

## Response to Ofcom's consultation *The Future of Radio* by Digital One

1. In this response, Digital One highlights three main issues:
  - the need to ensure a full financial assessment of the extent of the proposed regulatory burden, including, in particular, an analysis of commercial radio's DAB funding gap;
  - a significant reduction in, and simplification of, the current media-specific ownership regime and other radio regulation; and
  - a concerted stakeholder plan to push for digital switchover.
  
2. Digital One launched in November 1999, and has taken a pioneering leadership role in establishing DAB digital radio in the UK. Its shareholders are GCap Media (63%) and Arqiva (37%). Digital One plays a leading role in both the UK's Digital Radio Development Bureau and the WorldDMB Forum. Eight national commercial radio stations are currently broadcast on Digital One's multiplex alongside BT Movio's television channels and an electronic programme guide. The company's transmitter network, operated by Arqiva, is the world's largest DAB digital radio network. As a result of our market-making investment in the Chorus chip, the first sub-£100 radios became possible and thus Digital One enabled the mass market in DAB digital radio receivers, which currently runs at over five million sold. The company retains a shareholding in Frontier Silicon, the leading DAB chip and module manufacturer, responsible for an estimated 70% of DAB digital radios sold in the UK. Digital One is both the leading commercial digital radio exponent and the architect of many of the principles pursued by broadcasters in the UK and overseas in the digitisation of radio. Digital One welcomes the opportunity to comment on this important consultation whose outcome will undoubtedly shape the opportunity for success that is necessary for radio in the UK.
  
3. As Ofcom is aware, the consultation has attracted significant interest and debate among the commercial radio industry. Digital One is in agreement with a widespread view that Ofcom's analysis of the issues and problems facing radio is perceptive and insightful. But we also share the view that the proposals for lightening the burden of regulation do not go far enough nor fast enough. We have been briefed about the responses being made by GCap, Arqiva and The RadioCentre and would support their submissions to this consultation. The remainder of this response represents views which Digital One regards to be of relevance to digital radio in the main, but which inevitably affect all radio whether analogue or digital.

**Commercial radio content regulation. Proposal 1 - The regulation of content on analogue commercial radio and on DAB digital radio should be aligned, at the appropriate time.**

4. Ofcom has identified the financial difficulties and uncertainties facing the commercial radio sector. The RadioCentre has highlighted that the sector is made up of a large number of relatively small businesses, many of which are loss-making. Many companies are struggling to simultaneously fund:

- investment in content and brands to meet the needs of consumers and challenge the BBC's market dominance;
- investment in the costs of digital (with multi-platform distribution and the costs of providing new content); and
- ensuring shareholders receive an appropriate return and that radio continues to attract strategic investment.

5. FM and AM remain the core revenue generators for the radio industry. A lightening of regulation for AM and FM is vital to ensure the sector can afford to continue to invest appropriately in the digital future. We support the case made by Digital One's shareholders and the RadioCentre for changes to happen as a matter of urgency and for Ofcom to go further in lightening the regulatory burden. Digital investment is hitting this year's P&L for all companies involved, and the promise of a reduction of regulation at some point in the future does nothing to pay for it.

6. The Broadcasting Act 1996 defined a framework for the regulation of digital radio which was much lighter than had been the case for analogue radio. In the years since, steps have been taken to lighten regulation of AM and FM licences too. Digital One supports Ofcom's bias against intervention and, as a general principle, is keen not to have additional regulations imported into DAB digital radio from the FM/AM world.

7. Digital One notes that radio services are subject to far less regulation when delivered via the internet or digital television i.e. regulation varies from platform-to-platform. We also note that other media are subject to less regulation (for example on localness) i.e. regulation varies from media-to-media. We are concerned that DAB digital radio risks becoming the focus of a disproportionate level of regulation and the incentive of freedom to innovate that is still necessary in digital has been eroded. In a world of AIP, it seems less valid than ever to argue that spectrum scarcity justifies a disproportionate level of regulation for a particular medium and/or platform. We believe Ofcom should be aiming to reduce all regulatory barriers to as near zero as possible before AIP is imposed.

8. Digital One is keen for Ofcom to perform an assessment of the burden of the proposed regulation, in the short and medium term, in financial terms. The analysis should also assess how much new money is required to invest in the DAB licences Ofcom is currently advertising (both content and distribution costs) plus the continuing costs of existing multiplexes. We believe this would highlight a digital funding gap that challenges commercial radio and Ofcom's vision of a future for consumers of a richer choice for consumers in a multiplatform world. Without more radical changes to the regulatory framework, and in a shorter period of time, there is a risk that some radio groups could opt out of digital investments altogether. The consequence of this would be to set back the Government's ambitions for a digital future and inflict damage from which the industry may never fully recover.

**Commercial radio ownership regulation. Proposal 2. There may be a case for Government to consider bringing together the ownership rules regarding analogue commercial radio and DAB digital radio into a single set of rules as the proportion of listening accounted for by digital platforms increases.**

9. The radio sector is relatively small, in comparison with the other industries Ofcom regulates. It is currently subject to an unwelcome level of ownership regulation which is media-specific. Ofcom recognises that some reduction in regulation is appropriate, but the proposed new system seems both complicated and disproportionate. There is a risk that the BBC's dominant position in radio is actually protected and enhanced by commercial ownership regulation. This puts genuine plurality of provision at risk and increases market distortion rather than removing it.

