
Absolute Radio – proposals to reduce AM coverage

Statement

STATEMENT

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About this document

Following a public consultation, Ofcom has decided to approve proposals from Absolute Radio to reduce by 5% the transmission coverage of its AM national commercial licence. This document summarises the responses we received to the consultation and explains our decision, and the reasons for it.

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1. Summary

- 1.1 Absolute Radio Limited holds a national commercial radio licence to broadcast a rock-oriented service across the UK on the AM (medium wave) band. Under its broadcasting licence, Absolute Radio must secure that its service serves so much of the UK “as is for the time being reasonably practicable”.
- 1.2 Absolute Radio made a request to Ofcom in January 2018 to reduce the coverage of its AM network from 90.5% of the UK adult population to 85.4%. It proposed to do this through a combination of closing some transmitter sites and reducing the transmitting power at others. It planned that these changes, which it estimated would affect 19,000 of its current 428,000 AM listeners¹, would be implemented from May 2018.
- 1.3 Absolute Radio made these proposals in the context of declining listening to AM radio and increasing transmission costs and stated that, if it was not able to make these changes, it may have to consider shutting down its entire AM network and surrendering its licence.

Consultation

- 1.4 On 9 February 2018², we published a consultation document setting out that we were minded to accept Absolute Radio’s proposals since the cost to Absolute Radio of continuing to provide the existing level of coverage on AM would be disproportionate to the number of listeners likely to be affected by the proposed changes.
- 1.5 We received nine responses to the consultation.³ In summary, three respondents agreed with Radio’s proposals, four respondents disagreed, a respondent suggested that Absolute Radio should focus on DAB, and Maxxwave commented on the costs which Absolute Radio had outlined in its submission to Ofcom. In Section 4, we summarise stakeholders’ comments, assess them and outline the conclusions we have reached.

Conclusions and next steps

- 1.6 In light of consultation responses, we remain of the view that it is appropriate to approve Absolute Radio’s proposals. Therefore, we have decided to vary its broadcasting licence and associated WT Act licence by removing references to the transmitter sites that Absolute Radio has proposed to close.

¹ Source: RAJAR Q2, 2017

² Ofcom consultation document of 9 February 2018, entitled “Absolute Radio – proposals to reduce AM coverage Proposed variation of national analogue radio licence”, available at https://www.ofcom.org.uk/data/assets/pdf_file/0006/111003/Absolute-Radio-proposals-to-reduce-AM-coverage.pdf

³ All non-confidential responses are available on our website.

2. Background

- 2.1 Absolute Radio Limited (**'Absolute Radio'**, or the **'Licensee'**) holds one of the three national analogue commercial radio licences⁴ in the UK issued under the Broadcasting Act 1990 (the **"Broadcasting Licence"**).⁵ Under the terms of its Broadcasting Licence, it must provide a radio service which is "a rock-orientated station combining new music with classic album tracks, aimed at 25-44 year-olds".
- 2.2 The Broadcasting Licence was initially awarded by an auction process in May 1992, and has subsequently been renewed on three occasions. The latest renewal process was completed in February 2017, when we decided to renew the Broadcasting Licence for a further five-year period, until April 2022.⁶
- 2.3 Since its launch in 1993, Absolute Radio (formerly known as Virgin Radio) has incrementally increased the coverage of its national analogue AM radio service to, currently, 90.5% of the UK adult population through voluntarily adding further transmitter sites. These transmitter sites were commissioned over the years by the Licensee to increase the 84% adult population coverage achieved at the launch of Virgin Radio by the 'mandatory' transmitters, which were a requirement of the original licence award.
- 2.4 On 17 January 2018, Ofcom received a formal submission from Absolute Radio proposing to introduce two changes to its AM network that, taken together, would reduce coverage to c.85.4%.⁷ These changes are:
- a) **reducing the transmitting power at five transmitter sites⁸ by 3dB** as soon as possible following Ofcom's approval, which would reduce total coverage from 90.5% to 88.7%; and
 - b) **closing 12 transmitter sites** from May 2018, which would further bring total coverage down to 85.4%. These transmitters are located at Plymouth, Redmoss (Aberdeen), Hull, Torbay, Redruth, Hoo (Kent), Greenside Scalp (Dundee), Wallasey, Pirbright (Guildford), Chesterton Fen (Cambridge), Rodbourne Sewage (Swindon) and Sheffield.
- 2.5 In addition to this national AM licence, Absolute Radio also broadcasts the same editorial content on analogue FM licences for Greater London and the West Midlands, and nationally on the Digital One DAB multiplex. The service is also available via television on the Freeview, Sky and Virgin Media platforms, in addition to the internet.

