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# talkSPORT – proposals to reduce AM coverage

Proposed variation of national commercial radio  
licence

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[talkSPORT – proposals to reduce AM coverage](#) – Welsh overview

**CONSULTATION:**

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# Overview

## What we are proposing – in brief

talkSPORT is seeking Ofcom’s permission to switch off four transmitter sites which would reduce the coverage of its AM national commercial radio licence from 93% of the UK adult population to 89.9%. They propose to switch off four of talkSPORT’s existing twenty-two AM transmitter sites, which would reduce talkSPORT’s national medium wave transmitter network to eighteen sites.

We are minded to approve this request, but before reaching a final decision we are giving stakeholders an opportunity to make comments on the request and our provisional decision. This is because, if the changes are permitted, some listeners will lose their ability to receive talkSPORT on the AM (medium wave) band, and because other commercial radio stations might be interested in the approach that we are minded to take in this case. We will carefully consider any comments from stakeholders before making a final decision.

## Introduction

- 1.1 talkSPORT Limited holds a national commercial radio licence to broadcast its sport-oriented speech radio service across the UK on the AM (medium wave) band. Under its broadcasting licence, talkSPORT must secure that its service serves so much of the UK “as is for the time being reasonably practicable”.
- 1.2 talkSPORT has requested to immediately close four of its sites before working towards closing a further remaining thirteen sites when they become unviable<sup>1</sup> over the next few years. The closure of four transmitter sites would reduce the coverage of its AM national commercial radio licence from being receivable by 93% of the UK adult population (aged 15+) to 89.9%. If talkSPORT proceeds to close a further 13 transmitter sites in the future, this will reduce the percentage coverage of its AM network further to 85% of the UK adult population.
- 1.3 Ofcom does not have the power to give talkSPORT permission to perform a rolling programme of transmitter site closures on dates to be decided by talkSPORT. Therefore, Ofcom will only consider talkSPORT’s proposals to close four transmitter sites immediately, which equates to a reduction in coverage from 93% to 89.9% of the UK adult population<sup>2</sup>.
- 1.4 talkSPORT has made these proposals in the context of declining listening to its service on AM, increased listening on alternative platforms, as well as the costs involved in maintaining AM transmitter sites in the context of high energy prices at present. It also

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<sup>1</sup> TalkSPORT defines “unviable” by measuring listening hours delivered via the AM platform within each transmitter coverage area, and assessing the commercial value of those listening hours against the cost of operating each relevant transmitter site.

<sup>2</sup> This figure has been calculated using the WT Act 2001 census data

pointed out a key recommendation made in the Department for Digital, Culture, Media & Sport's ("DCMS") Digital Radio and Audio Review ("the review") in 2021 which stated that:

*"Industry should begin planning for the long-term retirement of analogue services. BBC, Wireless and Bauer (operators of national MW services) should develop a plan for the migration from AM services to take place at some point in the mid-2020s."*

## Ofcom's provisional assessment

- 1.5 Condition 2(1) of the Broadcasting Licence requires talkSPORT to secure that its analogue radio service serves so much of the UK "as is for the time being reasonably practicable".<sup>3</sup>
- 1.6 Having considered talkSPORT's proposals, our provisional view is that it is no longer reasonably practicable for the Licensee to continue to serve 93% of the UK adult population.
- 1.7 Therefore, we are minded to accept talkSPORT's proposals and we consider that our provisional decision would comply with our statutory duties. In summary, this is because:
- a) in these specific circumstances, we consider that broadcasting the licensed service to 89.9% (from 93%) of adult population of the UK would still ensure optimal use of spectrum;
  - b) the availability of talkSPORT on alternative platforms is likely to maintain a plurality of radio providers and radio services in the geographical areas affected by the proposals; and
  - c) DCMS' review has indicated that national AM licensees should seek to develop a plan for the migration of their services by the mid-2020's. The future of AM national coverage has been identified as a declining market as demonstrated by the RAJAR figures provided by talkSPORT in its proposal. When this point is considered alongside the costs associated with maintaining AM transmitter sites, our provisional assessment is that it is no longer reasonably practicable for the Licensee to maintain the four sites it seeks to remove from the licence.
- 1.8 If we decide to accept talkSPORT's proposals, we would vary its broadcasting licence and its associated Wireless Telegraphy Act licence by removing reference to the transmitter sites that talkSPORT is proposing to close.

## Next steps

- 1.9 We are currently aiming to make a final decision and publish a statement in April 2023. We will carefully consider any comments that stakeholders might wish to make before making any final decision. We are giving stakeholders until 17 March 2023 to provide comments.

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<sup>3</sup> This licence condition reads as follows: "The Licensee shall provide the Licensed Service specified in the Annex for the licence period and shall secure that the Licensed Service serves so much of the licensed area as is for the time being reasonably practicable."

