

oli.bird@ofcom.org.uk

Oli Bird
Policy Manager, Radio Policy and Broadcast Licensing
Ofcom
Riverside House
2A Southwark Bridge Road
London
SE1 9HA

23rd October 2009

Dear Oli,

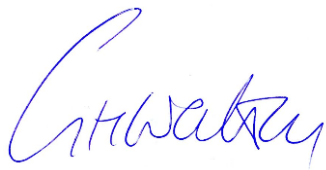
Radio: the implications of Digital Britain for localness regulation

Folder Media is a member of the RadioCentre and we are aware of their response to the consultation.

In the main, we agree with the views and proposals submitted by the RadioCentre and therefore make no further comment in our response. However, there are three areas where we wish to make comments, namely in relation to proposals 1, 2 and 5. These are attached.

We would be willing to discuss our concerns and views with Ofcom further and would be happy to attend any meetings.

Yours sincerely,



Gregory Watson

Proposal 1 – regional stations allowed to share programming to become national stations

Regional analogue stations may request to share all their programming. Ofcom may consent to this where those stations provide a version of the shared programme service on a national DAB multiplex. Where they do, our guidelines will be that they should not generally be required to broadcast local material and locally made programmes. Otherwise, such regional analogue stations would be treated as large local FM stations and the relevant rules would be applied [see Proposals 3, 4, 6]. Due to the specific needs of the nations, regional stations in Scotland and Wales should have to retain their specific nation focus. In Wales, where there are separate regional services for South Wales and North & Mid Wales (not yet launched), these could combine to form a national service for Wales, provided that service was carried on either a national DAB multiplex or all local DAB multiplexes in Wales.

We support the proposal to enable local / regional services to become national by extent of their coverage (and that a minimum percentage of UK adult coverage should be achieved; say 65%).

However, we believe that where a station chooses to become national, their output should be just that – national, with no regional or local opt outs for programming. Programming should be consistent across the England, Scotland and Wales. The only variation that should be allowed would be for regionalised spot advertising, as currently happens with the existing INR services.

In relation to services broadcasting on DAB coverage, where a service wishes to broadcast on a national DAB multiplex (whether Digital One or a second national (regionalised) multiplex), they should not be allowed to broadcast local / regional programming (regionalised commercial messages should be allowed).

In relation to nation services, we believe that where such services exist (i.e. in Wales, the separate regional services for South Wales and North & Mid Wales could combine to form a national service for Wales), they should be carried on local relevant DAB multiplexes. If such regional services were to be carried on Digital One or a national (regionalised) multiplex, they would remain regional by their nature rather than national, and should be regulated as such.

Proposal 2 – creation of a new national multiplex from existing regional multiplexes

Where any relevant statutory requirements are met, Ofcom should allow the six existing regional multiplexes (plus one of the three London multiplexes) to combine and extend their areas in effect to form a multiplex with national coverage but with the ability to offer regional opt-out programming and advertising, provided we are satisfied that:

- doing so would be calculated to maintain or promote the development of digital sound broadcasting in the UK otherwise than by satellite;*
- the licensees' proposed coverage plans are satisfactory;*
- the licensees have the ability to maintain the licensed service; and*
- there are sufficient safeguards in place to protect the rights and interests of stations carried on the multiplexes and the rights and interests of other multiplex operators (and the stations they carry);*

We would also be likely to expect one of the following criteria to be met, namely that the combination and extension of the multiplexes:

- would promote choice in national radio services, in the interests of listeners; or*
- would be conducive to the maintenance or promotion of fair and effective competition in national radio services.*

We envisage a short consultation upon receipt of such a request.

We are happy for the current regional multiplexes to merge to form a national (regionalised) multiplex. In many ways such a service already exists, with MXR covering c. 18m adults. In addition, with many of the radio services on MXR also broadcasting in London and Central Scotland, these services can already be heard by over 30m adults (or c. 62% of adults in England, Scotland and Wales).

Such a multiplex will provide additional flexibility over Digital One to offer regionalised opt-outs for advertising (which we support – see proposal 1).

However, we do not support that services on a national (regionalised) multiplex should be able to offer regionalised opt-outs for programming. We believe that such a proposal goes against the argument of having more national services (if in reality they remained regional services) and could affect the commercial viability of local DAB multiplexes.

Proposal 5 – mergers of local multiplexes

Within the defined areas, local multiplexes should be allowed to merge, including by sharing frequencies (if possible), and be extended into any un-served localities within the defined area, where Ofcom consider that appropriate. We are likely to do so where:

- we consider each of the following criteria are met:*
- the merger and/or extension would be calculated to maintain or promote the development of local digital sound broadcasting otherwise than by satellite;*
- the licensees' proposed coverage plans are satisfactory;*
- the licensees have the ability to maintain the licensed service; and*
- there are sufficient safeguards in place to protect the rights and interests of stations carried on the multiplexes and the rights and interests of other multiplex operators (and the stations they carry);*

One of the following criteria are met, namely that the merger and/or extension:

- would not unacceptably narrow the range of programmes available on local digital sound programme services to those living in the area or locality covered by the multiplexes;*
- would be conducive to the maintenance or promotion of fair and effective competition in that area or locality; or*
- is supported or demanded to a significant extent by those persons living in that area or locality.*

We envisage short consultations in most cases.

We welcome the proposal for Ofcom to have powers to enable local multiplexes to merge and extend their PPAs. We see this as the removal of a potential legislative obstacle and would not support the creation of any obligations on multiplex owners. The decision to combine multiplexes must be a result of a commercial decision.