Contents

Section       Page
1  Executive Summary       2
2  Introduction           4
3  Proposed licensing process and criteria   5
4  The proposed areas and licensing timetable 13
5  Looking further ahead  26

Annex       Page
1  Responding to this consultation   29
2  Ofcom’s consultation principles  31
3  Consultation response cover sheet  32
4  Consultation questions       34
5  Impact assessment           35
Section 1

Executive Summary

Proposed licensing process and criteria

1.1 The specific criteria to be applied when awarding national and local radio multiplex licences, which are contained within sections 47 and 51 respectively of the Broadcasting Act 1996, differ from those applying to analogue licences.

1.2 Ofcom seeks views on its proposals for how the various criteria should be interpreted.

1.3 In respect of the extent of the coverage area proposed by applicants, Ofcom proposes to focus on population, rather than geographical, coverage.

1.4 With regard to the timetables for coverage roll-out and commencement of services, Ofcom welcomes views on whether it should favour an applicant proposing greater eventual coverage but with a comparatively slow roll-out or an applicant intending to commence broadcasting sooner but ultimately to fewer people.

1.5 Ofcom proposes that, for the commercial national radio multiplex licence, it will consider its section 47 duties in the light of its general duties set out in section 3 of the Communications Act. Under section 47, Ofcom must have regard to the capacity of the proposed programme services to appeal to a variety of tastes and interests. Ofcom proposes that, in light of its section 3 duties, this will be taken to mean that any proposed line-up of services on a further national multiplex should appeal to tastes and interests that are distinct from those catered for by services on the existing national multiplex. Views are sought on this proposal, and also on which types of existing services should be taken into account in addition to the existing national digital sound programme services (i.e. those provided on the existing national radio multiplex) when assessing applications in this respect.

1.6 It is proposed that each multiplex licence advertisement will be free-standing, and will contain information specifically tailored to that licence as well as more general background about the licensing process and our procedures; Ofcom proposes not to publish generic notes of guidance and application forms. Applications, and application fees, should be submitted electronically, and the non-confidential parts of the former will be published on our website for public scrutiny.

The proposed areas and licensing timetable

1.7 Ofcom proposes to license the second national commercial radio multiplex licence as soon as practicable following the Regional Radio Conference on international spectrum usage in May-June 2006, and subject to the vacating of the spectrum by existing users.

1.8 Ofcom proposes to advertise the new local radio multiplex licences in descending order of population coverage, so as to bring the maximum benefit to the largest number of people as soon as possible, but seeks views on this proposed approach.

1.9 The first ten local radio multiplex licences proposed to be advertised are those designed to cover: Hertfordshire, Bedfordshire & Buckinghamshire; Wrexham &
Chester; Oxfordshire; Herefordshire & Worcestershire; Lincolnshire; Guildford; Reigate & Crawley; Derbyshire; Northamptonshire, and; Suffolk.

1.10 Ofcom also proposes that additional local and regional multiplexes in areas already served by local digital radio may be able to licensed after the programme of local fill-in has been completed.

Looking further ahead

1.11 There are two major radio issues which Ofcom will wish to consider in the near future - the re-licensing of existing analogue commercial radio services when their current licences expire, and the desirability or otherwise of a digital migration path for all existing analogue services.

1.12 Ofcom intends to embark upon a major consultative project in 2006 to give full consideration to these major issues affecting the radio sector which should help to develop a plan for the future of radio in the UK. The radio industry and other stakeholders will be fully involved in this project.
Section 2

Introduction

2.1 In the accompanying statement on Radio - Licensing Policy for VHF Band III, Sub-band 3, being published simultaneously with this consultation document, Ofcom announces its decision regarding how it will allocate this spectrum.

2.2 That decision, subject to the outcome of the Regional Radio Conference on international spectrum usage in May/June 2006 and the vacating of the spectrum by existing users, is to allocate:

2.2.1 three frequency blocks to provide additional local multiplexes with the aim of filling in the gaps between existing local digital radio multiplexes, so that every area of the country has the opportunity to be served by a local digital radio multiplex

2.2.2 one frequency block to provide an additional national radio multiplex.

2.3 This document sets out, for consultation, how Ofcom proposes to apply the various statutory criteria to which it is required to have regard when assessing applications for radio multiplex licences, the proposed licensing process to be followed, the areas that would be covered by each licence, and a proposed timetable for the advertisement of the local and national radio multiplex licences.

2.4 It also takes an initial look at some of the major issues relating to the radio sector, many of which have been identified by respondents to the consultation Radio – Licensing Policy for VHF Band III, Sub-band 3, which Ofcom will be considering and consulting upon in 2006.
Section 3

Proposed licensing process and criteria

Statutory requirements

3.1 The specific criteria to be applied when awarding national and local radio multiplex licences differ from those applying to analogue licences. They are contained within sections 47 and 51 respectively of the Broadcasting Act 1996 (the 1996 Act).

3.2 For national licences, Ofcom is required to have regard to the extent to which, taking into account the matters specified below, the award of the licence to each applicant would be calculated to promote the development of digital sound broadcasting in the UK (otherwise than by satellite). These matters are:

- the extent of the coverage area proposed to be achieved by the applicant;
- the timetables proposed by the applicant for achieving the stated coverage (i.e. transmission roll-out) and for the commencement of broadcasting of the services proposed;
- the ability of the applicant to establish the proposed service and to maintain it throughout the licence period;
- the capacity of the digital sound programme services proposed to be included in the service to appeal to a variety of tastes and interests;
- any proposals by the applicant for promoting or assisting the take-up of receivers;
- whether, in contracting or offering to contract with persons providing digital sound programme services or digital additional services, the applicant has acted in a manner calculated to ensure fair and effective competition in the provision of such services.

3.3 For local licences, in deciding on licence awards, Ofcom is required to take into account the following matters:

- the extent of the coverage area proposed to be achieved by the applicant;
- the timetables proposed by the applicant for achieving the stated coverage (i.e. transmission roll-out) and for the commencement of broadcasting of the services proposed;
- the ability of the applicant to establish the proposed service and to maintain it throughout the licence period;
- the extent to which the digital sound programme services (other than BBC services) proposed to be included in the service would cater for local tastes and interests, general or particular;
- the extent to which any such digital sound programme services would broaden the range of programmes available in the area by way of local digital sound programme services, and the extent to which they would cater for tastes and interests different from those already catered for by local digital sound programme services provided for that area or locality;
- the extent to which there is local demand or support for the proposed service;
The Future Licensing of DAB Digital Radio

- whether, in contracting or offering to contract with persons providing digital sound programme services or digital additional services, the applicant has acted in a manner calculated to ensure fair and effective competition in the provision of such services.

3.4 Ofcom is also required to invite public comment on the applications it receives for radio multiplex licences, and take into account any such comments received when deciding upon licence awards.

3.5 The following paragraphs set out, for consultation, proposals for the way in which Ofcom intends to apply each of the various criteria set out in sections 47 and 51 of the 1996 Act. Ofcom welcomes views on these proposals.

Interpretation of the statutory criteria

3.6 Ofcom recognises that the business models for DAB multiplexes are different from those for local FM radio stations, and will take these differences into account in interpreting those statutory criteria which are common to both licensing processes. This is likely to be of particular relevance in respect of the ‘ability to establish and maintain the proposed service’ criterion (see paragraphs 3.11 – 3.12). Ofcom also recognises the difference in scale between the national and local DAB multiplexes, as well as the difference in the statutory criteria for assessing them, and again will be cognisant of these differences when awarding the new radio multiplex licences.

