Licensing small-scale DAB
Ofcom Consultation Response

Niocast is the licensee and operator of the successful Trial Manchester multiplex.

The three main aims of the trial were:

1. to test how well the small-scale DAB technology worked;
2. to test how well the technology lends itself to several parties coordinating their services; and
3. to give the market an opportunity to learn about small-scale DAB and the potential opportunities the technology affords.

In Manchester we achieved all these objectives;

1. The software-defined DAB system proved to be robust and flexible. Over the period of the trial we achieved 99.8% continuity of service.
2. Over the four years of the trial Niocast has provided access to the airwaves for 46 services, including Community, small Commercial, Internet and new formats created specifically for the trial. We currently broadcast 23 digital radio stations.
3. The level of interest in the trial from service providers and members of the public has been extremely encouraging.

Question 1: Do you agree with the planning principles and methodologies that we will use in our work to refine the coverage area plan for small-scale DAB?

Niocast supports the allocation of spectrum for the provision of small-scale radio multiplex services and the licensing of small-scale radio multiplex services.

The small-scale DAB trial demonstrated that there is a clear demand from existing services and new entrants for a pathway to digital. Niocast believes that small-scale DAB will deliver greater choice for listeners in the range of radio services available and that this will also accelerate the uptake of and migration to DAB+ across the United Kingdom.

Niocast accepts Ofcom's reasoning for using the six frequency blocks (7D, 8A, 8B, 9A, 9B & 9C) as the primary spectrum for small-scale DAB and that the coverage area of a small-scale radio multiplex service will be defined by a field strength of at least 63 dBµV/m - sufficient to provide 'useable indoor' coverage.

At the same time, we welcome Ofcom's reassurance that the levels defining coverage and permissible interference will be kept under continual review and amendments may be proposed should there be evidence that it would be advantageous to do so.

Niocast is disappointed that, given the popularity of in-car listening, Ofcom does not consider mobile reception to be important for small-scale multiplexes and does not plan to protect outdoor mobile reception for small-scale DAB from interference. Whereas, national and local radio multiplexes are protected to a field strength of 54 dBµV/m.

- We would ask Ofcom to reconsider this position.

Niocast agrees with Ofcom's plan to measure the population able to receive a small-scale radio multiplex service on the basis of the adult (aged 15+) population in the area predicted to receive a field strength of at least 63 dBµV/m from the small-scale multiplex's transmitter(s).

Ofcom has stated in the consultation document that it has selected the ADTI (ICSTelecom) software for its planning process and to assess applications. However, we understand that there have been some changes at ATDI recently and the company now offers a different planning tool. Niocast believes it would be beneficial if the licensing tool that Ofcom is to use was also made available, at an affordable price, to organisations that will be applying for small-scale DAB licences.

Niocast is pleased with Ofcom's interpretation of the legislation to allow for an element of flexibility in applying the 40% population overlap rule (referring to the "desirability" of remaining within that level, rather than requiring it in all cases).

Niocast welcomes Ofcom's willingness to exercise flexibility, in this regard, where not doing so would undermine the editorial appropriateness of the area covered by the small-scale radio multiplex service and/or restrict the ability of the area to satisfy the demands for carriage from C-DSP or local DSP licence holders, exclude a significant portion of the population of a town, or would make the licence area significantly less attractive for both listeners and programme service providers.

Question 2: Do you agree with our proposed approach to the required technical licence conditions for small-scale radio multiplex services, and the proposed amendments to the Digital Radio Technical Code?

Ofcom has defined two large regions of the country ('macro' areas) where '*there does not appear'* to be sufficient frequencies for every polygon to be allocated a frequency. If this is the case:

- Niocast is concerned at the lack of clarity in the consultation document as to precisely how Ofcom will invite applications for licences *'in batches'* from parties wishing to provide a small-scale radio multiplex service based upon the polygons contained within these macro areas.
- Furthermore, three of the ten DCMS trials occupy polygons located within the two macro areas. Niocast requests that Ofcom should not invite applications for these three licences as part of a batch. Licences for each of these polygons should be advertised separately.

However, Niocast is pleased to hear that, outside the macro areas, there is sufficient spectrum to be able to allocate a frequency for each polygon without causing or receiving undue interference to or from other polygons.

- We would, therefore, ask Ofcom to make it a commitment (not just an intention) to advertise a small-scale radio multiplex licence in each of these polygon areas.

Niocast welcomes the amendment to the Digital Radio Technical Code to reflect the slightly different statutory requirements that apply to small-scale multiplexes. Specifically, we support the proposed modifications to require small-scale radio multiplex services to achieve 'reasonable standards'. We also welcome the Guidance Note to confirm that Ofcom will not regulate the audio characteristics of services on small-scale radio multiplexes.