⁴ The other two licences are held by Talk Sport and Classic FM.

⁵ Along with our consultation document, we published a copy of its Broadcasting Licence (Annex A5).

⁶ <https://www.ofcom.org.uk/consultations-and-statements/category-3/renewal-independent-national-radio-licences>

⁷ A non-confidential version of Absolute Radio's submission was published with our consultation document (Annex A6).

⁸ Brookmans Park, Droitwich, Moorside Edge, Westerglen and Washford.

3. Legal framework

Ofcom's statutory duties

3.1 The statutory duties that appear of particular importance to assessing Absolute Radio's proposals derive from the Communications Act 2003 (the "**2003 Act**") and the Broadcasting Act 1990 (the "**1990 Act**").

Our duties under the Communications Act 2003

3.2 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 electro-magnetic spectrum;⁹
- 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;¹⁰ and
- c) the maintenance of a sufficient plurality of providers of different television and radio services.¹¹

3.3 In performing our duties, we must have regard to a number of 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 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).

3.4 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

3.5 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.

⁹ Section 3(2)(a) of the 2003 Act.

¹⁰ Section 3(2)(c) of the 2003 Act.

¹¹ Section 3(2)(d) of the 2003 Act.

Absolute Radio’s broadcasting licence

The ‘reasonably practicable’ threshold for ensuring coverage

3.6 Condition 2(1) of the Broadcasting Licence requires Absolute Radio to secure that its analogue radio service serves so much of the UK “as is for the time being reasonably practicable”.¹² 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”.

3.7 The Broadcasting Licence requires Absolute Radio to reach such coverage by broadcasting the licensed service from 33 “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

3.8 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.¹³

3.9 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 requirements,¹⁴ and mirrored in the Conditions set out in Part IV (‘Conditions relating to enforcement of licences’) of the Broadcasting Licence.

Licence variations

3.10 Ofcom has a general power to make changes to broadcasting licences by means of serving a notice of variation on the licensee.¹⁵ This power is reflected in Condition 23 of the

¹² 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.”

¹³ 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.

¹⁴ Sections 109-111 of the 1990 Act.

¹⁵ 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 specific provision for requests to reduce the minimum area.

Broadcasting Licence. We must give the licensee a reasonable opportunity to make representations before making the variation (Condition 23.2 of the Broadcasting Licence).¹⁶

Absolute Radio’s wireless telegraphy licence

- 3.11 Absolute Radio holds also 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. 33 sites in total) for the transmission of the sound broadcasting service described in the Broadcasting Licence.
- 3.12 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”¹⁷, 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 Absolute Radio’s proposals

Ofcom’s task

- 3.13 Given the requirement set out in Condition 2(1) of the Broadcasting Licence (see paragraph 3.7 above), the main questions to be addressed are:
- a) whether it remains reasonably practicable for Absolute Radio to serve **90.5%** of the UK population with its analogue radio service; and
 - b) if that level of coverage is no longer reasonably practicable, whether the combined effect of the measures that Absolute Radio has proposed to take (i.e. a reduced coverage of **85.4%** of the UK population), would meet the “reasonably practicable” threshold set out in the licence conditions.
- 3.14 The “reasonably practicable” threshold is essentially 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.

¹⁶ 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).

¹⁷ This licence condition mirrors Schedule 1, paragraph 8(2)(a) of the WT Act 2006.