Extent of proposed coverage area

3.7 In evaluating applications with regard to this criterion, Ofcom proposes to focus on the proposed extent of population, rather than geographical, coverage. However, it should be noted that population may not always be judged purely in terms of numbers. One applicant might, for example, submit proposals for coverage of key commuter transport routes while a competitor might be offering greater population coverage overall, but with gaps in commuter route coverage. Ofcom proposes also to balance the extent of coverage proposed against the financial implications of establishing that transmitter network.

3.8 All applicants are required under the 1996 Act to submit a detailed technical plan which will need to be compliant with the terms of the licence advertisement. In the event of minor non-compliance, Ofcom proposes that applicants will be given an opportunity to make modest adjustments to their proposals in order to ensure compliance. Significant non-compliance, however, may render the application liable to disqualification.

3.9 It is important to note that Ofcom is not empowered to specify a minimum level of coverage that it expects to be achieved, but as was set out in the consultation Radio – Licensing Policy for VHF Band III, Sub-band 3, Ofcom believes it is important that a national radio multiplex licensee provides coverage which is at least equivalent to that committed to by the holder of the existing national radio multiplex licence, Digital One. In its application, Digital One committed to launch with 29 transmitters covering 69% of the adult population of Great Britain, and within three years to build the network to a total of 70 transmitters covering 85% of the adult population of Great Britain. Digital One has now gone over and above these licence commitments, and provides coverage to approximately 86% of the adult population of Great Britain using 93 transmitters.
Timetables for coverage roll-out and commencement of services

3.10 In relation to this statutory criterion, Ofcom may be required to balance one applicant proposing greater eventual coverage but with a comparatively slow roll-out against another intending to commence broadcasting sooner but ultimately to fewer people. Ofcom welcomes views from stakeholders on whether it should seek to favour one of these possible scenarios over the other.

Ability to establish and maintain the proposed service

3.11 In fulfilling its statutory obligations under this criterion, Ofcom considers that it should satisfy itself that an applicant has access to sufficient financial resources, and appropriate human and technical resources, to maintain the proposed service. More particularly, Ofcom considers that it should be assured that an applicant has made a well-reasoned calculation of the expected levels of costs and revenue, such that the service is capable of being maintained while delivering its licence commitments.

3.12 In awarding a further national commercial multiplex licence under the Broadcasting Act, Ofcom must have regard to the extent to which, taking into account the criteria stated above, the award of the licence to each applicant would be calculated to promote the development of non-satellite digital sound broadcasting in the UK. Ofcom recognises the importance of a further national commercial multiplex in further developing the DAB platform as a whole, and considers it is important that the national services provided by a further national commercial multiplex help to sustain and grow the DAB platform.

Appeal to a variety of tastes and interests (national licences)/Cater for local tastes and interests (local licences)

3.13 This criterion relates only to digital sound programme services – additional services (e.g. data) and, in respect of local licences only, BBC programme services are excluded. In order to enable Ofcom to judge applications against this criterion, applicants will be required to specify the nature of the proposed programme services to be provided, and to outline their distinguishing features. An applicant does not necessarily need to identify the providers of its proposed programme services, but such information will assist Ofcom in assessing the application against other criteria – in particular, it will help to establish the likelihood of an applicant’s plans being realised (ability to establish and maintain service) according to the timetable outlined in its application (timetable for commencement of services). In order to demonstrate how its proposed services would appeal to a variety of tastes and interests, applicants may wish to cite findings from their own research, as well as pre-existing data such as RAJAR figures, as evidence.

Broadening the range of local digital sound programme services (local licences)

3.14 This criterion requires Ofcom to consider the extent to which the line-up of programme services proposed by an applicant for a local radio multiplex licence would broaden the range of local digital sound programme services available in the area. Consequently, BBC radio services, national digital sound programme services and analogue services are excluded from consideration. However, as the vast majority of the local licences that will be advertised will be the first such licences in their respective areas, Ofcom proposes to assess the extent to which an applicant’s proposed bouquet of services offers an inherent breadth of programming on the single multiplex (i.e. the extent to which the proposed programme services cater for a variety of tastes and interests).
Promotion of digital take-up (national licences)

3.15 In determining the extent to which an applicant for a national radio multiplex licence would promote or assist the acquisition of digital radio receivers, Ofcom proposes to take account of any proposals suggested by the applicant and any evidence that they may prove fruitful. These may include both on-air and off-air activities such as, inter alia, activities involving retailers and equipment manufacturers, advertising and editorial coverage in other media, and the nature of the digital sound programme services and digital additional services proposed.

Local demand or support (local licences)

3.16 Ofcom recognises that, unlike with applicants for local analogue licences, an applicant for a local radio multiplex licence is unlikely to be able to generate direct support for itself as an entity, as it is merely a “packager” of programme services. Instead, it will be the individual programme services themselves, and possibly their providers if these are identified, which will attract support. However, as Ofcom has made clear in relation to analogue commercial radio licensing, it believes that evidence of local demand, as demonstrated by formal audience research or analysis, is a more meaningful and cogent measure than evidence of local support as demonstrated by letters or petitions. As noted above, Ofcom will also have regard to public comments and opinions about the applicants for a particular licence, and support or otherwise for their specific proposals.

Fair and effective competition

3.17 This criterion, which is relevant to applications for both national and local radio multiplex licences, requires Ofcom to assess whether, in contracting or offering to contract with programme and additional service providers, an applicant has acted in a manner calculated to ensure fair and effective competition in the provision of those services. To this end, Ofcom proposes that applicants should formulate fair and transparent policies for negotiations with potential programme and additional service providers, and maintain full records of any contacts and discussions which take place, in whatever form, prior to and during the application process. Ofcom proposes to consider the extent to which negotiations with potential service providers, regardless of their relationship to the multiplex licence applicant, are fair and the terms of any contract for service provision are fair and non-discriminatory.

Ofcom’s other statutory duties

3.18 Ofcom’s general statutory duties are set out in section 3 of the Communications Act 2003, and include, in particular, the principal duty to further the interests of citizens in relation to communications matters and of consumers in relevant markets, where appropriate by promoting competition. In carrying out this duty, Ofcom must secure, among other things, the “availability throughout the UK of a wide range of television and radio services which (taken as a whole) are both of high quality and calculated to appeal to a variety of tastes and interests”.

3.19 Ofcom proposes that its duties under section 47 of the 1996 Act should be carried out in light of its duties in section 3 of the Communications Act.

3.20 Accordingly, Ofcom considers that in applying the criteria included within section 47, it should have regard to the capacity of the proposed programme services to appeal to a variety of tastes and interests. Ofcom proposes that this will be taken to mean that any proposed line-up of services on a further national multiplex should appeal to
tastes and interests that are distinct from those catered for by services on the existing national multiplex. However, this would not necessarily preclude consideration of programme services which may compete for audience or revenue with those on the existing national multiplex.

3.21 Furthermore, Ofcom’s view is that consideration of the services on the existing national multiplex would not be the determinative factor in Ofcom’s decision on the award of a further national multiplex licence. Section 3 states in carrying out our functions, we have a duty to further the interests of citizens and consumers by securing various matters. Ofcom proposes that the duty in section 3 is therefore an additional consideration in carrying out its functions in section 47 of the 1996 Act and, as applications are considered in the round, cannot be the determinative factor for the success or failure of an application.

3.22 In addition to Ofcom’s proposal to consider whether the proposed programme services are distinct from those provided on the existing national radio multiplex, Ofcom also seeks views on whether any or all of the following should be taken into account in addition to the existing national digital sound programme services (i.e. those provided on the existing national radio multiplex) when assessing applications in this respect:

- local digital sound programme services which have achieved ‘quasi-national’ coverage by virtue of being provided on a number of local radio multiplexes (views on what should constitute ‘quasi-national’ coverage – e.g. achievement of a specified level of population coverage, or carriage on a specified threshold number of local multiplexes – will also be welcomed);
- local digital sound programme services;
- national radio services available on television platforms (e.g. digital terrestrial television, digital satellite television, digital cable);
- national radio services provided in digital form by the BBC;
- internet radio services.

