



Community Audio Distribution Systems (CADS) Policy Statement

Statement

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Section 1

Executive summary

- 1.1 This statement sets out our policy in relation to Community Audio Distribution Systems (CADS) in light of the responses received to our recent consultation on this subject.

A permanent scheme for CADS

- 1.2 Given the widespread support for the proposal, and our belief that CADS and Citizens' Band (CB) Radio users should be able to co-exist successfully in the relevant spectrum band, Ofcom intends to implement a permanent scheme for CADS as soon as is practicable.

Broadcasting Act licence exemption for CADS

- 1.3 During the CADS trial services have operated on a provisional basis, licensed under the Wireless Telegraphy Act (WTA) alone. However, having had the opportunity to conduct a detailed review of CADS, Ofcom concluded that these services are licensable under the broadcasting legislation and therefore should be licensed unless it is considered appropriate that they should be made licence-exempt.
- 1.4 Given the restricted nature of CADS services¹ and subject to suitable constraints regarding content being placed upon them (see Definition of CADS below), Ofcom believes that it would be appropriate to ask the Secretary of State for Culture, Media, and Sport to lay a Statutory Instrument before Parliament exempting CADS from the need to hold a Broadcasting Act (BA) licence.
- 1.5 Should the Secretary of State choose to pursue this option, the DCMS would first consult on a draft Statutory Instrument that would be laid before Parliament.

Definition of CADS

- 1.6 In the consultation we set out a definition of CADS that could potentially be used as the basis of a Statutory Instrument making this type of service BA licence-exempt.
- 1.7 Specifically, we recommended that CADS:
- would be available for the purpose of the live onward transmission of a community event only (for example, an act of worship, a council meeting, a community play or a call to prayer);
 - may not carry commercial messages of any kind;

¹ CADS are tightly restricted in terms of the coverage they can achieve because of the frequencies they employ, the basis upon which these frequencies may be used, and the specialist equipment needed to use them; and the likelihood of accidentally hearing a CADS service is low by virtue of the relatively low levels of usage of the spectrum assigned to CB Radio and the small coverage area achievable (between two to three kilometres radius, depending on terrain) for these types of service.

- are for intermittent use and only available for public consumption to a geographically local area, on a 'reasonable endeavours' basis, by means of Citizens' Band Radio equipment.²
- 1.8 Given the widespread support for the proposal, we believe that this definition for CADS would form a suitable basis for a Statutory Instrument making this type of service exempt from the need to hold a BA licence.
- 1.9 It should be noted that our proposed definition is a recommendation to the Secretary of State for Culture, Media and Sport only. The exact nature of BA licence-exempt CADS services would be determined by a Statutory Instrument allowing for that exemption, and could well differ from our recommended definition.

Technical aspects of CADS

- 1.10 While we acknowledge the issues raised in relation to the proposed technical specifications for CADS (notably regarding access to spectrum and restrictions on transmission arrangements), we believe that our proposals would deliver a simple to use system that would give both CADS and standard CB Radio users access to spectrum on a fair and equitable basis. For this reason we plan to adopt the technical characteristics set out in our consultation and to continue to recommend that a Statutory Order exempting CADS from the need to hold a BA licence should restrict these services to use of an antenna of no greater height than ten metres above ground level and to retransmit community events for no more than four hours in a twenty-four hour period.

Costs and Administration

- 1.11 The consultation noted several cost and administrative factors which would affect CADS services if the proposals were implemented.
- 1.12 This policy statement includes a brief update on these matters, including the current position with regard to Ofcom's plans to make all CB Radio use WTA licence-exempt and the decision not to introduce a 'registration for life' scheme for CADS services if they are made both BA and WTA licence-exempt. It also notes that if the Secretary of State for Culture, Media and Sport does not decide to ask Parliament to make CADS BA licence-exempt or if the proposed Statutory Instrument is rejected by Parliament, Ofcom would license CADS under the Broadcasting Act 1990 (as amended).

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By 'live onward transmission' we mean the simultaneous transmission of the community event with no additional editorial content or production.

By 'community event' we mean any collective event to which members of the public are invited or have open access should they desire it, and which would take place regardless of whether it was being transmitted by means of wireless telegraphy.

By 'intermittent use' we mean transmission on any available frequency for a maximum of four hours (which may be non-consecutive) within a twenty-four hour period.

By 'reasonable endeavours' we mean that, like standard CB Radio users, CADS would have access to the spectrum allocated for users of CB Radio equipment on a secondary basis to the Ministry of Defence (MoD), and that frequencies would be used on a first come, first served basis rather than being pre-assigned and protected. Further, the use of this spectrum would be based on the understanding that as a secondary user CADS should not cause interference to military radio services, would be subject to incoming interference from the MoD, and that if the MoD requires the use of any CB Radio channel at any location it may do so at any time without prior notice.