Ofcom's decision in light of our statutory duties

- 3.15 We have considered consultation responses and decided to approve Absolute Radio's proposals for the reasons set out in Section 4 of this document. We consider that our decision complies with our statutory duties (paragraphs 4.28-4.31). In summary, this is because:
- a) in these specific circumstances, we consider that broadcasting the licensed service to 85.4% of the UK adult population will still ensure optimal use of spectrum; and
 - b) the availability of Absolute Radio on alternative platforms (including digital radio, television and internet) is likely to maintain a plurality of radio providers and radio services in the geographical areas affected by the proposals.
- 3.16 Removing reference to the transmitter sites that Absolute Radio has proposed to close from its WT Licence (with effect from the date when Absolute Radio intends to close them) is objectively justifiable as it will align this licence with the Broadcasting Licence.

Impact assessment

- 3.17 The analysis presented in our consultation document constituted an impact assessment as defined in section 7 of the 2003 Act. Impact assessments provide a valuable way of assessing different options for regulation and showing why the preferred option was chosen. They form part of best practice policy-making. As set out in our consultation document, we have not identified any detrimental impact on any equality groups.

4. Assessment of Absolute Radio's proposals

Summary of Absolute Radio's request and rationale

4.1 Absolute Radio has proposed to reduce the power by 3dB at the following transmitter sites in its network:

- Brookmans Park (serving London and the northern home counties);
- Droitwich (serving the West Midlands);
- Moorside Edge (serving the North West and Yorkshire);
- Westerglen (serving Central Scotland); and
- Washford (serving South Wales, Avon and Somerset).

4.2 In addition, Absolute Radio has proposed to close the following 12 transmitters:

- Plymouth;
- Redmoss (Aberdeen);
- Hull;
- Torbay;
- Redruth;
- Hoo (the Medway area of Kent);
- Greenside Scalp (Dundee);
- Wallasey;
- Pirbright (Guildford);
- Chesterton Fen (Cambridge);
- Rodbourne Sewage (Swindon); and
- Sheffield.

4.3 Absolute Radio has calculated that, taken together, these changes would lead to the adult (aged 15+) UK population coverage of its licensed service being reduced from 90.5% to 85.4%.

4.4 Absolute Radio argued that, in the context of the long-term decline in listening to AM radio (and, in particular, to music radio on AM), it is no longer practicable in commercial terms for it to continue to serve 90.5% of the UK adult population. Absolute Radio said that the cost savings, including electricity costs, which would accrue from its proposed changes would reduce the total annual transmission costs for its AM network by just over half. This, according to Absolute Radio, would make it financially viable for it to continue to provide an AM service to the remaining 85.4% of the UK adult population.

- 4.5 Without the requested coverage reduction, Absolute Radio stated that the business related to its AM licence would “fall into loss immediately, with the scale of losses increasing throughout the term of the licence and seriously damaging the profitability of the Absolute Radio business as a whole.” Under that scenario, Absolute Radio said that it would be likely to close the entire Absolute Radio AM network and surrender the licence.
- 4.6 In terms of terrestrial broadcast radio coverage, Absolute Radio noted that around 2.5 million of the 2.66 million adults who it estimated would lose coverage of the Absolute Radio AM signal would be able to listen to the same national Absolute Radio service by means of DAB transmission.
- 4.7 To put its request in context, Absolute Radio also noted the BBC’s current closure programme of local radio AM transmitters, and the Government’s ongoing support for a transition from analogue listening to the DAB platform. RAJAR data for Q4, 2017 shows that listening via digital platforms now accounts for 49.9% of all radio listening.

Ofcom’s preliminary view on Absolute Radio’s proposals

- 4.8 In our consultation document, we said that we were minded to approve Absolute Radio’s proposals on the basis that the cost to Absolute Radio of continuing to provide the existing level of coverage on AM would be disproportionate to the number of listeners likely to be affected by the proposed changes. In summary, we considered that our provisional decision would comply with our statutory duties because:
- a) in these specific circumstances, we considered that broadcasting the licensed service to 85.4% of the UK adult population would still ensure optimal use of spectrum; and
 - b) we considered it likely that the availability of Absolute Radio on alternative platforms would maintain a plurality of radio providers and radio services in the geographical areas affected by the proposals.
- 4.9 Although there is no statutory requirement to consult more widely, we have allowed stakeholders an opportunity to provide comments in this specific case, since we noted that:
- a) according to Absolute Radio’s estimates based upon transmission projections and RAJAR¹⁸ audience figures, around 19,000 existing listeners would lose access to the AM service as a result of the proposed changes; and
 - b) holders of other analogue commercial radio licences, and particularly those holding AM licences, might be interested in the approach that we were minded take in this case.