3.23 Ofcom’s initial view is that it would be appropriate for only the first of these (i.e. local digital sound programme services which have achieved ‘quasi-national’ coverage) to be taken into account in addition to the national digital sound programme services provided on the existing national radio multiplex.

**Application procedure**

3.24 It is proposed that each multiplex licence advertisement will be free-standing, and will contain information specifically tailored to that licence as well as more general background about the licensing process and our procedures; Ofcom proposes not to publish generic notes of guidance and application forms. Applications, and application fees, should be submitted electronically, and the non-confidential parts of the former will be published on our website for public scrutiny. Ofcom proposes that the closing-date for applications generally will be three months after the date of advertisement; the timing of the licence awards will depend largely upon the number of applications submitted, although we expect that most licence awards will be decided within three months of the closing-date. A proposed timetable for the advertisement of the licences is set out in Section 4 of this document. The current tariff of application fees for radio multiplex licences is available on the Ofcom website, at [www.ofcom.org.uk](http://www.ofcom.org.uk).
3.25 After assessing the applications and awarding each licence, Ofcom proposes to publish a statement setting out the key factors which led to Ofcom’s decision, in line with current practice in respect of analogue commercial and community radio licence awards.

Licence renewals

3.26 Under the provisions of section 58 of the 1996 Act, any radio multiplex licence granted before 9 August 2002 is eligible to be renewed, on one occasion only, for a further period of twelve years beginning on the date when it would otherwise expire, while any radio multiplex licence granted between 9 August 2002 and 9 August 2006 is eligible to be renewed, on one occasion only, for a further period of eight years beginning on the date when it would otherwise expire. Licences granted after 9 August 2006 (i.e. all those which Ofcom proposes to award) are not eligible to be renewed.

Variations of radio multiplex licences

3.27 Under section 54 of the 1996 Act, Ofcom is required to include conditions in national and local radio multiplex licences to secure that the number and type of digital sound programme services proposed in a successful application are implemented. Consequently, each such licence includes information about the number and type of services which must be broadcast.

3.28 The holders of national and local radio multiplex licences are entitled, at any time, to apply to Ofcom for a variation to their line-up of programme services.

3.29 In the case of a national licence, Ofcom is not permitted to approve a proposed variation relating to the programme services provided under the licence if it appears that, by doing so, the capacity of those programme services to appeal to a variety of tastes and interests would be unacceptably diminished. If this is not the case, then Ofcom must approve the variation.

3.30 In the case of a local licence, Ofcom is able to approve a variation only if it satisfies one of the following three criteria:

- that the variation would not unacceptably narrow the range of programmes available by way of local digital sound programme services in the area;
- that the variation would be conducive to the maintenance or promotion of fair and effective competition in the area; or
- that there is evidence of a significant local demand or support for the change that would result from the variation.

3.31 In addition to these considerations, Ofcom must also satisfy itself that any proposed variation to a radio multiplex licence would be compliant with the ownership requirements for digital sound programme licences.

3.32 When applying for a variation to a local radio multiplex licence, an applicant is asked to indicate which of the three aforementioned criteria they believe is satisfied in relation to their application, and to provide evidence in support of their belief. Licensees are able, if they so wish, to ask for their application to be considered under two or even all three of the criteria.
3.33 In line with our proposed future radio strategy set out in Phase 2 of Radio – Preparing for the Future, Ofcom considers it important that, in the digital environment, local commercial radio continues to provide the things that listeners see as important or desirable. In particular, this means a range and diversity of formats, and news and other speech content of local relevance. Clearly, it will be in licensees' own interests to deliver local content, but in the absence of any digital radio equivalent to the new statutory requirement to secure, where appropriate, that the local character of analogue local commercial radio is maintained, Ofcom proposes that in considering whether a proposed variation would unacceptably narrow the range of programmes available in an area, it will take particular account of whether there would be a significant reduction in the provision of local content.

**Analogue licence renewal for digital broadcasters**

3.34 Under section 104A of the 1990 Act, an existing local analogue licensee is eligible to apply for a renewal of that licence in the event that the licensee is providing (or is contracted to provide) a digital programme service on a ‘relevant’ local multiplex (i.e. one with “a coverage area which to a significant extent includes the coverage area of the local service provided under the local [analogue] licence”).

3.35 The Radio Authority determined that a ‘relevant’ local multiplex was one with a ‘primary protected area’ (PPA) that would provide potential coverage in digital form to 25% or more of the adult population within the measured coverage area (MCA) of the analogue local licence in question. Ofcom proposes to adopt the same policy. Each local radio multiplex licence advertisement will include a list of those local analogue licences which could qualify for licence renewal if providing a digital sound programme service on that multiplex.

**Additional payments for national licences and other fees**

3.36 Under section 46 of the 1996 Act, when advertising a national radio multiplex licence Ofcom is required to state, with the consent of the Secretary of State for Culture, Media and Sport, whether any percentage of multiplex revenue would be payable by the licensee and to specify that percentage. The Secretary of State may provide by order that no percentage should be specified. This is the case with the current national radio multiplex licence held by Digital One. If the licence is renewed, this situation may change for the period of the extended licence term. Multiplex revenue is defined in the 1996 Act (see sections 56 and 57).

3.37 These payments for the national radio multiplex licensee, if appropriate, would be additional to the licence fees levied by Ofcom upon all radio multiplex licence holders; the current tariff is available at: www.ofcom.org.uk/consult/condocs/socp/tariff/tariff_2005_06.pdf.

3.38 Prospective applicants for national and local radio multiplex licences should also note that Ofcom is currently in the process of considering whether, and if so how, to apply administrative incentive pricing (AIP) to the spectrum used for broadcasting, including the spectrum that would be released for this purpose in VHF Band III, sub-band 3.

**The carrying of existing BBC or local commercial radio services**

3.39 Ofcom is required, under section 49(1) of the 1996 Act, to reserve an appropriate amount of digital capacity on local multiplexes, when advertised, to enable each BBC local radio service in England, and BBC ‘national regional’ services in Scotland, Wales and Northern Ireland, to be received in digital form within a coverage area that
so far as is reasonably practicable corresponds with the analogue coverage area for that service. The notice of advertisement of each local radio multiplex licence will specify the amount of capacity, if any, to be reserved for the BBC (i.e. as related to the number of BBC programme services to be accommodated) on that multiplex. The proposed licence areas set out in Section 4 of this document have been designed in part with this statutory requirement in mind. (Note: The BBC pays the multiplex operator for the capacity it uses on each local multiplex.)

3.40 There is no such statutory requirement to carry any existing or planned local commercial radio services or community radio services on a local radio multiplex.

Questions for consultation

*Do you agree with the process by which Ofcom proposes to license new national and local radio multiplexes?*

*What are your views regarding the ways in which Ofcom proposes to interpret the statutory criteria which must be considered when awarding national and local radio multiplex licences?*
Section 4

The proposed areas and licensing timetable

4.1 This section sets out, for consultation, our proposals on the areas to be covered by each of the new local radio multiplex licences, and a timetable for advertising and awarding these licences and the planned new national radio multiplex licence. These proposals are subject to international agreement at the Regional Radio Conference in May-June 2006, and the vacating of the spectrum by existing users.

