

Response to Ofcom Draft Annual plan 2011/12

Introduction

1. RadioCentre is the industry body for commercial radio. Formed in July 2006 from the merger of the Radio Advertising Bureau (RAB) and the Commercial Radio Companies Association (CRCA), its members consist of the overwhelming majority of UK commercial radio stations, who fund the organisation.
2. The role of RadioCentre is to maintain and build a strong and successful commercial radio industry - in terms of both listening hours and revenues. As such, RadioCentre operates in a number of areas including working with advertisers and their agencies, representing commercial radio companies to Government, Ofcom, copyright societies and other organisations concerned with radio, and working with stations themselves. RadioCentre also provides a forum for industry discussion, is a source of advice to members on all aspects of radio, jointly owns Radio Joint Audience Research Ltd (RAJAR) with the BBC, and includes copy clearance services for the industry through the Radio Advertising Clearance Centre (RACC).

Background

3. RadioCentre provided comments in response to Ofcom's draft annual plan for last year (2010/11).
4. We acknowledge the significant progress made by Ofcom in a number of areas over the last 12 months, such as the revised Broadcasting Code and the changes to localness requirements. We also welcome the draft annual plan's references to digital radio and illegal broadcasting, which are central to the work of our members.
5. However, significant challenges remain for the commercial radio industry and we urge Ofcom to ensure that issues such as the review of analogue licensing and a further review of the Broadcasting Code feature within the final annual plan for 2011/12.

Ofcom's priorities for 2011/12

6. Ofcom outlines its proposed priority areas for the coming year, which are listed on page 6 of the consultation document.
7. Although radio related issues feature in Ofcom's 'Other major work areas for 2011/12', we are concerned that they do not feature at all in Ofcom's list of priorities, nor do they feature in the five strategic purposes that form the basis of these priorities.
8. It is therefore vital that the commercial radio industry is confident that the issues raised as part of the other major work areas remain high on the agenda. The main areas of work from RadioCentre's point of view are detailed below.

Digital

9. RadioCentre supports Ofcom's role in the Government-Industry Digital Radio Action Plan and welcomes the regulator's reference to working with broadcasters, Arqiva and Digital Radio UK.
10. In particular, we support Ofcom's role as Chair of the Coverage Planning Group, as set out in the Action Plan, which requires the regulator to report to government on how DAB coverage can be increased to reach FM equivalence. Coverage and the cost of build out continue to be critical to the future of digital radio and RadioCentre looks forward to working closely with Ofcom on these issues.

Licensing of analogue radio stations

11. The future of local analogue-only licences is a key issue for a number of RadioCentre members. RadioCentre was extremely disappointed by Ofcom's announcement in November 2010 that it had decided to only re-award local commercial radio licences for a period of seven years.
12. We were pleased therefore to receive correspondence from Ofcom (dated 8 Feb 2011) which confirmed formally that it will review its decision over analogue licensing under certain conditions. These conditions included confirmation that Government plans to carry out a scoping exercise for the new Communications Bill in 2010, publishing a Green Paper before the end of 2011. The letter stated that Ofcom *"would be happy to place such an assurance in the Ofcom annual plan"*. Naturally we urge that this pledge is set out clearly in the final document.
13. RadioCentre suggests that Ofcom might also consider broadening the scope of this review and use the opportunity to reconsider the licensing process in its entirety, including the manner in which licences are renewed and re-awarded. This work could then feed into the considerations ahead of the forthcoming Communications Bill and help to improve the framework within which commercial radio operates.

Broadcasting Code

14. RadioCentre approves strongly of the changes to Section 10 of the Broadcasting Code, which were announced in December 2010. We recognise that these represent significant deregulation and a substantial commercial opportunity for the industry.
15. We wish to note our approval of the process that led to these changes and the considered way in which Ofcom took the views of the commercial radio industry into account.
16. While we welcome these changes, there are three areas in which we feel that Ofcom could have gone further namely; relaxing the current restrictions on i) commercial references in news bulletins ii) commercial references in children's programming iii) commercial links between the overall selection and rotation of music. These areas are dealt with in more detail below.

17. RadioCentre understands that Ofcom is likely to review the Code revisions within the next couple of years. We urge the regulator to detail the possible changes in the annual plan 2011/12.

i) The sponsorship of news bulletins

18. Ofcom continues to prohibit the integration of commercial communications in news (except where it is already permitted).

