

UKRD Group Ltd

Response to Ofcom Consultation – DAB in North Devon

Introduction

1. UKRD Group Ltd (“UKRD”) owns and operates 17 local FM radio stations, making it the fifth largest commercial radio group in the UK. The group also has interests in numerous DAB multiplexes, national sales house First Radio Sales and two other commercial stations.
2. UKRD’s stations reach 949,000 people who listen for more than 8,197,000 hours each week (RAJAR Q1 2011). The group is currently delivering solid levels of profitability and came first in the Sunday Times Best Companies to Work For list published in March 2011.
3. All UKRD’s stations are committed to 100% localness – and all are locally produced and presented 24 hours a day with no networking.
4. UKRD is a 50% shareholder in North Devon Radio Ltd (“NDR”) a joint venture with The Voice North Devon – a group of local individuals who have operated a series of five RSL broadcasts in Barnstaple and Bideford since November 2010.
5. NDR was formed in February 2011 to compete for the FM licence for Barnstaple due to be pre-advertised by Ofcom in May 2011. The re-advertisement process was halted by the request to Ofcom from Now Digital Ltd to extend the coverage area of the Exeter and Torbay DAB local multiplex which is the subject of this consultation.

Executive Summary

6. UKRD strongly urges Ofcom to use its discretion to REJECT the request from Now Digital Ltd to extend the coverage area of the Exeter and Torbay DAB local radio multiplex into North Devon for the following five reasons:-
 - 6.1 The proposed DAB coverage of North Devon will be wholly inadequate and unacceptable with only just over half of homes (53%) in the area receiving a signal in the short term and just 70% of homes in the long term, possibly not even until 2020.
 - 6.2 The proposed DAB coverage of North Devon will not maintain or promote the development of digital broadcasting in the UK as it will put into the market an inferior quality of radio coverage in the area, thus undermining the credibility of the digital listening platform.
 - 6.3 The proposed DAB coverage of North Devon is not to the 'significant extent' required under the Broadcasting Act 1990 to permit uncontested renewal of the Barnstaple FM licence, despite Ofcom's interpretation of this requirement in the consultation document.
 - 6.4 The proposed DAB coverage of North Devon seems neither contiguous with the existing Exeter and Torbay DAB local radio multiplex or directly related to the existing North Devon FM coverage area. Thus rather than being an "extension" of the existing DAB area, we believe it creates a new, stand-alone coverage area which should be the subject of a separate advertisement and application process.
 - 6.5 The impact of approving the request to extend the existing digital multiplex will be to stop the planned re-advertisement of the Barnstaple FM licence and deprive people in North Devon from the chance of having their own local radio service again.

Response to Specific Ofcom Consultation Questions

Q1. Do you think that allowing Now Digital to extend the coverage area of its Exeter and Torbay local radio multiplex licence to include North Devon would unacceptably narrow the range of DAB programme services available in the Exeter and Torbay area? Please explain the reasons for your view.

7. No. UKRD thinks the proposed extension is unlikely to narrow the range of DAB programme services in the Exeter and Torbay areas.

Q2. Do you think that allowing Now Digital to extend the coverage area of its Exeter and Torbay local radio multiplex licence to include North Devon would be calculated to maintain or promote the development of digital sound broadcasting in the UK otherwise than by satellite? Please explain the reasons for your view.

8. No. The proposed extension of the Exeter and Torbay multiplex would put into the North Devon radio market an inferior DAB product which we believe is likely to undermine the credibility of DAB generally.
9. The signal will initially only cover 53% of homes. This means many people trying to tune in will either receive no signal at all or poor quality. We believe this will damage the credibility of digital broadcasting.
10. Most people in North Devon live and work in the area and therefore do not commute. The DAB service needs to provide a stable signal across all the area's roads. The FM signal is currently stable and must not be replaced by a service which has interruptions as this will have a negative impact on the perception of digital radio.
11. Our concern over local digital coverage is shared by Andrew Harrison, chief executive of RadioCentre, who said at the Westminster Forum on digital radio in April 2011: "Clearly if people can't receive digital radio at all, or if the signal is patchy, then any speculation about the digital future is largely fanciful."
12. The Government announced its Digital Radio Plan in July 2010 and concluded that a decision to switch to digital radio could only be made:-
 - When 50% of all radio listening is via digital platforms
 - When national DAB coverage is comparable to FM
 - When local DAB reaches 90% of the population and all major roads
13. A DAB signal of 70% eventual coverage means North Devon will fall far short of reaching the Government's target of covering 90% of the population. By the Government's own measure, the level of DAB coverage will be inadequate and therefore again calls into question the credibility of the DAB broadcast platform.