## Background

- 2.1 talkSPORT Limited ('talkSPORT', or the 'Licensee') holds one of the three national analogue commercial radio licences<sup>4</sup> in the UK issued under the Broadcasting Act 1990 (the "Broadcasting Licence"). Under the terms of its Broadcasting Licence, it must provide a radio service which is "A 24-hour speech service featuring primarily sports-related programming. Regular news bulletins will be included".
- 2.2 The Broadcasting Licence was initially awarded by an auction process in July 1994, and has subsequently been renewed on three occasions. The latest renewal process was completed in December 2021, when we decided to renew the Broadcasting Licence for a further ten-year period, until 31 December 2031.<sup>5</sup>
- 2.3 Since its launch in 1994, talkSPORT has incrementally increased the coverage of its national AM radio service to ultimately providing the service to 95% of the UK adult population through voluntarily adding further transmitter sites. In 2019, Ofcom approved a request from talkSPORT to reduce its coverage to 93%<sup>6</sup>.
- 2.4 On 10 October 2022, Ofcom received a formal submission from talkSPORT proposing to switch off seventeen AM transmitter sites, reducing talkSPORT's national medium wave transmitter network to five core high power sites. talkSPORT said its proposals would reduce coverage to 85%. These changes are:
  - a) **closing four transmitter sites immediately:** Dumfries (Dumfries & Galloway), Kingston upon Hull (East Riding of Yorkshire), Fern Barrow (Bournemouth) and Greenside Scalp (Tayside). TalkSPORT identified these four transmitter sites as areas that may already be unviable.
  - b) **closing the remaining thirteen sites gradually:** Fareham (Hampshire), Stockton (Durham/North Yorkshire), Lydd (Kent), Southwick/Brighton (West Sussex), Dartford Tunnel (Kent), Clipstone (Nottinghamshire), Duxhurst (Surrey), Wallasey (Merseyside), Lisnagarvey (County Antrim, Northern Ireland), Boston (Lincolnshire), Wrekenton (Newcastle), Postwick (Norfolk), Rusthall (Tunbridge Wells). TalkSPORT requested flexibility to close these remaining sites when they became unviable.
- 2.5 Ofcom does not have the power to give talkSPORT advanced permission to perform a rolling programme of transmitter site closures on dates to be decided by talkSPORT. Therefore, Ofcom will only consider talkSPORT's proposals to close four transmitter sites immediately. talkSPORT will need to submit new proposals to Ofcom should it wish to immediately close any of the additional thirteen sites referenced above in the future.

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<sup>4</sup> The other two licences are held by Absolute Radio and Classic FM.

<sup>5</sup> <https://www.ofcom.org.uk/consultations-and-statements/category-3/renewal-independent-national-radio-licences>

<sup>6</sup> <https://www.ofcom.org.uk/consultations-and-statements/category-3/talksport-proposals-to-reduce-am-coverage>

- 2.6 In addition to this national AM licence, talkSPORT also broadcasts nationally via DAB on the Digital One multiplex. The service is also available via television on the Freeview, Sky and Virgin Media platforms, in addition to the internet.
- 2.7 A copy of the Broadcasting Licence is published as a separate document (Annex 5).
- 2.8 A non-confidential version of talkSPORT's submission, setting out its proposals and the reasons for them, is published as a separate document (Annex 6).

# Legal Framework

## Structure of this section

- 3.1 In this section, we set out the legal framework for assessing talkSPORT’s proposals as follows:
- a) we set out our statutory duties that are of particular importance to assessing whether we should allow talkSPORT to implement the proposed changes;
  - b) we summarise the relevant licence conditions;
  - c) we explain how we are minded to apply our statutory duties to assessing talkSPORT’s proposals; and
  - d) finally, we explain how we would implement the changes proposed by talkSPORT and our approach to impact assessment.
- 3.2 For brevity, we refer to: the Communications Act as the “**2003 Act**”; the Broadcasting Act 1990 as the “**1990 Act**”; and the Wireless Telegraphy Act 2006 as the “**WT Act**”.

## Ofcom’s statutory duties

- 3.3 The statutory duties that appear particularly import to assessing talkSPORT’s proposals derive from the 2003 Act and the 1990 Act.

### Our duties under the Communications Act 2003

- 3.4 Ofcom's principal statutory duty as set out in section 3 of the 2003 Act is to further the interests of citizens in relation to communications matters; and to further the interests of consumers in relevant markets, where appropriate by promoting competition. Ofcom is also required to secure (amongst other things):
- a) the optimal use for wireless telegraphy of the electromagnetic spectrum;<sup>7</sup>
  - b) 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;<sup>8</sup> and
  - c) the maintenance of a sufficient plurality of providers of different television and radio services<sup>9</sup>.
- 3.5 In performing our duties, we must have regard to those factors that appear to us to be relevant in the circumstances. In this case, we consider that “the different interests of persons in the different parts of the United Kingdom, of the different ethnic communities

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<sup>7</sup> Section 3(2)(a) of the 2003 Act.

