EXECUTIVE SUMMARY

• Global welcomes Ofcom’s review of music in radio formats. Consumers in 2014 have unprecedented choice in how they can listen to music, with the growth of digital streaming services such as Youtube, Spotify, last.fm and Tunein Radio, and the steady increase in ownership of DAB digital radio.

• This explosion in choice not only renders music format regulation of local analogue commercial radio stations unnecessary, it also makes it more important for stations to be free to adapt to changing audience needs. Music format regulation inhibits innovation, reducing not increasing diversity.

• Music tastes have evolved. Listeners of all ages now enjoy a much wider range of music than was the case a decade ago. It is therefore no longer possible for stations to target a particular demographic group solely through music selection. The terms used in radio formats to describe music – such “chart”, “contemporary”, “rhythmic”, “melodic” or “easy listening” – do not reflect how listeners define their musical tastes, or how artists themselves think about their music.

• The relationship between the music a station plays and the audience it attracts is complex. Stations with similar playlists do not necessarily appeal to the same audiences. Regulating music formats is therefore not an effective means of fostering access to a range and diversity of services.

• Music format regulation imposes an unnecessary burden on the industry. There is no compelling evidence that there would be a reduction in range and diversity if music formats were removed.
• Ofcom has considerable discretion under the current legislation. Nothing in the current statutory framework requires Ofcom to regulate through written descriptions of music formats. Indeed, over a third of all local analogue commercial radio stations already have “broad music” licences with no stipulations on music content. Global therefore urges Ofcom to remove music formats from local commercial radio licences.

BACKGROUND

Global is a media and entertainment company comprising Global Radio, Global TV, Global Publishing (music publishing) and Global Talent (artist management). Our brands include Heart, Capital, Classic FM, Smooth, LBC, Gold, XFM and Capital XTRA. We have 21 broadcast centres across the country.

We also have a charity division that fundraises for communities and great causes and we have plans to open a University Technical College in September 2015.

Aside from our award winning talk station LBC, we are known for our music stations. We combine our passion for great music with impartial national and local news, weather, traffic, travel, local information and entertainment.

Although our business was built around our radio stations we are excited about opportunities to invest and innovate in digital products and services. We are launching new apps and digital products, websites and services under the umbrella of our 8 brands.

SCOPE OF THE OFCOM REVIEW

We welcomed the announcement by Ed Vaizey MP in December 2013 that Ofcom would undertake a review of music formats in 2014 to see if these can be relaxed to give the industry greater freedom to adapt to changing consumer tastes and to ensure competition.
In addition to announcing the review of music formats, Ed Vaizey also made a commitment, “alongside Ofcom, to look more closely at other rules and regulations that exist around radio, to ensure they are fit for purpose in a digital age.”

We were therefore disappointed that other aspects of commercial radio regulation are not being reviewed at this stage. However, we understand from Ofcom that there will be an opportunity to make submissions on all aspects of commercial radio regulation in the consultation, which will follow the call for inputs.

In the call for inputs, Ofcom has said that it is seeking preliminary views and supporting evidence on whether there is scope for and benefits for listeners from changes to the way Ofcom regulates music on local analogue commercial radio stations prior to publishing a consultation document on options.

In this response we therefore focus on providing evidence on how music tastes are changing, how commercial radio stations are adapting to these changing trends and whether the current framework makes sense.

We agree with Ofcom that the review should focus on local analogue commercial stations, since the statutory framework for national analogue stations is different, and DAB services are subject to a lighter touch regime. It is important to ensure that regulation of DAB services is as flexible as possible. We have noticed some developments recently, including a delay in approval for changes to DAB services on the national digital multiplex, and the inclusion of more detailed format descriptions in local DAB multiplex licence annexes for services simulcast on analogue which could be interpreted as moves designed to increase the regulation of content on DAB. We believe this would be a retrograde step and we would urge Ofcom to confirm that this is not the intention.

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1 Ed Vaizey MP, speech at GO Digital Conference 16 December 2013
THE EXPLOSION IN CONSUMER CHOICE

The ways in which consumers access and enjoy music has changed beyond all recognition in recent years.

