Consultation response to Ofcom from A12 Digital Radio

Licensing small-scale DAB: How Ofcom would exercise new functions proposed by Government

A12 Digital Radio is planning to apply for the Chelmsford and/or Colchester & Clacton small-scale DAB multiplexes.

We broadly support Ofcom's proposed approach set out in the consultation document and are keen for the regulator to move swiftly to commence licensing as soon as possible. We wish to make the following specific points, using the paragraph numbering from the consultation.

4.6 *Section 44A(2) would prevent a body corporate from holding more than one licence whose coverage area overlaps to a significant extent with that of one and the same local radio multiplex service… It should, in our view, be read in conjunction with the overlap 40% figure in section 50(2A) and discussed above.*

We would request that Ofcom interprets this flexibly, reflecting local circumstances. The ability to establish and operate small-scale multiplexes will be enhanced through economies of scale and sharing of resources between neighbouring multiplexes, including some common ownership.

We note that replicating coverage of smaller commercial radio stations may require carriage in more than one proposed polygon area, but that there are cases in which these multiplexes could not be operated by the same entity if the 40% limit is rigidly applied. This could be a disincentive for such smaller commercial stations to invest in and support the new multiplexes.

4.15 *The proposed Order would apply the 1996 Act with modifications placing a strict 18-month deadline on beginning to provide a small-scale radio multiplex service following award. Specifically, where a licence has been awarded but not granted, section 51(6) allows Ofcom to revoke an award if we have reasonable grounds to believe the multiplex service will not be operational[11] within 18 months of award.*

[11] The multiplex is functioning substantially in accordance with the Technical Plan including all transmitters on-air and broadcasting at least one programme service.

The definition "including all transmitters on-air" implies there would be no flexibility for a multiplex operator to develop the multiplex with additional transmitters over a period of time, as business conditions permit and/or in response to demand from service providers. We would urge flexibility to permit addition of transmitters over time. (See also A2.11 below)

4.27 *Turning to the amount of capacity sufficient for any given number of C-DSPs, we propose that the amount of capacity that must be reserved by the small-scale radio multiplex licensee should be calculated on the basis that each C-DSP service must be able to broadcast at a minimum of 48 kbit/s using DAB+ (i.e. HE-AAC audio encoding).*

We would welcome clarity on how this rule would be applied in cases where C-DSP licensees choose to broadcast at a lower bit rate than the proposed reserved capacity.

We do not dispute that capacity should be reserved for C-DSP services; we would however argue for a more flexible approach to specifying this capacity. Should a relevant C-DSP take up carriage, but decline to take the full reserved 48 kbit/s, we would argue that the public policy purpose - carriage of that service - has therefore been met, and that the remaining, unused capacity be made available immediately for other services to maximise listener choice.

6.31 *Given that a C-DSP licensee must provide social gain and opportunities to participate for, and be accountable to, its target community, we consider that the Key Commitments should stipulate, as they do for analogue community radio, that the studio from which the service is broadcast is located within the coverage area of the small-scale radio multiplex service on which it is carried.*

While we understand the reasoning behind this, we disagree with the proposal. The FM licensed area of some community stations does not read across directly to proposed small-scale DAB polygon areas, with some licences and studio locations on the cusp of two or more DAB polygons.

There may be circumstances where a C-DSP licensee chooses to enhance coverage through carriage on small-scale DAB that overlaps with only one part of its current FM coverage area, with its studio location remaining outside the DAB coverage, but within the FM licensed area.

In addition, it may be that a community station serves a 'community of interest' that is not defined by a geographical area, and that small-scale DAB provides a valuable opportunity to broadcast beyond the confines of a more tightly regulated FM licence.

7.4 *We propose that a prospective C-DSP service provider will only be able to apply for a C-DSP licence once we have invited applications for the small-scale radio multiplex licence upon which their proposed C-DSP service is intended to be broadcast.*

For clarity, we believe that prospective C-DSP service providers should not be linked to their FM licence 'home area' because, for reasons set out in response to 6.31 above, stations targeting 'communities of interest' may seek to broadcast to other areas, potentially in advance of their 'home area' being advertised.

A2.11 *Once licensed and built, the actual coverage that the small-scale radio multiplex service provides will become the multiplex service's licensed area, and the polygon will no longer have relevance from a licensing perspective. This approach differs from advertisements for local radio multiplex licences, where the licence advertisements describe the licensed area through recognised administrative boundaries (for example, to serve named counties) or specify postcode districts.*

While we accept the necessary technical restrictions placed on coverage by Ofcom, we would argue that within these restrictions, some flexibility in the coverage area will be necessary for multiplexes to thrive. This could be stifled through using this as the regulatory licensed area.

Multiplex operators may wish to add additional transmitters during the period of the licence. These may differ from those initially included in a technical plan, for example in response to changing demand from service providers, or a difference between predicted and actual coverage patterns.

Equally, we would not wish to replicate the inflexibility of previous local multiplex licences, where commitments to build particular transmitters have been included as formal licence commitments, that have subsequently proved to be impractical.

Given that under this proposal, the coverage area would become the important regulatory licensed area, we would not wish to see requests to alter this made administratively burdensome for what may be relatively minor and fully compliant enhancements.

Furthermore, it is understood that small-scale DAB may provide optimal coverage in some cases by a network of many lower-power transmitters. To permit this, multiplex operators will be likely to utilise more flexible arrangements with non-traditional transmission site owners, and it may not prove possible to maintain these throughout the licence term.

On this basis, we would also suggest that Ofcom should consider adopting a power level threshold below which lower power transmitter sites can be added, moved within the licensed area, or removed with a minimum of administration – ideally simply by notifying the regulator, provided of course that these sites comply fully with the proposed technical coverage requirements.

A2.15 *We propose not to consider outdoor or mobile coverage for three main reasons:*
[…]
b) The size of small-scale radio multiplex coverage areas will be smaller than those of local (or national) radio multiplex services, meaning it will take less time to cross such coverage areas (e.g. in a vehicle). We therefore expect mobile reception to be less critical than for the larger scale multiplexes.
[…]

While we accept the technical requirements underlying this point, we disagree with the reasoning as set out, and consider that acceptable mobile reception will be important for many listeners and therefore the success of small-scale DAB multiplexes.

In urban areas – particularly those polygons identified in and around London - coverage remains substantial, and journey times to cross the coverage areas can be considerable, especially in-vehicle at peak listening times such as breakfast and afternoon drivetime.

Additionally, stations already carried on local multiplexes may also see small-scale multiplexes as an opportunity to either extend coverage on the fringes of the existing areas, or to fill in gaps between existing multiplexes, relatively cheaply.

A2.24 *a) Each transmitter would broadly provide coverage to a significant part of a notional polygon. We predict that a 100 W ERP will generally provide coverage over a radius of 13-15 km, although this will vary with factors such as antenna height and local terrain.*

This level of predicted coverage does not appear to be borne out by experience from the trial multiplexes. Ofcom's coverage maps for these licences, which use 100W ERP, suggest an indoor coverage radius of around 7-9km even from relatively high-level sites, and real-life reception tests confirm this. This smaller radius is also suggested by the independent coverage estimates commissioned for the transmission sites we are planning to propose in Chelmsford and Colchester. We believe higher power levels will be necessary to provide robust indoor coverage within the indicated polygon areas.