<sup>8</sup> Section 3(2)(c) of the 2003 Act.

<sup>9</sup> Section 3(2)(d) of the 2003 Act.

within the United Kingdom and of persons living in rural and in urban areas” is of particular importance (section 3(4)(l) of the 2003 Act).

- 3.6 In performing our duties, we are also required under section 3(3) of the 2003 Act to have regard in all cases to the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed.

## Our duties under the Broadcasting Act 1990

- 3.7 In addition, under section 85 of the 1990 Act, Ofcom is required to secure the provision of a diversity of national analogue services, of which one must consist mainly of speech and another must consist wholly or mainly of non-pop music.

## talkSPORT’s broadcasting licence

### The reasonably practicable threshold for ensuring coverage

- 3.8 Condition 2(1) of the Broadcasting Licence requires talkSPORT to secure that its analogue radio service serves so much of the UK “as is for the time being reasonably practicable”.<sup>10</sup> This licence condition mirrors section 106(2) of the 1990 Act, which provides that:

“A national or local licence shall include conditions requiring the licence holder to secure that the licensed service serves so much of the area or locality for which it is licensed to be provided as is for the time being reasonably practicable”.

- 3.9 The Broadcasting Licence requires talkSPORT to reach such coverage by broadcasting the licensed service from 22 transmitter sites. The location and technical characteristics of these transmitters are specified in the Broadcasting Licence (Parts II and III of the Annex).

### Failure to comply with the coverage requirement

- 3.10 Failure to secure that the licensed radio service serves so much of the UK “as is for the time being reasonably practicable” may constitute a breach of Condition 2(1) of the Broadcasting Licence.<sup>11</sup>
- 3.11 The range of penalties that can be imposed on licensees for breach of a licence condition includes financial penalties, shortening the licence, suspending the licence or revocation. These penalties are set out in the statutory regime, together with procedural

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<sup>10</sup> This licence condition reads as follows: “The Licensee shall provide the Licensed Service specified in the Annex for the licence period and shall secure that the Licensed Service serves so much of the licensed area as is for the time being reasonably practicable.”

<sup>11</sup> We would investigate any such breach according to our Enforcement Guidelines. See Ofcom’s “General procedures for investigating breaches of broadcast licences”, 3 April 2017; [https://www.ofcom.org.uk/\\_data/assets/pdf\\_file/0019/31942/general-procedures.pdf](https://www.ofcom.org.uk/_data/assets/pdf_file/0019/31942/general-procedures.pdf).



requirements,<sup>12</sup> and mirrored in the Conditions set out in Part IV (‘Conditions relating to enforcement of licences’) of the Broadcasting Licence.

### Licence Variations

3.12 Ofcom has a general power to make changes to broadcasting licences by means of serving a notice of variation on the licensee.<sup>13</sup> This power is reflected in Condition 23 of the Broadcasting Licence. We must give the licensee a reasonable opportunity to make representations before making the variation (Condition 23(1)(b) of the Broadcasting Licence).<sup>14</sup>

## talkSPORT’s wireless telegraphy licence

3.13 talkSPORT also holds a licence issued under the Wireless Telegraphy Act 2006 (the “**WT Licence**”) which authorises it to establish, install and use radio transmitting stations and/or radio apparatus (i.e. transmitters) in the same locations authorised under its Broadcasting Licence (i.e. 22 sites in total) for the transmission of the sound broadcasting service described in the Broadcasting Licence.

3.14 Condition 3 of the WT Licence allows Ofcom to vary this licence in specific circumstances, which include where the variation is “at the request of, or with the consent of, the Licensee”<sup>15</sup>, and requires us to notify the licensee in writing or by a general notice in accordance with Schedule 1 paragraph 6 of the WT Act. Ofcom has a broad discretion under paragraph 6 of Schedule 1 of the WT Act to agree to vary licences, but legal rules operate to limit that discretion. In particular, according to paragraph 6A of Schedule 1 of the WT Act, any variation of a wireless telegraphy licence must be objectively justifiable.

## Application of our relevant duties to assessing talkSPORT’s proposals

### Ofcom’s task

3.15 Given the requirement set out in Condition 2(1) of the Broadcasting Licence (see paragraph 3.8 above), the main questions that we need to address are:

- a) whether it remains reasonably practicable for talkSPORT to serve **93%** of the UK adult population with its analogue radio service; and

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<sup>12</sup> Sections 109-111 of the 1990 Act.