Stakeholders’ responses to our consultation

- 4.10 We received nine responses to the consultation: seven responses from individuals, a response from a provider of transmission services (Maxxwave Ltd) and a response from the

¹⁸ Radio Joint Audience Research Ltd.

Heart of the Nation Broadcasting Team. All non-confidential responses are available on our website.¹⁹

- 4.11 In summary, three respondents agreed with Absolute Radio’s proposals, four respondents disagreed, a respondent suggested that Absolute Radio should concentrate on DAB, and Maxxwave commented on the costs which Absolute Radio had outlined in its submission to Ofcom.
- 4.12 Specifically, two respondents (Mr Lenton and Mr Tolmie) said that they agreed that Ofcom should give its consent to Absolute Radio’s proposals without providing any further comments. The Heart of the Nation Broadcasting Team agreed with Absolute Radio’s proposals, noting the range of alternative broadcast and online platforms on which Absolute Radio will remain available.
- 4.13 A respondent (Mr Hockenhill) said that, on the whole, he disagreed with the proposals but recognised that “a reduced AM service is better than no AM service”. Three respondents (Mr Scott, Mr Stellings and a confidential respondent) disagreed with Absolute Radio’s proposals. The main points raised by these respondents were as follows:
- a) Mr Hockenhill suggested that, to ensure genuinely national terrestrial broadcast coverage, Absolute Radio should not be allowed to close down any parts of its AM network until the coverage of the national commercial DAB multiplex Digital One (on which Absolute Radio broadcasts) matches that of the BBC’s national DAB network. He argued that, in his view, the cost of broadcasting on the Digital One platform is probably the main reason why Absolute Radio needs to cut its AM transmission budget;
 - b) Mr Scott said that in the “semi-rural area” where he lives AM is the only viable way he could listen to Absolute Radio, owing to a lack of DAB coverage, slow internet speeds and the terrestrial digital TV platform Freeview (on which Absolute Radio broadcasts) only being available via a “relay” system in his area;
 - c) Mr Stellings said that:
 - i) the AM licence held by Absolute Radio was intended to be for a national, not ‘part-national’, network;
 - ii) “many new cars still do not come fitted with DAB radios, and many old cars do not have DAB radios fitted”;
 - iii) the comparison made by Absolute Radio to the BBC’s recent switch-off of local AM transmitters is not a relevant one, since FM (as well as DAB) alternatives are generally available for the affected BBC services.

¹⁹ <https://www.ofcom.org.uk/consultations-and-statements/category-3/absolute-radio-proposals-to-reduce-am-coverage?showall=1>

- 4.14 A confidential respondent said that it would be better for Absolute Radio to cease all AM transmitters and concentrate, instead, on DAB.
- 4.15 The transmission company Maxxwave Ltd agreed with Absolute Radio’s proposal to close five of its transmitter sites²⁰, but suggested that Absolute Radio should enter into commercial discussions with it for the purchase of transmission services that would replace the other eight transmitter sites that Absolute Radio is proposing to close. According to Maxxwave, “Absolute Radio could offer a substantially better service than is currently being proposed for around £130k/annum with around £90k setup costs”.
- 4.16 In light of these comments, we asked Absolute Radio whether it had considered using an alternative transmission provider to its current provider, Arqiva. Absolute Radio responded that using an alternative transmission supplier to provide some or all of its national AM network would not be reasonably practicable for operational, commercial and other technical reasons, including the following:
- a) Absolute Radio considers that having different parties responsible for different parts of a single integrated transmission network would create operational risk to its business;
 - b) since its current licence expires in 2022 (with no guarantee of a further renewal), Absolute Radio does not consider investing in new infrastructure to be commercially justified. With specific regard to Maxxwave’s proposal, the station said that the additional cost that it would incur would be of the same order of the costs that would arise if it contracted with Arqiva; and
 - c) Absolute Radio is concerned that, if different parts of the network were controlled by different transmission providers, this might give rise to issues around the synchronization of transmitters.
- 4.17 Below, we assess the arguments presented by respondents and outline the conclusions we have reached.