Section 2

Introduction

- 2.1 In the consultation on *Community Audio Distribution Systems*, published on 26 April 2006 (www.ofcom.org.uk/consult/condocs/cads_scheme/consultation.pdf) Ofcom proposed to introduce a permanent scheme for Community Audio Distribution System (CADS) services and to ask the Secretary of State for Culture, Media, and Sport to lay a Statutory Instrument before Parliament exempting CADS from the need to hold a Broadcasting Act (BA) licence.
- 2.2 Since 2004 Ofcom has been running a trial for CADS with restricted coverage using what was formerly³ defined as non-broadcast spectrum. This trial is due to close at the end of March 2007, and the consultation considered whether, and if so how best, to implement a permanent scheme for this type of service.
- 2.3 The experimental licensing scheme was established, following an earlier consultation, in August 2004⁴, in order to meet the demand identified by some religious organisations to enable people who cannot attend a place of worship (perhaps because of age or ill health) to hear religious services. Ofcom recognised that the limited amount of spectrum available within the sound broadcasting bands (VHF Band II (FM) or medium wave (AM)), which were and still are under pressure from the demand for “traditional” radio broadcasting services, restricted the scope for using these frequencies for other purposes. Nonetheless, it was felt that it was important to provide a means thorough which to cater for this unmet need. However, Ofcom did not wish to limit this opportunity to religious groups and therefore specified that CADS would be available to “a local community of users” rather than a specific type of group. It was also noted that CADS could perhaps improve the usage of the spectrum allocated to Citizens’ Band (CB) Radio use.
- 2.4 CADS services, which have been trialled in Northern Ireland and parts of West Yorkshire, use CB Radio equipment. To date they have been used only to transmit religious services to house-bound parishioners, but, as noted above, they could be employed to relay any community event. CADS licensees are allowed ‘reasonable endeavours’ usage of CB Radio spectrum which gives them unprotected coverage of a geographically local area but only when no-one else is using the channel in question. The content they carry is restricted to the live transmission of community events and does not include carriage of material which has been specifically developed for the purpose of broadcasting. By virtue of their use of specialist CB Radio equipment, each CADS service is available to a small and self-selecting user group.
- 2.5 The trial found that demand for CADS in West Yorkshire was low. However, it also found that it was both relatively high and consistent in Northern Ireland. In addition, it was noted in the consultation that the number and variety of CADS might increase if this type of service was made available across the UK and; that even if demand does not increase greatly, the trial had shown that CADS meet a particular need that cannot readily be met through any other existing licence. Given these findings and the fact that, in light of the low and declining levels of CB Radio use, enabling an

³ The Communications Act 2003 removed the distinction between broadcast and non-broadcast spectrum.

⁴ Details of the CADS trial consultation can be found at <http://www.ofcom.org.uk/consult/condocs/cads/cads/cad.pdf>

alternative use of the spectrum in question would reflect our general duty under the Communications Act to secure “the optimal use for wireless telegraphy of the electromagnetic spectrum”⁵ we proposed to introduce a longer-term CADS scheme.

2.6 During the trial, CADS services have operated on a provisional basis, licensed under the Wireless Telegraphy Act (WTA) alone. Ofcom has not required those providing CADS services to hold a licence under the Broadcasting Act 1990 (as amended). There were a number of reasons for adopting this provisional approach, most notably that:

- the services do not operate in traditional broadcasting spectrum and could not be received using conventional radio or television broadcast receivers. (They can only be transmitted or received using CB Radio equipment); and
- it is not permitted for the services to transmit content specially developed to be used for the purpose of the CADS transmission. This includes commentary and commercial messages.

2.7 However, having had the opportunity to conduct a detailed review of CADS, Ofcom concluded that under the Broadcasting legislation, CADS services do fall within the category of sound broadcasting services as defined in section 126(1) of the Broadcasting Act 1990 (as amended), on the basis that they involve the provision of a service consisting of the one-way transmission of sound intended for reception by members of the public. Therefore, CADS services are licensable under the broadcasting legislation and should be licensed unless it is considered appropriate that they should be made licence-exempt.

2.8 Given the tight restrictions upon CADS, either in terms of the spectrum and equipment which they can use or the content which they are allowed to retransmit, Ofcom considered that it would be appropriate for this type of service to be subject to as light touch a regulatory regime as possible. Therefore, as well as proposing to introduce a permanent scheme for CADS services it proposed to ask the Secretary of State for Culture, Media, and Sport to lay a Statutory Instrument before Parliament exempting CADS from the need to hold a Broadcasting Act (BA) licence.

