are allowed to share programming) must produce locally-made programming for a minimum of 7 hours/day during weekday daytimes (including breakfast) and a minimum of 4 hours/day at weekends during daytime plus local news at least hourly during daytime (weekdays) and weekend peak.
- 2.49 For the smallest stations (under 250k population) - which are hardest hit - if there was no other station for them to merge with, they would be allowed to produce just 4 locally made hours/day, or alternatively to propose their own criteria for serving their local audience, similar to the system of key commitments currently used for community radio stations. These would then be written into the station’s licence.
- 2.50

#### Advantages

- Ensures provision of both hard informational content and softer community content as audiences demand. This could be particularly important in times of local crisis, such as local flooding or heavy snow.
- Maintains local programming at breakfast and drive-time which is when audiences demand it. Reduced hours could save the industry c. £3m p.a.
- Ensures a minimum level of service in each part of the UK, consisting of local news and information with local programming at breakfast and drive-time.
- Merger possibilities increase viability. We estimate additional savings (above those from co-location and reduced hours) of c. £200k for a pair of stations below 300k population, and of c. £650-700k for a pair of stations of 700k population. Additional savings to the industry of up to c. £12m p.a.
- Prepares local radio for digital migration.
- Could be synergies in the event of Independently Funded News Consortia being launched.

### Disadvantages

- Regulation remains based on hours of local output (although this system of hours is based on the audience research outlined above).
- Doesn't include a measure of audience opinion.

2.51 The existing 'beauty contest' process for licence awards would still be possible.

2.52 Total savings to the industry could be up to c. £15m if stations took advantage of mergers and reduced hours commitments.

### **Legislative change**

2.53 It would be possible to design a system which was a hybrid of any of the options above. Legislation is likely to be required for many of these changes. To the extent that it is not, Ofcom would need to consult on any proposed changes.

### **A new industry framework**

2.54 The options for regulating localness need to be seen in the wider context of a new framework for the structure of the industry, as set out in the Myers Review, which will make a significant difference to its fortunes.

2.55 The Myers Review describes five tiers of station, each regulated differently. These are not substantively different<sup>4</sup> to the three tiers described in our response to Digital Britain:

- At a UK-wide level, we suggested facilitating the creation of new commercial radio stations to create a consumer proposition analogous to that of Freeview: a wide range of popular and niche services, delivered digitally.
- At a local level, we argued for changes to ensure the survival of a viable tier of commercial services, large enough and sufficiently well resourced to provide local news and other content in every part of the UK. (These stations would also be expected to broadcast on DAB and so would be subject to digital migration if it occurs.)
- At the smallest scale, we suggested a need to build on the success of the not-for profit community radio sector, but also allow for commercial models where these are viable. (These stations would probably not migrate to DAB but would stay on FM. Indeed, in the event of spectrum being freed up by migration, awarding more FM licences of this type would be possible.)

### **Encouraging the growth of national services**

2.56 As the Myers Review suggests, the 28 regional services (including London-wide services) already have a number of strong regional brands (e.g. Galaxy, Smooth, Kiss), which could be developed into strong national brands. While lack of spectrum

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<sup>4</sup> The Myers Review identifies community radio as a tier, whereas it was outside the scope of our Radio in Digital Britain submission; also the Myers Review identifies regional stations as a tier, whereas our submission does not call this a tier because we propose that these are allowed to 'go national'.

means they could not become UK-wide analogue stations, we suggest that they should be allowed to become UK-wide DAB stations, with their existing analogue stations used to provide FM coverage of that national station in the regions they already serve.

- 2.57 In return they would be freed from having to provide regional programming other than regional news. This would allow them to invest more in programming so as to compete against the BBC on a more level playing field.
- 2.58 This should not be at the expense of local content that is valued by the public: therefore it will be limited to regional stations, and we suggest moreover that the regional stations in Scotland and Wales, which contribute programming valued because it is specific to their home nation, should have to retain this commitment.
- 2.59 AM stations would be released from having to provide any local programming, but would have to carry programming from within their own nation (so allowing the creation of an AM Scottish national station).
- 2.60 A regional station costs around £5m to operate. Even if only half of the stations took advantage of this freedom and managed to save only half of their costs, the total savings to the industry could be up to around £35m p.a.