Niocast believes that it is important that Ofcom ensures that small-scale radio multiplex services can accommodate as many programme services as reasonably possible by design. We therefore support the amendment of the Digital Radio Technical Code to include a condition requiring that small-scale radio multiplex services *should* operate using DAB+ only.

Niocast fully supports Ofcom's reasoning (both commercial and technical) to continue requiring that vertical polarisation (only) is used.

Question 3: Do you agree with Ofcom's proposed approach to setting the level of reserved capacity for C-DSP services on small-scale radio multiplex services?

As it stands, the legislation will require Ofcom to ensure that capacity is reserved on small-scale DAB multiplexes for a minimum of three C-DSP licence holders. Furthermore, the legislation tasks Ofcom with having "regard to the *likely demand* for digital capacity by persons providing or proposing to provide community digital sound programme services in the coverage area of the licence".

We believe that assessing 'likely demand' is a near impossible task. In trying to deliver this, Ofcom is proposing to *estimate* the level of reserved capacity that will be required by considering the current number of analogue community radio stations that have been licensed in the area. This seems perfectly reasonable. However, Ofcom is also proposing to consider "*the level of demand as expressed by different types of service providers (including in the 2018 expressions of interest exercise*

previously conducted)". This seems to indicate that Ofcom is planning to use the 2018 expressions of interest from services to shape reserved capacity.

Niocast believes that the only factors in assessing the level of reserved capacity should be:

- The number of existing licenced analogue community radio stations; and
- The number of unsuccessful applications received in previous community radio licensing rounds.

To set the level of reserved capacity on the (speculative) 2018 EOIs would result in some multiplexes having inflated reserved capacity which could remain un-sold for the minimum period of three years, thereby undermining the viability of many small-scale multiplexes in, what are, vital formative years. This would challenge Ofcom's statutory responsibility for optimising spectrum availability.

Ofcom states that it will not be limited to using these two criteria in estimating the level of future capacity – but doesn't outline what other factors it may use.

- The industry would benefit from a clearer statement of the precise key criteria for what is a cornerstone aspect of small-scale DAB multiplex licensing.

Niocast agrees that inviting new expressions of interest each time a new batch of licences is advertised would be administratively burdensome to Ofcom. We believe anything that would have the effect of delaying (further) the roll-out of small-scale radio multiplex services must be avoided.

Ofcom is also proposing to consider the number of small commercial radio stations that are broadcasting on analogue in the polygon area when setting the reserved capacity. Whilst there appears to be no direction in the Act to this affect, we are pleased that Ofcom is taking upon itself the responsibility to balance the interests of both community and commercial broadcasters. "*While encouraging the provision of C-DSP services is an important policy objective, providing a pathway to digital for smaller commercial stations is also an important consideration*".

While one of the purposes of a reservation is to encourage relatively low carriage costs for C-DSP services by ensuring there is some capacity for which they do not face competition from other types of programme service providers, having a large amount of unused reserved capacity would not be conducive to securing the viability of the small-scale radio multiplex service, which is important to all broadcasters including C-DSP licensees themselves.

We agree 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 entitled to broadcast at a minimum of 48 kbit/s (36 capacity units) using DAB+ (i.e. HE-AAC audio encoding) and that this amount of capacity will need to be kept available only for C-DSP services to use.

- However, we believe that the reserved space should be expressed in terms of capacity units which would allow for more C-DSP licensees to be accommodated, if they choose lower bit rates.

We also agree that the Key Commitments included in a C-DSP licence should contain a reference to the small-scale radio multiplex service in respect of which they are claiming reserved capacity.

Question 4: Do you agree with the factors we are proposing to take (into) account of in deciding the order and timescale in which Ofcom will advertise small-scale radio multiplex licences?

Ofcom proposes to advertise small-scale radio multiplex licences in batches. For each batch of multiplex licence advertisements, Ofcom proposes to simultaneously open (on a permanent basis) the licence application window for C-DSP services wanting to broadcast in the same geographical areas to be covered by the multiplex licences being advertised. Niocast broadly supports this methodology so long as the combined workload of running dual processes does not impact on the rollout of small-scale DAB and the advertising of radio multiplex licences.

In determining the order in which they will advertise small-scale radio multiplex licences, and the timescale for awards, Ofcom proposes to have regard to a number of factors. We believe these factors should not be considered pari-passu but prioritised as follows;

1. Trial multiplex areas - noting that trial licences are due to expire in early 2020 and it would not be optimal for consumers receiving services via trial multiplexes to experience a loss of service;
2. Areas with full local radio multiplex services (ahead of those where existing local radio multiplex services currently have vacant capacity);
3. Areas with a large population size (i.e. prioritising areas where the greatest numbers of consumers stand to benefit from new small-scale radio multiplex services);
4. Areas where the level of likely demand from service providers (based on expressions of interest received) is high;

Whilst there is a shared desirability to ensure a broad geographical spread across the UK we believe this will be a beneficial outcome of the above licensing strategy and will eliminate the need to manipulate the advertising timetable.