**The ability to free-up spectrum. Proposal 3. While we do not currently propose that a date should be set for the switch-off of analogue (FM and AM) radio, we should aim to maximise flexibility in the licensing system so as to be able to free-up that spectrum for other uses, when the time is right.**

10. Digital One is pleased that Ofcom advocates DAB digital radio as the main platform for the transmission and reception of digital radio services. Digital One has been at the cutting edge of radio's digital transition, at significant risk and cost to its shareholders. We join other leading industry players (including Intellect) in calling for Ofcom to go even further in making plans for switchover for radio.

11. Digital One would support the establishment of a group bringing together all of the key stakeholders including consumer electronics manufacturing, broadcasting, network operators, Government and Ofcom itself. The group's terms of reference should be to plan for switchover for radio at an early date, taking into account the needs of consumers and the needs of industry.

12. One of the benefits of making progress on this issue is that it will give the radio sector renewed confidence to continue to invest in digital content and platforms at a level which will deliver benefits for consumers. The group should be tasked with recommending a date for radio switchover.

13. Intellect has highlighted that setting a date for digital terrestrial television switchover was a critical stimulant of equipment take-up. There is a clear parallel for radio, and naming a date would be a particular stimulant for line-fit of digital radios in cars. Our own discussions with manufacturers (including at a worldwide level through WorldDMB) have repeatedly signalled that once manufacturers know the date of a switchover process they can plan with certainty their own design timetables, roadmaps and necessary new product features. In the auto industry these lead-times are typically seven to ten years or more. Therefore, in the absence of clarity regarding the end of analogue, these industries are continuing to plan analogue products and digital replacements will remain only an option, not a necessity.

14. Digital One welcomes recent public remarks by Peter Davies about Ofcom's intention to set about identifying some practical next steps to be mapped out for the transition. We note, however, that a criteria often expressed as a driver/barrier for switchover is the value or re-use of Band II spectrum. Although a limited study some years ago failed to identify a compelling use, we believe a new study should be initiated to re-examine this question in the light of relevant new technologies. There are many new radio emission techniques, developments in silicon and applications of radio spectrum that were either not possible or had not been envisaged even a few years ago. We note also that DAB (as currently used in Band III and L-Band) is also designed for use in Band II spectrum and could provide extensive coverage at relatively low transmission cost.

**New ways of licensing radio broadcasting. Proposal 4. Radio services, including those designed to deliver public purposes, should be able to be licensed on any spectrum in a technology neutral way.**

15. Digital One is keen for Ofcom to develop this proposal more fully, taking into account AIP and the intention to auction spectrum in a platform/technology neutral way. Digital One would be keen for Ofcom to consult further on a more detailed proposal prior to its introduction. As already mentioned above in (7), there is a clear contradiction between a regime that limits by regulation the number of licences owned, imposes technology constraints and applies detailed content regulation (other than for generally accepted standards etc.) with a regime which encourages technology neutrality and charges for spectrum.

**DAB Sound quality. Proposal 5. Ofcom will generally approve a change from stereo to mono in circumstances when it considers that the reduction in sound quality of the service whose technical parameters is being changed is outweighed by the benefits to citizens and consumers of the use to which the freed-up capacity is to be put.**

16. In the past, Ofcom approval was not required for the change of a radio station on DAB digital radio from mono to stereo or vice versa. Multiplex operators were free to make such a decision and would then inform the regulator. This proposal, therefore, represents the introduction of a new layer of regulation and Digital One believes it is unnecessary. The market is capable of making such judgements and Ofcom has not provided sufficient evidence to justify this intervention.

17. On the issue of DAB+, Digital One believes that, while the issues for the UK market are not without difficulty, it would be inappropriate for Ofcom to block discussion. We therefore welcome some recent comments by Ofcom. The needs and interests of the owners of the 5 million plus DAB digital radios need to be balanced against the benefits of using scarce spectrum as efficiently as possible. Digital One would welcome further discussion on the issue to explore practical mechanisms for transition. The UK cannot afford to be isolated, particularly when neighbouring EU countries implement DAB+ and receivers are already available.

18. There are potential advantages in a strategy that combines DRM (Digital Radio Mondiale) and DAB digital radio. However, the availability of receivers remains the key challenge and we are concerned that DRM technology is not getting the support it needs from key broadcasters and manufacturers. As Ofcom has noted, the launch of receivers, although long promised, has been subject to continuing delays. Work to create a draft standard for DRM+, whilst strategically important, is probably also contributing to hesitation by some manufacturers. The difficulties of launching DAB digital radio in key European markets demonstrates that, however clever a technology, the launch of any new system is fraught with unrealistic expectations, risk and cost. As outlined in previous submissions, Digital One's view is that, in DRM, the UK should be a follower rather than a leader i.e. Ofcom should not commit to any plan to licence spectrum for DRM until other markets have launched commercially and DRM radios have become available at mass market prices. It would also be premature to predicate policy or regulation on DRM's success, although we will continue, with others, to work for that goal. Digital One has recently become a member of the Steering Board of DRM.

**Community radio licensing and regulation. Proposal 6. The characteristics of community radio, based around social gain provided by stations on a not-for-profit basis remain key. However, there may be a an argument for simplifying the statutory selection criteria, and the regulation of funding and ownership without losing the essence of what community radio has been set up to achieve.**

19. This in not an issue on which Digital One has significant knowledge or expertise and, therefore, we offer no view.

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