2.9 The consultation document posed four specific questions centred around these proposals, as follows:

Question 1) Do you agree that we should introduce a permanent scheme for CADS?

Question 2) Do you agree that we should ask the Secretary of State for Culture, Media, and Sport to lay a Statutory Instrument before Parliament exempting CADS from the need to hold a Broadcasting Act (BA) licence?

Question 3) Do you agree with our recommended definition for CADS services? If not please indicate which aspects of the definition you feel should be omitted, amended or added to?

Question 4) Do you agree with the proposals regarding the technical characteristics of the licence? If not, what alternative proposals do you have in mind?

⁵ Section 3 (2) (a), of the Communications Act 2003

- 2.10 Ofcom received 37 responses to this consultation document, of which ten were confidential in their entirety and three asked for their name and address to be withheld. The non-confidential responses can be viewed at:
http://www.ofcom.org.uk/consult/condocs/cads_scheme/responses/
- 2.11 Almost all respondents were in general agreement with the broad proposal to introduce a permanent scheme for CADS. However, six people, most of whom appeared to be Citizens' Band (CB) Radio enthusiasts, did not wish to see a permanent scheme for CADS introduced and four respondents suggested that CADS should be restricted to part of the spectrum currently assigned for CB Radio use only.
- 2.12 This statement summarises some of the responses to specific questions posed in the Community Audio Distribution Systems (CADS) consultation and sets out Ofcom's policy conclusions. The summaries of responses given to specific questions are not a complete analysis of all those submitted, rather they are intended to give a general overview of the types of responses received.

Section 3

Summary of responses with policy conclusions

A permanent scheme for CADS

3.1 Ofcom has been running an experimental licensing scheme, or trial, for Community Audio Distribution Systems (CADS) since 4 November 2004. This trial has enabled people in Northern Ireland and parts of West Yorkshire to retransmit and receive material already prepared for public use (for example religious services or other public events) by means of Citizens' Band (CB) Radio equipment. The trial is due to end on 31 March 2007.

3.2 Having considered the findings from this trial in the consultation we proposed the introduction of a permanent scheme for CADS.

Question 1) Do you agree that we should introduce a permanent scheme for CADS?

3.3 There was a high level of support for this proposal. 29 of the 37 respondents, almost all of whom represented churches in Northern Ireland that are operating CADS services under the current trial scheme, wrote to recommend that Ofcom introduce a permanent scheme for CADS.

3.4 Several of these respondents noted the positive impact of these services on the local community. The **Rev. Brendan Smyth** of St. Peter's Cathedral in Belfast urged us "to ensure that this most significant pilot scheme is made permanent" and added that "by doing so you will make a marvellous contribution to the aged and housebound in our parish." **Robert Fullerton** a parish priest in Belfast, commented that the ill or housebound within his parish "would feel that something very meaningful and enriching for them would be lost if this service were to be withdrawn."

3.5 However, several people who appeared to be CB Radio enthusiasts contacted Ofcom in order to make clear their concerns about continuing to allow CADS access to the spectrum they also use.

3.6 **Robert Crewe**, who favoured the proposal despite appearing to be a CB Radio operator, commented that he believed that our proposal "would not interfere with citizens' bands activity, on the condition that the number of CADS users is limited in an area and the UK 40 channels are retained, as well as the EU 40 channels for CB use." Our proposal is to allow CADS and CB Radio users access to the both the UK and EU channels on the same basis. While the definition of a BA licence-exempt CADS service would be determined by Parliament (see sections 3.20 to 3.29 below) our recommendation was that CADS operators should be limited to "intermittent use" of the spectrum. (By 'intermittent use' we mean transmission on any available frequency for a maximum of four hours, which may be non-consecutive, within a twenty-four hour period.) We believe that this would ensure that CADS users and CB Radio users have equitable access to the spectrum.

3.7 Six respondents did not wish to see any permanent scheme for CADS introduced. Their observations ranged from the strongly worded comment that "CB Radio is a way of life for some people: taking this away would be like attacking them with an axe", from a respondent styled as **Richy GC**, to the rather milder call to "leave CB for

radio enthusiasts [because] it is a useful learning experience for future radio engineers” from **Daniel Talbot**. In light of these comments it should be noted that we believe the trial has demonstrated that CADS use and CB Radio use can co-exist in the same spectrum. Our plan is to allow this to happen across the UK and not to prevent CB Radio use.