Ofcom’s assessment and conclusions

Impact on listeners

- 4.18 As set out in our consultation document, on the basis of the information provided to Ofcom by Absolute Radio, the proposed changes would have the following effects:
- a) the proposed changes would result in about **2.66m** of potential adult listeners losing their ability to receive Absolute Radio’s AM signal;
 - b) of these, about **2.5m** of potential adult listeners would instead be able to listen to Absolute Radio on DAB digital radio;
 - c) therefore, around **166,000** of potential adult listeners would lose AM coverage and would also not have the option of listening Absolute Radio on DAB digital radio.

²⁰ The transmitters in Plymouth, Redmoss, Torbay, Redruth and Greenside Scalp.

However, they are likely to be able to listen to Absolute Radio via the internet and television platforms; and

- d) based upon analysis of audience listening data from RAJAR Q2 2017, Absolute Radio estimates that the number of current Absolute Radio AM listeners who would no longer be able to access Absolute Radio's AM signal is approximately **19,000** adults. We note that this represents 4% of the total AM audience of Absolute Radio, which was 472,000 adults in RAJAR Q4 2017.

- 4.19 Respondents have not made any specific comment on these estimates. Mr. Stellings' comment on "in-car" reception suggested that a greater number of listeners might no longer be able to access Absolute Radio's AM signal while driving in the affected areas. However, we note that most new cars now come with DAB radios fitted as standard. We expect that, over the next few years, this will significantly affect the total number of cars on the road equipped with DAB. In addition, most older cars can be fitted with a replacement DAB set, although we recognise that this would be a cost to the listener.

Compliance with the licence condition

- 4.20 As noted in Section 3, 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."
- 4.21 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 between the costs and disadvantages to the licensee on one hand, and the benefits to potential listeners on the other. Therefore, as set out in our consultation document, we consider that costs to the licensee are a relevant consideration, and we have taken them into account.
- 4.22 Based upon Absolute Radio's estimates²¹, the number of existing listeners to Absolute Radio's AM network who would be likely to lose AM reception of the station as a result of Absolute Radio's proposals would be relatively small, being around 19,000 adults.
- 4.23 However, according to the information provided by Absolute Radio, if Absolute Radio were to retain its existing levels of coverage on AM, it would have to more than double its annual transmission expenditure. This is because some of the existing transmitters it is planning to close would need replacing. This would have a significant impact upon Absolute Radio's profitability, both in terms of the specific business relating to its AM licence and the wider Absolute Radio business.
- 4.24 We have considered Maxxwave's comments on costs, including its suggestion that Absolute Radio should enter into commercial discussions with it for the purchase of transmission services that would replace eight transmitter sites. However, Absolute Radio has explained that it would be problematic to utilise a different transmission supplier for certain parts of its AM network, and that expenditure on new transmitters would be

²¹ Based on Absolute Radio's transmission projections and RAJAR audience figures.

difficult to justify commercially given the continuing decline in AM listening and the limited length of the licence (see paragraph 4.16 above).

