



Future of Radio

British Music Rights

Response to Ofcom consultation

29th June 2007

British Music Rights (BMR) is an umbrella organisation that represents the interests of nearly 50,000 composers, songwriters and music publishers and their collection societies, and is the leading industry voice in raising awareness of the value of music to the British economy, culture and society. Our member organisations are the British Academy of Composers and Songwriters (BAC&S), the Music Publishers Association (MPA) and the MCPS-PRS Alliance.

British Music Rights is primarily concerned with prioritising the **diversity** of music programming as the surest way to a healthy, dynamic, and successful music sector and a satisfied listening public.

Our comments therefore focus on why Ofcom should consider the impact on the diversity of music programming in any proposed change to regulation, and make a firm commitment to prioritise the diversity of music programming as a key outcome to any changes.

Our comments primarily refer to:

Proposal 1

The regulation of content on analogue commercial radio and on DAB digital radio should be aligned, at the appropriate time.

Proposal 2

There may be a case for Government to consider bringing together the ownership rules regarding analogue commercial radio and DAB digital radio into a single set of rules as the proportion of listening accounted for by digital platforms increases.



The music industry's legitimate interest in the radio sector:

1. The music industry has a huge impact on the radio industry and is fundamental to the future success of the sector. Music is the single most important reason for people choosing a radio station, above news, weather, traffic and chat. The investment cost of radio's most valuable content is primarily born by the music industry
2. Radio has huge impact on the music industry and on the careers of individual music creators. Local radio provides a vital platform for new bands that are establishing local fan bases; and analogue radio remains a crucial route to national exposure. The more airplay that artists get, the more likely success they will have in the UK, Europe and in the United States.
3. Digital radio may be growing; but analogue radio still crucial with 90% of the population listening to the radio every week. As a medium, radio has mass appeal across all age groups, with patterns of listening established at a young age. Ofcom's own survey of children showed that 71% of 8 to 11 year olds listen to radio; increasing to 85% in the 12 to 15 year old age band.

Diversity of quality content should be the main objective of Ofcom's review:

4. Ofcom's research shows beyond the shadow of a doubt that people listen to the radio primarily for music, and news. Ofcom's effort should therefore focus on what regulation is necessary to ensure the music and news content is of the broadest range and highest quality.
5. The Government and Ofcom accept that there is a strong public interest argument and an equally strong economic rationale to having diverse and high quality music programming on the radio. The UK music industry is a valuable economic commodity to the UK, currently estimated to be worth £6 billion; and a priceless cultural commodity. The UK is second only to the United States as a source of international repertoire; and Britons buy more music per capita than is bought in any other country in the world. A healthy creative economy needs diversity of content and a rich mix will facilitate our competitiveness in the global market.
6. The Government has tried to legislate for diversity in broadcasting programming (Communications Act 2003; Broadcasting Acts 1990 and 1996);



and Ofcom have tried to ensure diversity of programming through its regulatory approach – particularly through use of formats, requirements for local output; and in media ownership rules.

7. The main tool for ensuring diversity of programming has been through the use of formats.
8. Ofcom places a great deal of emphasis on regulation relating to localness, which is an important consideration for news. The localness requirement for music content is relevant insofar as it acts as a stimulant for diversity – for example, the creation of ethnic minority music stations to reflect local populations.
9. Likewise, ownership rules are relevant insofar as consolidation tends to reduce diversity. A recent American study by the Future of Music Coalition found a causal link between consolidation and radio programming. Consolidation had led to extensive format overlap. Playlists for commonly owned stations in the same format overlapped up to 97%; radio formats with different names could overlap up to 80% in terms of the songs played on them. There is no evidence that deregulation increases diversity; if anything, evidence suggests that it reduces diversity.
10. Despite formats and ownership rules intended to safeguard diversity, evidence suggests that diversity of quality content has not been achieved. Ofcom's previous survey of radio listeners found that audiences are irritated and bored with hearing the same songs repeated endlessly regardless of what station they're tuned into. The growth in digital and internet radio reflects listeners' yearning for more diversity in music programming. Pirate radio can attract more listeners than commercial radio in certain areas and amongst certain populations – showing that a large number of people feel disenfranchised from the offer on commercial radio. There is a growing problem of decreasing diversity in the music played by commercial radio, with independent record companies in particular finding it difficult to get airplay for new artists and bands.

Ofcom's proposals to align the regulation of content on analogue commercial and digital radio don't solve the problem of diversity.



11. Ofcom's proposals for the regulation of radio in the future – to wait until there is parity in listening between analogue and digital; and then reduce format detail to what currently exists in DAB –are likely to lead to even less diversity of programming, not more.
12. Ofcom's goal in proposing reform to format regulation seems to be to achieve parity in regulatory burden on analogue and DAB, rather than to genuinely produce the diversity that the formats, localness and ownership rules were meant to ensure in the first place. The role of Ofcom is to regulate in order to secure the public interest goals set by Parliament; in this case, a diversity of programming on commercial radio, catering for different tastes and interests. Any proposal to deregulate should therefore be a matter for debate in Parliament, not a decision taken by the regulator in question.
13. Ofcom appear to approach the future of radio regulation by posing the question "how can we help the profitability of commercial analogue radio" as if that were an end in and of itself, no matter whether the outcome was the creation of uniform, middle-of-the-road radio station(s) with homogenous playlists; instead, the approach should be "what do we need to do to ensure the high-quality, diverse content that listeners want", acknowledging that the status quo is not good enough.
14. We have little appetite to fight to keep format or localness regulations that didn't work as well as they were intended; there is little to gain from the status quo. But we are opposed to Ofcom's plans which we believe would reduce diversity of content even further.
15. We urge Ofcom to reconsider its proposals and go back to the drawing board and make a firm commitment to prioritise the diversity of music programming as a key outcome to any regulatory changes.

We offer the following suggestions for ensuring musical diversity:

- National licences and those for large urban areas should have specific formats in terms of the genres of music played, thus expanding consumer choice via distinctive offerings. Niche music stations are much more viable when they have a larger potential listener base.
- The distinctive nature of community radio licences should be maintained (local, not-for profit, for social gain etc.) to provide a distinct alternative to commercial radio. This should provide for the playing of local music. Some of the digital spectrum should be reserved for such stations to enable them to secure investment for the future.

- The formats for all stations should guard against the use of small playlists, allowing at least for diversity of tracks played at any given time (if not always of genre).
- Recordings should be sourced from a broad range of record companies.
- If ownership regulations are to be relaxed to enable greater consolidation, there should be more controls to ensure that quasi-national networks are required to play a more diverse mix of music genres.

Provided adequate requirements to ensure musical diversity are in place, we would support the alignment of content regulation as between analogue & digital stations in the near future.

Proposal 3

While we do not currently propose that a date should be set for the switch-off of analogue (FM and AM) radio, we should aim to maximise flexibility in the licensing system so as to be able to free up that spectrum for other uses, when the time is right.

We would support the Government and Ofcom in drawing up a coordinated plan to facilitate consumer migration to digital radio, setting out a timetable for digital switch-over and clear thresholds governing when this might happen, e.g. once measured digital listening reaches 50%, there will be an announcement that analogue switch-off will take place in 5 years.

For more information, contact Cathy Koester at:

British Music Rights

British Music House, 26 Berners Street, London W1T 3LR
T +44 (0)20 7306 4446 E: britishmusic@bmr.org W: www.bmr.org

The Association of Independent Music (AIM) endorses this position paper.