4.2 As set out in the statement Radio – Licensing Policy for VHF Band III, Sub-band 3, the digital radio system to which all of the national and local radio multiplex licences planned to be advertised by Ofcom will pertain is terrestrial digital audio broadcasting (T-DAB), i.e. Eureka 147.

The proposed new local multiplex areas

4.3 This section sets out in more detail the proposed areas for the new local DAB multiplexes, based upon the list of areas published in Phases 1 and 2 of Radio – Preparing for the future.

4.4 It is important to note that the areas described, the accompanying maps and the predicted population coverage figures (adults aged 15+) are indicative only and should not be relied upon for the purposes of business planning.

4.5 More detailed area definitions (Primary Protected Areas, or PPAs), based on postcode sectors will be made available at the time each licence is advertised. The areas shown are also subject to international clearance and agreement.

4.6 It is also important to note that the extent of coverage within the PPA will depend upon the coverage patterns of the transmitters used. Applicants will be required to indicate the extent of their proposed coverage within the PPA as part of their application.

4.7 As was noted in Phase 2 of Radio – Preparing for the future, some of the areas in the second half of the list, with small populations and large geographical areas, may not be commercially viable for DAB for some time to come. Other digital technologies, such as DRM, may provide a more practicable transmission method in such areas. However, we have included these areas in the list of DAB areas to give potential applicants the opportunity to provide DAB services. We welcome expressions of interest from potential applicants (or non-interest from existing analogue stations within each proposed area) and views on the timing of licensing and the commercial viability of the areas proposed.
1. Hertfordshire, Bedfordshire & Buckinghamshire

The area covered would be the counties of Hertfordshire, Bedfordshire and Buckinghamshire, including the Unitary Authority areas of Luton and Milton Keynes.

Capacity would be reserved on this multiplex for BBC Three Counties Radio.

Predicted population within PPA: 1,082,000

Note: There are two spectrum blocks available for the northern Home Counties (Herts, Beds, Bucks and Oxfordshire); one centred on Luton, the other on Oxford. The boundary between the two could be drawn in a number of ways – in particular, Buckinghamshire could be included in either area.

We are currently proposing to include it with Herts and Beds. This means that this proposed multiplex area (shown in the map above) contains a large number of existing analogue commercial local radio stations, which by themselves could fill a local DAB multiplex. It could be argued that this might not extend choice for listeners. However, the majority of the area is also covered by the London multiplexes, and so already receives a wide variety of new stations on DAB, but no local stations. The area also corresponds to the existing BBC local station Three Counties Radio.

The Oxford multiplex area is only marginally covered by the London multiplexes and so, by not including the Buckinghamshire local stations on this multiplex, it would be able to provide listeners with more choice on DAB. The area also coincides with that of BBC Radio Oxford. Again by excluding Buckinghamshire from this area, there would be no need to reserve space for BBC Three Counties Radio, which otherwise would also cover the whole of Oxfordshire.

We believe this proposal offers the best compromise in this area, where frequencies are scarce, but we welcome the views of stakeholders as to whether Buckinghamshire should be included in the Herts and Beds multiplex or the Oxford multiplex.

2. Wrexham & Chester

The area covered would be most of the counties of Wrexham / Wrecsam and Flintshire / Sir y Fflint, the western part of Cheshire, including the districts of Chester and Ellesmere Port & Neston and the Wirral.

Capacity would be reserved on this multiplex for BBC Radio Wales, BBC Radio Cymru and for a possible BBC Radio Cheshire (the latter being subject to approval by the BBC Trust).

Predicted population within PPA: 950,000
3. Oxfordshire

The area covered would be the whole of the county of Oxfordshire, including the city of Oxford, Banbury, Wantage and Abingdon.

Capacity would be reserved on this multiplex for BBC Radio Oxford.

Predicted population within PPA: 767,000

See also the note to the Herts, Beds and Bucks area above.

4. Herefordshire & Worcestershire

The area covered would be the whole of the counties of Herefordshire and Worcestershire, including the cities of Hereford and Worcester and the towns of Bromsgrove, Ross-on-Wye and Great Malvern.

Capacity would be reserved on this multiplex for BBC Hereford & Worcester.

Predicted population within PPA: 642,000

5. Lincolnshire

The area covered would be most of the county of Lincolnshire but, due to spectrum limitations, is unlikely to be able to cover the county much further south than Grantham. It would therefore exclude the towns of Spalding, Holbeach, Bourne and Market Deeping. These towns are already served by the Peterborough local multiplex. The area covered would, however, include the unitary authority areas of North Lincolnshire (including Scunthorpe) and North East Lincolnshire (including Grimsby and Cleethorpes). If, following the RRC it is possible to secure an alternative frequency for this multiplex, it may be possible to extend the PPA southwards, to cover the whole county.

Capacity would be reserved on this multiplex for BBC Radio Lincolnshire.

Predicted population within PPA: 639,000

6. Guildford

The area covered would be the western half of the county of Surrey, including Guildford, Farnham, Woking and Godalming, and Aldershot in Hampshire.

Capacity on this multiplex would be reserved for BBC Southern Counties Radio (Guildford).

Predicted population within PPA: 536,000
7. Reigate and Crawley

The area covered would be the eastern part of the county of Surrey and the northern part of East and West Sussex, including the towns of Reigate, Crawley and East Grinstead.

Capacity on this multiplex would be reserved for BBC Southern Counties Radio.

Predicted population within PPA: 417,000

8. Derbyshire

The area covered would be the county of Derbyshire, including the towns of Derby, Chesterfield, Buxton and Ashbourne and the area of south east Staffordshire including Burton-upon-Trent.

Capacity on this multiplex would be reserved for BBC Radio Derby.

Predicted population within PPA: 400,000

9. Northamptonshire

The area covered would be the county of Northamptonshire, including the city of Northampton and the towns of Daventry, Kettering, Corby, Wellingborough and Brackley.

Capacity would be reserved on this multiplex for BBC Radio Northampton.

Predicted population within PPA: 393,000

10. Suffolk

The area covered would be the county of Suffolk, including the towns of Ipswich, Bury St Edmunds, Lowestoft, Felixstowe and Newmarket.

Capacity would be reserved on this multiplex for BBC Radio Suffolk.

Predicted population within PPA: 375,000
11. Heads of the South Wales Valleys

The area covered would be the northern parts of the counties of Rhondda, Cynon, Taff, Caerphilly and Torfaen and all of the counties of Merthyr Tydfil and Blaenau Gwent.

Capacity would be reserved on this multiplex for BBC Radio Wales and BBC Radio Cymru.

Predicted population within PPA: 350,000

12. York and Scarborough

The area covered would be the eastern part of North Yorkshire and the City of York, including Scarborough, Northallerton, Whitby and Filey as well as the town of Bridlington in the East Riding of Yorkshire and the surrounding area.

Capacity would be reserved on this multiplex for BBC Radio York.

Predicted population within PPA: 349,000

13. Somerset

The area covered would be the county of Somerset, including the towns of Taunton, Bridgwater, Wells, Glastonbury, Minehead and Crewkerne.

Capacity would be reserved on this multiplex for BBC Radio Bristol’s opt-out BBC Somerset Sound. In due course, this may be replaced by a new BBC Radio Somerset.

Predicted population within PPA: 332,000

14. Gloucestershire

The area covered would be the county of Gloucestershire, including the city of Gloucester and the towns of Cheltenham and Cirencester.

Capacity would be reserved on this multiplex for BBC Radio Gloucestershire.

Predicted population within PPA: 324,000
15. North and west Cumbria

The area covered would be the northern and western parts of the county of Cumbria, including the towns of Carlisle, Penrith, Keswick, Whitehaven and Workington.

