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**What are your comments on these proposals?:**

**CPBF response to Ofcom, The Future of Radio. The future of FM and AM services and the alignment of analogue and digital regulation (London, Ofcom, 2007). 28th June 2007.**

1. The Campaign for Press and Broadcasting Freedom is an independent organisation which campaigns for greater diversity, and accountability in the media. We have intervened on a range of important public policy issues in communications since our foundation in 1979. We have had a long standing interest in the issue of radio.
2. This submission starts by identifying the general tenor of Ofcom, The Future of Radio. The future of FM and AM services and the alignment of analogue and digital regulation (London, Ofcom, 2007). It then deals with those proposals made by Ofcom in the order in which they appear in the consultation document.
3. The central assumptions of the document.

[a] Radio has expanded dramatically since the 1980s, with hundreds of new commercial stations and the emergence, since 2003 of around 42 'community radio' stations. (Ofcom, The Future of Radio: para. 1.42). The general thrust of these developments has been to introduce more stations with less and less regulation on issues of content, and less and less concern to make commercial operators provide a comprehensive and accountable local, regional and national service. The result has been a spread of concentration of ownership in the area, large profits for a few big companies and no major discernible increase in the range and variety of output, beyond that of specialist music channels.

[b] This document starts from an assumption with which the Campaign agrees: We do not believe that the market would necessarily supply local programming, at least not ubiquitously around the UK, as local programming is expensive, and it is always likely to be more profitable to network as much programming as possible,

even if that means a drop in audiences. (Ibid: para.1.14.)

The solution offered by Ofcom, one which is echoed throughout the document is to further minimise regulation:

We believe that plurality remains important and that some form of ownership rules should remain. Our view is that some intervention is needed to ensure at least a minimum level of local programming provision and to secure plurality of ownership. (emphasis added) (Ibid.)

Indeed the document echoes the standard argument pushed since the early 1970s by the commercial radio industry when it states:

Existing regulation, particularly of the analogue radio sector is heavy compared to other media and the cost to the radio industry of that regulation is high and may now be becoming disproportionate. (Ibid: para 1.7a)

Ofcom boasts that it is an evidence based regulator. Yet so much of what it produces starts from highly partisan and questionable premises about the role of markets and regulation in mass communications and then, as is the case in this document, gently stacks the detail and argument in favour of these pre-existing views. We beg to differ.

[c] We do not consider it healthy for plurality that the BBC should be the main provider of news and information at national and local level. We applaud the fact that public service radio as produced by the BBC has, over the last seven years outperformed commercial radio on issues of market share. (Ibid: para 3.8). We would argue that this might be, in part, due to the lack of variety that is so marked amongst the commercial radio sector in terms of its output.

[d] There is a case for reviewing the legislation, but not, as the general thrust of Ofcom's document suggests, with a view to minimising rules on ownership and content and, in the Community Radio area, on issues relating to the level of local accountability. Using a variety of devices, from a levy on the profits of the super-large and successful stations, government subsidy, and licensing incentives, we believe there should be substantial intervention to develop a more diverse and accountable commercial radio sector in the UK.

4.

#### Proposal 1

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

[a] These proposals amount, as Ofcom states, to 'quite a radical relaxation of the rules for many stations?'. In proposing to streamline rules around analogue formats so they fit the less onerous ones on digital, Ofcom is simply seeking to legitimise a further watering down of positive programming obligations. We oppose this recommendation and urge Ofcom to consider means of bolstering the range and variety of content on existing stations, using some of the mechanisms outlined in 3[d] above.

[b] Ofcom proposes legislative change to allow it to supervise local programming on digital radio and allow the removal of format rules on national commercial stations. But this is within the context of its determination to minimise regulation, and should therefore not be accepted by the government.

#### 5. 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.

[a] This proposal will allow a further set of mergers and consolidations across a sector already characterised by economically undesirable levels of concentration and the accompanying drift of content to the middle ground of output. In an area where it is clear that commercial consolidation has led to standardisation of output on commercial radio, it is wrong for Ofcom to be proposing a further set of steps designed to improve market conditions and further reduce diversity for the public.

[c] There is a case for considering all radio ownership rules as one, regardless of the platform. But this is only desirable if the intention is to use ownership rules to stimulate variety and accountability in radio output. There is no evidence that Ofcom intends this to be so, and so the proposals, in our view, should be dropped.

## 6. 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.

[a] Ofcom wants to be able to extend the reach of existing DAB multiplexes by ultimately using spectrum which is used on FM and AM. Why? Well, because the proposal is designed for existing operators who will benefit financially from such a development.

[b] It proposes two reviews to determine a common end date for existing services, for VHF Band II (FM) in 2012 and for AM in 2009 and a transfer to digital. It wants the review to cover BBC radio as well. It also wants to sell on the spectrum which is released unless there are strong public policy reasons to allocate spectrum for specific use (Ibid: page 156)

[c] The BBC's frequencies should not be handed over to Ofcom so that it can organise the sale of a public asset; nor should other frequencies be sold. There is an ideal opportunity, after proper public debate, to use all frequencies that are released for public service ends. That might include leasing frequencies to commercial operators for fixed periods of time, but not selling them. There is no predicting how changes in technology will develop in time and may allow wider social uses of spectrum. Selling spectrum simply prevents current and future social uses being met.