<sup>13</sup> Section 86(5) of the 1990 Act. The 1990 Act provides that if Ofcom thinks that it would be reasonably practicable for a national service to be provided to an additional area falling outside the minimum area set in the award process, Ofcom can require the licensee to provide the service for that additional area (section 106(3)). However, the 1990 Act does not contain any specify provision for requests to reduce the minimum area.

<sup>14</sup> This licence condition mirrors section 86(5)(b) of the 1990 Act. Condition 24 of the Broadcasting Licence specifies in which way we may give any notice of variation, including in electronic form (subject to the requirements set out in Sections 395 and 396 of the 2003 Act).

This licence condition mirrors Schedule 1, paragraph 8(2)(a) of the WT Act 2006.

<sup>15</sup> This licence condition mirrors Schedule 1, paragraph 8(2)(a) of the WT Act 2006.

b) if that level of coverage is no longer reasonably practicable, whether the combined effect of the measures that talkSPORT has proposed to take (i.e. a reduced coverage of **89.9%** of the UK adult population), would meet the “reasonably practicable” threshold set out in the licence conditions.

3.16 The “reasonably practicable” threshold entails a balancing exercise to ensure proportionality. To simplify, we put on one side any costs and other disadvantages involved in providing the service at the current level of coverage and, on the other side, the nature and extent of the risks involved if the current coverage of the service was reduced. In considering the various factors involved in this balancing exercise, we need to take account of our statutory duties.

### **Ofcom’s provisional decision in light of our statutory duties**

3.17 We consider that it is no longer reasonably practicable for talkSPORT to serve **93%** of the UK adult population with its analogue radio service and are therefore minded to accept talkSPORT’s proposals to close four transmitter sites. We provisionally consider that such a decision would comply with our statutory duties (paragraphs 3.4-3.7) for the reasons set out in Section 4 of this document, which in summary is because:

- a) We consider that it is no longer reasonably practicable for the Licensee to continue to broadcast the service from 22 sites. The Licensee has demonstrated that it can continue to serve 89.9% of the UK through the provision of the remaining eighteen transmitter sites.
- b) In these specific circumstances, we consider that broadcasting the licensed service to 89.9% of the UK adult population would still ensure optimal use of spectrum;
- c) The availability of talkSPORT on alternative platforms (including digital radio, television and internet) is likely to be sufficient to maintain a plurality of radio providers and radio services in the geographical areas affected by the proposals; and
- d) The future of AM national coverage has been identified as a declining market, while the RAJAR figures provided by talkSPORT in their proposal has demonstrated that it no longer remains commercially viable to maintain the four sites it intends to close due to the costs associated with continuing to maintain AM transmitter sites.

3.18 We also note that removing reference to the transmitter sites that talkSPORT has proposed to close from its WT Licence (with effect from the date when talkSPORT intends to close them) would be objectively justifiable as it would align this licence with the Broadcasting Licence.

### **Implementation**

3.19 If we decide that it is appropriate for talkSPORT to take the proposed measures, closing four transmitter sites, we need to vary its Broadcasting Licence and WT Act Licence by removing reference to the transmitter sites that talkSPORT has proposed to close, with effect from the date when talkSPORT intends to close them. To do so, we need to notify

talkSPORT and give it a reasonable opportunity to make representations (see paragraph 3.12 above).

3.20 Although there is no statutory requirement to consult more widely, we are allowing stakeholders an opportunity to provide comments in this specific case, since we note that:

a) According to Ofcom’s estimates, around 3.1% of the adult UK population (1.7 million adults) would no longer be able to receive talkSPORT on AM; and

b) holders of other analogue commercial radio licences, and particularly those holding AM licences, might be interested in the approach that we are minded to take in this case.

3.21 We are giving stakeholders four weeks to provide any comments they might wish to make. In our view, given the narrow scope of this consultation, this period gives interested parties an appropriate period in which to consider and respond to this consultation.

3.22 We will carefully consider any comments from stakeholders before making any final decision.

## Impact assessment and equality impact assessment

3.23 This document, taken as a whole, comprises an impact assessment as defined in Section 7 of the 2003 Act.

3.24 Section 149 of the Equality Act 2010 (the “2010 Act”) imposes a duty on Ofcom, when carrying out its functions, to have due regard to the need to eliminate discrimination, harassment, victimisation and other prohibited conduct related to the following protected characteristics: age; disability; gender reassignment; marriage and civil partnership; pregnancy and maternity; race; religion or belief; sex and sexual orientation. The 2010 Act also requires Ofcom to have due regard to the need to advance equality of opportunity and foster good relations between persons who share specified protected characteristics and persons who do not.