The rapid growth in broadband access and smartphone and tablet penetration is well documented, as is the growth in usage of streaming services such as Youtube and Spotify. Consumers have an extraordinary choice in how they can access and enjoy music, whether on a free or paid-for basis, in a way which would have been unimaginable when the current statutory framework was put in place in the 1990 and 1996 Broadcasting Acts and the 2003 Communications Act.

By 2013, there were 71 legal digital music services in the UK, delivering 3.7 billion streams to UK listeners. Over 1 billion playlists have been created on Spotify alone. The BPI has noted that “the music consumer in 2013 is dramatically different from the music consumer of 2003” and that new digital services have become central to how consumers access and enjoy music with many consumers, especially younger ones, now looking at digital services such as Youtube “as their primary digital music discovery and playback service”.2 Ofcom’s own research shows that 40% of UK adults accessed Youtube to access music in a 3 month period in 2013, 29% used iTunes and 10% used Spotify.3

Use of these new digital services is not limited to the young. Again using Ofcom’s own research, over a third of adults 35-44 and over a quarter of adults 45-55 use Youtube to listen to music regularly, with almost one in five 35-44 year olds using streaming services such as Spotify and last.fm, as shown below.

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2 BPI: Digital Music Nation, 2013
3 Ofcom: The Communications Market, August 2013
This explosion in choice not only renders music format regulation of local analogue commercial radio stations unnecessary, it also makes it more important for stations to be free to adapt to changing audience demands, to be able to innovate and experiment, rather than being tied down to anachronistic written descriptions of their output. Local commercial radio stations must compete for listeners’ attention with services such as Spotify, Deezer and Rdio as well as Youtube and iTunes Radio, due to launch soon in the UK, not to mention the almost limitless choice of radio stations available on services such as TuneIn Radio.

As well as the growth of digital music services, there has also been a significant increase in the number of broadcast radio stations which consumers can receive which has been driven by the increasing uptake of DAB digital radio.

DAB ownership has grown from 4% of households ten years ago to just under 50% today.
Figure 2  DAB household penetration

Source: RAJAR

Additional station choice is one of the key benefits of digital radio cited by listeners. Listeners with DAB listen to an average of 3.6 stations, as compared to 3.0 for listeners without DAB\(^4\).

As a result of the growth in DAB penetration, the average number of stations commercial radio listeners tune in to has increased steadily from 2.8 in 1999 to 3.3 in 2014, an increase of 18%, as shown below.

This increase in the number of stations listeners tune in to is clear evidence of listeners benefiting from an increase in diversity and choice of radio stations.

\(^4\) RAJAR Wave 1 2014
MUSIC TASTES HAVE CHANGED

In parallel to the explosion in choice consumers now enjoy, music tastes have evolved in recent years. Ofcom itself notes in the call for inputs that research suggests that musical tastes now transcend across the generations.

TGI data shows that consumers of all age ranges today enjoy a much broader range of music than used to be the case. In 2004, 22% of adults said they especially chose to listen to 5 or more genres of music. Ten years later, this percentage had increased to 30%.
The shift in the percentage of consumers who enjoy at least 10 genres of music is even more marked. In 2004, only 2% of adults said they especially chose to listen to 10 or more genres. By 2014 this had grown to 6% of listeners.
In Figure 6 below, we have taken two groups at opposite ends of the age range, and compared their music preferences. What is striking is the similarity in the overall profile rather than the differences.

**Figure 6 % of listeners especially choosing to listen to different genres (15-24s and 55-64s)**

Source: TGI

It is clear from the above evidence that not only have musical tastes become much broader over time, but also that it is harder and harder to appeal to a particular demographic group solely by playing a particular genre or genres of music. This further undermines the basis on which music formats regulation was first put in place.
**MUSIC GENRES - BLURRED LINES**

Music formats rely on using terms such as “pop”, “chart”, “contemporary”, “rhythmic”, “dance”, “rock”, “classic hits”, “melodic” and “easy listening” to describe music.