- 3.8 Two respondents to this question recommended that CADS should be restricted to part of the spectrum currently assigned for CB Radio use only. One, who asked for his name to be withheld, suggested that CADS should continue to use the UK band only (40 channels suitable for CB Radio use between 27.60 and 27.99 MHz) rather than also being allowed to share the EU band (40 channels suitable for CB Radio use between 26.97 and 27.41 MHz) as proposed. The other (**Matt Norton**) suggested CADS should be allowed access to half of each band. This issue is also discussed in response to Question 4 (see sections 3.37 and 3.38 below).
- 3.9 **Ian Swindells** was worried that it was “all too easy to see CADS operators misusing the system as many CB operators have” and gave the use of signal amplifiers as an example. He also noted that CADS operators might have an unfair advantage in having access to a greater choice of antennas by virtue of transmitting from a non-household property. Taking these points in turn, both CADS and CB Radio users would have to use radio equipment which satisfies the conditions of Interface Requirement 2027 (IR2027). This limits transmitter power to a maximum of 4 Watts (or 4 Watts effective radiated power or e.r.p. for equipment with an integral antenna). We are not aware of any significant instances of harmful interference from CADS users to CB users or vice versa during the trial. Therefore, we believe that, other than the restriction on maximum transmitter power, no other measure would be required within either a WTA licence or equivalent WTA licence-exemption regulations in order for both CADS and CB radio services to co-exist successfully using the same spectrum.
- 3.10 **Jon Perry** suggested that CB Radio was “making a slow come back in the UK” and that our proposal would “destroy its usability in certain areas of the country”. He added that our claim that coverage for CADS would be in the order of 3 to 5 Km “is ridiculous”. The popularity of CADS services is likely to vary across the UK. However, as noted above we believe that CADS and CB Radio will be able to co-exist successfully. With regard to the issue of coverage, the extent of coverage for a CADS service would depend on a variety of factors. These include the characteristics of the transmitter, the receiver antenna installation and the terrain. While favourable conditions may result in coverage of greater than 5 kilometres we believe that the coverage of a two to three kilometres radius, depending on terrain for these services noted in the consultation would reflect the general experience. In this context, it is worth noting that in discussions with DCMS we have suggested that any Statutory Order enabling CADS to become BA licence-exempt should limit the transmitter antenna height for such services to a maximum of ten metres above ground level. (However, should DCMS choose to specify a maximum antenna height within a Statutory Order enabling CADS to become BA licence-exempt, it would, like other aspects the Order, be subject to consultation. Ten metres above ground level is the transmitter antenna height that has been specified throughout the CADS trial, although Ofcom has had the latitude to determine the height restriction on a case-by-case basis.

Policy conclusion

- 3.11 Given the widespread support for the proposal, and our belief that CADS and CB Radio users should be able to co-exist successfully in the relevant spectrum band,

Ofcom intends to implement a permanent scheme for CADS as soon as is practicable.

Broadcasting Act licence exemption for CADS

3.12 So far the current trial of CADS services has taken place under the Wireless Telegraphy Act legislation only, and will continue to do so until its end date of 31 March 2007. In the consultation however we noted that CADS services also fall within the category of sound broadcasting services as defined in section 126(1) of the Broadcasting Act 1990 (as amended), on the basis that they involve the provision of a service consisting of the one-way transmission of sound intended for reception by members of the public. Therefore, CADS services are licensable under the broadcasting legislation and should be licensed once the trial ends, unless it is considered appropriate that they should be made licence-exempt.

3.13 We also noted in the consultation:

- that CADS are tightly restricted in terms of the coverage they can achieve because of the frequencies they employ, the basis upon which these frequencies may be used, and the specialist equipment needed to use them; and
- that the likelihood of accidentally hearing a CADS service is low by virtue of the relatively low levels of usage of the spectrum assigned to CB Radio and the small coverage area achievable (between two to three kilometres radius, depending on terrain) for these types of service.

Given these factors, and subject to suitable constraints regarding content being placed upon CADS (see sections 3.20 to 3.29 below), we considered that it would be appropriate for this type of service to be subject to as light touch a regulatory regime as possible.

3.14 Therefore, we proposed to ask the Secretary of State for Culture, Media, and Sport to lay a Statutory Instrument before Parliament exempting CADS from the need to hold a Broadcasting Act (BA) licence.

Question 1) Do you agree that we should ask the Secretary of State for Culture, Media, and Sport to lay a Statutory Instrument before Parliament exempting CADS from the need to hold a Broadcasting Act (BA) licence?

3.15 19 of the 37 respondents answered this question. 15 indicated that we should ask the Secretary of State to try to secure BA licence exemption for CADS, although one of these responses was inconsistent because the same individual had previously indicated his belief that we should not introduce a permanent scheme for CADS. Four people did not think that we should pursue this proposal.