3.25 Section 75 of the Northern Ireland Act 1998 (the “1998 Act”) also imposes a duty on Ofcom, when carrying out its functions relating to Northern Ireland, to have due regard to the need to promote equality of opportunity and have regard to the desirability of promoting good relations across a range of categories outlined in the 1998 Act. Ofcom’s [Revised Northern Ireland Equality Scheme](#) explains how we comply with our statutory duties under the 1998 Act.

3.26 To help us comply with our duties under the 2010 Act and the 1998 Act, we assess the impact of our proposals on persons sharing protected characteristics and in particular whether they may discriminate against such persons or impact on equality of opportunity or good relations.

3.27 We have identified potential detrimental impact on the protected characteristics: age and sex. The data provided by talkSPORT suggests that its audience primarily consists of men over the age of 30. If this request is approved, it would mean that those within these groups covered by the four transmitter sites would no longer be able to receive talkSPORT on AM radio. However, we consider that this impact is likely to be mitigated by the

availability of alternative platforms to listen to talkSPORT including television (Freeview, Sky and Virgin), DAB, and the internet.

- 3.28 We have not seen the need to carry out a separate equality impact assessment in relation to the additional equality groups in Northern Ireland: religious belief, political opinion and dependents. This is because we anticipate that the changes proposed by talkSPORT will not have a differential impact in Northern Ireland compared to consumers in general.
- 3.29 The Welsh Language (Wales) Measure 2011 established a legal framework to impose duties on certain organisations to comply with standards in relation to the Welsh language. We do not consider that talkSPORT's proposal to immediately close 4 transmitter sites will have any impact on opportunities for persons to use the Welsh language, or on treating the Welsh language no less favourably than the English Language for the following reasons. First, this consultation relates to talkSPORT's AM radio coverage area and does not relate to content provided by talkSPORT. Second, talkSPORT does not provide any Welsh language programming. Third, none of the transmitters that are proposed to be closed are in Wales. We welcome stakeholder views on the impact assessments set out in this document.

## 4. Our provisional assessment

### Summary of talkSPORT's request and rationale

4.1 talkSPORT has proposed to:

a) **close four transmitter sites immediately:** Dumfries (Dumfries and Galloway), Kingston upon Hull (East Riding of Yorkshire), Fern Borrow (Bournemouth) and Greenside Scalp (Tayside). TalkSPORT identified these four transmitter sites as sites that may already be unviable.

b) **close thirteen sites gradually over the next few years when they become unviable:** Fareham (Hampshire), Stockton (Durham/North Yorkshire), Lydd (Kent), Southwick/Brighton (West Sussex), Dartford Tunnel (Kent), Clipston (West Northamptonshire), Duxhurst (Surrey), Wallasey (Cheshire), Lisnagarvey (County Antrim, Northern Ireland), Boston (Suffolk), Wrekenton (Newcastle), Postwick (Norfolk), and Rusthall (Tunbridge Wells).

talkSPORT has identified four transmitter sites as candidates for immediate closure on the basis that they may already be unviable, and sought flexibility to close all but five of the remaining sites on a rolling basis, subject to listener data and viability. Ofcom has informed the Licensee that we can only consider the transmitter sites identified for immediate closure and talkSPORT will need to submit separate requests in the future in respect of the 13 other sites. The sites therefore identified for immediate closure, should this request be approved, are Dumfries (Scotland), Kingston Upon Hull (East Riding of Yorkshire), Fern Borrow (Bournemouth) and Greenside Scalp (Scotland).

4.2 talkSPORT assert that they are committed to alerting listeners affected by the closure of the sites identified with targeted and timely communications aimed at migrating audiences to DAB, DTV and online platforms.

4.3 The eighteen sites which remain, if TalkSPORT's proposal to immediately close four sites is approved, consist of the following sites: Brookman's Park (Hertfordshire), Droitwich (North Worcestershire), Moorside Edge (West Yorkshire), Westerglen (Falkirk), Washford (Somerset), Fareham (Hampshire), Stockton (Durham/North Yorkshire), Lydd (Kent), Southwick/Brighton (West Sussex), Dartford Tunnel (Kent), Clipston (West Northamptonshire), Duxhurst (Surrey), Wallasey (Cheshire), Lisnagarvey (County Antrim, Northern Ireland), Boston (Suffolk), Wrekenton (Newcastle), Postwick (Norfolk) and Rusthall (Tunbridge Wells).

4.4 talkSPORT has calculated that its initial request entailing the closure of all but five transmission sites would lead to the UK household coverage of its licensed service being reduced from 93% to 85% (see map at Annex 6 to talkSPORT's submission for the affected areas). However, based on the closure of the four sites earmarked for immediate closure, Ofcom has calculated that this change would lead to the UK population coverage of its licensed service being reduced to 89.9%.

