



KISS 100, KISS 101 and KISS 105

Request to change Formats to share all programming
(consultation on proposed level of national DAB coverage)

Consultation

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Section 1

Executive summary

- 1.1 Ofcom has received a Format change request from Bauer Radio Ltd in relation to its three FM local commercial radio services which comprise the Kiss network. These are:
 - Kiss 100 – Greater London
 - Kiss 101 – Severn Estuary
 - Kiss 105 – East of England
- 1.2 Bauer's proposal is for all three stations to be able to share all programming, and therefore to remove the requirements in each Format that a specified amount of programming is made by each station in the area it serves. As a result, a new 'national' version of Kiss would be transmitted in each analogue licence area which would also be available on local DAB multiplexes across the UK.
- 1.3 This proposal is consistent with Ofcom's policy of allowing regional analogue stations to share programming, as set out in our localness guidelines¹. This policy, designed to encourage the growth of UK-wide DAB services, allows for the owners of specified local FM stations (those which provide regional coverage) to request the removal from their Formats of obligations relating to local material and locally-made programming in return for providing their service across the UK on DAB.
- 1.4 Format change requests are considered under the terms set out in section 106(1A) of the Broadcasting Act 1990 (as amended) ("the 1990 Act"). In order for Ofcom to be able to agree to a Format change request, one of the criteria in this section must be satisfied. The request from Bauer has been approved – in principle – under section 106(1A)(a) of the 1990 Act – that the departure [i.e. the proposed removal of localness requirements] would not substantially alter the character of the services. Where one of the statutory criteria is satisfied, Ofcom still has discretion as to whether or not to agree to the requested change.
- 1.5 In our *Statement on commercial radio localness regulation* (published April 2010²) we said that we would expect any applicants to outline in detail the expected level of national DAB coverage that stations sharing their programming would achieve. Where the level of coverage is expected to rise over time from a minimum acceptable level to a higher level, a timetable would need to be provided for attaining the higher level.
- 1.6 Bauer proposes in its Format change request a two-stage coverage proposal for the new 'national' Kiss DAB service. This would initially result in coverage of what it estimates to be 73% of the UK adult population, rising to 79.4% within a few months.
- 1.7 The purpose of this consultation is to establish the views of respondents as to whether or not the level of DAB coverage being proposed by Bauer for its new national Kiss service is sufficient to constitute 'national' coverage.
- 1.8 Once this consultation is completed, Ofcom will decide whether to approve Bauer's Format change request.

¹ <http://stakeholders.ofcom.org.uk/broadcasting/radio/localness/localness-guidelines>

² <http://stakeholders.ofcom.org.uk/consultations/radio/statement/>

Section 2

Details of the request

- 2.1 Ofcom has received a Format change request from Bauer Radio Ltd in relation to its three FM local commercial radio services which comprise the Kiss network. These are:
- Kiss 100 – Greater London
 - Kiss 101 – Severn Estuary
 - Kiss 105 – East of England
- 2.2 Kiss 100 was licensed in London 20 years ago as a specialist station playing electronic dance music (house music, techno, drum and bass etc). It has evolved through the years to the point where its original 'dance' remit has widened to also include dance-pop and urban genres (R&B, hip hop, rap etc). The station has also spawned a number of brand extensions, such as Kiss TV.
- 2.3 In 2005, Kiss 100's parent company EMAP Radio acquired (as a result of its purchase of Scottish Radio Holdings) two similarly-formatted regional stations branded Vibe FM, serving the East of England and Severn Estuary regions. The two Vibe services were both rebranded as Kiss in September 2006. Under their new owners, both regional stations shared some output, and a similar music log, to Kiss 100 London. EMAP Radio became Bauer Radio Ltd at the end of 2007, following Bauer's take-over of the wider EMAP publishing group.
- 2.4 Currently, the Kiss stations are required to provide seven hours of locally-produced programmes during weekdays, and four on weekend days. Bauer's proposal is for all three stations to have these obligations removed and be able to share their programming. As a result, a new 'national' version of Kiss would be transmitted in each analogue licence area which would also be available on local DAB multiplexes across the UK.
- 2.5 This proposal is consistent with Ofcom's policy of allowing regional analogue stations to share programming, as set out in our localness guidelines³. This policy, designed to encourage the growth of UK-wide DAB services, allows for the owners of specified local FM stations (those which provide regional coverage) to request the removal from their Formats of obligations relating to the provision of local material and locally-made programming in return for providing their service across the UK on DAB. This, we believe, will foster competition and choice in UK-wide services, encourage a greater range and diversity of content for consumers, and provide the potential for new investment in programming.
- 2.6 Format change requests are considered under the terms set out in section 106(1A) of the 1990 Act. In order for Ofcom to be able to agree to a Format change request, one of the criteria in this section must be satisfied. The request from Bauer has been approved – in principle – under section 106(1A)(a) of the 1990 Act – that the departure [i.e. the proposed removal of localness requirements] would not substantially alter the character of the services. This is because a number of regional and London FM stations, such as the three Kiss services, were licensed mainly to provide an extension of music choice. Therefore the removal of locally-