Capacity would be reserved on this multiplex for BBC Radio Cumbria.

Predicted population within PPA: 271,000

16. Pembrokeshire & Carmarthenshire

The area covered would be the counties of Pembrokeshire / Sir Benfro and Carmarthenshire / Sir Gar, including the towns of Llanelli, Haverfordwest / Hwlfordd, Tenby / Dinbych-y-Pysgod, Fishguard / Abergwaun and Carmarthen / Caerfyrddrin.

Capacity would be reserved on this multiplex for BBC Radio Wales and BBC Radio Cymru.

Predicted population within PPA: 267,000

17. Morecambe Bay

The area covered would be the southern part of Cumbria and the northern part of Lancashire around Morecambe Bay, including the towns of Lancaster, Morecambe, Barrow-in-Furness, Kendal and Windermere.

Capacity would be reserved on this multiplex for BBC Radio Cumbria and BBC Radio Lancashire.

Predicted population within PPA: 239,000

18. North Wales

The area covered would be the counties of Gwynedd, Anglesey / Ynys Mon, Conwy and most of Denbighshire / Sir Dynbych, including the towns of Caernarfon, Bangor, Holyhead / Caergybi, Dolgellau, Pwllheli, Betws-y-Coed, Denbigh / Dynbch and Ruthin / Ruthun.

Capacity would be reserved on this multiplex for BBC Radio Wales and BBC Radio Cymru.

Predicted population within PPA: 234,000
19. Warwickshire

The area covered would include the towns of Stratford-upon-Avon, Warwick and Leamington Spa.

Capacity would be reserved on this multiplex for BBC Radio Coventry & Warwickshire.

Predicted population within PPA: 190,000

20. Harrogate and the Yorkshire Dales

The area covered would include the town of Harrogate and most of the Yorkshire Dales.

Capacity would be reserved on this multiplex for BBC Radio York.

Predicted population within PPA: 177,000

21. West Dorset

The area covered would be the western part of Dorset, including the towns of Weymouth and Dorchester.

Capacity would be reserved on this multiplex for BBC Radio Solent. In due course, this may be replaced by a new BBC Radio Dorset.

Predicted population within PPA: 107,000

22. West Norfolk

The area covered would be the western and northern parts of the county of Norfolk, including the towns of Kings Lynn, Hunstanton, Wells-next-the-Sea, Fakenham, Cromer and Downham Market.

Capacity would be reserved on this multiplex for BBC Radio Norfolk.

Predicted population within PPA: 96,000

23. North Devon

The area covered would be north Devon, including the towns of Barnstaple, Bideford, Ilfracombe, Lynton, Great Torrington and South Molton.

Capacity would be reserved on this multiplex for BBC Radio Devon.

Predicted population within PPA: 94,000
24. Dumfries and Galloway

The area covered would be the county of Dumfries and Galloway, including the towns of Dumfries, Stranraer and Newton Stewart.

Capacity would be reserved on this multiplex for BBC Radio Scotland and BBC Radio nan Gaidheal.

Predicted population within PPA: 87,000

25. Scottish Borders

The area covered would be the region of the Scottish Borders, including the towns of Hawick, Galashiels and Eyemouth and the Northumberland town of Berwick-upon-Tweed.

Capacity would be reserved on this multiplex for BBC Radio Scotland and BBC Radio nan Gaidheal.

Predicted population within PPA: 82,000

26. Salisbury

The area covered would include the town of Salisbury in Dorset.

Capacity would be reserved on this multiplex for BBC Radio Wiltshire.

Predicted population within PPA: 75,000

27. Ceredigion & Powys

The area covered would be the county of Ceredigion and northern and mid-Powys, including the towns of Cardigan / Aberteifi, Aberystwyth, Machynlleth, Newtown / Y Drenewydd and Llandrindod Wells.

Capacity would be reserved on this multiplex for BBC Radio Wales and BBC Radio Cymru.

Predicted population within PPA: 72,000

28. Orkney & Shetland

The area covered would be the Orkney and Shetland islands. It would be possible to split this area into two separate areas if required.

Capacity would be reserved on this multiplex for BBC Radio Scotland and BBC Radio nan Gaidheal.

Predicted population within PPA: 42,000
29. Western Scotland

The area covered would include the west coast of Scotland from Cape Wrath to the Mull of Kintyre, including all of the Western Isles. This area could be split into several separate areas if desired.

Capacity would be reserved on this multiplex for BBC Radio Scotland and BBC Radio nan Gaidheal.

Predicted population within PPA: 40,000

Proposed licensing timetable

National radio multiplex licence

4.8 We propose to license the further national commercial DAB multiplex as soon as possible, so as to provide the maximum benefit to the greatest number of people. Accordingly, subject to international agreement on spectrum at the Regional Radio Conference in May-June 2006 and the vacating of the spectrum by existing users, we propose to advertise the new national radio multiplex licence as soon as practicable. This is unlikely to be before the Autumn of 2006. The coverage area of this multiplex may be affected by the outcome of the Regional Radio Conference, for example in relation to the extent of coverage that is possible on the south and east coasts of England.

4.9 Ofcom proposes that the closing-date for applications will be three months after the date of advertisement; the timing of the licence award will depend largely upon the number of applications submitted, although we expect the licence award will be decided three to four months after the closing-date. The further national commercial multiplex could be on-air around a year after that.

Local radio multiplex licences

4.10 We propose to advertise the new local radio multiplex licences in descending order of population coverage, so as to bring the maximum benefit to the largest number of people as soon as possible. However, we welcome views as to whether there are some areas where demand is such that a licence should either be moved up the list or dropped down it.

4.11 In addition, we recognise that, at this stage of development of DAB, there may be no interest in some areas. We therefore propose at this stage, subject to consultation, to signal our intention to advertise only the first ten licences on the list, and then to review the situation before adding further licences. However, we reserve the right to review the situation at any time should circumstances change.

4.12 Ofcom proposes to advertise the first local licence in the Autumn of 2006. Further local licences would be advertised at the rate of approximately one a month thereafter.
4.13 Ofcom proposes that the closing-date for applications generally will be three months after the date of advertisement; the timing of the licence awards will depend largely upon the number of applications submitted, although we expect that most licence awards will be decided within three months of the closing-date.

4.14 The order of the licences given in the following list is provisional and the availability of spectrum for any particular area is subject to international agreement at the Regional Radio Conference in May-June 2006 and the vacating of the spectrum by existing users.

<table>
<thead>
<tr>
<th>Licence area</th>
<th>BBC station(s) to be carried</th>
<th>Est. pop. Coverage (000s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Hertfordshire, Bedfordshire &amp; Buckinghamshire</td>
<td>BBC Three Counties Radio</td>
<td>1,082</td>
</tr>
<tr>
<td>2 Chester &amp; Wrexham</td>
<td>BBC Radio Wales, BBC Radio Cymru (plus any new BBC Radio Cheshire)</td>
<td>668</td>
</tr>
<tr>
<td>3 Oxfordshire</td>
<td>BBC Radio Oxford</td>
<td>767</td>
</tr>
<tr>
<td>4 Herefordshire &amp; Worcestershire</td>
<td>BBC Hereford &amp; Worcester</td>
<td>642</td>
</tr>
<tr>
<td>5 Lincolnshire</td>
<td>BBC Radio Lincolnshire</td>
<td>639</td>
</tr>
<tr>
<td>6 Guildford</td>
<td>BBC Southern Counties Radio</td>
<td>536</td>
</tr>
<tr>
<td>7 Reigate &amp; Crawley</td>
<td>BBC Southern Counties Radio</td>
<td>417</td>
</tr>
<tr>
<td>8 Derbyshire</td>
<td>BBC Radio Derby</td>
<td>400</td>
</tr>
<tr>
<td>9 Northamptonshire</td>
<td>BBC Radio Northampton</td>
<td>393</td>
</tr>
<tr>
<td>10 Suffolk</td>
<td>BBC Radio Suffolk</td>
<td>375</td>
</tr>
</tbody>
</table>

4.15 This leaves a further 19 areas potentially to be advertised, as set out in the table below.

4.16 In addition, there is the potential to add further multiplexes in Northern Ireland, either to cover the whole of Northern Ireland, or to split Northern Ireland into three areas, each with its own local multiplex. The availability of this spectrum depends upon discussions with the relevant authorities in the Republic of Ireland, and we will set out our plans for Northern Ireland in due course.