- 4.5 Ofcom has calculated that these changes would lead to the adult (aged 15+) UK population coverage of its licensed service being reduced from 93% to 89.9% and that 1.7 million adults in the UK would lose access to the AM service.
- 4.6 talkSPORT maintains that switching off the four requested transmitters will result in a relatively small reduction in the proportion of listeners who will no longer be able to receive the service on its AM reach, and coverage in most, if not all of the areas will continue to be provided via DAB and across other available platforms.
- 4.7 talkSPORT notes that, further to the proposal made in 2019, there has been a continued decline in analogue listening at a rate faster than it had predicted and the listening at the sites talkSPORT wants to close, based on RAJAR data, is no longer at appreciable levels due to the evolution of audience behaviour. Their analysis of Q3 2022 RAJAR data confirms the ongoing long-term decline in AM listening and that sites identified as closure priorities remain so as a result of the latest data. Based on current projections, talkSPORT asserts that its AM network may be completely unviable by early 2026.
- 4.8 talkSPORT has calculated using RAJAR data focused on listening hours of the talkSPORT service, indicated in the graph on page 1 of its proposal (which can be seen in Annex 6), a decline in AM listening of 50% in the last three years.
- 4.9 talkSPORT notes the DCMS' recommendation that 'industry should begin planning the long-term retirement of analogue services and develop a plan for the migration from AM services to take place at some point in the mid-2020s'.<sup>16</sup>
- 4.10 In addition, talkSPORT has commissioned a survey of platform listening data which will commence alongside the RAJAR Q1 2023. This will enable AM listening of the service to be verified to supplement any future proposals it wishes to make to switch off additional transmitter sites.
- 4.11 talkSPORT notes the Government's objectives around energy saving and energy efficiencies and states that in light of this policy context and audience data, it plans to close all but five of its core high power sites, starting with the four identified for immediate closure which are the subject of this consultation.

## Ofcom's preliminary view on the request

### Compliance with licence condition

- 4.12 As already noted in Section 3 (paragraph 3.8), Condition 2(1) of the Broadcasting Licence requires that the licensed service serves so much of the UK "as is for the time being reasonably practicable."
- 4.13 In our view, beyond considerations of what is technically and logistically possible in terms of transmission provision (for example, the availability of suitable transmission sites), the "reasonably practicable" threshold is a balancing exercise to ensure proportionality with

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<sup>16</sup> <https://www.gov.uk/government/publications/digital-radio-and-audio-review>

disadvantages to the licensee on one hand, and the benefits to potential listeners on the other.

- 4.14 According to Ofcom’s estimates, around 3.1% of the adult UK population (1.7 million adults aged 15+) would no longer be able to receive talkSPORT on AM.
- 4.15 We also note the long-term decline in the popularity of listening to the AM band, and that many of those who would lose the ability to access the talkSPORT AM signal would be able to continue to receive talkSPORT via national DAB digital radio. In the relatively few areas where reception of the national Digital One multiplex is unavailable and where DAB coverage is particularly low, there are further options to listen online, or via television (the station is available on the Freeview, Sky and Virgin Media platforms).
- 4.16 Further, Ofcom notes that talkSPORT have committed to alerting affected listeners “with effective, targeted and timely communications with a view to migrating them to our DAB, DTV and online platforms”. Ofcom considers that this approach will help mitigate the disenfranchisement of these listeners appropriately by providing them with sufficient time to consider and migrate to the most appropriate platform for them to continue to listen to the talkSPORT service.

### Impact on listeners

- 4.17 Based on the information provided to Ofcom by talkSPORT, the proposed changes would have the following effects:
- a) the proposed changes would result in about 1.7 million<sup>17</sup> of UK adults aged 15+ losing their ability to receive talkSPORT’s AM signal;
  - b) of these, about 1.3 million<sup>18</sup> would instead be able to listen to talkSPORT on DAB digital radio;
  - c) therefore, around 270,497<sup>19</sup> UK adults aged 15+ would lose AM coverage and would also not have the option of listening to talkSPORT on DAB digital radio. However, they are likely to be able to listen to talkSPORT via the internet and other digital platforms.
  - d) in the case of Dumfries, maps provided by talkSPORT illustrate that the removal of the Dumfries transmitter will not be mitigated by DAB coverage. We note from talkSPORT’s listening figures<sup>20</sup> in the Dumfries Target Service Area (the “TSA”) that only a small proportion of listeners access the service on AM. AM accounts for 6% of listening within the Dumfries AM transmission area, while 75% of AM listening in the area is in-car. However, this is likely to be higher in areas in the Scottish parts of the TSA given there is limited DAB and Freeview coverage there. Ofcom’s analysis also suggests that audiences in Dumfries & Galloway would be particularly affected by these proposals due to the limited

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<sup>17</sup> This figure has been calculated using WT Act population figures from the 2001 census data

<sup>18</sup> This figure has been calculated using 2011 census data

<sup>19</sup> This figure has been calculated using 2011 census data

<sup>20</sup> For more information on talkSPORT’s analysis on listening figures in this area, please see the link titled “talkSPORT listenership Dumfries” in Annex 6.

availability of other platforms to switch to. This is because coverage via DAB in Dumfries & Galloway is limited and the service is not widely available on Freeview. This would leave the internet as the predominant platform on which the service can be accessed.