³ <http://stakeholders.ofcom.org.uk/broadcasting/radio/localness/localness-guidelines>

made programming and regional speech content should not substantially change the essential Format character of the Kiss stations, which is to provide a rhythmic music service for the under-30s.

- 2.7 Where one of the relevant statutory criteria is satisfied, Ofcom still has discretion as to whether or not to agree to the requested change. The principle of the policy detailed in paragraph 2.5 was consulted upon by Ofcom in our July 2009 consultation document *Radio: the implications of Digital Britain for localness regulation* (available at: <http://stakeholders.ofcom.org.uk/consultations/radio/>), and the final policy was set out in our April 2010 *Statement on commercial radio localness regulation* (available at: <http://stakeholders.ofcom.org.uk/consultations/radio/statement/>).
- 2.8 In the April 2010 statement, we said that we thought it was reasonable to require any companies requesting to remove their localness obligations from analogue licences and become national UK-wide stations to achieve coverage at a level that can properly be characterised as ‘national’. The example of national commercial multiplex operator Digital One – which committed to a coverage level at launch of approximately 70%, rising quickly to over 80% within three years – was cited as a precedent for DAB as to what constitutes a “national” service.
- 2.9 The statement added, however, that Ofcom would also be open to other suggestions of other coverage levels, provided they were accompanied by justification as to why the threshold suggested can be considered to offer increased choice and competition to consumers at the UK-wide level.
- 2.10 We stated that we would expect radio companies wishing to take advantage of this policy to outline in detail the expected level of national DAB coverage that stations sharing their programming would achieve. In situations where it is envisaged that the level of coverage will rise over time from a minimum acceptable level to a higher level, a timetable would need to be provided for attaining the higher level.
- 2.11 Bauer proposes in its Format change request a two-stage coverage proposal for the new ‘national’ Kiss DAB service, further details of which are included at Annex 5:

Stage One

73% coverage of the adult UK population, achieved by carriage of Kiss on 34 out of the current 38 local DAB multiplexes. This would extend current DAB coverage of Kiss to Scotland and Northern Ireland, while coverage in Wales, Yorkshire, Kent and Sussex would be improved.

Stage Two

Within a few months of Stage One being completed, Bauer states that DAB carriage of Kiss in the East Midlands (specifically, the local multiplexes for each of Nottingham and Leicester) and South Hampshire for the first time would extend the adult UK population coverage of Kiss on DAB to 79.6%.

- 2.12 The purpose of this consultation is to establish the views of respondents as to whether or not the level of DAB coverage being proposed by Bauer for its new national Kiss service is sufficient to constitute ‘national’ coverage.
- 2.13 Once this consultation is completed, Ofcom will decide whether to approve Bauer's Format change requests.

Annex 1

Responding to this consultation

How to respond

- A1.1 Ofcom invites written views and comments on the issues raised in this document, to be made **by 5pm on 26 November 2010**.
- A1.2 Ofcom strongly prefers to receive responses using the online web form at <http://stakeholders.ofcom.org.uk/consultations/kiss100-101-105/> 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), to indicate whether or not there are confidentiality issues. This response coversheet is incorporated into the online web form questionnaire.
- A1.3 For larger consultation responses – particularly those with supporting charts, tables or other data – please email: jon.heasman@ofcom.org.uk, attaching your response in Microsoft Word format, together with a consultation response coversheet.
- A1.4 Responses may alternatively be posted or faxed to the address below:
- Kiss consultation
F.A.O. Jon Heasman
Manager, Commercial Radio Licensing
Ofcom
Riverside House
2A Southwark Bridge Road
London SE1 9HA
- Fax: 020 7981 3850
- A1.5 Note that we do not need a hard copy in addition to an electronic version. Ofcom will acknowledge receipt of responses if they are submitted using the online web form but not otherwise.
- A1.6 It would be helpful if your response could include a direct answer to the question asked in this document, which is set out at Annex 4. It would also help if you can explain why you hold your views and how the proposals would impact on you.