3.16 Of the respondents in favour of this proposal; **St. Gall's Church in Bangor** noted that "the burden of the Broadcasting Act would make what is a simple and straightforward scheme unworkable", while the **Rev. Ken Quinn** felt that "it would be unnecessarily onerous to bring CADS under broadcasting legislation [that would require] a licence and recording equipment" and that "those listening to our church services are very well defined in terms of numbers." The **Rev. Michael McGorty** thought that BA licence-exemption was warranted "because there would be no commercials [on CADS]", and the **Very Rev. Michael O'Dwyer** considered the balance between rights and responsibilities, but noted that "if a licence was introduced under the BA the requirement to keep a record would be prohibitive for us

personally and the housebound would be the losers.” Finally, an unnamed individual suggested that this proposal “would make for easier use and would seem reasonable for organisations such as churches.”

- 3.17 The view of the four respondents who did not favour this proposal is appropriately summarised in the response from **Jon Perry**, who simply stated that “What you propose is broadcasting [and] CB is designed for two-way communications between mobile operators”. Our consultation specifically acknowledged that CADS would constitute a broadcast service. However, having acknowledged this we went on to consider whether, in light of the limitations that apply to CADS, both those of a technical nature and those that would be imposed through a precise definition of the content and style of broadcasting allowed on such services, it would be inappropriate to require CADS operators to hold a BA licence.

Policy conclusion

- 3.18 The responses to this proposal were largely positive. Moreover, it is notable that none of the respondents who did not wish Ofcom to pursue BA licence exemption for CADS addressed the rationale behind this proposal as laid out in the consultation. Specifically, they did not show that they had considered the disproportionate regulatory burden of requiring CADS to hold a BA licence in light of the restricted nature (notably in terms of access to spectrum, coverage and content) of the services CADS operators could provide under our proposals. Therefore, we plan to ask the Secretary of State for Culture, Media, and Sport to lay a Statutory Instrument before Parliament exempting CADS from the need to hold a Broadcasting Act (BA) licence.
- 3.19 Should the Secretary of State choose to pursue this option, the DCMS would first consult on a draft Statutory Instrument that would be laid before Parliament.

Definition of CADS

- 3.20 In the consultation we set out a definition of CADS that could potentially be used as the basis of a Statutory Instrument making this type of service BA licence-exempt.
- 3.21 Specifically, we recommended that CADS:
- would be available for the purpose of the live onward transmission of a community event only (for example, an act of worship, a council meeting, a community play or a call to prayer);
 - by ‘live onward transmission’ we mean the simultaneous transmission of the community event with no additional editorial content or production.
 - by ‘community event’ we mean any collective event to which members of the public are invited or have open access should they desire it, and which would take place regardless of whether it was being transmitted by means of wireless telegraphy.
 - may not carry commercial messages of any kind;
 - by ‘commercial messages’ we mean all advertising or sponsorship
 - are for intermittent use and only available for public consumption to a geographically local area, on a ‘reasonable endeavours’ basis, by means of Citizens’ Band Radio equipment.

- by 'intermittent use' we mean transmission on any available frequency for a maximum of four hours (which may be non-consecutive) within a twenty-four hour period.
- by 'reasonable endeavours' we mean that, like standard CB Radio users, CADS would have access to the spectrum allocated for users of CB Radio equipment on a secondary basis to the Ministry of Defence (MoD), and that frequencies would be used on a first come, first served basis rather than being pre-assigned and protected. Further, the use of this spectrum would be based on the understanding that as a secondary user CADS should not cause interference to military radio services, would be subject to incoming interference from the MoD, and that if the MoD requires the use of any CB Radio channel at any location it may do so at any time without prior notice.

Question 1) Do you agree with our recommended definition for CADS services? If not please indicate which aspects of the definition you feel should be omitted, amended or added to?

