



RESPONSE

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## Ofcom The Future of Radio

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Ofcom Consultation, 17 April 2007

PPL<sup>1</sup> and VPL<sup>2</sup> broadly welcome Ofcom's consultation document *The Future of Radio*. The recent shifts in advertising revenue, the growth of DAB and internet radio and the new BBC Royal Charter all point to major changes in the radio industry. Ofcom is right to review the regulatory environment in the light of these developments.

Music remains the number 1 driver of listener choice of station. Ofcom should be able to make regulation less prescriptive and relax ownership rules, whilst expanding listener choice in terms of music.

PPL and VPL advocate such an approach, thus allowing commercial radio to compete in the new environment. With this approach, Ofcom should be able to maintain and improve on the range of radio offerings to listeners, particularly in terms of music.

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<sup>1</sup> PPL is the UK licensing society for 40,000 performers and 3,000 record companies. See Appendix A.

<sup>2</sup> VPL is the UK licensing society for 1,000 music video producers. See Appendix A.

## A. CONSULTATION QUESTIONS

### *Regulation of Content*

#### **Proposal 1**

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

1. Because of the scarcity of spectrum, analogue licences have traditionally been hotly contested and station Formats have been highly prescriptive as a consequence. For example, some Formats set out precisely what time of day certain programming will be delivered, imposing fixed scheduling requirements throughout the life of the licence. Many commentators have noted that, in this respect, analogue commercial radio is more tightly regulated than any of its competitors, either for advertising revenue (eg local newspapers) or for listeners (eg the BBC or DAB).
2. Ofcom's research shows consistently that listeners choose a radio station firstly for its music and secondly for other programming ingredients, such as news, weather and radio personalities. Over the years, the range of music available to listeners via commercial radio has expanded, particularly where the market can sustain a range of stations, for example at national level and in major conurbations, especially London. However, the new radio offerings in recent bids for Ofcom licences and the proliferation of pirate radio stations suggest that listener demand in terms of choice of music is not yet being met.
3. Ofcom also reveals in its latest research that a number of smaller local stations are struggling to remain commercially viable. In those areas, the local market is more limited in the range of music choice it can sustain so the national stations become more critical in providing genuine listener choice.
4. Given these listener demands and market capacity, it makes sense for Format regulation to focus on genres of music, rather than detailed prescription of scheduling. PPL and VPL commend this approach. As spectrum becomes less scarce, Ofcom regulation should switch from prescription as to how a station should operate, to providing a range of music and other choices through commercial radio. That music offering can still be defined with a less prescriptive use of Formats. One consideration might be for the Format to state simply how it is distinct from other radio services.
5. Finally, Ofcom should recognise that local markets for radio vary in size and that the range of choice that can be sustained commercially at a local level will likewise vary. Regulation should take into account the full range of choice that can be offered to listeners, both at a local and at a national level. Likewise, Ofcom's awarding of new national licences and the renewal of existing licences should aim to maintain and, where possible, expand the real choice in terms of music and radio personalities offered to listeners.

## **Ownership Rules**

### **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.***

6. Ofcom's analysis of the commercial radio market reveals considerable disparity between the commercial viability of stations in small local markets and those in large conurbations. Larger conurbations can sustain a number of local stations, thus offering a wide range of music and radio personalities at local level. In smaller local markets on the other hand, even one local station may be a commercial challenge.
7. One way in which commercial stations in the smallest local markets can become viable is through ownership consolidation and the resultant cost benefits. Not all of these cost benefits necessarily sacrifice the localness of the station.
8. Looking at the radio market as a whole, they are competing with a number of other advertising media. Indeed their market share of advertising, both local and national, has fallen in recent years. Attracting national advertisers is a particular challenge for a collection of local stations.
9. It does therefore make sense to reconsider the ownership rules for radio. They are more stringent than for other media sectors, which have been relaxed recently. The ownership rules for radio should consider the viability of smaller local stations, the ability of commercial radio to attract national advertising, as well as the amount of choice that can be sustained by different local markets.

## **Licensing of Community Radio**

### **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.***

10. Community radio has been a welcome and recent addition to the radio market. There is energy and commitment in the sector and the early signs suggest they are a valuable and distinct add-on to the existing provision. This was of course the intention when spectrum was opened up to community radio a couple of years ago.
11. It certainly makes no sense to impose detailed regulatory requirements on such small operations. What is important though is to retain the essential distinction of community radio which has enabled this sub-sector to thrive in its early stages.