Further information

- A1.7 If you want to discuss the issues and questions raised in this consultation, or need advice on the appropriate form of response, please contact Jon Heasman on 020 7783 4509.

Confidentiality

- A1.8 We believe 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. If you think your response should be kept confidential, can you please specify what part or whether all of your response should be kept confidential, and specify why. Please also place such parts in a separate annex.

- A1.9 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and will try to respect this. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.10 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's approach on intellectual property rights is explained further on its website at <http://www.ofcom.org.uk/about/accoun/disclaimer/>

Next steps

- A1.11 Following the end of the consultation period, Ofcom intends to publish a statement.
- A1.12 Please note that you can register to receive free mail Updates alerting you to the publications of relevant Ofcom documents. For more details please see: http://www.ofcom.org.uk/static/subscribe/select_list.htm

Ofcom's consultation processes

- A1.13 Ofcom seeks to ensure that responding to a consultation is as easy as possible. For more information please see our consultation principles in Annex 2.
- A1.14 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, who are less likely to give their opinions through a formal consultation.
- A1.15 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
Sutherland House
149 St. Vincent Street
Glasgow G2 5NW

Tel: 0141 229 7401
Fax: 0141 229 7433

Email 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 Plain English Guide for smaller organisations or individuals who would otherwise not be able to spare the time to share their views.

A2.5 We will consult for up to 10 weeks depending on the potential impact of our proposals.

A2.6 A person within Ofcom 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. Ofcom's '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.

After the consultation

A2.8 We think it is important for everyone interested in an issue to see the views of others during a consultation. We would usually publish all the responses we have received on our website. In our statement, 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 and good regulatory practice, we will publish all consultation responses in full on our website, www.ofcom.org.uk.
- A3.2 We have produced a coversheet for responses (see below) and would be very grateful if you could send one with your response (this is incorporated into the online web form if you respond in this way). This will speed up our processing of responses, and help to maintain confidentiality where appropriate.
- 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 coversheet 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 via the online web form which incorporates the coversheet. If you are responding via email, post or fax you can download an electronic copy of this coversheet in Word or RTF format from the ‘Consultations’ section of our website at www.ofcom.org.uk/consult/.
- A3.5 Please put any parts of your response you consider should be kept confidential in a separate annex to your response and include your reasons why this part of your response should not be published. 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

BASIC DETAILS

Consultation title: Kiss consultation

To (Ofcom contact): Jon Heasman

Name of respondent:

Representing (self or organisation/s):

Address (if not received by email):

CONFIDENTIALITY

Please tick below what part of your response you consider is confidential, giving your reasons why

Nothing	<input type="checkbox"/>	Name/contact details/job title	<input type="checkbox"/>
Whole response	<input type="checkbox"/>	Organisation	<input type="checkbox"/>
Part of the response	<input type="checkbox"/>	If there is no separate annex, which parts?	<input type="checkbox"/>

If you want part of your response, your name or your organisation not to be published, 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)?

DECLARATION

I confirm that the correspondence supplied with this cover sheet is a formal consultation response that Ofcom can publish. However, in supplying this response, I understand that Ofcom may need to publish all responses, including those which are marked as confidential, in order to meet legal obligations. If I have sent my response by email, Ofcom can disregard any standard e-mail text about not disclosing email contents and attachments.

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.

Name

Signed (if hard copy)

Annex 4

Consultation question

Q1. Do you think the level of DAB coverage for a new national Kiss service, as proposed by Bauer Radio at Annex 5, is sufficient to constitute 'national' coverage (and therefore allow Ofcom to permit the sharing of all programmes between Kiss 100, Kiss 101 and Kiss 105)?