- 3.22 17 of the respondents answered this question. 13 people agreed with our recommended definition, although one stipulated that CADS should be restricted to parts of the spectrum assigned to CB Radio where there are low levels of use. Four respondents, all of whom had not supported the proposal to introduce a permanent scheme for CADS, disagreed with this definition.
- 3.23 The **Very Rev. Maurice Henry** stated that "the definitions recommended by Ofcom should be accepted" adding that "on behalf of our parish and particularly our parishioners who avail [themselves] of CADS I hope the Government will adopt the proposals".
- 3.24 A few of the respondents who favoured our definition offered additional comments. **Canon John Kearney** stated that "while to date [CADS had been] used by religious groups [he] would see a value in other community organisations using [them] as well." He also noted that he "would be anxious that [CADS] would not carry commercial messages of any kind." Our proposed definition would continue to ensure that CADS could be used to transmit community events of both a religious and non-religious nature, and it would prevent CADS carrying commercial messages. The **Rev. Ken Quinn** was generally happy with the definition, although he felt that the intermittent use limit of four hours during a 24-hour period "might be a little restrictive for some". While we understand that some groups may wish to transmit for longer than this, allowing them to do so could have the potential to limit alternative use of the spectrum by other CADS and CB Radio operators. Therefore, we believe it would be appropriate to maintain such a limit.
- 3.25 Three particular issues were raised by those respondents who either did not favour or were uncertain about our recommended definition for CADS services. **Matt Norton** and **Jon Perry** discussed access to spectrum for CB Radio, and **Ashley Hopper** noted his concern that CADS would have priority over CB Radio users. Lastly, **Ian Swindells** asked "Why is Ofcom so keen for CADS to succeed [and] where is the pressure coming from for it to provide such a service?" With regard to the first three comments, as noted in sections 3.7 and 3.9, our plan is to enable CADS and CB radio users to have equal access to the spectrum allocated for this use using equipment that adheres to the same Interface Requirement (IR2027).

- 3.26 With regard to the final issue, it is evident that if we were to cease to accommodate the provision of CADS at the end of the trial, there would be an unmet need in Northern Ireland. Moreover, other communities in the UK which might wish to avail themselves of the opportunity to relay community events in the future would be prevented from doing so. Feedback throughout the trial indicates that CADS have not caused interference to military mobile radio and can co-exist with standard CB radio use.
- 3.27 In light of these findings, and the fact that introducing CADS might result in a more efficient use of the spectrum allocated to CB Radio, we conclude that it is sensible to intervene in order to establish a permanent regime for CADS.
- 3.28 Proceeding with these proposals would be consistent with Ofcom's general statutory duties to further the interests of citizens and consumers in relation to communications matters, in particular by securing the optimal use for wireless telegraphy of the electro-magnetic spectrum; making available throughout the UK a wide range of electronic communications services; having regard to the different needs and interests of all persons who may wish to make use of the spectrum including the needs of the disabled and of the elderly (in this case, particularly those most likely not to be able to attend church services) and the different interests of persons in different parts of the UK (including different ethnic communities and those living in rural and urban areas).
- 3.29 It would also be consistent with our regulatory principle to operate with a bias against intervention while ensuring that any interventions that are required are evidenced-based and proportionate.

Policy conclusion

- 3.30 Given the widespread support for the proposal, we believe that the proposed definition for CADS would form a suitable basis for a Statutory Instrument making this type of service exempt from the need to hold a BA licence.
- 3.31 It should be noted that our definition is a recommendation to the Secretary of State for Culture, Media and Sport only. The exact nature of BA licence-exempt CADS services would be determined by a Statutory Instrument allowing for that exemption, and could well differ from our recommended definition.

Technical aspects of CADS

- 3.32 With regard to the technical characteristics of CADS we proposed:
- to allow CADS services access to all CB Radio channels. Currently, this would include the 40 channels located between 26.96 and 27.41 MHz (the EU CB Band), as well as the 40 channels located between 27.60 and 28.00 MHz (the UK CB Band) which have been used by CADS during the trial. However, CADS operators should note that Ofcom reserves the right to amend the use of the CB Radio spectrum should circumstances warrant, although it does not believe that a review of this spectrum is likely to be necessary in the short-term (i.e. the next three to five years).
 - that all technical requirements applicable to the use of Citizens' Band (CB) Radio equipment will apply to Community Audio Distribution Systems;
 - to maintain power levels at current levels (typically up to 4.0 watts);

- to remind CADS operators that, in common with standard CB Radio users, their access to the CB Radio spectrum is dependent upon the agreement of the Ministry of Defence (MoD) and may be withdrawn at any time without prior notice; and
- to remind CADS operators that CB Radio equipment must be operated on a non-interference, non-protected' basis; that is, it shall not cause harmful interference to, and shall not claim protection from, other stations operating in accordance with Article 5 of the Radio Regulations.

3.33 As noted in section 3.21 above, we also recommended that if the Secretary of State for Culture, Media, and Sport agreed to lay a Statutory Instrument before Parliament exempting CADS from the need to hold a Broadcasting Act (BA) licence, the Instrument should restrict the services to coverage of a geographically local area.

Question 1) Do you agree with the proposals regarding the technical characteristics of the licence? If not, what alternative proposals do you have in mind?

3.34 18 of the 37 respondents addressed this question. Nine agreed with our proposed technical characteristics, four rejected them outright and five debated their merits or considered amendments.