#### Assessment against Ofcom's statutory duties

- 4.18 As noted in Section 3, in considering whether talkSPORT would remain compliant with its licence conditions, we also need to take account of Ofcom's wider statutory duties.
- 4.19 Ofcom's principal statutory duty as set out in section 3 of the 2003 Act is to further the interests of citizens in relation to communications matters; and to further the interests of consumers in relevant markets, where appropriate by promoting competition. Ofcom is also required to secure (amongst other things):
- a) the optimal use for wireless telegraphy of the electromagnetic spectrum;
  - b) 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; and
  - c) the maintenance of a sufficient plurality of providers of different television and radio services.
- 4.20 In considering the need to secure optimal use of spectrum, while we recognise that the implementation of talkSPORT's proposals would mean around 3.1% of the adult UK population would no longer be able to receive talkSPORT on its AM network, talkSPORT would continue to use the relevant spectrum to broadcast to a high proportion (89.9%) of the UK adult population. Therefore, we consider that, in these circumstances, talkSPORT's proposal to continue to broadcast its licensed service to 89.9% of the UK adult population would secure optimal use of spectrum.
- 4.21 Regarding the need to ensure **plurality of services and providers**, we note that Ofcom licenses a wide variety of television and radio services across the UK, on a range of different platforms, with a variety of different programme formats. As previously noted, the vast majority of talkSPORT's listeners affected by its proposals would be able to re-tune to the service on national DAB radio. We also note that the availability of talkSPORT on alternative broadcast platforms (i.e. on Freeview, Sky and Virgin Media platforms) and internet would further contribute to mitigating any potential adverse impact on consumers. Finally, as set out in paragraph 4.17(d), we do note that there is more of a plurality question in the Dumfries and Galloway location due to the lack of availability of the talkSPORT service across DAB and Freeview, though listeners in this area would still be able to access the service on the internet.

#### Licence Variations

- 4.22 Therefore, subject to consideration of stakeholders' responses, we are minded to accept talkSPORT's proposals and remove reference to the four transmitter sites that talkSPORT has proposed to immediately close from its Broadcasting Licence and WT Act Licence, with effect from the date when talkSPORT intends to close them.



# A1. Responding to this consultation

## How to respond

- A1.1 Ofcom would like to receive views and comments on the issues raised in this document, by 5pm on 17 March 2023.
- A1.2 You can download a response form from <https://www.ofcom.org.uk/consultations-and-statements/category-3/consultation-talksport-proposals-to-reduce-am-coverage>. You can return this by email or post to the address provided in the response form.
- A1.3 If your response is a large file, or has supporting charts, tables or other data, please email it to [talksportconsultation@ofcom.org.uk](mailto:talksportconsultation@ofcom.org.uk), as an attachment in Microsoft Word format, together with the [cover sheet](#). This email address is for this consultation only, and will not be valid after 17 March 2022.
- A1.4 Responses may alternatively be posted to the address below, marked with the title of the consultation:
- talkSPORT Consultation (Ofcom Broadcast Licensing Team)  
Ofcom  
Riverside House  
2A Southwark Bridge Road  
London SE1 9HA
- A1.5 We welcome responses in formats other than print, for example an audio recording or a British Sign Language video. To respond in BSL:
- send us a recording of you signing your response. This should be no longer than 5 minutes. Suitable file formats are DVDs, wmv or QuickTime files; or
  - upload a video of you signing your response directly to YouTube (or another hosting site) and send us the link.
- A1.6 We will publish a transcript of any audio or video responses we receive (unless your response is confidential)
- A1.7 We do not need a paper copy of your response as well as an electronic version. We will acknowledge receipt of a response submitted to us by email by way of an auto response. If you do not receive the auto response, please contact [broadcast.licensing@ofcom.org.uk](mailto:broadcast.licensing@ofcom.org.uk).
- A1.8 You do not have to answer all the questions in the consultation if you do not have a view; a short response on just one point is fine. We also welcome joint responses.
- A1.9 It would be helpful if your response could include direct answers to the questions asked in the consultation document. The questions are listed at Annex 4. It would also help if you could explain why you hold your views, and what you think the effect of Ofcom's proposals would be.

- A1.10 If you want to discuss the issues and questions raised in this consultation, please contact Amna Malik by leaving a voicemail on 020 7981 3002, or by email to [talksportconsultation@ofcom.org.uk](mailto:talksportconsultation@ofcom.org.uk).