4.17 We will also continue to investigate the availability of spectrum to provide a multiplex, or multiplexes, for the Channel Islands, and to allow for the existing Kent multiplex to be extended to also cover the coastal strip of the county including Dover and Folkestone. This is subject, inter alia, to the outcome of the Regional Radio Conference.
<table>
<thead>
<tr>
<th>Further licence areas</th>
<th>BBC station(s) to be carried</th>
<th>Est. pop. coverage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Heads of the South Wales Valleys</td>
<td>BBC Radio Wales and BBC Radio Cymru</td>
<td>350</td>
</tr>
<tr>
<td>York &amp; Scarborough</td>
<td>BBC Radio York</td>
<td>349</td>
</tr>
<tr>
<td>Somerset</td>
<td>BBC Somerset Sound</td>
<td>332</td>
</tr>
<tr>
<td>Gloucestershire</td>
<td>BBC Radio Gloucester</td>
<td>324</td>
</tr>
<tr>
<td>North &amp; West Cumbria</td>
<td>BBC Radio Cumbria</td>
<td>271</td>
</tr>
<tr>
<td>Pembrokeshire &amp; Carmarthenshire</td>
<td>BBC Radio Wales and BBC Radio Cymru</td>
<td>267</td>
</tr>
<tr>
<td>Morecambe Bay</td>
<td>BBC Radio Cumbria and BBC Radio Lancashire</td>
<td>239</td>
</tr>
<tr>
<td>North Wales</td>
<td>BBC Radio Wales and BBC Radio Cymru</td>
<td>234</td>
</tr>
<tr>
<td>Warwickshire</td>
<td>BBC Coventry &amp; Warwickshire</td>
<td>190</td>
</tr>
<tr>
<td>Harrogate and the Yorkshire Dales</td>
<td>BBC Radio York</td>
<td>177</td>
</tr>
<tr>
<td>West Dorset</td>
<td>(the proposed BBC Radio Dorset)</td>
<td>107</td>
</tr>
<tr>
<td>West Norfolk</td>
<td>BBC Radio Norfolk</td>
<td>96</td>
</tr>
<tr>
<td>North Devon</td>
<td>BBC Radio Devon</td>
<td>94</td>
</tr>
<tr>
<td>Dumfries &amp; Galloway</td>
<td>BBC Radio Scotland and BBC Radio nan Gaidheal</td>
<td>87</td>
</tr>
<tr>
<td>Scottish Borders</td>
<td>BBC Radio Scotland and BBC Radio nan Gaidheal</td>
<td>82</td>
</tr>
<tr>
<td>Salisbury</td>
<td>BBC Wiltshire Sound</td>
<td>75</td>
</tr>
<tr>
<td>Ceredigion &amp; Powys</td>
<td>BBC Radio Wales and BBC Radio Cymru</td>
<td>72</td>
</tr>
<tr>
<td>Orkney &amp; Shetland</td>
<td>BBC Radio Scotland and BBC Radio nan Gaidheal</td>
<td>42</td>
</tr>
<tr>
<td>Western Scotland</td>
<td>BBC Radio Scotland and BBC Radio nan Gaidheal</td>
<td>40</td>
</tr>
</tbody>
</table>
Further local multiplexes in existing licensed areas

4.18 It is possible that we also will be able to license further regional or local multiplexes in some areas that already have a local or regional multiplex, where there is evidence of demand and where this is likely to be financially viable. Our initial review of the likely available spectrum, subject to international agreement, is that it may be possible to advertise further licences in the following areas:

- North West England (regional), OR Manchester, OR Liverpool
- Solent (regional)
- East Midlands (regional)
- West Midlands (regional)
- North East England (regional), OR Tyne & Wear, OR Teesside
- Central Scotland (regional) OR Glasgow
- Bristol
- Edinburgh
- Northern Ireland (this could be one or two additional multiplexes for the whole of Northern Ireland OR three separate local multiplexes – one for Antrim and Down, one for Derry and one for Armagh, Fermanagh & Tyrone.

4.19 Beyond the above list, we do not expect there to be frequencies available which would allow for (in some cases, further) multiplexes in any other areas served by analogue regional licences (i.e. Greater London, East of England, Severn Estuary, South Wales, Yorkshire), although we will keep the situation under review and may add these areas (either as single regional multiplexes, or as single or more local multiplexes serving part of the regional area) should further frequencies become available at a later date.

4.20 We would not propose to license the areas in the above list until after we have completed the programme of local fill-in set out earlier in this document. We welcome views on the desirability of providing additional multiplexes in these areas, and expressions of interest from potential operators.
Questions for consultation

4.21 We welcome the views of stakeholders on:

- Whether the proposed list of ten areas (1 to 10 in the list above) to be licensed first are the right priority areas and whether the proposed timetable is sensible – we would also welcome expressions of interest from potential applicants for these licences.

- The viability of the smaller areas (11 to 29 in the list above) – we would also welcome expressions of interest from potential applicants for these licences.

- The viability and level of demand for the proposed second (or third) local multiplexes in existing licensed areas and when these should be licensed.
Section 5

Looking further ahead

5.1 This document has set out Ofcom’s plans for the licensing of further national and local DAB digital radio multiplexes in VHF Band III. Alongside this programme of new licensing, there are two other major radio issues which Ofcom will wish to consider in the near future.

5.2 The first of these relates to the re-licensing of existing analogue commercial radio services when their current licences expire, while the second is an issue which has been raised by many respondents to the consultations Radio – Preparing for the future and Radio – Licensing Policy for VHF Band III, Sub-band 3, which is that of the desirability or otherwise of a digital migration path for all existing analogue services.

The re-licensing of existing analogue commercial radio stations

5.3 Historically, local analogue licences have been re-advertised upon expiry, in accordance with section 104(5) of the Broadcasting Act 1990. The process of re-advertising the existing local licences will need to commence again in late 2007 with the licence for Kingston-upon-Thames. Another 19 licences become due for ‘pre-advertisement’ (the process designed to establish whether there is likely to be any competition for a licence) over the following fifteen months, and it will be several years before the process is completed.

5.4 The three national commercial analogue radio licences are all due to expire shortly, but the holders of these licences are also entitled to apply for a four-year extension to their licences.

5.5 Any new analogue licences, local or national, could be advertised by Ofcom for a term of up to 12 years, with any holder of such a licence who is also providing a digital sound programme service on a relevant multiplex entitled to a renewal of his analogue licence for a further 12 year period.