19. RadioCentre recognises the absolute importance of safeguarding the impartiality and editorial independence of commercial radio's news bulletins and note that section 319 of the 2003 Communications Act requires news included in television and radio services to be presented with due impartiality and due accuracy.

20. Audience research commissioned by RadioCentre in August 2010 demonstrated that, if the sponsor of a news bulletin exercised no influence over the bulletin's content, listeners deemed sponsorship to be acceptable. Only when a commercial reference was integrated within the news bulletin was this considered questionable.

21. In a period when Ofcom recognises that commercial radio is *"facing possibly its greatest ever challenges"*¹, the sponsorship of commercial radio news bulletins could represent a significant commercial opportunity for the industry – estimated to be around £10million per annum.

22. We therefore urge that the revised Code Section 10 should allow for the opportunity to place sponsorship credits around news bulletins, but not integrated within them. We believe that this would be compliant with Ofcom's statutory duties in this regard.

ii) Programming primarily aimed at children

23. The integration of commercial communications within children's programming continues to be prohibited.

24. We believe that commercial references integrated within programming primarily at children should be allowed in some circumstances, as the proposed revised regulatory regime will contain sufficient safeguards to protect children, and the proposed prohibition would unnecessarily restrict the creative and commercial opportunities of children's radio.

25. However, we recognise the concerns related to the commercialisation of children, and acknowledge the suggestion that children may find it more difficult to distinguish commercial content in programming than adults. We therefore propose that commercial references should be permitted within programming aimed at children, subject to more stringent transparency requirements than those required of other commercial radio programming. In addition, we propose that a more targeted prohibition on commercial communications promoting

¹ Ofcom, 'Radio: the implications of Digital Britain for localness regulation', July 2009, p.2

certain products (i.e. HFSS goods, alcohol, gambling etc.) is applied to children's radio programming.

iii) Commercial arrangements around music selection or rotation

26. Ofcom have stated that no commercial arrangement will be able to influence the overall selection and rotation of music. This was done on the basis that:

- It could adversely impact on the range and diversity of music played on commercial radio.
- It could impact negatively on the economic interests of music businesses and individual artists, by erecting a financial barrier to them accessing commercial radio.

27. However, music tracks may still be promoted or sold as products within programming (i.e. song tagging), and commercial references may be associated with music tracks (i.e. Hit of the Hour, Track of the Week).

28. While we agree that when a commercial arrangement has influenced the selection or rotation of music, it must be made transparent to listeners, we feel that the current regulation is too restrictive. RadioCentre believes that, in terms of music selection, it is appropriate that these commercial arrangements should be subject to a lesser degree of transparency to allow stations greater flexibility. We endorse Ofcom's suggested approach to securing this transparency, via broadcast messages and a station's public file.

Illegal Broadcasting

29. Commercial radio remains committed to tackling illegal broadcasting, which continues to blight many of our services, and we value Ofcom's critically important role in the ongoing enforcement programme.

30. In 'Other major work areas for 2011/12', Ofcom details its commitment to tackling illegal enforcement through a range of measures including confiscating unauthorised equipment and prosecuting installers.

31. We have been encouraged by Ofcom's approach in this area, particularly in the last six months, and we urge the regulator to ensure that this issue is made a key area of work.

Conclusion

32. RadioCentre welcomes the opportunity to comment on Ofcom's draft work plan for 2011/12. We applaud the progress that has been made in a number of areas relating to commercial radio and we support Ofcom's plans to do more in the next 12 months.

33. A number of significant challenges do remain however and we would emphasise the need for Ofcom to act quickly and decisively in these areas and ensure that they feature prominently within the annual plan for 2011/12.

34. We are concerned that Ofcom's proposed priorities do not touch on any issues

related to commercial radio. This is significant particularly in relation to digital radio coverage, which is a major issue for our industry. Given this omission, we urge Ofcom to ensure that radio related issues remain a central focus of the regulator's work.

35. We understand that Ofcom's assurance to review their decision over the length of analogue licences, under certain conditions, was made *after* the draft annual plan was published. However, we look forward to seeing this assurance outlined in the final document. We would also welcome an indication that the terms of this review could be cast sufficiently broadly, so as to consider the commercial radio licensing framework in its entirety – not just analogue-only licences.

RadioCentre, March 2011

RadioCentre
4th Floor, 5 Golden Square, London W1F 9BS
t: +44 (0) 20 3206 7800
www.radiocentre.org