Annex 5

Request to change the Formats of Kiss 100, Kiss 101 and Kiss 105



Analogue Commercial Radio Licence: Format Change Request Form

Station Name:	Kiss 100 / Kiss 105 / Kiss 101
Licensed area and licence number:	Greater London – AL 053-2 – Kiss 100 East Anglia – AL 208-1 – Kiss 105 Severn Estuary – AL 167-1 – Kiss 101
Licensee:	Kiss 100 – Kiss FM Radio Limited Kiss 105 – Kiss 105-108 Limited Kiss 101 – Kiss 101 Limited
Contact name:	Steve Parkinson – Content Matters Grae Allan – DAB Matters Dee Ford – Other Matters

Details of requested change(s) to Format

Character of Service <i>Complete this section if you are requesting a change to this part of your Format</i>	Existing Character of Service: Kiss 100 – A DANCE MUSIC STATION AIMED AT YOUNG LONDONERS, PRIMARILY UNDER 30s. IDENTIFIABLE SPECIALIST MUSIC PROGRAMMES FEATURE FOR AT LEAST 36 HOURS A WEEK Kiss 105 – A CLASSIC AND CONTEMPORARY DANCE MUSIC STATION PRIMARILY FOR UNDER 30s IN THE EAST OF ENGLAND. IDENTIFIABLE SPECIALIST MUSIC FEATURES FOR AT LEAST 36 HOURS A WEEK. Kiss 101 - A RHYTHMIC-BASED MUSIC-LED SERVICE FOR PRIMARILY UNDER 30s IN THE SEVERN ESTUARY AREA, SUPPLEMENTED WITH NEWS, INFORMATION AND ENTERTAINMENT. IDENTIFIABLE SPECIALIST MUSIC FEATURES FOR AT LEAST 36 HOURS A WEEK
	Proposed new Character of Service: NO CHANGE

<p>Programme sharing and/or co-location arrangements</p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p>Current arrangements:</p> <p>Kiss 100 – No arrangements exist Kiss 105 – No arrangements exist Kiss 101 – No arrangements exist</p> <p>Proposed new arrangements:</p> <p>Primarily a single national programme service produced in London, with ad hoc regional opt-outs to meet programme and commercial requirements.</p>
<p>Locally-made hours and/or local news bulletins</p> <p><i>Complete this section if you are requesting a change to this part of your Format</i></p>	<p>Current obligations:</p> <p>Kiss100 Locally-made hours: At least 10 hours a day during daytime weekdays (must include breakfast). At least 4 hours daytime Saturdays and Sundays.</p> <p>Local news bulletins: as appropriate</p> <p>Kiss 105 Locally-made hours: At least 7 hours a day during daytime weekdays (must include breakfast). At least 4 hours daytime Saturdays and Sundays.</p> <p>Local news bulletins: At least hourly at peaktime weekdays and weekends. Outside peak, UK-wide, nations and international news should feature.</p> <p>Kiss 101 Locally-made hours: At least 7 hours a day during daytime weekdays (must include breakfast). At least 4 hours daytime Saturdays and Sundays.</p> <p>Local news bulletins: At least hourly at peaktime weekdays and weekends. Outside peak, UK-wide, nations and international news should feature.</p> <p>Proposed new obligations:</p> <p>National news and entertainment bulletins at appropriate times would feature Monday to Saturday.</p>

The holder of an analogue local commercial radio licence may apply to Ofcom to have the station's Format amended. Any application should be made using the layout shown on this form, and should be in accordance with Ofcom's published procedures for Format changes (available on our website at www.ofcom.org.uk/radio/ifi/rbl/formats/formats/fc/changeregs/).

Under section 106(1A) of the Broadcasting Act 1990 (as amended), Ofcom may consent to a change of a Format only if it is satisfied that *at least* one of the following five statutory criteria is satisfied:

- (a) *that the departure would not substantially alter the character of the service;*
- (b) *that the departure would not narrow the range of programmes available by way of relevant independent radio services to persons living the area or locality for which the service is licensed to be provided;*
- (c) *that the departure would be conducive to the maintenance or promotion of fair and effective competition*
- (d) *that there is evidence that, amongst persons living in that area or locality, there is a significant demand for, or significant support for, the change that would result from the departure; or*
- (e) *that (i) the departure would result from programmes included in the licensed service ceasing to be made at premises in the area or locality for which the service is provided, but (ii) those programmes would continue to be made wholly or partly at premises within the approved area (as defined in section 314 of the Communications Act 2003 (local content and character of services)).*

Only one of these five criteria need be satisfied in order for Ofcom to consent to the proposed change. However, even if Ofcom is of the opinion that the proposed change satisfies one or more of the statutory criteria, there may be reasons (depending on the particular circumstances of the case) why Ofcom may not consent to the proposed change. The additional criteria to which Ofcom will have regard when exercising this discretion can be found at: www.ofcom.org.uk/radio/ifi/rbl/formats/formats/fc/changeregs/

Applicants should note that, under section 106ZA of the same Act (as amended), a proposed change that *does not* satisfy the first or last of these criteria (i.e. a change that Ofcom considers *would* or *could* substantially alter the character of the service, or does not relate to the origin of locally-made programmes) must, if it is to be considered further under any of the other three criteria, be consulted upon. #.