5.6 The potential growth in take-up of equipment capable of receiving digital radio services over the next ten to 20 years gives Ofcom the opportunity to ask some fundamental questions about the re-licensing process, such as:

- Should local analogue licences be re-advertised on similar terms to the existing licences, or for shorter periods?
- Is the incentive of licence renewal for stations also carried on DAB still appropriate?
- Should these licences be advertised as analogue licences at all, or should they be awarded to use some new technology, such as DRM?
- How should the licences be awarded? For example, should they be awarded via a beauty contest, as now, or auctioned (a change to the latter approach would require a change to primary legislation)?
- Should Ofcom specify what technology they should use, or should the market be left to decide?
- Should there be a different approach for AM and FM services?
- Should the existing pattern of local services be preserved? If not, what intervention, if any, is required to ensure the provision of local radio services?
The Future Licensing of DAB Digital Radio

- Is simulcasting on analogue and digital platforms desirable?
- What are the implications for the BBC?
- What are the implications for any analogue switch-off in radio?

5.7 The fact that existing licences are due to expire in the relatively near future, and the fact that answers to some of these questions may require primary legislation before being implemented (a process which can take several years), means that we need to start addressing these questions sooner rather than later.

The digital options for smaller stations

5.8 This issue is discussed in the consultation *Radio - Licensing Policy for VHF Band III, Sub-band 3* and the subsequent statement, being published simultaneously with this consultation.

5.9 In summary, Ofcom considers that in principle it is desirable for as many radio services as possible that are currently broadcast in analogue to have the option of broadcasting viably on one or more digital platforms, as this would help to secure the availability of a wide range of services over a wide range of platforms. This applies to small local commercial and community radio services as much as to larger commercial services.

5.10 However, the desirability of making digital platforms accessible to existing analogue services has to be tempered by considerations of practicality and economic efficiency. This is one reason why Ofcom has concluded that the use of spectrum in VHF Band III, sub-band 3 to facilitate a migration path for all existing analogue services to the T-DAB platform is not the optimal approach.

5.11 One alternative possibility for providing a digital migration path for smaller stations is the technology DRM (Digital Radio Mondiale), which does not use a multiplex system and can be more closely tailored to an individual station’s existing area. However, DRM using medium wave spectrum currently only offers a mono signal of approximately FM quality (albeit digital), and few of the required medium wave frequencies are currently available in the UK. DRM in VHF Band II (currently used for FM) should offer significant benefits over existing FM signals, in terms of quality and data capacity, but is still in development. Moreover its use in the UK would require at least an end to the simulcasting of some existing FM stations.

5.12 In the meantime, Ofcom notes with interest the planned development of receivers capable of offering reception of T-DAB, DRM and FM broadcasts, and providing a single menu of available stations such that the listener is not aware of the technology used to deliver the signal. Such receivers would appear to be able to offer real consumer benefits, and could help to address a fear expressed by some radio companies that listeners will not wish to tune between different types of broadcasts (e.g. FM and T-DAB), as all services would be available on the same device in the same menu.

5.13 Some of the questions which Ofcom will be looking to answer in relation to this issue are:

- Should the existing map of analogue radio stations (which was often based on frequency availability) be replicated in a digital world, or is there a different pattern which may offer consumers greater benefits?
• Are all of the existing smaller licences viable in a world of increasing competition from radio and other media?

• What implications do the answers to these questions have on the re-licensing questions set out above? For example:
  o Should Ofcom not re-license any AM stations but instead use the spectrum for DRM stations?
  o Should this spectrum be re-used in the existing areas, albeit with new technology, or should it be re-planned for use elsewhere in the country?

5.14 Answers to the above questions are not sought as part of this consultation. Ofcom intends to embark upon a major consultative project in 2006 to give full consideration to these major issues affecting the radio sector which should help to develop a plan for the future of radio in the UK. The radio industry and other stakeholders will be fully involved in this project.
Annex 1

Responding to this consultation

How to respond

Ofcom invites written views and comments on the issues raised in this document, to be made by 5pm on 15 March 2006.

Ofcom strongly prefers to receive responses as e-mail attachments, in Microsoft Word format, as this helps us to process the responses quickly and efficiently. We would also be grateful if you could assist us by completing a response cover sheet (see Annex 3), among other things to indicate whether or not there are confidentiality issues. The cover sheet can be downloaded from the ‘Consultations’ section of our website.

Please can you send your response to first neil.stock@ofcom.org.uk.

Responses may alternatively be posted or faxed to the address below, marked with the title of the consultation.

Neil Stock
Head of Radio Planning and Licensing
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA

Fax: 020 7783 4589

Note that we do not need a hard copy in addition to an electronic version. Also note that Ofcom will not routinely acknowledge receipt of responses.

It would be helpful if your response could include direct answers to the questions asked in this document, which are listed together at Annex 4. It would also help if you can explain why you hold your views, and how Ofcom’s proposals would impact on you.

Further information

If you have any questions or want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Neil Stock on 020 7981 3000.

Confidentiality

Ofcom thinks it is important for everyone interested in an issue to see the views expressed by consultation respondents. We will therefore usually publish all responses on our website, www.ofcom.org.uk, ideally on receipt (when respondents confirm on their response cover sheet that this is acceptable).

All comments will be treated as non-confidential unless respondents specify that part or all of the response is confidential and should not be disclosed. Please place any confidential parts of a response in a separate annex, so that non-confidential parts may be published along with the respondent’s identity.
Ofcom reserves its power to disclose any information it receives where this is required to carry out its legal requirements. Ofcom will exercise due regard to the confidentiality of information supplied.

Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use, to meet its legal requirements. Ofcom’s approach on intellectual property rights is explained further on its website, at www.ofcom.org.uk/about_ofcom/gov_accountability/disclaimer.

Next steps

Following the end of the consultation period, Ofcom intends to publish a statement around the end of April.

Please note that you can register to get automatic notifications of when Ofcom documents are published, at http://www.ofcom.org.uk/static/subscribe/select_list.htm.

Ofcom’s consultation processes

Ofcom is keen to make responding to consultations easy, and has published some consultation principles (see Annex 2) which it seeks to follow, including on the length of consultations.

If you have any comments or suggestions on how Ofcom conducts its consultations, please call our consultation helpdesk on 020 7981 3003 or e-mail us at consult@ofcom.org.uk. We would particularly welcome thoughts on how Ofcom could more effectively seek the views of those groups or individuals, such as small businesses or particular types of residential consumers, whose views are less likely to be obtained in a formal consultation.

If you would like to discuss these issues, or Ofcom’s consultation processes more generally, you can alternatively contact Vicki Nash, Director, Scotland, who is Ofcom’s consultation champion:

Vicki Nash  
Ofcom (Scotland)  
Sutherland House  
149 St. Vincent Street  
Glasgow G2 5NW  
Tel: 0141 229 7401  
Fax: 0141 229 7433  
E-mail: vicki.nash@ofcom.org.uk
Annex 2

Ofcom’s consultation principles

A2.1 Ofcom has published the following seven principles that it will follow for each public written consultation:

**Before the consultation**

A2.2 Where possible, we will hold informal talks with people and organisations before announcing a big consultation to find out whether we are thinking in the right direction. If we do not have enough time to do this, we will hold an open meeting to explain our proposals shortly after announcing the consultation.

**During the consultation**

A2.3 We will be clear about who we are consulting, why, on what questions and for how long.

A2.4 We will make the consultation document as short and simple as possible with a summary of no more than two pages. We will try to make it as easy as possible to give us a written response. If the consultation is complicated, we may provide a shortened version for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will normally allow ten weeks for responses to consultations on issues of general interest.

A2.6 There will be a person within Ofcom who will be in charge of making sure we follow our own guidelines and reach out to the largest number of people and organisations interested in the outcome of our decisions. This individual (who we call the consultation champion) will also be the main person to contact with views on the way we run our consultations.

A2.7 If we are not able to follow one of these principles, we will explain why. This may be because a particular issue is urgent. If we need to reduce the amount of time we have set aside for a consultation, we will let those concerned know beforehand that this is a ‘red flag consultation’ which needs their urgent attention.