Niocast respects the statutory requirement for small-scale radio multiplex licensees to provide Ofcom with details of the carriage fees currently being paid by existing programme service providers on the multiplex (‘rate card’). Niocast has published its rate card since April 2017. However, we believe the decision to publish a rate card should be left to individual licensees rather than Ofcom requiring all licensees to publish their rate card on their website.

Also, whist we consider spectrum availability and management considerations will be an intrinsic part of the planning process we do not wish to see certain polygon areas being disadvantaged because of the rollout timetable.

- Niocast believes that demand from prospective licensees should also be an intrinsic part of the planning process to avoid polygon areas being subsequently excluded because of awards in earlier licensing rounds.

We recognise that the workload involved in licensing significant numbers of small-scale radio multiplex services and associated C-DSPs will stretch the existing resources available to Ofcom.

- We would ask that, in the same way that DCMS funded the trial of small-scale DAB, we hope that DCMS will support Ofcom by providing the requisite resources to ensure that the rollout of small-scale DAB does not become protracted. We therefore welcome Ofcom publishing a planned timetable for advertising small-scale radio multiplex licences at the conclusion of this consultation.

Question 5: Do you agree with our proposed approach for assessing the technical plans submitted in small-scale radio multiplex licence applications?

When inviting applications for small-scale radio multiplex licences Ofcom will define coverage areas in advance ('polygon areas') and require applicants to submit a technical plan based upon the polygons.

Niocast agrees with Ofcom's proposal to apply the following criteria in assessing proposals:

- Extent of proposed coverage - Ofcom will consider how much of the population contained within the coverage area polygon is predicted to be served in the applicant's technical plan. They will also assess how much population overspill falls outside of the polygon area, and that the degree of overspill is limited to no more than 30% of the population contained within the original polygon.
- Compatibility with the overall spectrum plan – Ofcom will assess the interference that the applicant's proposed transmitters are predicted to put into the areas where the same frequency is being (or is planned to be) used.
- Degree of overlap with local radio multiplex services – Ofcom will assess the population in the coverage overlap with the licensed area of any local radio multiplex services and would not license small-scale radio multiplex services where this overlap exceeds the 40% population level.

We welcome Ofcom's stated preference for applicants that propose to cover a larger proportion of the population covered by the advertised polygon over those who propose to cover less of it.

Question 6: Do you agree with our proposed approach for assessing the ability of applicants to establish their proposed small-scale radio multiplex service?

Niocast agrees with Ofcom's proposed approach for assessing applications for small-scale radio multiplex licences by focusing on three main areas:

1. Financial - evidence of guaranteed funding; existing assets; and initial charges to programme services to be carried on the multiplex.
2. Expertise and experience - who will be responsible for managing the small-scale radio multiplex; what relevant experience and expertise they have; and the relevant experience and qualifications possessed by their technical staff or contractors.
3. Technical - the technical resources the applicant has available through in-house or external expertise; transmitter site(s) suitability and readiness; and the planned launch date.

Question 7: Should Ofcom require that the studio of a C-DSP licensee be located within the coverage area of the small-scale radio multiplex service it plans to broadcast on? Please explain the reasons for your view.

We feel that 'studio' is anachronistic in an age where the physical location of equipment is of diminishing importance, with many stations now 'based' in the Cloud.

Nevertheless, we understand and support Ofcom's intention to ensure that a C-DSP licensee should have a tangible presence within the coverage area of the relevant small-scale radio multiplex service. The licensee should also be able to demonstrate a clear intention to deliver social gain by involving and engaging with local people.

Question 8: We propose that holders of corresponding analogue community radio and DSP licences apportion their income equally across their licences, unless there are compelling reasons why a different apportionment is reasonable. Do you agree with our suggested approach?

Niocast agrees that where a licensee holds both a C-DSP and analogue community radio licence, the single "fixed revenue allowance" of £15,000 should apply across both the services. However, the practicalities of policing the qualifying threshold '*where there is an 80% overlap in programme content, with at least 50% broadcast simultaneously*' will be challenging to say the least.

Question 9: Do you agree with our proposal that a prospective C-DSP service provider will 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 provided?

Niocast welcomes Ofcom's proposal to invite prospective C-DSP licensees to apply for a C-DSP licence once they have invited applications for the small-scale radio multiplex licence upon which their proposed C-DSP service is intended to be provided.

- However, we recommend that Ofcom only accepts C-DSP licence applications where an 'in principle' offer of carriage has been made by an applicant for, or holder of, a small-scale multiplex licence. This will reduce the number of C-DSP licence applications that Ofcom has to process when licensing a multiplex. It will also avoid C-DSP applicants investing time and money in obtaining licence without an offer of carriage being in place.