[c] In the 1980s the Independent Broadcasting Authority was forced to re-advertise commercial radio contracts. This was opposed by the Authority and the industry. The principle of re-advertisement still exists, but has been consistently opposed by the industry and, in this document, is being undermined by Ofcom. Ofcom is essentially asking for powers to deliver the golden goose that the industry has wanted for decades. Ofcom is proposing that to extend existing licences for an indefinite period (Ibid) and appears to be suggesting that in the future contracts roll on indefinitely unless Ofcom gives 2 years notification of termination. This constitutes a major restriction on market entry (a shibboleth of the neo-liberal orthodoxy that clogs the minds of Ofcom policy makers) and reduces the opportunity for public scrutiny of the allocation of publicly important resources. Ofcom should not be given these powers.

## 7. Proposal 4

Radio services, including those designed to deliver public purposes, should be able to be licensed on any spectrum in a technology neutral way.

[a] Were this proposal intended to extend Ofcom's powers to require strong public service content in all new services we would welcome it.

[b] The proposal is, however, designed to weaken regulation for positive programming. It contains a view that the law should be changed so that such services would not be regulated to secure diversity and/or localness and would be licensed indefinitely. (Ibid: page 157) This proposal should not be accepted.

#### 8. Proposal 5

Ofcom will generally approve a change from stereo to mono in circumstances when it considers that the reduction in sound quality of the service whose technical parameters is being changed is outweighed by the benefits to citizens and consumers of the use to which the freed-up capacity is to be put.

[a] As long as this process is carried out transparently, and with proper consultation amongst listeners in the areas covered we support the proposal.

#### 9. Proposal 6

The characteristics of community radio, based around social gain provided by stations on a not-for-profit basis remain key. However, there may be an argument for simplifying the statutory selection criteria, and the regulation of funding and ownership without losing the essence of what community radio has been set up to achieve.

[a] The thrust of these recommendations is to lift regulations on the community radio sector. This seems remarkable given that it has only come into being in the last three years, that there are only 42 on air and that most of these have not had time to get established. By removing regulations covering existing requirements for these stations to, 'broaden choice' 'cater for the tastes and interests of the community', show 'evidence of demand, or support, for a proposed service, indicate the extent to which a proposed service proposes to render itself accountable to the target community', and encourage access the proposals are in danger of removing the community focus from community radio. (Ibid: page 158).

[b] Ofcom is suggesting the organisations could own more than one station. This again seems to militate against the spirit of community radio.

[c] Whilst from one perspective the less regulation there is for CR the better, in terms of minimising start up costs and overheads, the problem is that recommendations such as the ones in this document would, we argue, create a sector that is open to pressures to behave more like a commercial station than a community station.

[d] One answer is to support calls for more central funding for CR such as the one raised in February 2007 by Ian Stewart MP who tabled an Early Day Motion calling on the Government to make more substantial commitments to licensing and funding Community Radio and Television.

It called on the Government to introduce secondary legislation to ensure that community and local television has access to the digital spectrum and also that sufficient space on digital spectrum is reserved for community media when considering Ofcom's Digital Dividend Review and further to ensure that the whole of the community media sector has sufficient financial resources, through a fully funded Community Media Fund significantly larger than the current annual £500,000 Community Radio Fund, thus ensuring that the sector is economically sustainable and able to realise its potential to help those most in need.

(<http://www.commedia.org.uk/policy-and-campaigns/take-action/early-day-motion->

922/, accessed 13th June 2007)

[e] Ofcom should reverse its stance and instead of lobbying government for powers to lift regulations in the sector, so early in its life, ought to lobby for powers to raise a levy on the commercial licensees to build a substantial fund designed to nurture and sustain genuinely accountable local community radio.

#### 10. Employment

It is noticeable that the document contains no recommendations on improving the conditions of service and training in the sector. Nor does it have anything to recommend on the nature and role of independent producers in the sector. This is a major omission. Radio depends on people to run it, and Ofcom should in lobbying for legislation which would enhance training and job security and conditions of service in the sector.

#### 11. Accountability

[a] Ofcom neglects to discuss how the sector can be made more accountable. This could be done by writing conditions into licenses to ensure that the public have a real say in the running of a station. Ofcom could also lobby for a law which would establish regional radio councils made up of a range of elected and nominated individuals who would have the role of overseeing and developing the public interest in radio.

#### 12. Ofcom and deregulation

[a] This document contains a host of demands by Ofcom for more powers to de-regulate radio. Ofcom should be pressing for powers to increase the degree of citizen control over radio services. It is, however, acting in a characteristically industry orientated fashion in asking for these powers. We think there should be review of Ofcom's powers, but one that is done in the context of a thorough examination of the 2003 Communications Act with the intent of strengthening the public interest in communications policy.