In the event that Ofcom receives a request for Format change and considers that criterion (a) or (e) is *not* satisfied, it will seek confirmation from the applicant as to whether it wishes to proceed with the request (and, if so, whether it wishes to amend or replace its submission in light of the necessity to make it public).

Please set out the statutory criterion, or criteria, set out in section 106(1A) of the Broadcasting Act 1990 that you believe is/are satisfied in relation to this Format change request, and the reasons for this:

Bauer Radio operates the three Kiss licences. We have set out here why we believe the proposed format change in respect of locally made content and news, 'the Departure', satisfies not just one, but three of the relevant criteria. We have addressed each of these in turn.

Bauer's Format change proposals are consistent with Ofcom's policy of allowing regional stations to share programming, a policy designed to encourage growth of UK-wide DAB services. As a result, if Kiss provides a UK wide version on DAB, it is entitled to be relieved of current localness obligations. Bauer will invest further in the Kiss music offering and in DAB distribution with the result that listeners across the UK will be offered a greater range and diversity of content.

How the proposed change would satisfy Section 106(1a)

Most significantly, the Character of Service of Kiss 100, Kiss 105 and Kiss 101 would be unchanged by repositioning Kiss as a fully national format. Regional FM stations, such as Kiss, were licensed mainly to provide an extension of music choice. The removal of locally-made programming and regional speech content will not substantially change the essential Format character of Kiss.

Our independently researched monthly brand tracker survey of Kiss (Leapfrog, August 2010, 214 Kiss 100 listeners) shows that there are three key consistent reasons for listening to Kiss: namely music genre, lifestyle, and mood. Of the top ten ranked reasons for choosing Kiss, 5 are music based (eg plays the best music for my taste) and 3 are mood based (eg energetic). The only geographical factor relating to locality (ie importance of 'Kiss being a local station') comes 24th out of 28 factors.

The character of service would not be substantially altered and would satisfy s106(1a).

How the proposed change would satisfy Section 106(1b)

The Kiss 100, Kiss 101 and Kiss 105 licences were introduced many years after the original local ILR licences were awarded and well established in each area. As noted above, their primary purpose was to extend music choice rather than local content. In each market there are local radio licences with a specific brief to provide local content.

The removal of local content from each of the Kiss licences does not therefore leave listeners in these areas without local content. We believe in turn that the change would not narrow the range of programmes available by way of relevant independent radio services to persons living in each of the areas for which the Kiss services are licensed and as a consequence, the change also satisfies the s106(1b) criteria

How the proposed change would satisfy Section 106(1d)

Between Q2 2006 and Q2 2010, in the period where Kiss 101 and Kiss 105 shared more programming content with Kiss 100, the combined reach and hours of these stations increased by +42% and +33% respectively. The stations have seen an increase in reach and hours in almost every Rajar survey in that time, demonstrating that the service delighted and engaged its audience the more networked the output became.

Furthermore, growth of our Monday to Friday daytime networked shows (between 9am and 3pm) has outstripped growth of our Monday to Friday daytime local shows (between 6am-9am and 3pm-7pm). Reach for the networked shows has grown +50%

with hours growing by +35%. This compares to reach growth for the local shows of +35% with +18% growth in hours, in the same period.

Kiss places a huge importance on its specialist output and continues to invest and evolve its commitment to in excess of 36 hours of specialist programming each week. By focussing our programming team and expertise on these shows in one location we believe we can continue to provide a compelling service which is well defined and truly offers choice. This is demonstrated by the +54% growth in reach and the +56% growth in hours across our core specialist hours between Q2 2006 and Q2 2010. In Q2 2006 the stations had a market share of 4.9% in these hours versus Radio 1's 6.9%. Kiss currently enjoys a 6.9% share to Radio 1's 6.7%.

We believe that as evidenced above, the recent performance of the stations satisfies s106(1d) i.e. that there has been significant demand for the service as we have reduced the proportion of locally made content.

We believe that there is further opportunity to continue our strategy to grow reach and listening as a result of the proposed departure, to fully position Kiss as a national service.

Please provide any additional information and/or evidence in support of the proposed change(s) below. In particular, the applicant may wish to outline how they see that the proposed change fits within Ofcom’s published Format change request policy (www.ofcom.org.uk/radio/ifi/rbl/formats/fc/changereqs), and also Ofcom’s Localness guidance, which includes our co-location and programme sharing policy (www.ofcom.org.uk/radio/ifi/rbl/car/localness).