At best, these terms are subjective – how recently must a song have featured in the top 40 for it to be “chart” music; how recently must a track have been released to qualify as “contemporary”; is only guitar-based music “rock”?

We do not believe that in 2014 there is any point in trying to define music by genre or a written music format. It is simply not the way people listen to or consume their music. Our audiences don’t define their musical taste by genre or by using these words. Nor does it reflect the way artists think about their music.

An artist like Rudimental could be described as “contemporary”, “chart”, “dance”, “pop”, “rhythmic” or, on occasion, as “rock”. When Ellie Goulding and Calvin collaborate is that dance or pop? What about Coldplay and Avicii, or Cheryl Cole and Tinie Tempah? The Avicii album is a brilliant demonstration of how artists mix up the music genres. The album has everything from dance to rock to country to pop and even a touch of classical.

The current iTunes top 10 alone has dance, pop rock, singer songwriter, AC, rhythmic, rock. What ties all these hits together is their popularity not their genre.

As shown by the TGI data above, people will listen to, buy and stream music that excites them; they are not slave to any one style. They are as likely to want Sam Smith and George Ezra as they are the Arctic Monkeys or Bastille, Jess Glynne or Ella Eyre, The Vamps or Disclosure.
NO SIMPLE CORRELATION BETWEEN MUSIC MIX AND AUDIENCE

We do not programme our radio stations by simply selecting music from one or more genres. We provide a rounded package of content, in which music may be one of the most important ingredients, but which seeks to create a unique environment with a clearly defined style and feel which is consistent with the station’s brand and which is designed to appeal to the station’s target audience.

Capital, for example, is young, fast paced and contemporary in feel. It plays music predominately from the past 6 months flavoured with songs from the past couple of years. It is gender neutral.

Heart, by contrast, is female focused, fun, family and feel good. It has a strong link to the current contemporary music scene but is not as fresh or fast paced as Capital.

From time to time, Heart and Capital may share many individual tracks on their playlists at the same time – Clean Bandit’s “Rather Be”, John Legend’s “All of Me” and Sam Smith’s “Stay with Me” all currently feature prominently on both stations – but the environment in which the music is played and the overall content mix are very different.

The relationship between the music a station plays and the audience it attracts is complex. There is no simple correlation between overlap in station audiences and the music mix.

We analysed the overlap in audiences for local commercial music stations in London and compared this to the overlap in music played. We chose London as there are more FM stations there than anywhere else in the UK.

We chose Capital as a benchmark, and compared the percentage of other stations’ audiences that also listen to Capital, with the extent to which the other station’s playlists are similar to Capital’s. If it were possible to ensure that different stations would appeal to different audiences simply by ensuring they play different music, you would expect to see a correlation between audience overlap and music overlap, with those stations playing more of the same records as Capital being more likely to
have listeners that also tune in to Capital. The results below demonstrate that this is not the case.

Figure 7  Music and audience overlaps in London

Sources: RAJAR W1 2014; RadioMonitor June 2014

Stations with similar playlists do not necessarily appeal to the same audiences. Regulating music formats is therefore not an effective means of ensuring listeners have access to a range and diversity of services.

MUSIC FORMAT REGULATION IMPOSES AN UNNECESSARY BURDEN ON THE INDUSTRY

Detailed music formats were removed from licences in 2008 following the ‘Future of Radio’ consultations. This was designed to give local commercial radio licensees more flexibility to adapt their output in an increasingly challenging competitive
market. However, the changes to formats did not result in an end to detailed regulation of music formats.

For example, in 2009, a few weeks before we rebranded GWR Bristol and Bath as Heart, a complaint was made that the station was not conforming to its music format.

The Character of Service contained in GWR FM’s Format requires it to be “a locally orientated contemporary and chart music and information station for under-44s in the Bristol and Bath area.” The complaint was that GWR FM has changed its music policy to make the selection of music tracks significantly ‘older’ that they had been previously.

Ofcom stated its expectation was that at least two-thirds of tracks played by GWR FM would be ‘currents’ or ‘recurrents’ defined as tracks that are less than two years old, from the date of initial release.