Q3. Do you think that Now Digital's proposals for coverage of North Devon are satisfactory? Please explain the reasons for your view.

14. No. UKRD believes the DAB coverage proposals for North Devon in Now Digital's application are wholly inadequate and therefore unacceptable.

(a) Extent of Coverage

15. Now Digital say they will launch DAB transmissions from the Huntshaw Cross site six months after Ofcom grants consent. According to their submission, this transmitter will provide 'indoor' coverage to 53% of households in North Devon.

16. Providing DAB coverage to only half the homes in North Devon is completely unsatisfactory and compares extremely poorly with the percentage of homes able to receive local DAB multiplexes in other similar parts of the UK, as the following table illustrates clearly:-

Multiplex Area	'Indoor' Coverage of Homes
NE Wales and West Cheshire	94%
Northamptonshire	84%
Oxfordshire	83%
Herts, Beds and Bucks	75%
Gloucestershire	75%
Lincolnshire	74%
Derbyshire	73%
Herefordshire & Worcestershire	66%
Somerset	61%

Source: Ofcom website – Radio Multiplex Licence Award Decisions

17. Now Digital says it will increase the DAB coverage in North Devon six months after “a positive decision in 2013 by Government regarding digital switchover”. They say the addition of transmitters at Barnstaple and Okehampton will increase coverage to seven out of ten homes in North Devon.
18. Two years ago, the government announced in its Digital Britain report, a target date of 2015 for digital radio switchover. It is now generally agreed that this date was far too ambitious and a switchover date from analogue to digital is unlikely in the near future.
19. Even the chief executive of Digital Radio UK, Ford Ennals, has said he will no longer publicly refer to a 2015 switchover target date. He told the Westminster Forum on digital radio in April 2011: “I don’t think there is a need to have a date and we won’t be communicating a date.”
20. The Daily Mail on 9th May 2011 reported on a leaked memo from the Department for Culture, Media and Sport saying the switchover from analogue to digital radio would be phased in from 2017 to 2020. According to the memo, the South West would be one of the last areas to be phased into the switchover.
21. This means North Devon will have only 53% DAB coverage for at least four years and possibly up to 2020. We believe this to be both inadequate and unacceptable.
22. When digital switch-over does eventually happen under Now Digital’s extension plans, three out of ten homes in North Devon will be left without ANY county-wide or local radio station service including Heart FM and BBC Radio Devon. This does not increase local choice; it removes choice completely from a significant part of the population.

(b) Area of Coverage

23. We believe the area proposed is not contiguous in terms of useable service with any existing DAB area. UKRD therefore fails to understand how the proposal from Now Digital can be regarded as an “extension” to the existing Exeter and Torbay DAB area.
24. UKRD believes that, in fact, Now Digital appears to be proposing a “new”, wider, standalone coverage area for a digital signal and not an extension of their existing area. Therefore if there is to be any DAB service offered to North Devon, it should be the subject of a separate advertisement and application procedure for a new area rather than an application to extend an existing area.
25. We are also confused by Now Digital’s selection of Okehampton as a multiplex transmitter location for North Devon. Okehampton is clearly a town located in West Devon and has never been a part of either the Measured Coverage Area or Total Survey Area for the Barnstaple FM licence. Why, therefore, is it included in a proposed digital coverage plan for North Devon?
26. If Now Digital wants to improve digital coverage in North Devon, a more effective location for a multiplex relay would be in Ilfracombe. The current proposal from Now Digital totally disenfranchises Ilfracombe, which is North Devon’s largest seaside town, and most of the north coast.
27. Since Okehampton is clearly in West Devon and does not form part of the Barnstaple analogue MCA or TSA, it cannot be included in the 70% eventual DAB coverage of North Devon.
28. Now Digital have thus created a “new” area which they propose to cover leaving the actual area (including the Barnstaple analogue area) with coverage less than the 70% quoted by Now Digital.