**After the consultation**

A2.8 We will look at each response carefully and with an open mind. We will give reasons for our decisions and will give an account of how the views of those concerned helped shape those decisions.
Annex 3

Consultation response cover sheet

A3.1 In the interests of transparency, we will publish all consultation responses in full on our website, www.ofcom.org.uk, unless a respondent specifies that all or part of their response is confidential. We will also refer to the contents of a response when explaining our decision, without disclosing the specific information that you wish to remain confidential.

A3.2 We have produced a cover sheet for responses (see below) and would be very grateful if you could send one with your response. This will speed up our processing of responses, and help to maintain confidentiality by allowing you to state very clearly what you don’t want to be published. We will keep your completed cover sheets confidential.

A3.3 The quality of consultation can be enhanced by publishing responses before the consultation period closes. In particular, this can help those individuals and organisations with limited resources or familiarity with the issues to respond in a more informed way. Therefore Ofcom would encourage respondents to complete their cover sheet in a way that allows Ofcom to publish their responses upon receipt, rather than waiting until the consultation period has ended.

A3.4 We strongly prefer to receive responses in the form of a Microsoft Word attachment to an email. Our website therefore includes an electronic copy of this cover sheet, which you can download from the ‘Consultations’ section of our website.

A3.5 Please put any confidential parts of your response in a separate annex to your response, so that they are clearly identified. This can include information such as your personal background and experience. If you want your name, address, other contact details, or job title to remain confidential, please provide them in your cover sheet only so that we don’t have to edit your response.
**Cover sheet for response to an Ofcom consultation**

<table>
<thead>
<tr>
<th>BASIC DETAILS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Consultation title:</td>
</tr>
<tr>
<td>To (Ofcom contact):</td>
</tr>
<tr>
<td>Name of respondent:</td>
</tr>
<tr>
<td>Representing (self or organisation/s):</td>
</tr>
<tr>
<td>Address (if not received by email):</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>CONFIDENTIALITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>What do you want Ofcom to keep confidential?</td>
</tr>
<tr>
<td>Nothing</td>
</tr>
<tr>
<td>Whole response</td>
</tr>
<tr>
<td>Part of the response</td>
</tr>
</tbody>
</table>

If you want part of your response, your name or your organisation to be confidential, can Ofcom still publish a reference to the contents of your response (including, for any confidential parts, a general summary that does not disclose the specific information or enable you to be identified)?

<table>
<thead>
<tr>
<th>DECLARATION</th>
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</thead>
<tbody>
<tr>
<td>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 I authorise Ofcom to make use of the information in this response to meet its legal requirements. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.</td>
</tr>
<tr>
<td>Ofcom seeks to publish responses on receipt. If your response is non-confidential (in whole or in part), and you would prefer us to publish your response only once the consultation has ended, please tick here.</td>
</tr>
<tr>
<td>Name</td>
</tr>
</tbody>
</table>
Annex 4

Consultation questions

- Do you agree with the general process by which Ofcom proposes to license new national and local radio multiplexes?

- What are your views regarding the ways in which Ofcom proposes to interpret the statutory criteria which must be considered when awarding national and local radio multiplex licences?

- Do you agree that the proposed ten local multiplex areas to be licensed first are the right priority areas?

- What are your views on the potential viability of the smaller areas on the proposed licensing timetable?

- What are your views on the potential viability and level of demand for the proposed second (or third) local multiplexes in existing licensed areas? Would you prefer any such licences to be advertised before, at the same time as, or after the local multiplex licences in areas which currently do not have such a licence?.
Annex 5

Impact assessment

A5.1 Ofcom’s proposals in relation to the use of spectrum in VHF band III, sub-band 3 have previously been the subject of impact assessments contained in the relevant consultation documents, including *Radio – Licensing policy for VHF Band III, Sub-band 3*, published in October 2005.

A5.2 The proposals in this document relate principally to the conduct of the licensing process in compliance with the relevant provisions of the Broadcasting Act 1996 and the Communications Act 2003.

A5.3 To the extent that the framework for this licensing process is prescribed by statute, Ofcom does not consider that an Impact Assessment is required, as Parliament has determined the actions that Ofcom must take. In some respects however, Ofcom has been given discretion by Parliament, and this document sets out proposals for Ofcom's broad approach to exercising that discretion. Three principal aspects can be distinguished for purposes of an Impact Assessment, consistent with section 7 of the Communications Act 2003. These are as follows.

A5.4 First, Ofcom’s proposals for the interpretation of the relevant statutory criteria. This issue is discussed in detail in section 3 of this document, which identifies inter alia:

- The importance of taking into account the different business models for DAB local and national multiplexes, as compared to other radio businesses (such as those using local analogue licences).
- Alternative options for the approach that Ofcom might take towards the statutory criterion relating to the extent of coverage area and the timetable for achieving roll-out.
- Ofcom’s views on the weight to be attached to the ability to maintain and establish the proposed service.
- Ofcom’s views on other criteria, such as the ability to appeal to a variety of tastes and interests, or to cater for local tastes and interests, and (for the national licence) the promotion of digital take-up.
- Ofcom’s view that, in relation to the local demand or support criterion, evidence of local demand (for example through formal audience research) is a more cogent measure than evidence of local support as demonstrated by letters or petitions.

A5.5 Ofcom considers that the discussion of the relevant statutory criteria in section 3 constitutes an appropriate Impact Assessment in relation to this aspect of its proposals.

A5.6 Second, Ofcom’s proposals for the application procedure. Ofcom has discretion in relation to the conduct of the application process, and could choose to exercise this in various ways. For example, Ofcom could:

- Publish general notes of guidance in place of a free-standing advertisement.
- Accept applications in hard copy, instead of electronically only.
- Allow shorter or longer periods for submission of applications.
A5.7 Ofcom’s proposals in this respect are as set out in section 3 of this document. They are intended to ensure that the licensing process is robust, and provides Ofcom with the information required to arrive at properly informed decisions, while also promoting expedition (to accelerate benefits to citizens and consumers from the launch of new services) and avoiding undue costs to applicants and to Ofcom. The proposals have also been informed by Ofcom’s experience of awarding other radio licences since 29 December 2003 (when Ofcom was vested with the relevant statutory powers).

A5.8 Of the alternatives available:

- Ofcom considers that submission of applications electronically only reduces costs for applicants and Ofcom, and increases despatch.
- The publication of advertisements that are free-standing, without general guidance notes, also reduces costs for Ofcom and for applicants, as it removes the need to produce and to consider documentation separate to the advertisement.
- The period of three months allowed for submission of applications is sufficient to allow parties to prepare a high-quality application from scratch, and to consider all complex issues in sufficient depth, and has the advantage of aligning with the standard timescale for other radio licences.

A5.9 Third, the proposed licensing timetable, and in particular the proposal to license the further national commercial radio multiplex as soon as possible after the conclusion of the Regional Radio Conference, and to advertise the local radio multiplex licences in descending order of population coverage.

A5.10 The rationale for these proposals is that they should bring the greatest benefit to the greatest number of people as soon as possible. Alternatives would however be possible, including:

- Delaying the advertisement of the national commercial radio multiplex. Ofcom has rejected this option in its statement Radio – Licensing policy for VHF Band III, Sub-band 3, published at the same time as this document, as it would suppress the availability of spectrum, to the disbenefit of citizens and consumers
- Offering the local radio multiplexes in a different order, for example in response to a process relating to the perceived level of commercial interest. Ofcom has sought views in this document on the order of the local multiplexes to be licensed. However, the criterion proposed of population coverage is likely to be aligned with commercial viability, and has some advantages in terms of objectivity.