12. Clearly social gain is an essential characteristic. This makes community radio distinct from commercial radio, as evidenced in the infrastructure, the financing and the output of the two. At the same time, Ofcom has identified that local commercial radio is, in many areas, struggling to remain commercially viable. Ofcom should retain the financing distinctions between community radio and commercial radio, both to preserve their separate characteristics and to maintain the commercial viability of the smaller commercial stations. Community radio should not, and does not need to thrive at the expense of commercial radio.
13. The other essential characteristic is the ability to operate a service. Even though they are not-for-profit organisations, community radio stations still have to operate effectively and be able to finance the essential ingredients of their service. In fact, this principle should apply more widely as it does not serve Ofcom well to be licensing radio stations which prove incapable of delivering and financing the basic services they promise in their licence application.
14. The current application form for an Ofcom community radio licence includes an outline of their programming ambitions and a budget proforma. That proforma covers the main programming ingredients such as music, which most community radio stations choose to incorporate into their service to support their overall aims. This approach does appear to ensure that applicants have considered in advance how to operate and finance the service. This should be retained in any revised regulatory process.

#### ***General Points***

15. We have chosen not to respond to every question posed by Ofcom in the Future of Radio consultation. However, it is worth making some general remarks which Ofcom should consider in all the changes that are proposed.
16. The commercial radio market is in a process of transition, during which revenues and consequently output will be under pressure. However, there remains a demand for radio and indicators such as the determination of key players in the radio industry suggest that commercial radio will have a future in meeting that demand. With the regulatory environment changing at the same time as these radical changes in the market, there is a risk that these uncertainties will undermine commercial value in the sector. Ofcom should therefore seek to provide a degree of certainty within its planned changes to enable the commercial radio stations to make realistic business plans and to provide a basis on which investors can assess the long-term value in the sector.

**PPL**  
**June 2007**

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**Briefing note on PPL and VPL**

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**PPL Facts and Figures**

- Licenses on behalf of 3,000 record companies and 40,000 performers.
- Licenses 200 TV channels and 300 radio stations broadcasting recorded music, as well as over 200,000 pubs, nightclubs, restaurants, shops and other places playing recorded music in public.
- Has negotiated bilateral agreements with 30 other collecting societies to collect overseas airplay royalties.
- Collected £97.9m in airplay royalties for performers and record companies in 2006.
- Distributes revenue using a comprehensive track-based system – analysing over 17m uses of recorded music reported by TV and radio stations, background music suppliers and venues playing recorded music in public. All track plays are matched to PPL's repertoire database CatCo, containing information on 9m tracks.
- Distributes to all the performers – featured artists, session musicians and backing vocalists – as well as the record companies that create the sound recordings that are played.
- Is the largest performer/producer collective licensing society in the world.

**PPL Recent Achievements**

- In 2006, achieved a 12% growth in net revenue for the rightholders.
- In the last five years, has increased net revenue by 50%, generating an additional £28m payable to record companies and performers, and almost halved the cost/revenue ratio.
- In 2005, PPL's CatCo was selected as the database underpinning the official combined download and singles chart.
- Signed the IFPI Simulcast Agreement in 2002 and the Webcast Agreement in 2003 paving the way for multi-territorial licences.

## **PPL and Performers**

- In 2006, merged with AURA and PAMRA and restructured to bring performers into PPL, for the first time in its 73 year history. Created four Performer Directors, five Performer Guardians and established the Performer Board to oversee performer interests.

## **VPL Facts and Figures**

- Represents 1,000 music video producers.
- Licenses 60 TV channels broadcasting music videos, including 25 specialist music channels.
- Licenses around 2,000 pubs, nightclubs and other places playing music videos in public.
- Collected £12.3m in airplay royalties for music video producers in 2005.
- Analyses usage information from TV stations and background music services for distribution to rightholders.
- Offers a sourcing service, Music Mall, for back catalogue video clips and other footage.
- Is the largest music video collective licensing society in the world.

## **VPL Recent Achievements**

- Recently concluded a licence with MTV on behalf of independent companies throughout Europe.
- In 2003, integrated management operations with PPL resulting in cost efficiencies to rightholders.
- Concluded licence arrangements for new video on demand services, such as Home Choice, NTL and Telewest, and the new store forward and narrowcast services.
- Announced a video digitisation project to provide online delivery of music videos to users.

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