Q4. Do you consider that Now Digital has the ability to maintain its local radio multiplex service if its request is granted? Please explain the reasons for your view.

29. Yes.

Q5. (For programme service providers on the Exeter and Torbay local radio multiplex only) Do you consider that there are sufficient safeguards in place to protect your rights and interests in the event that Now Digital is permitted to extend coverage to include North Devon?

30. Not applicable.

Q6. Do you consider that there are any other grounds on which Ofcom should approve, or not approve, the request from Now Digital. Please explain the reasons for your view.

31. Yes. We believe there are three other grounds on which Ofcom should not approve the request from Now Digital. The first is on statutory grounds. The second concerns the timing of any decision. The third is based upon the impact of a digital extension decision.

(a) Statutory Grounds

32. Under section 104A of the Broadcasting Act 1990, a licensee who is providing a local digital sound programme service on a ‘relevant’ local radio multiplex service is entitled to apply for an uncontested renewal of its licence on one occasion for a period of 12 years.

33. In paragraph 13(d) of section 104A, ‘relevant local multiplex service’ is defined as a local multiplex service with a coverage area which to a significant extent includes the coverage area of the local service provided under the local licence (our italics and underlining).

34. In paragraph 2.15 of the consultation document, Ofcom says “a multiplex service is ‘relevant’ if it provides DAB coverage to at least 25% of the adult population covered by the local analogue licence in question.

35. UKRD argues strongly that the Broadcasting Act does not define ‘significant’ extent and that Ofcom has selected the 25% figure arbitrarily.

36. We further argue that Now Digital’s 53% coverage of North Devon is NOT a ‘significant’ extent of coverage – particularly compared to the percentage of homes able to receive local digital radio in other parts of the UK as detailed in paragraph 16 above - and therefore for this reason Ofcom should exercise its discretion in rejecting Now Digital’s application.

(b) Timing Grounds

37. The Government has published a Digital Radio Action Plan (DRAP) to provide the information to allow for a well-informed decision by Government on whether to proceed with a radio switchover to digital.
38. In the light of the DRAP, Ofcom published a consultation document on 22nd June 2011 entitled An Approach to DAB Coverage Planning with a closing date for responses of 14th September 2011.
39. Whilst we appreciate that the consultation is about the principles of DAB planning and not about the boundaries of editorial areas, we urge Ofcom to postpone any decision about Now Digital's application to extend the coverage area of the Exeter and Torbay DAB multiplex until after this important and significant consultation has finished and the DRAP is completed.

(c) Impact Grounds

40. We strongly believe Ofcom has a clear responsibility to take into account the impact of a decision to allow Now Digital to extend its DAB multiplex from Exeter and Torbay into North Devon.
41. The local commercial FM licence for Barnstaple was due to be pre-advertised by Ofcom in May 2011. However a few days before the pre-advertisement was due to take place, Now Digital made their DAB extension application. If successful, the incumbent licensee, Lantern Radio Ltd (broadcasting as Heart Devon), will be entitled to apply for an automatic 'roll-over' and uncontested renewal of its FM licence.
42. Therefore the impact of a decision to extend the DAB multiplex will be to deny the chance for a new operator to compete to provide a local FM service.
43. Devon is Britain's second largest county. North Devon is generally regarded as something of a unique area - the size of Derbyshire - and connected by the A361 road which acts as an umbilical cord with the M5 motorway and the rest of the country. North Devonians have always regarded themselves as belonging to a 'county within a county'.