Ofcom found that 47% of the tracks aired were ‘currents’ or ‘recurrents’ (i.e. tracks released within the past two years). 53% were more than two years old. Ofcom found that this fell considerably short of the two-thirds majority that Ofcom would expect to hear on a radio station with this type of format. We were given a yellow card.

In 2011, Ofcom also conducted an investigation into the music output on Capital Scotland and we entered into a lengthy series of discussions with Ofcom regarding the precise definition of “rock” and which tracks played on the station could properly be considered “rock”. The discussion was resolved following a formal request from Global to change the station’s format, including a public consultation.

We do not believe that these detailed investigations are necessary to protect listeners’ interests or are an efficient use of Ofcom’s limited resources. As well as contributing to operators’ management overhead, the inflexibility and delays inherent in the current system of regulation, and the uncertainty over whether

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5 OFCOM SPOT SAMPLING REPORT, GWR FM (Bristol & Bath), Tuesday 03 March, Wednesday 04 March and Thursday 05 March 2009.
format changes will be agreed are unnecessary constraints on the ability of the industry to compete and thrive in the digital age.

**MUSIC FORMATS ARE NOT REQUIRED TO PROTECT RANGE AND DIVERSITY OF OUTPUT**

We are not aware of any compelling evidence that if music formats were removed there would be a reduction in choice or diversity. The argument is sometimes put forward that without music formats all stations would lurch into “the middle ground” and play the same mix of chart music. However, the only evidence we are aware of suggesting that this would happen is from the US and dates back not just to the pre-internet era but to 1952⁶.

In areas where there are a significant number of FM licences, such as London and other metropolitan areas, there is substantial choice on FM even before taking into account the choices available on other platforms. It seems hard to justify maintaining music format regulation where there is so much choice and diversity.

In less populated areas, where there are fewer local analogue commercial stations available, there are strong reasons to believe that diversity will be maintained and probably enhanced by giving operators more flexibility. The industry has undergone significant consolidation in recent years. Operators with more than one licence serving the same area self-evidently have a strong incentive to differentiate their stations rather than cannibalise their own audience by providing two very similar services.

Even in the small number of areas where there are only a limited number of FM licences, and these are under separate ownership, commercial radio stations face intense pressures to attract audiences and operate in an increasingly competitive environment. Long gone are the days when the only way consumers could listen to

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recorded music was by buying a record or cassette, or turning on the radio. It would not be rational or sustainable for operators to compete head on with the same format or content. Every operator has to work tirelessly to differentiate their output and their brand to remain competitive. Operators differentiate their content in this crowded market in many different ways, not solely through the music the station plays. Current regulation stifles innovation by limiting operators’ flexibility. The regulation of music formats therefore acts to reduce, rather than increase, the range of services available.

**OFCOM HAS THE DISCRETION TO DE-REGULATE**

In the call for inputs, Ofcom outlines the statutory framework under which it must operate.

Ofcom is required to include in licences “such conditions are appear to Ofcom to be appropriate for securing the character of the licence service.” In determining the character of service of a licensed service, Ofcom must have regard to the selection of spoken material and music in programming, but there is nothing in the legislation which requires Ofcom to ensure that all licences have a written description of the music they play. This cannot be the case not least because, as Ofcom note in the call for inputs, 37% of local commercial analogue licences are anyway “broad music” licences with no stipulations on music content.

Ofcom has the power under the 1990 Act to agree to changes to the character of a licensed service under a range of criteria, only one of which must be met for Ofcom to give its consent. Ofcom have broad discretion to approve changes to stations’ character of service. Therefore it must be possible, provided the statutory criteria for approval are met, for Ofcom to consent to a licensee of an existing music station changing their format from a specific music format to simply a “music” format. This would encourage innovation and diversity and provide a much more solid footing for local commercial radio to compete in the digital age.

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7 Section 106 (1) of the Broadcasting Act 1990
Global therefore urges Ofcom to remove music formats from local commercial analogue radio licences.