The three Kiss licences are operated by Bauer Radio.

Overview

Bauer proposes to provide nationwide coverage for Kiss by having the service carried widely across the UK on all current local DAB multiplexes. We believe this will qualify for the regional to national upgrade option within the April 2010 Ofcom Statement on commercial radio localness regulation.

- The three Kiss licences are included in the table of qualifying services;
- Our proposal will achieve national DAB coverage in excess of the Ofcom guideline

Bauer is committed to taking Kiss from being a regional FM service with quasi national coverage to become a fully fledged UK national brand via DAB, supplemented by other digital platforms. Kiss is carried on the Freeview and Sky digital TV platforms. The relevant Freeview multiplex will expand under TV DSO to reach 90% of UK households while Sky already has full UK wide coverage. Our Kiss TV channel and website will offer further cross promotion opportunities to promote the radio service across DAB and other digital platforms.

Some 12 months ago, Bauer invested in Kiss branded mobile Apps for the Apple iPhone and Nokia devices. These Apps have been downloaded 300,000 times and another 300,000 consumers have joined the Kiss Facebook pages; 12,000 fans in just one week recently. From some of the data we collect, we believe the demand for the brand comes from across the UK and whilst anecdotal, this is another demonstration of both investment and support for Kiss across the UK.

Coverage Proposal

In its April statement on Localness Regulation, Ofcom introduced an opportunity for regional analogue brands, including Kiss, to remove the licence obligation to provide local content where such brands provide national coverage on DAB.

We propose to take Kiss National using the local layer of DAB. Bauer is a major local multiplex operator and content provider. Bauer also leases capacity on third party multiplexes and will commit to new capacity to make Kiss available across the local DAB layer throughout the UK.

The Ofcom statement referred to various configurations that could be considered ‘National’ and concluded that, based on a range of precedents, Ofcom were likely to view 70%* coverage via DAB at launch, rising to over 80%* within three years as an acceptable suggestion.

Bauer proposes to provide national launch coverage for Kiss on the Local DAB layer, covering 73%* of UK adult population; (Stage1). This will be achieved by having Kiss carried on 34 of the current 38 local DAB multiplexes.

Bauer proposes to add additional coverage within a number of months (Stage2) which will extend coverage of Kiss to 79.6%* of UK adult population. This will be achieved by carriage of Kiss on all 38 current local multiplexes.

Further consideration will be given, within the following 3 years, to further expand Kiss UK coverage. Such additional coverage could be achieved by the current Local multiplexes being expanded, and/or including Kiss on any new Local multiplexes or, if appropriate, by transferring Kiss to the Digital One national multiplex.

Impact of the Coverage Proposal

Kiss is currently available on FM in three UK markets: London, East Anglia and the Severn Estuary. In each market Kiss is already simulcast on DAB reaching 25%* of UK population. Kiss is also carried on 16 local multiplexes elsewhere in the UK reaching a further 30%* on DAB only.

Our Stage1 proposal will significantly expand the reach of Kiss on DAB to 73%* of population, immediately exceeding the lower level of the Ofcom guideline. Stage1 will extend Kiss to audiences in Scotland and Northern Ireland while extending coverage in Wales, Yorkshire, Kent and Sussex.

Our Stage2 proposal will add further coverage by expanding into the East Midland and Hampshire for the first time, to reach a total of 79.6%* within a matter of months rather than the three years contemplated in the Ofcom guideline.

In summary, we believe our Stage1 and Stage2 proposals firmly demonstrate our commitment to repositioning Kiss as a fully fledged national brand.

Beyond these firm commitments, Bauer will endeavour to find opportunities to expand DAB coverage further across the UK, consistent with maintaining the commercial viability of the business.

**Note1: As in the April Ofcom Statement, Bauer has based coverage on what is referred to as 'DAB58' or 'Outdoor' coverage, equivalent to achieving at least 58dBuV/m of field strength at 10m above ground level and using the DRWG figure of 47.7m for UK adult population.*

Notes

Ofcom may approve a change under any of criteria (b) to (d) without consultation, or after a consultation of less than 28 days, if Ofcom considers that to hold a consultation at all, or for 28 days or more, would result in a delay that would be likely to prejudice the interests of the licensee. Ofcom may also remove for the purposes of consultation any confidential information submitted by the licensee.

Version 6 – amended April 2010