44. In June 2010, Global Radio – the new owner of all the FM licences in Devon – announced consolidation of its Heart network of local stations from 33 to 15 across the UK.
45. The decision to merge all four Heart stations in Devon turned four local stations into one regional county-wide station from August 2010, resulting in the closure of studios in Torquay, Plymouth and Barnstaple and leaving people in North Devon without a local commercial station. The regional output consisted of one county-wide breakfast show (where previously there had been four) and a county-wide drive-time show (where previously there had been four). News was changed from being local to regional.
46. The closure of Heart North Devon, formerly Lantern FM, caused protests from business, community and civic leaders including from North Devon MP Nick Harvey, Torridge MP Geoffrey Cox and the North Devon District Council. More than 2,000 people registered their displeasure via a page on the social networking website Facebook. Local newspapers printed letters from both listeners and advertisers telling of their shock and dismay at the loss of local commercial radio from the area and that the current county service has become too ‘Exeter-centric’.
47. Indeed, monitoring of 13 of Heart Devon’s peak-time news bulletins over several days in March shows that out of 33 news stories about Devon, only seven had any connection with North Devon.
(Source: Heart Devon monitoring of 0800, 1300 and 1700 bulletins by Paul Crockett of NDR, various dates between 21st March and 1st April 2011)
48. Local broadcaster Ian Starling, together with colleagues Paul Crockett and Peter Fieldsend, formed The Voice North Devon in July 2010 firstly to run a group of internet stations and then to operate a series of RSL broadcasts in Barnstaple, Bideford and elsewhere in North Devon to act as a trial to bid for the forthcoming FM licence.

49. Between November 2010 and June 2011, a total of five RSL broadcasts have been undertaken by the group:-

- The Voice 106 (November/December 2010) – Barnstaple
- Festive FM (December 2010) - Barnstaple
- The Voice 87.7 (January/February 2011) – Bideford
- The Voice 107.1 (March/April 2011) – Barnstaple
- Festival FM (June 2011) – Barnstaple

50. The Voice of Network North Devon became part of North Devon Radio Ltd with UKRD Group Ltd in February 2011.

51. Since this consultation began, civic leaders have been quick to call for a North Devon local commercial radio service again:-

51.1 Chief Executive of North Devon Council, Mike Mansell, stated in a press release on 6th June 2011: “The council supports a local radio station run by local people.”

51.2 In the same press release, the council leader, Brian Greenslade, said: “Since the closure of Heart Barnstaple to a regional-based station, the lack of local knowledge and news really has been felt across North Devon.”

51.3 Matthew Webber, chairman of Challacombe parish near Barnstaple, said in a submission to Ofcom on 6th June 2011: “Since it went regional, Heart does not contribute to North Devon... There is no local ‘feel’. If this digital proposal is allowed to go ahead, it will have a huge negative impact on North Devon... North Devon desperately needs a good local FM service again. This is what we want. We do not need or want a digital extension into this area.”

52. There is general agreement in both the industry and Ofcom that localness is important:-

52.1 Andrew Harrison, chief executive of RadioCentre, says: “In today’s complex media landscape, the localness of a local radio station can only become a more important way for it to distinguish its product from its competitors.”

52.2 In his submission to the DCMS, 'An Independent Review of the Rules Governing Local Content on Commercial Radio' published two years ago, John Myers says: "If local radio were to 'de-localise' its broadcast content, it would simply fade into a sea of similar radio stations that offer no particular USP to their audiences."

52.3 Ed Richards, chief executive of Ofcom, in his 2007 lecture Citizens and Consumers in a Converged World, said: "What our research tells us is that people continue to want to hear local programming. They want to hear that programming and know that the presenter they are listening to drives down the road they drive down."

52.4 Ed Richards, in a speech at the Radio 3.0 conference in London in May 2009, stated unequivocally: "Localness is important and valued."

53. We agree with Mr Richards – and consider in the case of North Devon, Ofcom has an opportunity to ensure that the provision of localness, the increase in listener choice and encouragement of competition is paramount by declining to allow the uncontested renewal of the FM licence.

54. *We strongly believe Ofcom has an over-riding obligation to ensure localness, plurality and fair competition and to look beyond an arrangement created many years ago to use the automatic 'roll-over' renewal of analogue licences as an incentive for radio groups to invest in digital.*

55. We argue that special circumstances apply in this case and Ofcom should make an exception to the uncontested renewal of the Barnstaple FM licence.

Conclusion

56. UKRD urges Ofcom to use its discretion to REJECT Now Digital's application to extend the Exeter and Torbay local radio DAB multiplex to North Devon on the grounds of inadequate and unsatisfactory coverage, the consequent undermining of the digital platform, the timing of such a decision in the middle of a major DAB consultation and the impact it would have on blocking competition for a re-advertised local FM licence which is clearly sought and desired by the community in North Devon .

27th June 2011.