3.35 **Janet Maxwell, Head of Communications at the Church of Ireland**, commented that “if CADS should become hugely popular (which they might) some mechanism for sharing in a fair manner among the community would be necessary”. During the trial we have had no reports of any contention in terms of access to spectrum either between CADS users or between CADS users and standard CB Radio users. While we acknowledge that such contention could occur in specific locations, given that use of this spectrum is on an unassigned and unprotected basis we believe that it would be both impractical and inappropriate for the regulator to intervene. We note that our plans would give all users of CB Radio equipment equitable access to the spectrum. Further, the inclusion within our recommended definition for a BA licence-exempt CADS service of the requirement that CADS should be for ‘intermittent use’ only (see section 3.21 above), would ensure that a single CADS service could not monopolise a particular frequency.

3.36 The **Rev. Ken Quinn** agreed with the proposals but felt that “room should be left for some flexibility”, and that “where transmission is obscured by trees or other buildings a few extra watts of power or a few extra metres height may be the difference between the success and failure of the system”. **St. Gall’s Church in Bangor** noted that, given the limited range of the small receivers suitable for use at home, a power increase “would be useful; i.e. amplification beyond 4 watts”. St. Gall’s Church also hoped that “the rolling out of CADS on a national basis would create a market for a receiver that could, for example, be placed at the centre of community life in a nursing home”. Terrain will always be an issue with transmission. However, any user of CB Radio equipment is free to select the most appropriate place from which to transmit (within the bounds of planning laws). We believe that our plans will give a fair and equitable opportunity for any group wishing to retransmit a community event while ensuring that in general, the extent of transmission would remain within a limited geographic area. We would welcome the development of higher quality receivers, providing that they adhered to the conditions of IR2027. However, we do not foresee any change to the complexity of CB Radio equipment as a result of our policy on CADS. Finally, an unnamed respondent simply stated that “most users, like me, are not technically minded, so, the easier to operate the better.”

- 3.37 Three of the four people who rejected our proposed technical specifications, and one of those who gave an equivocal response, suggested that CADS services should be allowed access to only part rather than all of the spectrum currently assigned for CB Radio use. One respondent said: “The UK band is already beyond hope, and filled with people; running on too much power, playing music and swearing; so the CADS are welcome to use that band. But, please do not clog up our lovely pristine CEPT [EU] band where it is still possible to have a polite intelligent conversation with hardly any interference from other stations.”
- 3.38 The decline in the number of CB Radio licences in issue together with Ofcom’s own measurement data suggests that, in general, the spectrum allocated for CB Radio is under-utilised. Moreover, while it is possible that CADS services could cause interference to standard CB Radio users, we are not aware of any significant instances of harmful interference from CADS to CB Radio users or vice versa during the trial. Therefore, we believe that, other than the restriction on maximum transmitter power, referred to in section 3.32 above, no other measure would be required within either a WTA licence or equivalent WTA licence-exemption regulations in order for both CADS and CB Radio services to share spectrum. That said, we have also recommended that a Statutory Order exempting CADS from the need to hold a BA licence should limit the transmitter antenna height for such services to a maximum of ten metres above ground level and restrict them to ‘intermittent use’ (see sections 3.10 and 3.21 above). Given these restrictions, we believe that allowing a level of flexibility in the choice of bands to both standard CB Radio and CADS users would be beneficial to citizens and consumers, and align with our principle of having a bias against intervention.
- 3.39 In this context it should be noted that access to this MoD-managed spectrum for both CB Radio and CADS users would be on a non-assigned, non-protected basis. Given the nature of this spectrum allocation and of the services which would use it, we do not believe that further intervention by the regulator would be warranted.
- 3.40 **Daniel Talbot**, another respondent who disagreed with our technical proposals, suggested that “the internet via a webcast is the best way forward for a CAD-type programme”. **Peter Saul** noted the attractions of our proposals; including the ready availability of reasonably priced equipment, for example antennas. However, he also noted several disadvantages: relatively poor audio quality, the opportunity for deliberate jamming of signals to prevent transmission, the potential for long-range interference in years of high sunspot activity (sunspot activity follows an eleven-year cycle), and his belief that a ten-metre antenna height restriction would unduly limit range “especially in urban areas”. Finally, he suggested that “a UHF transmission using digital techniques is surely the way forward” [or alternatively] “an unused channel in the ‘Freeview’ range could be adapted, with channel choice localised [adding that] although the transmission equipment might be relatively expensive, receivers are already available cheaply [and] many homes already have such a system [or] will have to fit one soon [because of] the switch off of analogue TV”.
- 3.41 While we acknowledge that there may be a number of other means of transmitting the information that CADS services would carry, the proposed system addresses a current need for the consumer and citizen in a manner which makes effective use of the spectrum, minimises regulatory intervention and facilitates the operation of these services through the ready availability of simple and relatively easy to use equipment. With regard to the specific suggestion to use UHF for CADS transmissions, the policy regarding use of the UHF Band (470 to 862 MHz) will be determined by Ofcom in its forthcoming Digital Dividend Review. However, it appears unlikely that there would be many unused channels in this frequency band.