- 4.25 Having carefully considered the financial information provided to us by Absolute Radio and stakeholders' comments, we remain of the view that the cost to Absolute Radio of continuing to provide the existing levels of coverage on AM would be disproportionate to the number of listeners likely to be disadvantaged.
- 4.26 As set out in our consultation document, we also note the long-term decline in the popularity of listening to the AM band, and that 2.5 million out of the 2.66 million adults who would lose the ability to access the Absolute Radio AM signal would be able to continue to receive Absolute Radio via national DAB digital radio. In the relatively few areas where reception of the national Digital One multiplex is unavailable, there are further options to listen online, or via television (the station is available on the Freeview, Sky and Virgin Media platforms). Finally, we are also cognisant that, if the plan were to be implemented, the percentage of UK adults able to receive Absolute Radio on AM would still be greater than that provided by the "mandatory transmitters" at the launch of Virgin Radio in April 1993.
- 4.27 We have considered the other comments provided by Mr Hockenhull, Mr Scott and Mr Stellings, including the arguments they made on the impact that the proposals might have on radio listeners (see paragraph 4.13 above). We address their comments below:
- a) we do not consider that the proposed changes will affect the "national" status of the Licence, as suggested by Mr Stellings. The licensed (AM) service will continue to be broadcast to 85.4% of the UK adult population, which would still be greater than the percentage population coverage levels initially achieved by Virgin Radio. We also note that the coverage provided by Absolute Radio on DAB via the Digital One multiplex (91.7% of UK adults) is greater than the current level of coverage provided by Absolute Radio on AM (90.5% of UK adults);
 - b) with regard to Mr Stellings's comment on the comparison to the BBC local radio AM switch-off, we accept that an analogue (FM) alternative for disenfranchised Absolute Radio AM listeners does not exist outside Greater London and the West Midlands. However, since Absolute Radio is also available via (national) DAB in the majority of the areas where its AM switch-off is being proposed, we think that the comparison remains relevant;
 - c) with regard to Mr Scott's concerns around the ability to listen to Absolute Radio in the "semi-rural area" where he lives, we recognise that in some rural areas the usual analogue radio alternatives of DAB and the internet may not be as accessible as in other areas. However, the estimates provided by Absolute Radio suggest that relatively few of the 19,000 AM listeners expected to be affected by the proposed changes would not be able to receive Absolute Radio via the national Digital One DAB multiplex. In addition, satellite-based TV platforms, such as Sky or FreeSat, which both carry Absolute Radio, are generally available in areas where there are difficulties with internet access and terrestrial broadcast signals;

- d) as regards Mr Hockenhill's suggestion that Absolute Radio should not be allowed to close down any parts of its AM network until the coverage of Digital One matches that of the BBC's national DAB network, we note that, while Digital One's coverage of the UK adult population is not as high as the BBC's, it is nevertheless higher than that currently provided by Absolute Radio's AM network (91.7% for Digital One versus 90.5% for Absolute Radio AM);
- e) finally, we do not agree with the suggestion made by a confidential respondent that Absolute Radio should cease all AM transmitters and concentrate, instead, on DAB. While radio listeners are gradually moving from analogue to digital radio, there remains a reasonably significant audience²² which listens to Absolute Radio on the AM band.

Assessment against Ofcom's statutory duties

- 4.28 As noted in Section 3, in considering whether Absolute Radio would remain compliant with its licence conditions, we also need to take account of Ofcom's wider statutory duties.
- 4.29 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 electro-magnetic 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.
- 4.30 In considering the need to secure **optimal use of spectrum**, while we recognise that the implementation of Absolute Radio's proposals will mean a 5% reduction in coverage of its AM network, Absolute Radio will continue to use the relevant spectrum to broadcast to 85.4% of the UK adult population. As Absolute Radio has noted in its submission, if it is not able to implement these measures, it may prove uneconomic for it to continue to operate its Broadcasting Licence, which might result in the company surrendering it back to Ofcom. If Ofcom were to re-auction the Broadcasting Licence, there would be no guarantee that any bidders would be willing to provide 90% population coverage (that is, the level of coverage currently provided by Absolute Radio). Indeed, given the high costs involved and the declining popularity of AM among listeners, they might offer to provide considerably less coverage. Therefore, we consider that, in these specific circumstances, Absolute Radio's proposal to continue to broadcast its licensed service to 85.4% of the UK adult population will secure optimal use of spectrum.

²² 428.000 adult listeners in RAJAR Q2, 2017.

- 4.31 With regard to 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 Absolute Radio listeners affected by its proposals will be able to re-tune to the service on national DAB radio. Finally, we also note that the availability of Absolute Radio on alternative broadcast platforms (i.e. on Freeview, Sky and Virgin Media platforms) and internet will further contribute to mitigating any potential adverse impact on consumers.

Ofcom’s conclusion on the licence variations

- 4.32 Therefore, we have decided to accept Absolute Radio’s proposals and remove reference to the transmitter sites that Absolute Radio has proposed to close from its Broadcasting Licence and WT Act Licence, with effect from the date when Absolute Radio intends to close them.