## Confidentiality

- A1.11 Consultations are more effective if we publish the responses before the consultation period closes. In particular, this can help people and organisations with limited resources or familiarity with the issues to respond in a more informed way. So, in the interests of transparency and good regulatory practice, and because we believe it is important that everyone who is interested in an issue can see other respondents' views, we usually publish responses on [the Ofcom website](#) at regular intervals during and after the consultation period.
- A1.12 If you think your response should be kept confidential, please specify which part(s) this applies to, and explain why. Please send any confidential sections as a separate annex. If you want your name, address, other contact details or job title to remain confidential, please provide them only in the cover sheet, so that we don't have to edit your response.
- A1.13 If someone asks us to keep part or all of a response confidential, we will treat this request seriously and try to respect it. But sometimes we will need to publish all responses, including those that are marked as confidential, in order to meet legal obligations.
- A1.14 To fulfil our pre-disclosure duty, we may share a copy of your response with the relevant government department before we publish it on our website. This is the Department for Business, Energy and Industrial Strategy (BEIS) for postal matters, and the Department for Culture, Media and Sport (DCMS) for all other matters.
- A1.15 Please also note that copyright and all other intellectual property in responses will be assumed to be licensed to Ofcom to use. Ofcom's intellectual property rights are explained further in our [Terms of Use](#).

## Next steps

- A1.16 Following this consultation period, Ofcom plans to publish a statement in April 2023.
- A1.17 If you wish, you can [register to receive mail updates](#) alerting you to new Ofcom publications.

## Ofcom's consultation processes

- A1.18 Ofcom aims to make responding to a consultation as easy as possible. For more information, please see our consultation principles in Annex 2.
- A1.19 If you have any comments or suggestions on how we manage our consultations, please email us at [consult@ofcom.org.uk](mailto:consult@ofcom.org.uk). We particularly welcome ideas on how Ofcom could more effectively seek the views of groups or individuals, such as small businesses and residential consumers, who are less likely to give their opinions through a formal consultation.
- A1.20 If you would like to discuss these issues, or Ofcom's consultation processes more generally, please contact the corporation secretary:

Corporation Secretary  
Ofcom  
Riverside House  
2a Southwark Bridge Road  
London SE1 9HA  
Email: [corporationsecretary@ofcom.org.uk](mailto:corporationsecretary@ofcom.org.uk)

## A2. Ofcom's consultation principles

### Ofcom has seven principles that it follows for every public written consultation:

#### Before the consultation

- A2.1 Wherever possible, we will hold informal talks with people and organisations before announcing a big consultation, to find out whether we are thinking along the right lines. 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

- A2.2 We will be clear about whom we are consulting, why, on what questions and for how long.
- A2.3 We will make the consultation document as short and simple as possible, with an overview of no more than two pages. We will try to make it as easy as possible for people to give us a written response.
- A2.4 We will consult for up to ten weeks, depending on the potential impact of our proposals.
- A2.5 A person within Ofcom will be in charge of making sure we follow our own guidelines and aim to reach the largest possible number of people and organisations who may be interested in the outcome of our decisions. Ofcom's Consultation Champion is the main person to contact if you have views on the way we run our consultations.
- A2.6 If we are not able to follow any of these seven principles, we will explain why.

#### After the consultation

- A2.7 We think it is important that everyone who is interested in an issue can see other people's views, so we usually publish the responses on our website at regular intervals during and after the consultation period. After the consultation we will make our decisions and publish a statement explaining what we are going to do, and why, showing how respondents' views helped to shape these decisions.

## A3. Consultation coversheet

### BASIC DETAILS

Consultation title:

To (Ofcom contact):

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

Name/contact details/job title

Whole response

Organisation

Part of the response

If there is no separate annex, which parts? \_\_\_\_\_

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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 aims to publish responses at regular intervals during and after the consultation period. 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)

## A4. Consultation question

Question 1: Do you agree that Ofcom should give its consent to the closure of the four transmitter sites proposed by talkSPORT with the resulting reductions in AM (medium wave) transmitter coverage? If you do not agree, please give reasons.

Question 2: Do you agree that there will be no impact on opportunities for persons to use the Welsh language or on treating the Welsh language, no less favourably than the English language because this proposal relates to AM coverage area and none of the transmitters affected are located in Wales. If you do not agree, please give reasons.

## A5. talkSPORT's broadcasting licence

[This annex is published as a separate document](#)

## A6. talkSPORT's submission

talkSPORT's proposed changes to the number of its transmitters sites ([This annex is published as a separate document](#))

talkSPORT's response to Ofcom's questions asked ([This annex is published as a separate document](#))

Listening data for Dumfries provided by talkSPORT ([This annex is published as a separate document](#))