3.42 **Robert Crewe** felt that a combination of the antenna size and power output “should limit a CADS service to a 6 mile radius”, and he also observed that “to meet this requirement power outputs and antenna sizes would vary depending on the local terrain”. He further noted his belief that CB Radio activity was increasing, after years of inactivity (perhaps as a result of new multi-band radios). He commented that “it would be a real shame to destroy this pastime enjoyed by thousands of people, by filling the CB band with CADS transmissions to a point where there isn't enough channels to use. However, I believe perhaps CADS has a place in the 27.000 MHz band so long as it is regulated, to prevent a negative effect on CB users.” With regard to Mr Crewe's last point, there is no evidence to suggest that our proposals would “destroy” any renaissance in the use of CB Radio. Rather, as noted in section 3.6 above, these proposals have been designed to ensure that CADS users and CB Radio users have equitable access to the spectrum and CADS services would, like standard CB Radio, generally be transmitted over a relatively restricted geographic area.

Policy conclusion

3.43 While we acknowledge the issues raised in relation to the proposed technical specifications for CADS, we believe that our proposals would deliver a simple to use system that would give both CADS and standard CB Radio users access to spectrum on a fair and equitable basis. For this reason we plan to adopt the technical characteristics set out in our consultation and to continue to recommend that a Statutory Order exempting CADS from the need to hold a BA licence should restrict these services to use of an antenna of no greater height than ten metres above ground level and to retransmit community events for no more than four hours in a twenty-four hour period.

Costs and Administration

3.44 As noted in the CADS consultation, Ofcom has, within a wider consideration of current exemption regulations, proposed that all Citizens' Band (CB) Radio use, including that by CADS services, should be made WTA licence-exempt, subject to the general criteria that would be made by Wireless Telegraphy Exemption Regulation.

3.45 The consultation which includes these proposals closes on 22 September 2006. Should the consideration of the responses to this consultation indicate that de-regulation of CB Radio licensing in this manner is appropriate, we would issue a policy statement, complete with draft regulations for a statutory notice period of one month, in order to allow CB Radio users to make representations. The aim would be to bring the new regulations into force by early December. It is intended at this point all CB Radio equipment (as specified in IR2027) could be used without a WTA licence, with the proviso that the equipment conforms to the technical parameters identified in the exemption regulations and operators must not cause interference to other legitimate users of the radio spectrum.

3.46 If CADS, as one of the services using the spectrum assigned to CB Radio use, are made WTA licence-exempt, the nominal licence fee (£15 per annum) levied in the current trial for this type of licence would no longer apply.

3.47 If CADS are made BA licence-exempt, no BA licence fees would be payable.

3.48 In the consultation we stated that should CADS become BA licence-exempt as well as WTA licence-exempt we would hope to introduce a one-off 'registration for life'

process. However, two respondents suggested this scheme might be unwise with organisations that remain in operation over very long periods. In light of these responses we have re-considered the proposal. In addition to the potential for 'registration for life' becoming a nonsense where the life period in question could run to centuries, we observe that maintaining an up-to-date registration scheme for non-licensed services would be difficult because there would be no incentive for people who have ceased to operate CADS services to inform Ofcom. We also note that similar registration schemes have not been introduced when Wireless Telegraphy Act (WTA) services have been made licence-exempt, and that to do so would negate some of the benefit of our de-regulatory proposals. Upon further reflection we believe that a 'registration for life' scheme would be an unnecessary administrative burden (on both CADS operators and the regulator) that would be unlikely to deliver significant benefits. Therefore, if CADS are made both BA and WTA-licence exempt, Ofcom will not require CADS operators to 'register for life'.

- 3.49 Finally, it should be noted that if the Secretary of State for Culture, Media and Sport does not decide to ask Parliament to make CADS BA licence-exempt or if the proposed Statutory Instrument is rejected by Parliament, Ofcom would license CADS under the Broadcasting Act 1990 (as amended).
- 3.50 Radio Restricted Service Licences (RSLs), the BA licences under which CADS services would operate if they are not exempted from the need to hold a BA licence, are charged on a cost recovery basis.